

"Federation Corner" column
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Zoning problems accompany code rewrite

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For many years the Planning Department, Planning Board and County Council have been engaged in an effort to rewrite the Montgomery County zoning code, a set of laws which legislates the allowed uses and building standards for every property in the county. The proposed new code would make only minor alterations in some current zones, while many zones, such as the commercial zones, would be eliminated and replaced with zoning that allows a mix of commercial and residential uses.

The revised zoning code contains a list of all of the proposed new zones. But an accompanying piece of legislation, called a District Map Amendment, is the tool used to apply new zoning labels to every property in the county (except those currently zoned for single-family detached homes).

There are many problems associated with the proposed District Map Amendment (DMA). It would allow some residential development on properties currently zoned solely for commercial use, which are located in places inappropriate for introduction of new or additional housing. And yet the DMA does not require mixed use in the very place the Council has traditionally encouraged it, namely in a key Metro station area. And there are some properties that are just plain zoned wrong.

First, the new zone mapping would convert current commercial properties in suburban and rural areas to mixed use, allowing residential use as a percentage of any redevelopment. Translation: small shopping strips in places like Colesville, Cloverly, Cabin John, Travilah, Darnestown, Davidsonville, Boyds and Dickerson could be redeveloped with up to 30 percent residential square footage. Allowing mixed use increases the profit potential of these properties, thus increasing the likelihood that the existing retail will be demolished and rebuilt with apartment units above. The result of which is that these communities would lose their existing neighborhood serving retail, and the residents of any of these new dwelling units will need cars, and contribute to the increasing traffic congestion, because these suburban and rural areas are not served by adequate public transit.

In addition, I thought the Council was increasing the allowed density of development in transit station communities in order to prevent sprawl in suburban and rural areas. That is a core principle of smart growth, isn't it? But now this rezoning effort proposes to increase the number of dwelling units allowed in the very locations in which the Council claims it wants to prevent sprawl development.

Second, the DMA maps some areas for mixed use, like seven or eight acres of downtown Bethesda; yet it allows residential or retail and office space as a single use if the developer is willing to construct a smaller building than the maximum size allowed. However, the current C-2 commercial zone applied to this Bethesda acreage requires a mix of uses—at least 60 percent residential square footage on up to four floors of five story buildings, but only if there is commercial use. like retail shops, on the first floor. Unfortunately, the new zoning would allow three story apartment buildings on this

acreage that is designated in the Sector Plan as a primary shopping district for Bethesda. That's not smart growth. So, why not retain the current C-2 zoning?

And then there are the properties for which the Planning Department staff just got the proposed new zone wrong.

The residential project approved for, and under construction at, the Stoneyhurst Quarry on River Road could not have been approved under the zone proposed for that property. To note one of the problems, the building height for the project already approved by the Planning Board would not be allowed under the new zone. At the very least, the Planning Department staff should have verified that, for every property that has an approved but unbuilt redevelopment project, the standards of the proposed new zone match those of the approved project.

There is a company located near the Airpark engaged in an industrial function, which they could not continue under the new zone proposed for their property. In essence, they would be put out of business. The new zoning should allow this company to continue its operations on their property.

I have heard of a problem with a property located on the edge of the Town of Chevy Chase that is currently zoned as C-T (Commercial Transition). There are binding elements required of any redevelopment on this site, such as visual buffering or increased setbacks from adjacent properties--requirements which were adopted by the County Council as a part of the C-T rezoning process. Those binding elements were approved to assure compatibility with nearby single-family detached home properties. But these restrictions will be eliminated under the mixed use zone proposed for the property. So, why not retain the C-T zoning?

The Council is very near completion of the Zoning Code Rewrite Project and the accompanying District Map Amendment. But this is not the time for Council members to make a mad dash for the finish line so that they can finally be done with this long, laborious project. Instead, this is the time for them to slow down their efforts and meticulously insure that the myriad of little problems are addressed and resolved satisfactorily. Otherwise a myriad of other larger problems, such as court challenges to the new zoning labels applied to multiple properties across the county, could plague the county government and Council for years to come.

The views expressed in this column do not necessarily reflect formal positions adopted by the Federation. To submit an 800-1000 word column for consideration, send as an email attachment to the montgomerycivic@yahoo.com