



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

August 26, 2004

MEMORANDUM

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SUBJECT: Zoning Text Amendments to Strengthen the MPDU Program

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. This effort is part of a bold initiative to improve the ability to provide moderately priced dwelling units in Montgomery County. 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. The text amendments are intended to substantially reduce the need for buyouts and alternative agreements.

STAFF RECOMMENDATIONS

The staff recommends approval to transmit the following comments and concerns to the County Council. The following items describe the primary concerns with the text amendments identified by the Community-Based Planning Division:

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 reference to increasing density “as necessary” to state that any increase in density must only be associated with the provision of moderately priced dwelling units allowed in 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. This recommendation is not intended to significantly increase the density 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 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 increase density should be limited to those projects that include MPDUs on-site. A density bonus is not needed if MPDUs are located off-site or if buyout provisions are used.

The following items describe in more detail the comments and concerns of the Community-Based Planning Division for each text amendment:

1. **ZTA 04-11: Building Coverage and Green Area in the Multiple-Family Zones**
This proposed text amendment to the Zoning Ordinance would eliminate the building coverage requirement and allow a reduction in the green area requirement in all multiple-family zones for any development containing moderately priced dwelling units on-site.

Staff Recommendation: Incorporate the following comments

Revise the proposed text amendment to increase the requirement for green area from 20 percent to 35 percent. Retain the provision that eliminates the coverage requirement. These modifications are similar to the standards for multiple-family units in the TS-R Zone.

2. **ZTA 04-12: Provision for a Density Bonus and Reduction in Public Use Space in the CBD Zones and Transit Station Zones**

The proposed text amendment to the Zoning Ordinance would allow a reduction in the public use space requirement under the Standard Method in the CBD Zones, and it would allow the public use space requirement to be reduced or located off-site under the Optional Method in the CBD Zones for any project that includes moderately priced dwelling units on-site. The proposed text amendment would also allow a residential density bonus over the base density and residential FAR to be increased in any CBD Zone or a Transit Station Zone that includes moderately priced dwelling units on-site.

Staff Recommendation: Incorporate the following comments

- a. **Density Bonus in the CBD Zones and Transit Station Zones**
Revise the proposed text amendment to clarify that any increase in density must only be associated with the provision of moderately priced dwelling units. This text amendment should not substantially increase the density specified in master plans or sector plans. If approved, 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 is not necessary. A density bonus is already permitted in the Transit Station-Residential Zone.
- b. **Reducing Public Use Space in the CBD Zones (Optional Method)**
The staff does not support a reduction in the 20 percent minimum, required public use space required in the CBD Zones. Public use space is required to support the additional density allowed in the Optional Method, and it should not be reduced below the minimum required.
- c. **Locating Public Use Space Off-Site (Optional Method)**
The staff supports the provision to allow off-site public use space to be substituted for the on-site requirement in the Optional Method for all of the CBD Zones if moderately priced dwelling units are provided on-site. It provides more flexibility in the design of each site to accommodate moderately priced dwelling units. It also provides for the potential to create important public use space off-site either as part of a single application or in combination of other applications. Off-site public use space is already permitted in the overlay zones in the Silver Spring CBD.
- d. **Reducing Public Use Space in the CBD Zones (Standard Method)**
The 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 5 percent if moderately priced dwelling units are provided on-site. This text amendment will allow the same 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.

3. **ZTA 04-13: Residential Density or Building Height in CBD, RMX, or Development Plan Zones**

This proposed text amendment to the Zoning Ordinance 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, RMA, or development plan zone that includes moderately priced dwelling units on-site.

Staff Recommendation: Incorporate the following comments

- a. Zones with Project Plans (CBD and RMX Zones), and the Zones with Development Plans – Approve the zoning text amendment to only allow an increase in floor area ratio (in accordance with the range of MPDUs required in Chapter 25A) for the residential component 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.
- b. Building Height – Building heights specified in master plans and sector plans can be increased to the maximum permitted in the appropriate zone to accommodate MPDUs.
- c. Density - The densities (FAR and dwelling units per acre) specified in master plans and sector plans can be increased only to provide an MPDU density bonus in accordance with Chapter 25A.

4. ZTA 04-14: Percentage of Attached Dwelling Units Allowed in the One-Family Zones

The proposed text amendment to the Zoning Ordinance 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. The Planning Board now has the authority under the optional method procedures for moderately priced dwelling units to allow up to 100 percent of the total dwelling units to consist of one-family attached, one family semi-detached, or townhouses if the development would be more desirable from an environmental perspective.

