



July 17, 2012

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Civic Federation testimony to County Council Opposing Approval of ZTA 12-09, Hotels in PD Zones

I am Jim Humphrey, testifying on behalf of the Montgomery County Civic Federation as Chair of their Planning and Land Use Committee. A majority of our Executive Committee members having voted in favor of this position, the MCCF recommends disapproval of ZTA 12-09.

A primary purpose of the PD zone is to encourage creation of housing. The Purpose section of the PD zone reads, in part: "It is intended that development in this zone produce a balanced and coordinated mixture of residential and convenience commercial uses, as well as other commercial and industrial uses shown in the area master plan, and related public and private facilities." [See County Code Sec.59-C-711.]

So hotels are already permitted in the PD zones under the allowance for "other commercial and industrial uses." But the zone requires hotels also meet the two tests in place for all other commercial and industrial uses: first, that such use be recommended for the property in the applicable master plan; and second, that the use be determined to be compatible with existing and planned future development both adjacent to, and within, the PD zoned property.

This is a ZTA which, by the sponsor's own admission, has been introduced to allow the owner of a single property (at the corner of Battery Lane and Woodmont Avenue in Bethesda) to develop that property in a manner not currently allowed. Not because hotels aren't allowed in the PD zone--they are. But because this particular PD zoned property is not recommended for a hotel in the *Bethesda Sector Plan*. Two other PD zoned properties have been included within the ambit of the legislation, thereby avoiding the prohibition on spot zoning. But these other two sites seem inappropriate for hotel use, since they abut and confront single-family residential zoned properties that are in residential use. It might be better to amend the *Bethesda Sector Plan* to recommend a hotel on the Battery Lane property.

The Battery Lane site has been the subject of a rezoning into the PD-75 zone and two Development Plan Amendments, approved by District Council in order to create housing on the site. It should also be remembered that DPA 06-1 approved for this site (Resolution 16-98, dated April 24, 2007) contained Binding Element #10: "The Street commercial space in the planned building will be occupied by a 'Quality Restaurant' as described in the Institute of Transportation Engineers (ITE) Trip Generation Manual, 7th Edition, page 1703, not by any more intensive commercial use (*i.e.* one producing more peak hour traffic)." This restriction could prevent the other associated commercial uses that often accompany the guest rooms in a hotel--namely, boutique retail shops, bars, and rental space for social events and corporate meetings.

It has been suggested that ZTA 12-09 might be amended to remove the requirement for master plan recommendation for hotel use. This would leave only the singular protection of the compatibility requirement, allowing a less stringent standard for approving a hotel than for all other commercial or industrial uses in the PD zones. This change in zoning standards designed to accommodate a single property is an example of how the zoning ordinance has become overly complicated; and as a result of its possible unintended negative consequences the MCCF respectfully urges disapproval of this ZTA.