


MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

 THE MARYLAND-NATIONAL CAPITAL
 PARK AND PLANNING COMMISSION

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MCPB
Items 6, 7, 8, 9 &
10
09/09/04

DATE: September 3, 2004
TO: Montgomery County Planning Board
VIA: Richard Hawthorne, Acting Chief *RH.*
 Development Review Division
 John Carter, Chief
 Community-Based Planning
 Carlton Gilbert, Zoning Supervisor *CG*
 Development Review Division
FROM: Greg Russ, Zoning Coordinator *GR*
 Development Review Division
REVIEW TYPE: Zoning Text Amendments
PURPOSE: To amend the Zoning Ordinance and Subdivision
 Regulations to strengthen the MPDU Program

TEXT AMENDMENT: 04-11, 04-12, 04-13 and 04-14
SUBDIVISION REGULATION: 04-1
REVIEW BASIS: Advisory to the County Council sitting as the District
 Council, Chapter 59, the Zoning Ordinance and
 Chapter 50, the Subdivision Regulations
INTRODUCED BY: Councilmembers Floreen, Silverman, Subin, Knapp
 and Leventhal
INTRODUCED DATE: July 20, 2004
PLANNING BOARD REVIEW: September 9, 2004
PUBLIC HEARING: September 23, 2004, 7:30 PM

STAFF RECOMMENDATION: APPROVAL with modifications

PURPOSE OF THE TEXT AMENDMENTS

The proposed zoning text amendments have been initiated at the request of the County Council to strengthen the moderately priced dwelling unit program. The text amendments increase the flexibility in the existing development standards to provide more opportunities for moderately priced dwelling units. The provisions included in the text amendments also provide additional

opportunities for moderately priced dwelling units to be constructed on-site in central business districts and transit station areas. One purpose of the text amendments is to substantially reduce the need for buyouts and alternative agreements.

GENERAL COMMENTS AND CONCERNS

- 1. Reduction of Public Use Space** - The requirements for public use space should not be reduced in the Optional Method of Development of the CBD Zones.
- 2. Clarification of the Density Bonus** – The proposed text amendments should be significantly revised to eliminate the references to increasing density “as necessary” to state that any increase in density must only be associated with the provision of moderately priced dwelling units in accordance with Chapter 25A (e.g. maximum 22 percent increase in density with 15 percent moderately priced dwelling units). This clarification is especially important to limit the increase in density over the amount of density specified in master plans and sector plans.
- 3. Green Space in the Multiple-Family Zones** – The amount of green space proposed in the multiple-family zones should be increased from 20 to 35 percent to match similar requirements for multiple-family units in the Transit Station Zones.
- 4. Locating MPDUs On-Site** – The text amendments that include a Planning Board waiver (master plan height limit, 100% townhomes, etc) should be limited to those projects that include MPDUs on-site. A density bonus should not apply if MPDUs are located off-site or if buyout provisions are used.

ANALYSIS

ZTA 04-11: BUILDING COVERAGE AND GREEN AREA IN THE MULTI-FAMILY ZONES

ZTA 04-11 would eliminate the building coverage requirement and allow a reduction in the green area requirement in all multiple-family residential zones for any development containing MPDUs on-site. (Attachment 1)

Issue

The limitation on building coverage (20 to 24 percent) and the requirement for green space (45 to 53 percent) severely limit the ability to achieve the potential density and the appropriate number of moderately priced dwelling units.

Issue

The existing Central Business District Zones require each residential and mixed-use development to provide 12.5 percent of the units as moderately priced dwelling units. The Central Business District Zones allow an increase in density (dwelling units per acre) for the provision of moderately priced dwelling units in strictly residential projects. Presently, these zones do not allow an increase in density (FAR-floor area ratio) for the provision of moderately priced dwelling units in mixed-use projects.

The Transit Station Zones (TS-M and TS-R) include a provision to increase the number of dwelling units and the FAR (floor area ratio) to improve the opportunities for moderately priced dwelling units, but the amount of increase in density is not quantified.

Text Amendments

The following text amendments will amend all of the Central Business District Zones and the Transit Station Zones (TS-M and TS-R) to permit a density bonus for mixed-use projects.

- a. CBD Zones - Provide an increase in floor area ratio (in accordance with the range of MPDUs required in Chapter 25A) in all of the CBD Zones if MPDUs are located on-site. As an example, a 22 percent maximum increase in FAR for the residential portion of the development would be allowed if a minimum 15 percent of the total units were designated as MPDUs.
- b. CBD Zones (Standard Method) - Provide an option to reduce the requirement for on-site public use space in the Standard Method of Development for all CBD Zones from 10 percent to five percent if MPDUs are provided on-site.
- c. CBD Zones (Optional Method) - Provide an option to eliminate the requirement for on-site public use space and allow off-site public use to be substituted for this requirement in the Optional Method of Development for all of the CBD Zones if MPDUs are provided on-site.
- d. Transit Station-Zones (TS-M and TS-R) - Provide an increase in floor area ratio (in accordance with the range of MPDUs required in Chapter 25A) in the Transit Station-Mixed Zones if the MPDUs are located on-site. As an example, a 22 percent increase in FAR for the residential portion of the development would be allowed if 15 percent of the total units were designated as MPDUs. A density bonus in terms of the number of dwelling units is already permitted in the Transit Station-Residential Zone.

