


PHED COMMITTEE #2  
June 22, 2009

**MEMORANDUM**

June 18, 2009

TO: Planning, Housing, and Economic Development (PHED) Committee

FROM:  Marlene L. Michaelson, Senior Legislative Analyst

SUBJECT: Germantown Sector Plan

This is the Planning, Housing, and Economic Development (PHED) Committee's second worksession on the Germantown Sector Plan. The first meeting focused on cross-cutting issues. This worksession will cover transportation issues and all individual properties on the east side of I-270 (including the Montgomery College, Fox Chapel, Seneca Meadows/Milestone and North End-East Districts). A separate memorandum addresses transportation issues. The worksession on June 29 will address the North End-West, Town Center, Cloverleaf, and Gateway properties, as well as any remaining area-wide issues. **Committee Members should bring a copy of the Sector Plan to the worksession.**

One of Staff's concerns with the Sector Plan is that the Plan does not include any information regarding the existing zoning on the properties under consideration or the rationale for any change in zoning. At Staff's request, Planning Department Staff have prepared the chart on © 1 to 2 which summarizes the existing and proposed zoning for each area. The existing and recommended zoning and the rationale for any change should be added to Sector Plan as part of the Council's amendments to the Sector Plan.

**FOX CHAPEL DISTRICT**

The Fox Chapel District is at the southeast corner of the Sector Plan and includes commercial uses along MD355 and Middlebrook Road, as well as the Middlebrook Mobile Home Park.

## **Fox Chapel Shopping Center (FC-1) and Middlebrook Mobile Home Park (FC-5)**

**Size of property:** 13 acres for FC-1 and 24 acres for FC-5

**Location Map:** Circle 1

**Existing Zoning:** C-1 (FC-1) and R-200, R-90, R-30 and C-1 (FC-5)

**Proposed Zoning:** RMX-2C for shopping center and RMX-1/TDR

**Summary of land use recommendations** (see page 55): The Plan recommends that the shopping center be redeveloped as a mixed-use village center of commercial uses and residential uses. If it is assembled with the adjacent Middlebrook Mobile Home Park, the Plan recommends a total density of 0.3 FAR for commercial uses and 22 units per acre for the Mobile Home Park. If the properties are not assembled, the Plan recommends limiting the density to 0.3 FAR for commercial uses and 5 units per acre for residential. The map in the Plan inadvertently included the wrong zoning; the correct zoning appears on © 3. Since the Sector Plan is silent regarding the reason for the change in zoning, Staff asked Planning Department staff to comment. They responded that the rationale for using RMX-1/TDR was the following:

- Retain the residential focus of this 24 acre property;
- As this property currently has a 2.0 parcel of C-1 zoning, allow for a small amount of commercial throughout the site;
- Limit the overall commercial density of the combined properties to 0.3 FAR so that total commercial development does not exceed traffic capacity and so that the cumulative amount of commercial development does not exceed the size of a village retail center for traffic reasons.

**Testimony:** The Council received testimony from Bozzuto Homes, Inc., representing the Middlebrook Mobile Home Park, asking that the entire 50-acre area, including the shopping center and Mobile Home Park, be rezoned for mixed-use development with an emphasis on residential development. They also asked not to be designated for transferable development rights (TDRs).

**Staff Comments:** The densities have been established to very strongly encourage assemblage. Although the Sector Plan does not provide a rationale for assemblage, Planning Department staff indicate that under current ownership and development, there is a substantial grade difference between the shopping center and the mobile home property. This grade difference results in an extensive retaining wall on the back of the shopping center which impedes the pedestrian connection between the residences, mobile home park, and retail services. With assemblage, any higher density multi-family development can be located closer to MD-355 and further from the R-200 development to the east.

Staff believes that two zones recommended by the Planning Board for this property achieve the appropriate goals of commercial uses near a commercial intersection and primarily residential in the area closest to existing residential development. Staff firmly believes that any increase in residential density should be achieved through TDRs and therefore does not support the request to remove TDRs. Staff supports the Sector Plan recommendations for this property.

**R-200 properties (FC-8) – recommendation for accessory apartments**

**Size of property:** 5 acres

**Location Map:** page 63

**Existing Zoning:** R-200

**Proposed Zoning:** R-200

**Summary of land use recommendations** (see page 55): Recommends retaining the residential character of the MD-355 gateway into Germantown by allowing existing R-200 properties (FC-8) to have by-right accessory housing units.

