



COMMUNITY DEVELOPMENT DIVISION FREDERICK COUNTY, MARYLAND

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To: Board of County Commissioners

FROM: Eric Soter, Director; Shawna Lemonds, Project Manager

DATE: October 31, 2011

RE: Mixed Use (Euclidean) Text Amendment (ZT-11-14)

ISSUE

As part of the Frederick County FY 2011-FY 2015 Strategic Plan Goal 5 Objective 3 to reconsider the comprehensive zoning decisions from the 2010 County Comprehensive Plan and zoning update, a text amendment has been drafted to create the new Euclidean Mixed Use (MX) zoning district. The zoning district will be initially applied to certain parcels currently zoned Village Center (VC), with the intent of also providing for redevelopment and in-fill projects within our growth area communities through subsequent Community and Corridor plan processes.

Staff requests a decision regarding the Mixed Use (Euclidean) Text Amendment (ZT-11-14).

BACKGROUND

Over the last several months, the Board of County Commissioners (BOCC) has undertaken a process to gather citizen and stakeholder input regarding development regulations and processes. As part of that course of action several text amendments have been initiated and processed. During the discussion of the Priority 1 Text Amendments (ZT-11-01), consideration was given to amendments to the VC zoning district. Testimony was received by the BOCC that outlined concerns with the perceived inability to maximize development of larger parcels within the VC zone due to existing zoning ordinance restrictions on maximum non-residential building footprint.

In response to these concerns, amendments to the VC zoning district were adopted within the Priority 1 Text Amendments which increase the maximum building footprint to 10,000 square feet (previously limited to 8,000 square feet) within growth area communities. The adopted increase was minimal due to the testimony received from the general public that any change to the VC provisions would alter development within the zoning district county-wide rather than to those specific larger parcels. To further address the issue of development on larger parcels the BOCC agreed to consider the creation of a new zoning district that would be applied specifically to these larger parcels through the upcoming comprehensive rezoning. During these discussions, Staff identified the MX zoning district as a possible solution since it has many similar elements (specifically development standards) to the VC zoning district but would allow higher intensity development.

The MX zoning district was originally drafted in 2010 as part of the next step in moving forward with implementation of the newly adopted Comprehensive Plan. The intent of the zoning district at that time was to provide for redevelopment and infill within our growth areas - beginning with properties reflecting a Comprehensive Plan land use designation of Mixed Use Development and General Commercial zoning in the 85/355 corridor.

As part of the 2010 process, 3 worksessions were held with the public including one specifically to receive feedback from the development community. In addition, the text amendment was presented as an informational item to the Frederick County Planning Commission (FCPC). Based on the review and comment made during the 2010 process, several edits and updates were made to the initial staff presented text.

As the initial step in the current process, Staff has drafted a text amendment to update and edit the previously presented MX zoning district. If the MX zoning district is adopted, it may be initially applied to specific parcels currently zoned VC. However, it is the intent that the district will be further applied in the future through the Community and Corridor plan process.

Editing and updating of the current MX zoning district began after receiving direction from the BOCC to move forward with the MX zoning district as a potential solution to the development issues related to the larger parcels currently zoned VC. As part of this update process, Staff contacted those representatives of the development community that have expressed continued interest in the MX district as a solution to this issue. Based on this input and an additional complete review of the district, several edits have been made to the 2010 text. Staff has made an attempt to address the concerns identified by those who have expressed interest in the district. An effort was made to simplify the understanding and application of the development standards, and to make any necessary edits based on text amendments approved since the district was first written.

The draft text amendment was included as an informational item for review and comment in the September 14, 2011 FCPC packet. A worksession on the draft text amendment was held with the BOCC on September 15, 2011. At the worksession on the 15th, a majority of the BOCC directed staff to initiate a text amendment and move forward with the public hearing process.

On September 19, 2011 the FCPC held a public hearing regarding the proposed amendment and did not send forth a recommendation for approval. The details of the specific FCPC recommendations are contained within the FCPC Transmittal Memorandum provided as part of this packet.

Mixed Use (MX) Zoning District Concept Summary

The Mixed Use zoning district is a Euclidean zoning district intended to be generally applied to areas with a Mixed Use land use designation during comprehensive plan updates, specifically the upcoming Community and Corridor Plans. The intent of the zoning district is to provide for mixed use development within growth areas in the form of new/redevelopment and in-fill projects.

The zoning ordinance currently provides two mixed use zoning districts, the Mixed Use (MXD) floating zone and the Euclidean Village Center (VC) zoning district.