Discussion

The Central Business District Zones were developed for the Bethesda, Friendship Heights, Silver Spring and Wheaton areas of Montgomery County. These zones were established in the 1970's as an incentive zoning tool. These zones include both the Standard Method of Development and the Optional Method of Development. The Transit Station Zones are "floating zones" that were also developed in the late 1970s for use in the other Metro station areas in Montgomery County.

- a. Bonus Density (FAR) - Allowing a bonus density in terms of floor area ratio has not been permitted for mixed-use projects in the Central Business District Zones. In addition, the bonus density (FAR) has not been quantified in the Transit Station Zones. The proposed text amendments would allow an increase in density (FAR) in accordance with the increase in density presently allowed in the other zones in Montgomery County as already provided in existing MPDU regulations. The intent of the text amendments is to increase the opportunities to provide moderately priced dwelling units in mixed-use project within the four central business districts and the transit station areas. The chart within the Community-Based Planning memorandum (Attachment 6) illustrates two examples of an increase in floor area ratio in the Central Business District Zones. **Staff believes that the zoning text amendment should be clarified to only allow an increase in floor area ratio (in accordance with the range of MPDUs required in Chapter 25A) for the residential portion of a mixed-use building if MPDUs are located on-site.** As an example, a 22 percent increase in FAR for the residential portion of the development would be allowed if 15 percent of the total units were designated as MPDUs. The approval of an increase in density must include locating all moderately priced dwelling units on-site. If the moderately priced dwelling units are not located on-site then a bonus density should not be permitted. A density bonus is already permitted in the Transit Station-Residential Zone.

- b. Flexibility in the Development Standards for Public Use Space in the CBD Zones - Flexibility in the development standards has not been included in the CBD Zones to encourage the provision of moderately priced dwelling units. The proposed text amendments provide a reduction in on-site public use space for the provision of moderately priced dwelling units. The reduction in on-site public use space could provide additional site area to accommodate moderately priced dwelling units. **Staff believes that the requirement for on-site public use space under the Optional Method of Development should not be reduced or eliminated, but it could be replaced with the ability to locate the public use space off-site.** This is also intended to provide flexibility in the design of off-site public use space. Locating public use space off-site is already permitted in the Silver Spring Overlay Zones. **Staff recommends approval of the text amendment to reduce the requirement for on-site public use space in the Standard Method of Development for all CBD Zones from 10 percent to five percent if moderately priced dwelling units are provided on-site.** This text amendment will allow a five percent decrease in public use space in the CBD-0.5, CBD-R and CBD-R2 Zones. This reduction is

already allowed in the CBD-1, CBD-2 and CBD-3 Zones, if moderately priced dwelling units are provided.

ZTA 04-13 & SRA 04-1: RESIDENTIAL DENSITY OR BUILDING HEIGHT IN CBD, RMX, OR DEVELOPMENT PLAN ZONES, SUBDIVISION REGULATIONS AND THE FINDINGS FOR PROJECT PLANS

ZTA 04-13 would allow any residential density or building height limit established in a master plan, sector plan or urban renewal plan to be exceeded up to the maximum of the applicable zone for a project in a CBD, RMX, or Development Plan zone that includes MPDUs on-site. (Attachments 3 & 5)

Issue

Existing master plans and sector plans occasionally limit density and building height to less than the development standards specified in the Zoning Ordinance. As written, these text amendments would allow the Planning Board to approve building heights and densities in excess of those shown in the master plan or sector plan to accommodate the provision of MPDUs, up to the maximum allowed by the zone.

Discussion

Central Business Districts-The sector plans for the Bethesda, Friendship Heights and Silver Spring Central Business Districts include provisions that reduce building height and density below the standards in the CBD Zones.

Transit Station Areas - The North Bethesda Master Plan includes provisions in the Twinbrook and White Flint Metro Station areas that limit density below the standards in the Transit Station Zones. Instead of the 3.0 FAR permitted in the Transit Station Zones, these master plans limit the density to 2.0 FAR. The proposed text amendments would have a limited impact on these areas. Since these zones are "floating zones," the County Council as part of the approval of the local map amendment will decide the maximum density permitted in these areas. This text amendment will only provide the opportunity for a bonus density for MPDUs. It should not provide for the maximum density to be achieved in the Transit Station Zones in North Bethesda.

Potomac Master Plan - The Potomac Master Plan for the Cabin John Center includes a provision that indicates the permitted density includes the provision of moderately priced dwelling units.

