



MONTGOMERY COUNTY PLANNING BOARD
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

OFFICE OF THE CHAIRMAN

May 13, 2011

The Honorable Valerie Ervin, President
Montgomery County Council
Stella B. Werner Council Office Building
100 Maryland Avenue, Room 501
Rockville, Maryland 20850

Re: Planning Board Recommendation to County Council on Zoning
Text Amendment 11-01.

Dear Ms. Ervin and Councilmembers:

Attached for your consideration is the Planning Board's recommendation for Zoning Text Amendment 11-01, "ZTA 11-01", which concerns the establishment of the Commercial/Residential Neighborhood (CRN) and Commercial/Residential Town (CRT) Zones and general amendments to the Commercial/Residential (CR) Zones.

The Planning Board recommends approval of ZTA 11-01 with modifications to three sections:

- 59-C-15.3. Definitions Specific to the CR Zones, regarding the definition of "Transit Proximity";
- 59-C-15.43. Sketch Plan, regarding the modification of binding elements during site plan review; and
- 59-C-15.631. Parking Ratios, regarding non-residential parking ratios in the CRN and CRT Zones.

These changes are based on testimony received and presented to the Board and discussions with stakeholders after the Board transmitted the ZTA to the Council for introduction. It is the Board's intent that these modifications refine ZTA 11-01 in concert with the original intentions of the County Council when it adopted the CR Zones, with applicants currently working through the review process under the CR Zones, and with the recommendations of Municipalities.

The suggested modifications are detailed below with an explanation of each change.

1. Transit Proximity

In Section 59-C-15.3, the Planning Board recommends removing the last sentence, which the Planning Board proposed to add as part of the original recommended amendments to the CR zones. Testimony provided to us after we transmitted the recommended amendments to the Council has shown that the change we proposed would be counter to the County Council's intent in crafting the original CR zone, based on records of specific discussions regarding transit proximity for properties on or near master-planned transit lines such as the CCT or Purple Line.

The Board was not unanimous, however, in its support for this change. A very strong argument can be made that density should not be permitted to be built prior to construction of a transit network that can alleviate traffic problems associated with new development. While this can be a problem, a majority of the Board members felt that it was important to allow projects to proceed based on master-planned facilities to encourage the density that justifies actual construction of transit. In other words, if a transit system is in a master plan, it is because it is intended to be built. And if densities are assigned, it is because we want development at those locations (and the increased revenue provided by increased density can only increase the capacity to build such transit systems). Further, it was noted that the "chicken-and-egg" dilemma can be solved, in part, by requiring development to be phased, and possibly limiting the phasing of development associated with any incentive density granted for transit proximity until the transit system is actually in place. This strategy will be outlined in the Incentive Density Guidelines and assessed on a case-by-case basis.

We also recommend adding the term "master-planned" to clarify what constitutes a "planned" transit station or stop.

The modified language would read:

Transit proximity: Transit proximity is categorized in two levels: 1. proximity to an existing or master-planned Metrorail Station; 2. proximity to an existing or master-planned station or stop along a rail or bus line with a dedicated, fixed path. All distances for transit proximity are measured from the nearest transit station entrance or bus stop. ~~[[-To qualify as a planned station or stop, the station or stop must have funds appropriated in the relevant Capital Improvement Program.]]~~

2. Binding Elements

Section 59-C-15.43 was the subject of considerable debate because of three recently approved sketch plans. Because of this ongoing debate, Council Staff published the introduced text of the ZTA with the existing CR Zone language

rather than the language in the Planning Board's original transmittal. This was done to allow further discussion and a revised Planning Board recommendation before the Council hearing on this ZTA.

The Planning Board recommends the following change, which is intended to clarify the position of the County Council based on the approved Council Opinion and input from stakeholders present during the original CR Zones adoption. These changes would ensure a reasonable amount of certainty, flexibility, and public notification. Moreover, the Board believes these changes:

- Clarify the Planning Board's authority;
- Define rules for changes requested by various parties; and
- Reference specific standards to establish findings.

To fulfill these objectives, Subsection (d) would be modified to read:

- (d) During site plan review, the Planning Board may approve ~~[[modifications to the binding elements or conditions of an approved sketch plan.~~
- ~~(1) If changes to a sketch plan are requested by the applicant, notice of the site plan application must identify those changes requested. The applicant has the burden of persuading the Planning Board that such changes should be approved.~~
- ~~(2) If changes are recommended after the application is made, notice of the site plan hearing must identify changes requested.~~
- ~~(3) In acting to approve a sketch plan modification as part of site plan review, the Planning Board must make the findings required in Section 59-C-15.42 (e) in addition to those required by Section 59-D-3.]]~~
- amendments to the binding elements of an approved sketch plan.
- (1) Amendments to the binding elements may be approved if such amendments are:
- (A) requested by the applicant;
- (B) recommended by the Planning Board staff and agreed to by the applicant; or
- (C) made by the Planning Board, based on a staff recommendation or on its own initiative, if the Board finds that a change in the relevant facts and circumstances since sketch plan approval demonstrates that the binding element either is not consistent with the applicable master or sector plan or does not meet the requirements of the zone.
- (2) Notice of proposed amendments to the binding elements must be identified in the site plan application if requested by the applicant or in the final notice of the site plan hearing if recommended by Planning Board staff and agreed to by the applicant.