Floating zones are applied to properties only at the request of the applicant and are somewhat limited in use as a development tool in implementing a particular planning objective. The MXD floating zone may be applied to properties within the County with a land use designation of Mixed Use Development, Office/Research, or Limited Industrial.

Euclidean zoning districts however, may be applied either by property owner request or County initiative during a comprehensive rezoning. The Village Center zoning district although Euclidean, is intended to be applied to historic mixed use areas within rural communities and growth areas. The emphasis in Village Center is with compatibility between existing development and new development.

The MX zoning district is similar in concept to the existing Village Center (VC) zoning district as both are Euclidean zoning districts intended for mixed use development. However, the MX zoning district provides for higher density and intensity of use and is intended to be applied only within growth areas. The MX district also provides increased flexibility and less emphasis on compatibility with historically existing uses as it will be applied to areas intended for redevelopment and in-fill.

As previously discussed, the MX zoning district is a potential solution to development of larger parcels currently zoned Village Center. As part of the overall comprehensive rezoning process, the MX zoning district would be adopted and then applied to specific parcels to address these issues. It should be noted that like the VC district, the MX district includes development standards to guide development and provide improved design and function. The development standards are consistent with the concepts contained in County guiding documents and specifically, the Comprehensive Plan. As a Euclidean zoning district the development approval process is straightforward requiring site development plan approval, or in a few cases special exception approval. Since a Euclidean zoning district does not require the two-step (phase I justification and floating zone reclassification and phase II execution) floating zone process it is important to provide specific guidance regarding development design and function. The proposed development standards provide this guidance and are a necessary element in creating a successful project that meets the vision of this zoning district.

In addition, it is the intent that the MX district would be further applied in the future through the County Community and Corridor plan process. As part of the Community and Corridor process, the MX district will provide for the needs of redevelopment and in-fill specifically within our growth areas, for larger or smaller parcels, providing the flexibility to implement a more detailed process to be undertaken at a later date.

It is intended that the Community and Corridor Plans will be implemented over time to update the Comprehensive Plan. As discussed in Chapter 11 of the Frederick County Comprehensive Plan, this new process will focus on individual community growth areas and on corridors.

The application of the MX zoning district would occur during an update to a Community or Corridor growth area based on an evaluation of design concepts, redevelopment opportunities, and development staging explored in greater detail than during the Comprehensive Plan process. Where Community Plans will focus on a Community Growth Area, the Corridor Plans will focus on 'corridors' throughout the County that are primarily situated along a highway and may either be part of a single growth area or include portions of adjoining growth areas. The specific corridor would be established at the time of plan initiation.

The result of the plan process would be a stand alone Community or Corridor Plan document that would amend the County Comprehensive Plan. The resulting stand alone land use plan will then provide a basis for changes to the existing Frederick County zoning ordinance or the creation of an adopted, stand alone appendix to the zoning ordinance, including opportunity to rezone specific parcels accordingly.

Exhibit 1- Mixed Use Euclidean Text Amendment contains proposed text to establish the framework for application of the MX district to parcels currently reflecting VC zoning as well as implementing one aspect of the Community and Corridor Plans.

TEXT AMENDMENT OVERVIEW

A text amendment overview has been provided below which contains a summary of the intent of each proposed section in Exhibit 1 – Mixed Use Euclidean Text Amendment, as well as providing information on edits and updates that have been made to this document from the previous version. It should be noted that the analysis and review of the recommended draft text amendment is based on the intent that, although the district may be initially applied to a few parcels currently with VC zoning, the purpose of the MX zoning district is also to provide for redevelopment and in-fill within our growth area communities.

PART I: FREDERICK COUNTY CODE

CHAPTER 1-6A: MODERATELY PRICED DWELLING UNITS

§1—6A-5. REQUIREMENTS TO BUILD MPDU'S; AGREEMENTS; ALTERNATIVES

The MPDU program is intended to increase the county's supply of moderately priced housing units as a function of the development process. This existing section of the County Code outlines requirements and density bonuses as permitted as part of the MPDU program. The MX district has been added as a zoning district where density bonuses are permitted. This language will work together with the text as proposed below in section 1-19-8.620.5 of the zoning ordinance to provide for MPDU's within the MX district.

CHAPTER 1-19: ZONING

ARTICLE V: ZONING MAP AND DISTRICTS

DIVISION 2. ZONING DISTRICTS

§1-19-5.240. Commercial Zoning Districts

This existing section of the zoning ordinance contains the purpose statements for each commercial zoning district within the zoning ordinance.

A purpose statement for the Mixed Use zoning district has been created based on overall intent as outlined during the County Comprehensive Plan update and references within the Comprehensive Plan document.