Staff recommends that the text amendment be revised by removing the language that density can be increased up to the maximum in the zone. This text amendment should not substantially increase the density specified in master plans or sector plans. The text amendment should only allow an increase in the density specified in master plans and sector plans in accordance with the provisions in Chapter 25A (e.g. maximum

22 percent increase in density with 15 percent moderately priced dwelling units). The approval of an increase in density must include locating all moderately priced dwelling units on-site. If the moderately priced dwelling units are not located on-site then a bonus density should not be permitted.

ZTA 04-14: PERCENTAGE OF ATTACHED DWELLING UNITS ALLOWED IN THE ONE-FAMILY ZONES

ZTA 04-14 would allow up to 100 percent of the total number of dwelling units in a one-family residential zone to consist of one-family attached units, one-family semi-detached units, or townhouses to achieve MPDUs on-site. The Planning Board now has the authority under the MPDU optional development procedures to allow up to 100 percent of the total number of dwelling units to consist of one-family attached units, one-family semi-detached units, or townhouses if the development would be more desirable from an environmental prospective. (Attachment 4)

Issues

Site constraints occasionally limit an applicant's ability to achieve full density under current standards.

Text Amendment

The proposed text amendment would allow up to 100 percent of the total number of dwelling units in a one-family residential zone to consist of one-family attached units, one family-semi detached units, or townhouses to achieve moderately priced dwelling units on-site.

Discussion

This flexibility would give projects with affordable housing on-site the opportunity to take advantage of the standards currently available for projects with environmental concerns if the proposed development is compatible with the existing and proposed adjacent development. **Staff recommends approval of this text amendment with the clarification that the MPDUs must be located on-site.**

SRA 04-1: USE OF TERTIARY ROADS:

SRA 04-1 would allow a reduction in the public right-of-way width of a tertiary road with the provision of MPDUs on-site. (Attachment 5)

Issue

The use of the reduced width tertiary road is presently limited to environmentally sensitive areas.

Text Amendment

The proposed text amendment to the Subdivision Regulations would allow a reduction in the width of the public right-of-way of a tertiary road with the provision of MPDUs on-site.

Discussion

This flexibility would give projects with affordable housing on-site the opportunity to take advantage of the standards currently available for projects with environmental concerns if the proposed development is compatible with the existing and proposed adjacent development. **Staff recommends approval of this text amendment.**

RECOMMENDATION

The text amendments included in this report provide substantial flexibility to Zoning Ordinance and Subdivision Regulations to strengthen the Moderately Priced Dwelling Units program with the goal of producing more affordable units. Each of these amendments must be directed toward providing MPDUs on-site and minimizing or eliminating the “buyout” provisions.

Staff recommendations also clarify how on-site MPDUs are to be counted where master plans or sector plans specify density. This clarification is important in order to ensure that master and sector plan limits are not surpassed other than for bonus density for MPDUs provided in accordance with Chapter 25A.

These amendments with the modifications proposed by staff represent a substantial increase in the ability to approve and construct more moderately priced dwelling units for Montgomery County residents.

Staff recommends APPROVAL, with modifications, of ZTA 04-11, ZTA 04-12, ZTA 04-13, ZTA 04-14, SRA 04-1. Specifically, staff recommends:

APPROVAL with changes to ZTA 04-11 such that green space constitutes 35 percent of gross area for multiple-family zones similar to the requirements for multiple-family units in the Transit Station Zones.

APPROVAL with changes to ZTA 04-12 to only allow a reduction of public use space under the Standard Method of Application when MPDUs are provided on-site. Public use space off-site under the Standard and Optional Methods of Application may be allowed when MPDUs are provided on-site. DENIAL of portions of ZTA 04-12 that reduce the public use space in CBD Zones under the Optional Method of Application. Also clarification that any increase in FAR in the residential portion of a mixed-use development must only be associated with the provision of moderately priced dwelling units on site and in accordance with Chapter 25A

APPROVAL with changes to ZTA 04-13 to allow an increase in density (in accordance with the range of MPDUs required in Chapter 25A) and building height (up to the maximum in the zone) specified in master plans and sector plans if all the moderately priced units are located on site.

APPROVAL of ZTA 04-14, as submitted.

APPROVAL of SRA 04-1 to allow use of reduced width tertiary streets if MPDUs are provided on-site and the proposed development is compatible with existing and proposed adjacent development. Also, allow under the preliminary plan development to exceed up to the maximum height limit of the zone, any master plan building height limit in order to achieve all required MPDUs on-site. Further, clarify that any density limit of a master plan may be exceeded by the amount of any MPDU density bonus provided in accordance with Chapter 25A.

Attachments

1. Zoning Text Amendment No. 04-11 (as modified by staff)
2. Zoning Text Amendment No. 04-12 (as modified by staff)
3. Zoning Text Amendment No. 04-13 (as modified by staff)
4. Zoning Text Amendment No. 04-14
5. SRA-04-1(as modified by staff)
6. Community-Based Planning Memorandum