**Testimony:** None

**Staff Comments:** Since accessory apartments could only be allowed by right with an amendment to the zoning ordinance, Staff recommends either deleting this language or revising it to recommend a zoning text amendment.

**Credit Union Property (FC-9)**

**Size of property:** 4 acres

**Location Map:** page 63 and © 4

**Existing Zoning:** R-90, C-1

**Proposed Zoning:** R-90 C-1

**Summary of land use recommendations:** This area was not discussed in the Plan. The revised zoning is indicated on the zoning map on page 63 (area 9). A map showing the location of the credit union portion of this area is shown on © 4.

**Testimony:** The MCT Federal Credit Union supports the change in zoning from R-90 to C-1 but requests that adjacent outlot A, which is currently split zoned C-1 and R-90 (see © 4) be zoned entirely C-1 to provide access for the Credit Union to Plummer Drive, since they anticipate that the State Highway Administration will want to minimize access points along MD-355.

**Staff Comments:** Although this property is recommended for a change in zoning from R-90 to C-1, it is not discussed at all in the Sector Plan. The zoning change will enable the MCT Federal Credit Union to build a branch at this location. Staff has asked Planning Department staff to indicate whether there is any reason that the entire outlot should not be zoned C-1 as requested by the Credit Union, and they will be prepared to respond at the meeting. Absent new information from Planning Department staff, Council staff supports the requested change.

## **MONTGOMERY COLLEGE DISTRICT**

### **College Property (Areas 1, 2, and 9)**

**Size of property:** 301 acres

**Location Map:** page 62

**Existing Zoning:** R-60 and R&D/I-3

**Proposed Zoning:** I-3

**Summary of land use recommendations** (see page 52): Expand Montgomery College's academic facilities to 1.1<sup>1</sup> million square feet and provide up to 1 million square feet for a technology park linking the business and academic communities. Preserve 50 acres of high priority forest. Develop technology, medical, and office uses with signature architecture that takes advantage of visibility from I-270. Use structured parking to reduce impervious surface area and improve water quality in the Gunners Branch watershed.

**Testimony:** The Council received extensive testimony on this area. At the last worksession, the Committee discussed whether the Sector Plan would make any recommendation regarding the location of a potential Upcounty hospital, and the Committee concurred with Staff that the Sector Plan should not address this issue. The Council also received testimony regarding the protection of the forested area on this site and expressing concerns that the College's expansion plans could impact the forested area. Montgomery College, the Montgomery College Foundation, Holy Cross Hospital, and Foulger-Pratt (the selected developer of the science and technology business park) submitted testimony regarding various elements of the Sector Plan including their concerns regarding the staging plan and requirements for structured parking, their preferences for the revised Life Sciences Center (LSC) zone, and various transportation issues that are being addressed in a separate memorandum. The Council also received testimony from Winchester Homes and Adventist Hospital asking that the Council not take any action that would appear to favor Germantown as the site for a new hospital, including rezoning the land.

**Staff Comments:** The Committee has already addressed the staging issues raised in testimony. The Plan calls for the protection of a significant portion of the site as high priority forest, and Staff does not recommend any further changes to the Sector Plan. Regarding parking, the Plan's language appears to require structured parking, and it may be necessary to have surface lots in the short term until a certain threshold density is reached. During the Planning Board's review of this project they should ensure both that the location of surface lots would not in any way preclude the ultimate construction of structured parking and that structured parking will be added to the site once a certain level of density is reached. Staff recommends revising the Sector Plan, which does not appear to give the Board the discretion to allow interim surface parking and make these determinations.

The College has requested LSC zoning, since they believe this will be the best zone to accommodate a hospital and related uses. The LSC zone also does not require a special exception for a hospital. Staff concurs that the LSC zone may be the best zone if the Maryland Health Care Commission determines that Germantown will be site of the new County hospital. Staff questions whether LSC would still be the best zone if the hospital does not locate in

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<sup>1</sup> The Sector Plan incorrectly allowed 1.9 million square feet of academic facilities. Planning Department staff indicate that the correct amount is 1.1 million square feet.