The MX zoning district is intended to provide for a mixture of residential, commercial, and employment land uses in areas with a Mixed Use land use designation as identified in the County Comprehensive Plan. These characteristics have been included in the purpose statement to guide Staff, the Planning Commission and BOCC in application of this zoning district during future Comprehensive, Community, and Corridor Plans.

DIVISION 3. USE TABLE
§1-19-5.300. GENERALLY

This section of the zoning ordinance has been provided for reference purposes only. No edits or changes are proposed to this section as part of the text amendment process.

§1-19-5.310. USE TABLE

This existing section of the zoning ordinance contains a listing of the permitted land uses within each zoning district and the required development review process.

The MX zoning district has been added as a column to the Use Table. The permitted uses within the district are similar to those permitted within the VC zoning district. Where differences exist between the permitted uses in the VC and MX zoning districts, a further explanation has been provided below.

'Auction house', 'Farm equipment sales and service', and 'Shopping center' were not included as permitted uses within the MX Euclidean zoning district although permitted within the VC zoning district. Auction houses are typically large warehouse type structures with a low level of development density/intensity and not representative of those types of uses meeting the purpose of providing for a mixture of residential, commercial, and employment uses within the MX district. At the BOCC worksession on September 15th, it was noted during Board discussion that 'Auction house' may be a valuable interim use for large structures and should be included as a permitted use within the zoning district. The Board did not vote to include the use at that time, but will consider the issue further during the public hearings.

'Farm equipment sales and service' is a use better located in Village Center areas where rural and local roads intersect outside of growth areas. Higher density development found within growth areas and intended for the MX district would be in conflict with the movement of large farm vehicles.

Although several shopping centers are located in areas where the MX district would be contemplated, the shopping center development concept has not been added as a permitted use. In reviewing the shopping center standards contained in section 1-19-8.460, several modifications to standard bulk regulations are included with little to no improvements in design or function of the development. Regulations as proposed within Exhibit 1 section 1-19-7.520 (H) provide for multiple principal structures and a mixture of uses on an individual lot within the MX district where approved by the Planning Commission. As proposed, this text would provide for the 'shopping center' concept while also providing for improved design of the development.

'Commercial school or education program' and 'Funeral home' have been permitted within the MX district to encourage these types of land uses within our growth areas. Although not currently permitted within the VC, the location within the growth areas provides access to the highest number of citizens, and facilitates the use of public facilities planned and available in these areas.

'Fortuneteller' is proposed for removal from the Use Table due to the obscure nature of the land use and the desire to utilize updated land use terms within the zoning ordinance.

‘Carwash’ and ‘School bus parking’ have not been included as permitted uses in the MX district due to the desire to promote the highest and best use of land within the district. Carwashes and parking areas tend to reflect low intensity land use not reflective of the intent of the zoning district or the highest and best use of land within a growth area.

‘Tennis club’, ‘Skating rink’, ‘Nightclub, tavern, lounge’ and ‘indoor sports recreation facility’ have been included as permitted uses within the MX zoning district based on their potential as a viable commercial development or recreational amenity. These uses were not included as permitted within the Village Center zoning district due to their size and potential conflict with providing compatibility between new construction and existing historic communities. Due to the nature of redevelopment and in-fill, compatibility is less of a concern within the MX district. As proposed, these land uses provide an opportunity for development of a commercial or larger recreational amenity within a development.

During initial discussions of the original text amendment in 2010 ‘Tennis club, skating rink, nightclub, tavern, lounge and indoor sports recreation facility’ land uses were permitted uses in the MX zoning district. The Planning Commission at that time, noted that a ‘Commercial swimming pool’ is very similar to the previously mentioned land uses but was not permitted at that time. Based on this discussion ‘Commercial swimming pool’ was added as a permitted use subject to site development plan approval in the MX district.

At their public hearing on October 19th the FCPC discussed the ‘Nightclub’ land use and its difference in function and intensity from a ‘tavern or lounge’. It was discussed that a ‘Nightclub’ can bring significant noise and traffic issues that may cause the use to be incompatible with residential uses. For these reasons the FCPC discussed that ‘Nightclub’ should not be permitted within the MX zoning district.

ARTICLE VI: DISTRICT REGULATIONS
DIVISION 1.DESIGN REQUIREMENTS AND MODIFICATIONS
§1-19-6.100. Design Requirements for Specific Districts

This existing section of the zoning ordinance contains the design requirements for the Euclidean zoning districts including minimum lot area, lot area per unit, lot width, setbacks and height.