Staff Recommendation: Approval

Support the proposed text amendment to allow up to 100 percent of the total dwelling units to consist of one-family attached, one family semi-detached, or townhouses if the required moderately priced dwelling units are located on-site, and the proposed development is compatible with existing and proposed adjacent development.

5. SRA 04-1: Use of Tertiary Roads

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 if the required moderately priced dwelling units are located on-site.

Staff Recommendation: Approval

Support the text amendment to allow the use of a reduced width tertiary street if moderately priced dwelling units are provided on-site, and the proposed development is compatible with existing and proposed adjacent development.

6. Bill 25-04: Modifications to Chapter 25A Moderately Priced Dwelling Units

Staff Recommendation: Incorporate the following comments

The Planning Board should be included in the approval process to locate moderately priced dwelling units off-site. The intent of the text amendment is to substantially reduce the need to locate moderately priced dwelling units off-site. The staff report from the Research and Technology Center includes a more extensive discussion of the proposed amendments to Chapter 25A.

ANALYSIS

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

This text amendment to Multiple-Family Zones will allow the Planning Board to make reasonable adjustments to the existing development standards to increase opportunities to provide moderately priced dwelling units.

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.

Text Amendments

The text amendments will amend the Multiple-Family Zones to provide opportunities to achieve the densities established in these zones for development as follows:

- a. Reduce the requirement for green area from 53 percent in the R-30 Zone, 47 percent in the R-20 Zone, 45 percent in the R-10 Zone, and 50 percent in the R-H Zone to 35 percent minimum in all the Multiple-Family Zones if MPDUs are provided on-site.
- b. Eliminate the requirement for maximum coverage in all the Multiple-Family Zones if MPDUs are provided on-site.

Discussion

The Multiple-Family Zones are often located at the edge of the central business districts and transit station areas in Montgomery County. Multiple-family apartments are located along the northern and southern boundaries of the Bethesda CBD. The recent Public Hearing Draft for the Woodmont Triangle Amendment to the Sector Plan for the Bethesda CBD already recommends text amendments to reduce the coverage and green area in the Multiple-Family Zones. This text amendment could result in as many as 800 additional housing units including 120 moderately priced dwelling units in the Bethesda CBD.

The intent of the text amendment is to increase the opportunity to provide moderately priced dwelling units in the multiple-family zones. Without the text amendments, the limitation on coverage and green area will reduce the ability to provide substantial improvements to the existing supply of multiple-family units. If adequate green area is provided, then a limitation on building coverage is not necessary. The proposed revisions are similar to the requirements for green area and building coverage in the Transit Station Residential (TS-R) Zone for multiple-family dwelling units.

ZTA 04-12: PROVISION FOR A DENSITY BONUS AND REDUCTION IN PUBLIC USE SPACE FOR THE CBD ZONES AND TRANSIT STATION ZONES

The text amendments amend the Central Business District Zones and the Transit Station Zones to allow the Planning Board to make reasonable adjustments to the existing development standards for density and public use space to increase opportunities for moderately priced dwelling units.

Issues

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 has not been 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 achieve the densities established in these zones. The amendments to the CBD Zones and Transit Station Zones provide a density bonus for the provision of MPDUs in accordance with the provisions in other zones as follows:

- 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 space 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 - 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 projects within the four central business districts and the transit station areas. The attached chart illustrates two examples of an increase in floor area ratio in the Central Business District Zones.
- b. Flexibility in the Development Standards for Public Use Space (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. The requirement for on-site public use space should not be substantially 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.

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

The text amendments modify the Subdivision Regulations and the Findings for Project Plans. Currently, the Subdivision Regulations and the Findings for Project Plans in the Zoning Ordinance require a finding that proposed developments substantially conform to the applicable master plan or sector plan. These modifications will allow the Planning Board to make reasonable adjustments to the existing provisions in all master plans and sector plans.

Issues

The existing master plans and sector plans often provide a limitation on density and building height. The provisions in master plans and sector plans are not always clear if the designated density is intended to include the bonus provisions for moderately priced dwelling units. In these cases, the proposed text amendments clarify that the bonus provisions for moderately priced dwelling units are above the density specified in the plan.

In some cases, the master plans and sector plans intentionally limit the density and building height to less than the development standards specified in the Zoning Ordinance. These text amendments are intended to allow the Planning Board to approve building heights in excess of those shown in the master plan or sector plan to accommodate the provision of MPDUs. These text amendments are not intended to change the densities specified in master plans except to provide a bonus for the provision of MPDUs.