Germantown, especially since potential changes to the zone have not yet been approved. Staff believes that Montgomery College should have the **greatest possible flexibility** to create a business park that will be compatible with its mission. The proposed changes to the LSC zone allow a broader range of uses, but it has not been adopted and may not cover the full range of options the College may want to pursue, particularly if the hospital does not locate there. For example, the **existing** LSC zone does not permit computer programming and software services, but it is possible that without a hospital the business park would be more successful with a focus on information technology, rather than bio-technology. The LSC zone also limits general office to 50% of the gross floor area, something that may also be problematic if there is a change in the focus of the business park.

At this time, Staff recommends retaining the existing I-3 zoning, but indicating in the Sector Plan that the Council will initiate a local map amendment to rezone this property LSC if the College is selected as the site for the hospital or if the College continues to pursue a life sciences option even without a hospital.

## **SENECA MEADOWS/MILESTONE DISTRICT**

### **Seneca Meadows Property (SM-1)**

**Size of property:** 65 acres

**Location Map:** Page 61

**Existing Zoning:** I-3

**Proposed Zoning:** TMX-2

**Summary of land use recommendations** (see page 51): Concentrate mixed-use development at the transit station with an average density of 1.0 FAR on the Seneca Meadows property north of Crystal Rock Tributary. To ensure the area retains an employment profile, develop with a minimum of 70 percent employment uses that include limited street level retail and a maximum of 30 percent residential uses. Street level retail must conform to the Plan's urban design guidance. Locate a 25,000 square foot community recreation center and an urban park near the transit station.

**Testimony:** The Council received testimony from Minkoff Development Corporation, who indicated the Planning Board's strong support for their plans to build a Wegman's grocery store and expressed concerns about the requirements for a recreation center and urban park on their site. The Council received letters from several individuals who indicated opposition to the rezoning, some fearing that retail would generate more traffic than office. The Council also received testimony from a Clarksburg developer who believes that placing a Wegman's at this location would make it less attractive for a grocery store to locate in Clarksburg.

**Staff Comments:** Staff believes that the recommended TMX zoning is appropriate at this location near a proposed transit stop. While the TMX would accommodate a grocery store, it would also accommodate a number of other uses that would be appropriate here. The Plan is silent regarding the appropriateness of a grocery store, and Staff does not recommend any change. While zoning can determine the range of uses allowed at a particular site, Staff does not

believe that master plans should either endorse or limit particular uses otherwise allowed by the zone. As to the recreation center and urban park, Planning Department staff have indicated that they are now considering another site for the potential recreation center, so the recommendation for the recreation center and adjoining park can be removed. Staff is unclear why the Plan would recommend limiting retail uses along streets in an area zoned TMX near a proposed transit station (second bullet in middle column of page 51) and would suggest it be removed, absent a rationale from Planning Department staff.

**Milestone Shopping Center (SM-3) and Neelsville Village Center (SM-4)**

**Size of property:** 201 (SM-3) and 55 (SM-4) acres

**Location Map:** 61

**Existing Zoning:** RMX-3/TDR and RMX-1

**Proposed Zoning:** RMX-3/TDR and RMX-1

**Summary of land use recommendations** (see page 51): Support the Milestone Regional Shopping Center (SM-3) and Neelsville Village Center (SM-4) as the Germantown-Clarksburg destination retail center. If ownership consolidates, a coordinated redevelopment option may be proposed that meets the existing RMX zone density standards of 0.5 FAR. With redevelopment, add residential uses and urban open spaces in a compact urban form with structured parking.

**Testimony:** None

**Staff Comments:** Although no near-term redevelopment is likely for this property, Staff supports the Sector Plan’s reference to a future more compact urban form.

**NORTH END DISTRICT- EAST OF 270**

**Milestone North (NE-6)**

**Size of property:** 44 acres

**Location Map:** 60

**Existing Zoning:** I-3

**Proposed Zoning:** TMX-2

**Summary of land use recommendations** (see page 48): In Stage 1, develop the Milestone North property at an average density of 0.75 FAR with a mix of research and development, employment, technology, street level retail, restaurants, and new housing. Orient up to 225 new multifamily housing units to the existing residential areas. Residential uses are not to exceed 20 percent of total development on this site. Development in Stage 2 may proceed to 1.0 FAR if the Town Center transit station properties have achieved an average density of 1.5 FAR.