Standards for the MX zoning district were created utilizing the R16 zoning district as a basis for the residential standards (single family through multifamily group). The VC and GC zoning districts were utilized for the creation of the remaining standards. However, the standards have been modified from the R16, VC, and GC to create design requirements unique to the MX district with the intent of promoting flexibility in location and design. Minimum lot area per unit requirements would permit a maximum residential density of 16 dwelling units per acre for the multifamily group land use.

It should be noted that within the Village Center Supplementary District Regulations in section 1-19-7.500 (B)(1) there is an existing maximum density of 3 dwelling units per acre permitted except in growth area communities where the density shall not exceed 5 dwelling units per acre. The proposed MX district regulations do not contain a maximum density provision.

In addition to the design requirements table in section 1-19-6.100, section 1-19-7.520(G) Mixed Use states that the Planning Commission may modify the development standards, lot area, lot area per unit, lot width, setback, maximum footprint (as provided in adopted community and corridor plans), and height requirements for the MX district. This text will provide additional flexibility if applied to properties within existing villages as well as redevelopment and infill projects.

ARTICLE VII: SUPPLEMENTARY DISTRICT REGULATIONS
DIVISION 5. COMMERCIAL DISTRICTS
§1-19-7.520 Mixed Use

This proposed new section contains the supplementary district regulations for the MX district. The MX district includes a mixture of residential, commercial, and employment uses where development standards address potential compatibility concerns and provide for integration of transportation and land use with the intent of producing development consistent with County guiding documents.

The development standards for the MX district in subsections (E) and (F) provide for consideration of the County Community or Corridor Plans, permit mixed use development, facilitate joint use and shared parking, and provide for pedestrian oriented development and design consistent with regional characteristics.

In 2009 a Transportation Oriented Design Study (TOD Study), sponsored by the Metropolitan Washington Council of Governments Transportation Land Use Connections program, was completed for the MD 355/85 area. The study took initial steps in identifying opportunities for transportation and land use in the MD 355/85 area as a precursor to the County Community and Corridor plan that would provide an in-depth look at the corridor. The Study assessed opportunities and constraints to redeveloping the 355/85 area into a mixed use, transit-oriented area. The final report made several recommendations regarding the connection between land use and transportation. Many of the recommendations are transferrable to mixed use areas throughout the County and are consistent with goals in County guiding documents.

Specifically, the TOD Study noted that parking lot configurations designed to give priority to vehicles create perceived conflict and safety issues for pedestrians. Lack of internal sidewalks and sidewalk connections between main retail areas and out parcels hinder internal pedestrian movement. The increased number of curb cuts produces potentially unsafe and difficult to navigate environment for vehicles, pedestrians, and bicyclists. The likelihood of collisions increases with the increase in the number of vehicles taking advantage of the multiple access points. The high number of access points also creates an unsafe environment for pedestrians and bicyclists due to the conflict caused by auto turning movements. The reduction in the number of access points can increase the safety for auto, pedestrian, and bicycle movements. The proposed development standards in subsections (E) and (F) implement these goals and recommendations.

The TOD Study also notes the deficiencies within the MXD floating zoning district (which at that time had not yet been rewritten) in addressing the type of mixed use intended for the area. The study notes that the lack of design guidelines results in a lack of direction for the resulting development and not including a requirement for integration of uses may result in development of isolated land uses. These recommendations were considered when the MXD floating zone was rewritten in 2010, and are also applicable to the creation of a new Euclidean MX district where the intent is to provide for mixed residential and commercial development. The concepts of pedestrian and bicycle safety and mobility, land use and transportation connectivity, integration of land uses, and direction regarding design are concepts transferrable throughout the County. The proposed development standards will act as the foundation and framework within which more specific concepts may be explored for future application of the MX zoning district through the Community and Corridor Plans.

Subsection (G) provides a process for Planning Commission modification of the development standards, lot area, lot area per unit, lot width, setback, maximum building footprint, and height requirements within the MX district, where specific criteria are met. This modification process permits flexibility where needed to address site specific constraints and to provide for context sensitive development.

Subsection (H) permits multiple structures and mixed uses within the MX district. This section is very similar to the existing text for multiple structures and mixed uses within the Village Center zoning district (1-19-7.500 (B)(4)).

Currently the zoning ordinance in section 1-19-4.500 limits the number of principal structures within commercial and industrial zoning districts to 1, unless otherwise permitted by the chapter. The intent of 1-19-7.520(H) is to specifically permit a mixture of buildings and uses on a single lot to achieve an improved design, encourage an integration of uses, facilitate the highest and best use of the land in the district, while providing for flexibility in the combination of uses.

