

October 27, 2009

MCCF Oral Testimony to Council on ZTA 09-08, proposed Mixed Use Zoning

I am Jim Humphrey, testifying on behalf of the Montgomery County Civic Federation. At the start, I'll note we are puzzled that the Planning Department released their Zoning Ordinance Rewrite document in January of this year, proposing 4 primary districts (Residential, Agricultural, Industrial, and Mixed Use), then worked for 6 months on the most complicated of these--the CR Mixed Use zoning, and submitted a proposal to Council, after which they hired an expert consultant to help them on the rewrite project. That said, we are concerned about several aspects of this proposed new zoning.

First, the amount of commercial and residential space on most CR properties will be allowed within a range, with the percentage of each not known until Planning Board approval. And since the residential limit is defined in FAR or square footage, not in a dwelling-unit-per-acre limit, the number of housing units in any project will not be known until Board approval. As a result, long-range infrastructure planning will be impossible, with the government playing catch up as individual projects are approved.

Next, several of the incentives in the ZTA would allow density in exchange for so-called amenities which we believe developers should provide as a matter of good design and sound land use planning--such as pedestrian mid-block connections for large projects (which the Board should require), or safe drop off areas for day care centers (would the Board approve an unsafe drop off area?). The environmental incentives are especially weak, and we fear would allow further degradation of the natural environment.

We are concerned that the public space requirement is too low, and that developers can buy their way out of it by contributing to a Public Amenity Fund. Yet the ZTA doesn't specify who will decide on use of this fund, or whether it will be administered on a countywide or local basis.

Our members were offended by the idea that the Residential Amenity Space requirement could be waived for Workforce Housing and Moderately Priced Dwelling Units. Lower income residents in subsidized housing have no less need for recreation space than those in market rate units.

We are troubled that CR zoning could be applied to properties for which it is not recommended in a master or sector plan, through the Local Map Amendment rezoning process. But, unlike the floating zone requirements now in place, the Council will not be required to make a finding of "compatibility" with existing or planned adjacent development, or to approve a detailed development plan at time of rezoning.

Finally, we urge the Council to delay further consideration of the Gaithersburg West and White Flint Sector Plan revisions, both of which propose use of this untested and complicated new zoning category, until you can explore the costs, implications and possible unintended negative consequences of its use. We urge Councilmembers to read over the Federation's written position that we've submitted, which was approved by unanimous vote of our members (with one abstention) at our October 12 meeting. Thank you.