**Testimony:** The Council received testimony from Trammell Crow expressing concern that the Sector Plan does not provide for any affordable interim development. They believe there is no market at this time for structured parking or ground floor retail. The Sector Plan provides too

many bureaucratic obstacles including staging, BLT purchase requirements, and design guidelines.

**Staff Comments:** The Committee addressed many of the comments in the testimony at its June 15<sup>th</sup> meeting. Given the Committee's decision to eliminate staging from the Plan, the limitations on FAR connected to staging for this property should be reconsidered. It would still be possible to state that development on this property should be limited to 0.75 FAR until the Town Center achieves a certain density. A similar recommendation appears for the Symmetry/Totah property in the North End District on the west side of I-270. The Committee will have to determine if these recommendations are still advisable if all other staging requirements are being removed from the Sector Plan.

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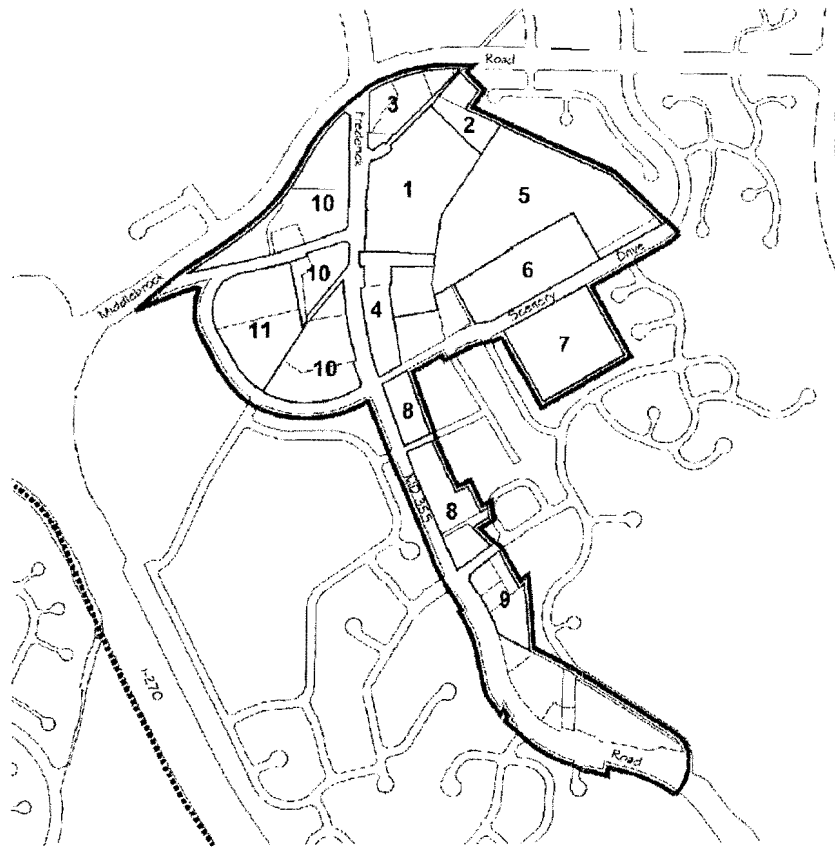
ZONING FOR PROPERTIES EAST OF I-270						
PROPERTY	ACRES (approx)	EXISTING ZONING	PROPOSED ZONING	Developed (Y or N)	FAR limit (if stated in plan)	HEIGHT LIMIT
<b>NORTH END DISTRICT (EAST SIDE)</b>						
6	44	I-3	TMX-2	Y	FAR 0.75	100 ft along I-270; 60 ft near exist residential
7	21	R & D	No change	Y		
8	51	R-30	No change	Y		
<b>SENECA MEADOWS/MILESTONE DISTRICT</b>						
1	65	I-3	TMX-2	partially	FAR 1.0	100 ft along I-270; 60 ft elsewhere
2	81	I-3	No change	Y		
3	201	RMX-3/TDR	No change	Y		
4	55	RMX-1	No change	Y		
5	7	RMX-3/TDR	No change	Y		
6	6	R-200/TDR	No change	Y		
7	8	RMX-3/TDR	No change	Y		
8	9	R-200/TDR	No change	Y		
9	9	R-200	No change	Y		
10	18	R-200/TDR, C-3	No change	Y		
11	9	R-200	No change	Y		
12	11	O-M	No change	Y		
13	16	R-200	No change	Y		
<b>MONTGOMERY COLLEGE</b>						
1	247	R-60, R & D, I-3	I-3 optional	partially		100 ft along I-270; 60 ft for southern portion
2	12	I-3	No change	Y		100 ft.
3	22	R-60/TDR, C-4	No change	Y		
4	25	R-60/TDR, C-5	No change	Y		
5	20	R-60/TDR, I-3	No change	Y		
6	1	R-60/TDR	No change	Y		
7	12	R-20	No change	Y		
8	8	R-60	No change	Y		
9	42	I-3	I-3 optional	Y		



