



June 14, 2011

MCCF Testimony to County Council on ZTA 11-04, CBD Zones - Public Use Space

I am Jim Humphrey, testifying on behalf of the Montgomery County Civic Federation. First, we understand the potential positive fiscal impact of this proposal for the county government to obtain space for government facilities in CBD Zone development projects.

Under this legislative proposal, if a developer conveys building space or a piece of land for a publicly owned and operated government facility as part of a CBD Zone Optional Method project, then the project could be deemed to have met the public facilities and amenities requirement and public use space requirement. This seems overly generous, with the developer rewards not being linked to the value of the public benefit received.

Optional Method approval in the CBD-1, -2 and -3 Zones currently requires provision of a minimum of public use space equal to 20 per cent of the net lot area. MCCF suggests, therefore, that:

- 1) if a piece of land or square footage in a building offered for a government facility is only a fraction of 20 per cent of the net lot area, then the conveyance should be considered to have met that same fraction of the public use space requirement, but none of the public facilities and amenities requirement for Optional Method development (for example, if 20% of the net lot area equals 4,000 sq. ft., and the developer conveys 2,000 sq. ft. of building space for a government facility, then the conveyance shall be considered to have met 1/2 the public use space requirement);
- 2) if a piece of land or square footage in a building offered for a government facility is equal to 20 per cent of the net lot area, then the project should be considered to have satisfied only the public use space requirement, but none of the public facilities and amenities requirement for Optional Method Development; and,
- 3) if a piece of land or square footage in a building offered for a government facility is greater than 20 percent of the net lot area, then the project could be considered to have satisfied both the public use space requirement and the public facilities and amenities requirement for Optional Method development.

Lastly, we are concerned about the provision stating the gross floor area of the government facility "must not be counted in the gross floor area of the optional method project". In general, we consider this a "sector plan buster" which will allow larger buildings, and more vehicle trips generated, than were anticipated for CBD zoned properties in the applicable plan. And as the PHED Committee discussed just yesterday, if this ZTA, or others that similarly allowed uncounted floor area, were applied to the CR Zones it would remove the certainty being touted for the CR zones that the maximum FAR assigned to a CR property is, indeed, the maximum FAR which could be built.