

"Federation Corner" column
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Zoning Text Amendments abuse the orderly planning process

By Mike Diegel, President of Allied Civic Group, and
Dan Wilhelm, MCCF President

Montgomery County is well known for its planning process, which focuses on extensive participation by the public to craft master plans that represent both an appropriate vision for a community as well as sensible economic development and land use. Since it's impossible to foresee all eventualities, and recognizing the occasional need to be flexible in land-use decisions, the County Council has the power to change zoning defined development rules through the use of zoning text amendments (ZTAs).

These amendments are usually introduced at the request of a single developer with a particular project in mind. While in principle, Allied and MCCF recognizes the value of ZTAs, we are concerned about the increased use of ZTAs. The most egregious is also the most recent example, which allows an 80-foot increase in building height in a south Silver Spring area abutting a residential community, in sharp contrast to the 45-foot restriction set forth in the approved master plan.

As mentioned above, master plans are the result of a long public process incorporating the concerns of many parties. The master plan process delicately balances the desire of business communities to develop large projects without consideration of their impact with the desire of residential communities to ensure that reasonable and appropriate development occurs, without repercussions on neighborhoods. ZTAs circumvent master plans and the public process that created those plans.

While these ZTAs are often carefully crafted to avoid the constitutional problem of special legislation, in reality they benefit one developer with one project. Unfortunately, when master plans are ignored to appease a particular developer, the afore-mentioned "delicate balance" is forever tilted, often at the expense of the community in ways that don't become obvious for some time. In addition, they set a dangerous precedent with a law that can be cited and then applied in other communities as well. In addition, once passed in one community, other developers may become more aggressive in their plans, rightly assuming that they can get a ZTA of their own introduced and passed.

That appears to be the case in Fenton Street Village, as Allied as learned of the likelihood that another ZTA is in the works to permit additional height and/or density near the neighborhoods of East Silver Spring and Seven Oaks-Evanswood.

A recent Washington Post article focused on the use of ZTAs in Prince George's County. The writer indicated in that article that this was not a problem in Montgomery County. Both civic groups strongly disagreed with that assessment and Allied wrote a letter to the editor (signed by Allied's president) outlining the points made above, which was published in the Prince George's Extra edition of the paper.

However, it's clear that an educational process is needed to make citizens aware of this issue and the potential impact on the planning process as well as our communities.

This effort will be further discussed in Allied's Feb. 22 meeting, which will examine the problem in greater detail. The Tuesday 7:30 PM meeting will be held at Crossway Community Center, 3015 Upton Dr, Kensington. All are welcome.

Council proposes another new zone

By Jim Humphrey
MCCF District One V.P

On January 27, after receiving public testimony, the Planning Board voted to request the County Council introduce legislation to create another new category in the county zoning ordinance, the Transit-Oriented Mixed Use (TOMX) Zone. In order to hasten the process for approval of the legislation, during their session on January 25 the Council had already introduced a zoning text amendment, ZTA 05-02, proposing creation of the new zone.

The Planning staff noted in their report on the proposed TOMX Zone that existing mixed-use zones were designed either for Central Business Districts, or for new development projects--not redevelopment--in other areas. Both the Transit-Oriented Mixed Use Zone and the Mixed-Use Town Center Zone (proposed in ZTA 04-26) are designed to encourage increased density and mixed-use redevelopment in non-CBD transit center areas.

The new TOMX zone category will allow for projects that mix residential with retail and commercial uses, including light industrial to accommodate some biotechnology manufacturing. It is initially intended for use in rezoning of property in the Shady Grove Sector Plan now under Council consideration. The TOMX zoning category may be used in future master plan revisions for other transit station development areas that are not designated as Central Business Districts (Grosvenor, White Flint, Twinbrook, Forest Glen and Glenmont), for transit centers along the proposed Corridor Cities Transitway, and for station areas along the proposed Purple Line (such as Chevy Chase Lake, Langley Park, and possibly Lyttonsville).

At their February 14 meeting, MCCF delegates unanimously agreed to recommend to the County Council that several changes be made to the ZTA--that the Public Use Space be increased to 20% of net lot area, that maximum building height and minimum setbacks be established for Optional Method development, and that a Maximum Dwelling Unit Density be specified for the new zone. The proposed ZTA doesn't provide any standards for these parameters under Optional Method, and instead leaving them up to the Planning Board to determine on a plan-by-plan basis. These parameters are important to citizens to help integrate new development into the community and ensure the result is livable.

The Council staff report on the proposed TOMX Zone, including text of ZTA 05-02, can be accessed on-line at --
<http://www.montgomerycountymd.gov/apps/council/agpackets/050125/2005012507.pdf> . The Council has scheduled a hearing on ZTA 05-02 for Tuesday, March 1, at 7:30 p.m. Under new Council rules, both individuals and groups will have only 3 minutes to present testimony, and no ceding of time is now allowed.

NOTE: On February 18, after this article went to press, the Planning Board scheduled its public hearing on ZTA 05-02 for Thursday, February 24--it is Item # 8 on the agenda, and scheduled to be heard in the afternoon session that begins at 1 p.m