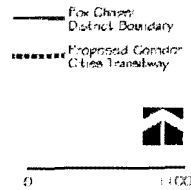
FOX CHAPEL						
						40-60 ft along MD 355; 45 ft near R-200 homes
1	13	C-1	RMX2C	Y	FAR 0.3 commercial	
2	4	R-60/O-M	No change	y		
3	3	C-3	No change	Y		
4	4	C-1	RMX2C	Y		
5	24	R-200, R-90, R-30, C-1	RMX-1/TDR	Y		
6	9	RT 12.5	RT-15	Y		
7	10	R-90	No change	Y		
8	5	R-200	No change	Y		
9	4	R-90, C-1	No change	Y		
10	14	C-1, C-2, C-3	No change	Y		
11	17	R-H	No change	Y		

### Fox Chapel District Property Reference

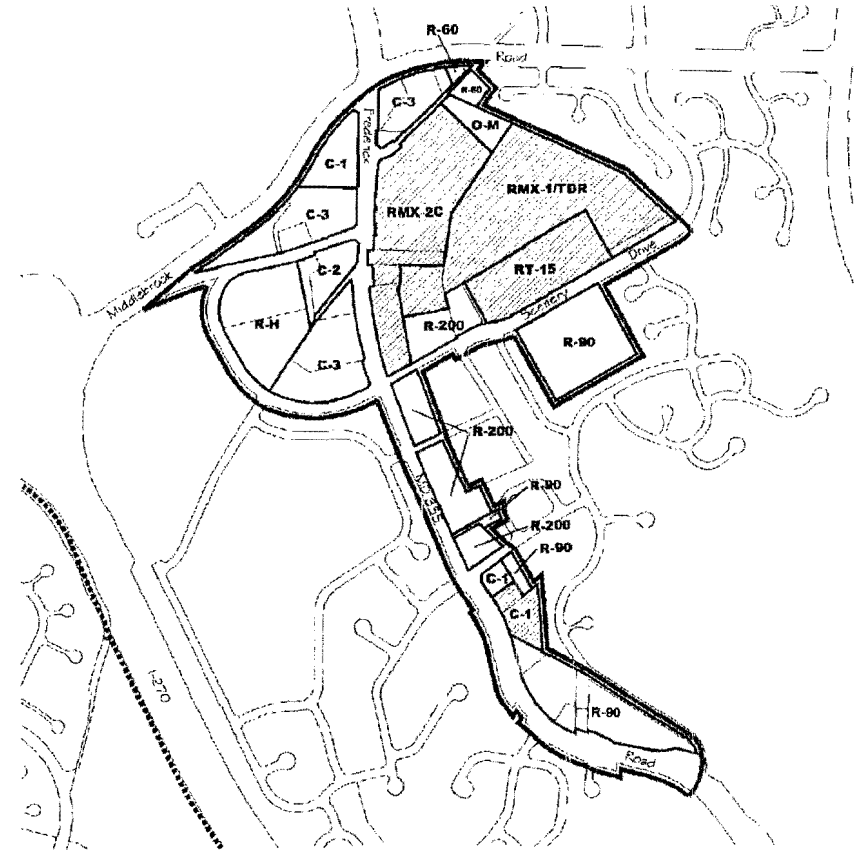
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- 1 Fox Chapel Shopping Center
- 2 OM Property
- 3 Blunt Road Triangle Properties
- 4 MD 355 Properties
- 5 Middlebrook Mobile Home Park
- 6 MOC Housing
- 7 Pam Gar Recreation Center
- 8 MD 355 Residential Properties
- 9 MD 355 Commercial Properties
- 10 Middlebrook Village Commercial Properties
- 11 Multi Family Housing