Text Amendments

The following text amendments amend the Subdivision Regulations and the Findings for Project Plans to clarify and modify the guidelines in existing master plans and sector plans regarding density and building height as follows:

- a. **Building Height** - Building heights specified in master plans and sector plans can be increased to the maximum permitted in the appropriate zone to accommodate MPDUs.
- b. **Density** - The densities (FAR and dwelling units per acre) specified in master plans and sector plans can be increased to provide an MPDU density bonus in accordance with Chapter 25A.

Discussion

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.

Bethesda CBD - The pending Woodmont Triangle Amendment to the Sector Plan for the Bethesda Central Business District proposes to revise the sector plan language to allow the Zoning Ordinance to establish the maximum development standards instead of the existing Sector Plan. The remaining portions of the Bethesda Sector Plan would also be modified by this text amendment for building height.

Friendship Heights CBD - This CBD also includes provisions that limit building height and density below the existing development standards in the CBD Zones. Projects have already been approved for the remaining sites in the Friendship Heights CBD.

Silver Spring CBD - The Ripley District in the Silver Spring CBD includes provisions that limit building height below the existing development standards in the CBD Zones. These text amendments would increase the ability of the Planning Board to consider an increase in building height in the Silver Spring CBD Sector Plan if moderately priced dwelling units are provided.

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 local map amendments 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. This text amendment would allow the Planning Board to consider an increase in the density specified in the Potomac Master Plan if MPDUs are included on-site.

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

The proposed text amendment to the Zoning Ordinance 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. The Planning Board now has the authority under the optional method procedures for moderately priced dwelling units to allow up to 100 percent of the total dwelling units to consist of one-family attached, one family semi-detached, or townhouses if the development would be more desirable from an environmental perspective.

Issue

The primary issue is compatibility with existing and proposed adjacent development.

Text Amendment

The proposed text amendment will allow up to 100 percent of the total dwelling units to consist of one-family attached, one family semi-detached, or townhouses.

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.

SRA 04-1: USE OF TERTIARY ROADS

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.

Issue

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

Text Amendments

The text amendments will amend the Subdivision regulations to allow a reduction in the width of the public right-of-way of a tertiary road with the provision of MPDUs.

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.

BILL 25-04: MODIFICATIONS TO CHAPTER 25A MODERATELY PRICED DWELLING UNITS

The proposed series of text amendment to Chapter 25A reduce the need for buyouts and waivers of the required moderately priced dwelling units in all zones, but especially in the transit station and CBD areas.

Issues

The use of buyouts and waivers has been used recently in the Bethesda and Silver Spring Central Business Districts. The text amendments are intended to improve the ability to provide affordable housing near transit stations and employment centers.

Discussion

The intent of this series of text amendments is to substantially reduce the need for buyouts. The Planning Board should be included in the approval process for buyouts to locate moderately priced dwelling units off-site. The staff report from the Research and Technology Center includes a more extensive discussion the proposed amendments to Chapter 25A.

CONCLUSION

The text amendments included in this report provide significant amendments to the Zoning Ordinance and Subdivision Regulations to strengthen the moderately priced dwelling unit program. The items include the following:

1. ZTA 04-11: Amend the Multiple-Family Zones to provide opportunities to achieve the densities established in these zones.
2. ZTA 04-12: Amend the CBD Zones and Transit Station Zones to provide a density bonus for the provision of MPDUs in accordance with the provisions in other zones. This text amendment as modified also allows public use space to be located off-site.
3. ZTA 04-13: Amends the RMX Zones, the CBD Zones, and the Development Plan Zones to permit the building height and density specified in master plans and sector plans to be exceeded. The density increase is limited to the MPDU bonus provisions.
4. ZTA 04-14: Allows the Planning Board to permit up to 100 percent one-family attached units, one family semi-detached units, or townhouses if additional MPDUs are provided on-site.

5. SRA 04-1: Allows the Planning Board to permit the use of a reduced width tertiary road if additional MPDUs are provided on-site.
6. Bill 25-04: Modifications to Chapter 25A to reduce the need for buyouts of MPDUs.

These amendments with the proposed modifications represent a significant increase in the ability to provide for moderately priced dwelling units in Montgomery County. The staff recommends approval with modifications as specified in the above paragraphs.

Attachments:

1. Examples: Increase in FAR for MPDUs
CBD-2 Zone
2. MPDU Standards: One-Family Residential Zones
3. MPDU Standards: Multiple-Family Residential Zones

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