

Ordinance No.: 17-23
Zoning Text Amendment No.: 12-12
Concerning: Density Transfer –
C-2 to CBD Zones
Draft No. & Date: 1 – 7/26/12
Introduced: July 31, 2012
Public Hearing: September 11, 2012
Adopted: October 23, 2012
Effective: November 12, 2012

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF
THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN
MONTGOMERY COUNTY, MARYLAND**

By: Council President Berliner and Councilmember Floreen

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- allow the transfer of development density from C-2 zoned lots adjoining or confronting one-family zoning to Density Transfer Areas in CBD zones; and
- generally amend the provisions concerning the transfer of density in CBD zones.

By amending the following sections of the Montgomery County Zoning Ordinance, Chapter 59 of the Montgomery County Code:

DIVISION 59-C-6 “CENTRAL BUSINESS DISTRICT ZONES”
Section 59-C-6.2 “Provisions of CBD zones”

EXPLANATION: ***Boldface** indicates a Heading or a defined term.*
Underlining indicates text that is added to existing law by the original text amendment.
[Single boldface brackets] indicate text that is deleted from existing law by original text amendment.
Double underlining indicates text that is added to the text amendment by amendment.
[[Double boldface brackets]] indicate text that is deleted from the text amendment by amendment.
** * * indicates existing law unaffected by the text amendment.*

OPINION

Zoning Text Amendment No. 12-12, sponsored by Council President Berliner and Councilmember Floreen, was introduced on July 31, 2012. ZTA 12-12 would allow the transfer of development density from C-2 zoned properties adjoining or confronting single-family zoning to Density Transfer Areas in CBD zones. The ZTA would not increase the total amount of development that could be built in and around a Central Business District; it would allow greater density in master plan designated Density Transfer Areas only if the density potential of lots abutting or confronting one-family residentially zoned land is decreased.

In its report to the Council, the Montgomery County Planning Board recommended that the text amendment be approved.

The County Council held a public hearing on September 11, 2012 to receive testimony concerning the proposed text amendment. All of the testimony was favorable. The text amendment was referred to the Planning, Housing, and Economic Development Committee for review and recommendation.

The Planning, Housing, and Economic Development Committee held a worksession on October 11, 2012 to review the amendment. The Committee recommended approval as introduced.

The District Council reviewed Zoning Text Amendment No. 12-12 at a worksession held on October 23, 2012 and agreed with the recommendations of the Planning, Housing, and Economic Development Committee.

For these reasons, and because to approve this amendment will assist in the coordinated, comprehensive, adjusted and systematic development of the Maryland-Washington Regional District located in Montgomery County, Zoning Text Amendment No. 12-12 will be approved as introduced.

ORDINANCE

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following ordinance:

Sec. 1. DIVISION 59-C- 6 is amended as follows:

DIVISION 59-C-6. CENTRAL BUSINESS DISTRICT ZONES.

* * *

Sec. 59-C-6.2. Provisions of CBD zones.

* * *

59-C-6.2355. Special regulations for Optional Method of development projects [for more than lot] involving a density transfer. This section includes special regulations for optional method of development projects involving [more than one lot located within] the transfer of density to a lot in a Density Transfer Area designated in a master or sector plan.

(a) The Planning Board may approve an optional method of development project for more than one non-adjacent lot in the same Density Transfer Area [that are not adjacent to each other], but when combined, the lots must total a minimum of 18,000 square feet, or less if recommended in a master or sector plan. The optional method of development project must comply with the project plan approval requirements of Section 59-D-2.42(g) and the following provisions:

[(i)](1) The [Density] density transferred [is] must be measured in terms of gross square feet of development.

[(ii)](2) The lot that receives a density transfer must not abut or confront a one-family residential zone.

[(iii)](3) The development capacity of the combined lots may be transferred among lots as shown on the project plan approved by the Planning Board; however, the development capacity of the combined lots must not exceed the total development capacity otherwise permitted on the separate lots under the optional method of

27 development procedure or any density limit recommended in a master
28 or sector plan.

29 [(iv)](4) Public use space must be provided based on the total area of the
30 lots included in the optional method of development project and may
31 be distributed among lots as shown on the project plan approved by
32 the Planning Board, in consideration of any master plan public use
33 space recommendation. Public use space may be located off-site in the
34 same [density transfer area] Density Transfer Area if the Planning
35 Board finds that an off-site location implements a master or sector
36 plan recommendation.

37 (b) The Planning Board also may approve an optional method of development
38 project for a lot in a Density Transfer Area that includes the transfer of
39 density to that lot from a lot zoned C-2 if:

40 (1) the C-2 lot from which density is being transferred is in a block
41 confronting the Density Transfer Area and adjoins or confronts a lot
42 in a one-family residential zone;

43 (2) the density transferred from a C-2 zoned lot is equal to or less than the
44 gross square feet of development equal to a 1.2 FAR on the C-2 zoned
45 lot; and

46 (3) the requirements of Section 59-C-6.2355(a) are satisfied.

47 (c) A density transfer must be established, transferred, and attached to a
48 [property] lot only by means of documents, including an easement and
49 appropriate releases, in a recordable form approved by the Planning Board.

50 Any easement must:

51 [(i)](1) limit future construction of the [property] lot that transfers the
52 density to the amount of gross square feet of the building minus all
53 development transferred[:];

- 54 [(ii)](2) indicate the amount of development, in gross square feet to be
55 transferred;
- 56 [(iii)](3) for density transferred from a lot classified in a CBD zone,
57 indicate the maximum gross square feet of future development for the
58 [property] lot that transfers the development credit, but no less than
59 the amount that could be constructed on the [property] lot under the
60 standard method of development;
- 61 (4) for density transferred from a lot classified in a C-2 zone, indicate the
62 maximum gross square feet of future development for the lot that
63 transfers the development credit, but no less than the floor area equal
64 to a .3 FAR; and
- 65 [(iv)](5) be recorded in the land records of Montgomery County.

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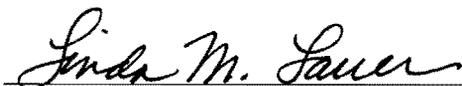
68 **Sec. 2. Effective date.** This ordinance becomes effective 20 days after the
69 date of Council adoption.

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71 This is a correct copy of Council action.

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Linda M. Lauer, Clerk of the Council