### Fox Chapel District Zoning



- |  |  |  |  |
|--|--|--|--|
| <b>R-200</b> Residential, One-Family       | <b>RMX-1/TDR</b> Residential, Mixed-use, Community Center, Transferable Development Rights | <b>C-3</b> Highway Commercial                  | <b>—</b> Fox Chapel District Boundary              |
| <b>R-90</b> Residential, One-Family        | <b>RMX-2C</b> Residential, Mixed Use, Specificity Center                                   | <b>O-M</b> Office Building, Moderate Intensity | <b>- - - - -</b> Proposed Corner Cities Transitway |
| <b>R-60</b> Residential, One-Family        | <b>C-1</b> Governance Commercial   | <b>[Hatched Box]</b> Proposed Zoning Changes   |  |
| <b>RT-15</b> Residential, Multi-Family     | <b>C-2</b> General Commercial  |  |  |
| <b>R-H</b> Multi-Family, High Rise Planned |  |  |  |

Sincerely,

SHULMAN, ROGERS, GANDAL  
PORDY & ECKER, P.A.

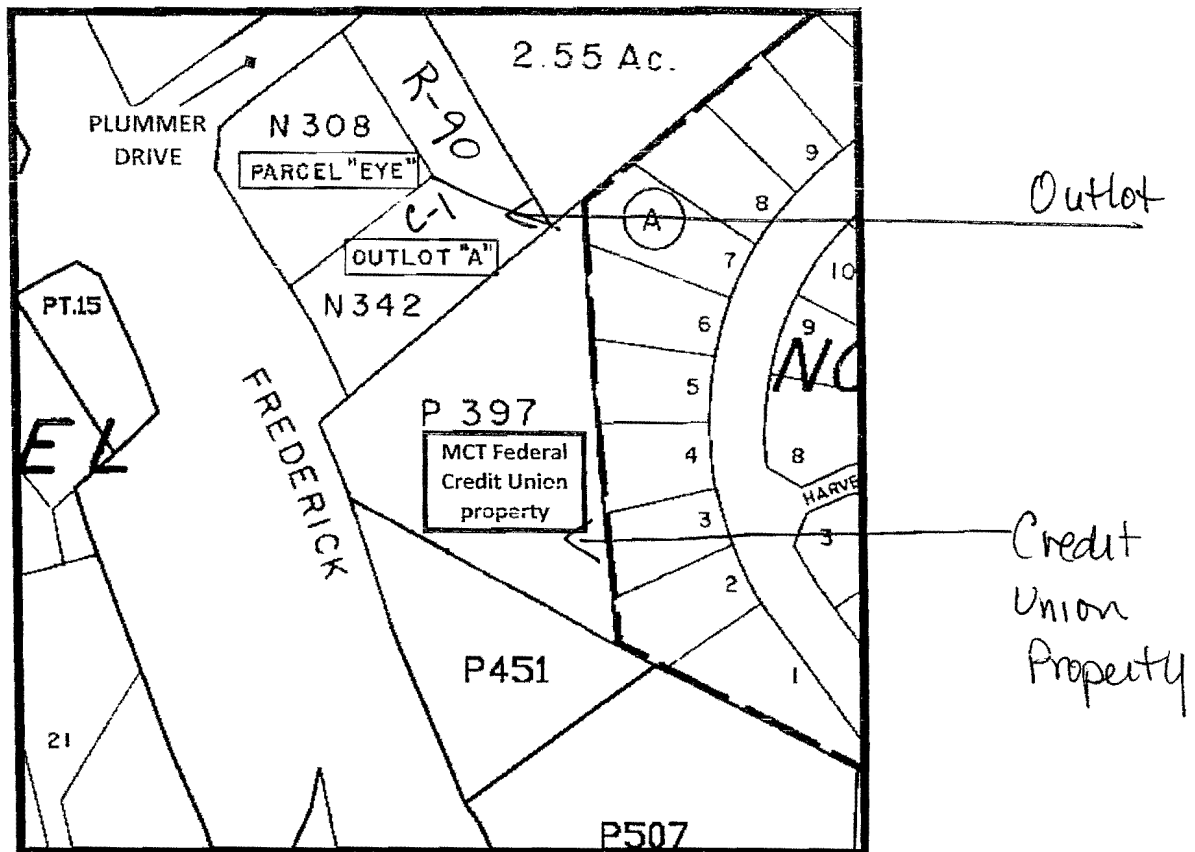
By:   
David D. Freishtat

By:   
Anne Marie Vassallo

cc: Mr. Thomas Beck  
Ms. Marlene Michaelson

Tax Map showing:

- 19215 Frederick Road (P397, MCT Credit Union property)
- Parcel I/"Eye" (N308)
- Outlot A (N342)



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ADDENDUM  
PHED COMMITTEE #2  
June 22, 2009

**MEMORANDUM**

June 18, 2009

TO: Planning, Housing, and Economic Development (PHED) Committee

FROM: <sup>MLM</sup> Marlene L. Michaelson, Senior Legislative Analyst

SUBJECT: Germantown Sector Plan

Subsequent to the completion of the Staff packet for the Germantown Sector Plan, Staff received the attached comparison of zones prepared by Planning Department Staff. This analysis focused on different zones that were considered for the Montgomery College property.

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## Montgomery College District-- Zoning Analysis

Development Standards	Zones				
	I-3 Zone	I-3 Optional	Proposed LSC	TMX-2	TMX-2 Optional
Purpose of the Zone	Medium density industrial development for park-like development of high technology industries, research and development facilities, corporate and business offices and similar uses.	Permits mixed use development at locations that have convenient access to transit and are recommended in the Master Plan.  Modifies development standards and reduces setbacks.	Makes changes to the LSC zone to permit mixed use development under certain circumstances in order to promote growth and advancement of life sciences and applied technologies and to establish the use of building lot termination development rights in the LSC zone.	Permits moderate through intensive mixed-use development in a Transit Station Development Area.	Greater densities may be permitted and fewer specific development standards. Additional public facilities and amenities must be provided by the developer.
① Allowed Uses	<p>Examples of permitted uses: light manufacturing, research and development, cafeteria/dining, general offices, health clubs, laboratories, medical clinics, telecommunications facilities, day care/family care, etc.</p> <p>Retail sales and personal services allowed when operated primarily for the convenience of employees.</p> <p>SE: dwellings, eating and drinking establishments, hotel, hospital, conference facilities with lodging, art or cultural centers.</p>	<p>Includes all the permitted uses of the I-3 zone. The optional method is intended to provide a compatible mix of uses including employment, housing, and retail configured to define and animate the streets and create a strong sense of place.</p> <p>Allows by right: dwellings, health club, hotel, housing and facilities for elderly, some commercial and service uses</p> <p>SE: eating and drinking establishments with drive-in, hospital.</p>	<p>Eliminates permitted use table in favor of broad categories of uses such as: arts, entertainment, and recreation; communications facilities or structures; food service; health care services; personal services; research, development and related services; retail trade; transportation facilities or structures; utilities.</p> <p>General office limited to 50 percent</p>	Examples of permitted uses: dwellings, variety of retail including grocery, hotel, convenience food and beverage stores, drug store, health club, theater, recreation facilities, general and professional office, private educational institutions, art, etc.	Same as TMX-2

Development Standards	I-3 Zone	I-3 Optional	Proposed LSC	TMX-2	TMX-2 Optional
Maximum Density (FAR)	0.5 FAR	0.6 FAR (Non-residential)	2.0 FAR (or by master plan designation)	0.5 FAR	2.0 FAR (or by master plan designation)
Maximum Building Coverage			25 percent (zoning code)	75 percent	Determined at project plan
Maximum Residential	Not allowed	40 percent of total density with a base density of 8 units/acre for the gross tract area. Allows 12.5 units/acre (if MPDU & TDR is used)	By master plan designation	By master plan designation	Determined at project plan
Maximum Retail	Primarily for convenience of employees	20 percent of non-residential gross floor area	Not limited	Not limited	Not limited
Minimum Public Use Space			15 percent	10 percent	20 percent
Green Area	35 percent		25 percent (zoning code)		
BLT Requirement			12.5 percent of any density above 0.5 FAR		12.5 percent of any density above 0.5 FAR
Special Feature(s)	Max. density can be increased up to 0.6 FAR if applicant obtains approval of a traffic mitigation agreement at the time of site plan review (see §59-C-5.3)	Allows mixed use development.  Retail/Service – 20 percent max Employment – 60 percent max	Bldg. coverage can be increased up to 50 percent when applicant proposes to construct structured or underground parking	Max. residential FAR may be increased in proportion to any MPDU density bonus and workforce housing units provided onsite	