(3) For any amendments to the binding elements, the Planning Board must make the applicable findings under Section 59-D-43(c) in addition to the findings necessary to approve a site plan under Section 59-D-3.

3. *Parking Ratios for the CRT & CRN Zones*

Additional testimony was received regarding the parking ratios for the CRT and CRN Zones, and Planning Board Staff presented further analysis of the recommended requirements for non-residential uses. The Town of Kensington, in particular, raised the concern that parking requirements are too low in non-metro station areas. In order to address this concern, the Planning Board recommends raising certain non-residential parking ratios. Further refinement can be done through selection of the appropriate zones, with their differing parking requirements, during the mapping process.

Based on a Staff analysis of the proposed numbers in light of the recent Montgomery County Parking Study, existing parking ratios, and usage numbers, the Planning Board recommends the table below, taken from Section 19-C-15.631, be modified to increase the minimum parking requirements in the CRT and CRN Zones:

<u>Use</u>	<u>CRN</u>		<u>CRT</u>		<u>CR</u>			
	<u>Up to ½ mile</u>	<u>Greater than ½ mile</u>	<u>Up to ½ mile</u>	<u>Greater than ½ mile</u>	<u>Up to ¼ mile</u>	<u>¼ to ½ mile</u>	<u>½ to 1 mile</u>	<u>Greater than 1 mile</u>
<u>(a) Residential</u>								
<u>Maximum:</u>	<u>None</u>	<u>None</u>	<u>59-E</u>	<u>None</u>	<u>59-E</u>	<u>59-E</u>	<u>59-E</u>	<u>None</u>
<u>Minimum:</u>	<u>0.8</u>	<u>1.0</u>	<u>0.7</u>	<u>0.8</u>	<u>0.6</u>	<u>0.7</u>	<u>0.8</u>	<u>0.9</u>
<u>(b) Retail and restaurant non-residential uses (gross leasable indoor area; no parking spaces are required for outdoor patron area)</u>								
<u>Maximum:</u>	<u>[[59-E]] <u>None</u></u>	<u>None</u>	<u>[[59-E]] <u>None</u></u>	<u>None</u>	<u>59-E</u>	<u>59-E</u>	<u>59-E</u>	<u>None</u>
<u>Minimum:</u>	<u>[[0.6]] <u>0.6</u></u>	<u>0.8 <u>0.8</u></u>	<u>0.4 <u>0.4</u></u>	<u>0.6 <u>0.6</u></u>	<u>4 per 1,000 square feet <u>4 per 1,000 square feet</u></u>	<u>4 per 1,000 square feet <u>4 per 1,000 square feet</u></u>	<u>4 per 1,000 square feet <u>4 per 1,000 square feet</u></u>	<u>0.8]] <u>0.8</u></u>
<u>4 per 1,000 square feet</u>								
<u>(c) All other non-residential uses</u>								
<u>Maximum:</u>	<u>59-E</u>	<u>None</u>	<u>59-E</u>	<u>None</u>	<u>59-E</u>	<u>59-E</u>	<u>59-E</u>	<u>None</u>
<u>Minimum:</u>	<u>[[0.6]] <u>0.8</u></u>	<u>[[0.8]] <u>1.0</u></u>	<u>[[0.4]] <u>0.6</u></u>	<u>[[0.6]] <u>0.8</u></u>	<u>0.2</u>	<u>0.4</u>	<u>0.6</u>	<u>0.8</u>

Several other issues were raised and requests for modifications were made. The Planning Board is not recommending any other changes to ZTA 11-01, but a brief summary of these items is provided to assist the Council.

- Retain BLT requirement for the CRN and CRT Zones for 5% of all density above the standard method.
 - Based on the initial recommendation of the Planning Board to make all BLT purchases optional and the PHED Committee's direction to remove the BLT requirement from lower-density areas such as Kensington, the Planning Board does not recommend making this change.
- Allow density averaging only through a sketch plan application.
 - The option to request density averaging at site plan should be permitted because all development in the CRN Zones and some development in the CRT Zones will go through site plan review, but not sketch plan review.
 - It is understood that a minor change in the language of Section 59-C-15.122(a) will be necessary to clarify the process for the various zones.
- Allow preliminary plans to be filed prior to sketch plan approval.
 - The Planning Board believes that staff resources should not be spent on review of an application that is dependent on the outcome of an undetermined ruling.
 - While the time period may be longer due to consecutive filing requirements, the need for certainty in the sketch plan decision is important for any review of a preliminary plan.
- Reduce bicycle parking requirements for multi-family buildings with less than 200 units.
 - Because many areas with smaller multi-family buildings will not be located near Metro Stations, mode-share goals will be harder to reach and bicycle travel will be a key strategy to achieve these goals.
 - In cases where site constraints make this requirement truly onerous, a waiver can be pursued under the existing language of the ordinance.
- Stipulate maximum points allowed for each public benefit.
 - The Planning Board will modify the Incentive Density Guidelines in line with any changes approved by the Council and can address this issue through this process.
 - Alternatively, Planning Board Staff can provide language to address this issue through the ordinance if the Council prefers to take that approach.

A full accounting of the testimony received over the course of drafting this ZTA has been posted on the Planning Department's website and can be provided. We look forward to assisting the Council in its deliberations on the enclosed ZTA.

Sincerely,



Françoise M. Carrier
Chair

cc: Planning Board
Rollin Stanley