Unlike the Village Center zoning district where both residential and commercial uses are required, the mixture of uses in the MX district (1-19-7.520 (H)(1)) is only regulated by specifics that may be contained within an adopted Community or Corridor plan. If a Community or Corridor plan does not specify the mixture of uses then the applicant may propose any combination of uses that are permitted within the district.

Subsection (H)(1)(b) requires an integration of uses but expands on the concept by providing guiding language leading to interaction between buildings and uses both within the site and with surrounding development through connectivity, site design and building placement.

A common plaza/green area requirement, similar to the Village Center zoning district, has been included in subsection (H)(1)(c) for multiple structure/mixed use developments including a residential component. The zoning ordinance provides a definition of 'Green Area' in section 1-19-11.100. This definition guides development of on-site open space.

By definition, a 'Green Area' is "An area of land associated with and located on the same tract of land as principal building or group of buildings in relation to which it serves to provide light, air or scenic, recreational or similar purposes. Green areas may include but not be limited to lawns, decorative plantings, sidewalks, and walkways, active and passive recreational areas, including playgrounds, fountains, swimming pools, wooded areas and watercourses; but shall not include loading areas, parking areas or vehicle surfaces or accessory buildings". Clarifying language has been added to the proposed standard to exclude playgrounds and swimming pools in meeting the requirement for the MX district, similar to the VC requirement. Provision of green areas within mixed use development is also consistent with the TOD Study recommendations. As noted in the study, as the number of residences increase it will become important to provide active green space area for improved livability and encourage a sense of community.

The common plaza/green area requirement within subsection (H)(1)(c) is ½ of the standard required within the Village Center zoning district based on the concept of increased intensity and density within the MX district. During the 2010 consideration of the MX district text amendment the Planning Commission requested consideration of permitting green roofs in meeting on-site common plaza/green area requirements. Based on direction provided by the BOCC at that time, text was added to provide that a green roof may be considered toward meeting the common plaza/green area requirement.

Within the proposed standards, subsection (H)(1)(e) requires shared and joint use parking to be integrated into the overall parking plan to the greatest extent feasible. This provision will again encourage the highest and best use of land but continue to provide the flexibility needed for redevelopment and in-fill sites.

Subsection (I) provides specifics regarding the review and approval procedures for all development within the MX district requiring site development plan review. These provisions include the requirement of a concept plan as the first step in the site development plan review process, as well as providing that the Planning Commission may include special conditions when approving a site plan where the conditions are consistent with a County Community or Corridor Plan. This requirement will provide the Planning Commission flexibility in reviewing a request for development in an area where a Community and Corridor Plan includes specificity that is not included in the general framework of the MX district.

Subsection (J) has been added to provide conforming status to all site development plans or amendments to approved existing site development plans filed on or after the effective date of the ordinance, if adopted. This provision has been added to address concerns regarding existing developments, specifically existing conforming shopping centers, where the development review process or site development standards may be amended if the text amendment is adopted.

The proposed supplementary district regulations in section 1-19-7.520, including the development standards, are consistent with the concepts and discussion points contained in the County Comprehensive Plan Chapter 10 Managing Our Growth – Community Development Principles, Community Character and Design, and Community Design Principles. The development standards will work together with other existing provisions within the zoning ordinance as well as upcoming County Community and Corridor Plans to increase the quality of development within the MX zoning district.

DIVISION 2. ACCESSORY USES

§ 1-19-8.212 LIMITED ACCESSORY APARTMENTS IN THE RC, A, R1, R3, R5, R8, R12, R16, VC, AND MX DISTRICTS.

The MX district has been added to the heading of this existing section to provide for Limited Accessory Apartments as an accessory use in the MX district.

DIVISION 3. SPECIAL EXCEPTION USES

§ 1-19-8.321 ACCESSORY APARTMENTS GREATER THAN 800 SQUARE FEET TO BE LOCATED IN AN ACCESSORY STRUCTURE

The MX district has been added to the provisions of this existing section to provide for Accessory Apartments greater than 800 square feet to be located in an accessory structure as a special exception in the MX district.

DIVISION 4. PERMITTED USES

§ 1-19-8.405. ANIMAL HOSPITAL OR VETERINARY CLINIC IN THE GC AND MX DISTRICT

The MX district has been added to the heading and provisions of this existing section to provide for Animal Hospital or Veterinary Clinic through the site development plan review process in the MX district.

***DIVISION 6. OTHER
§1-19-8.620 MODERATELY PRICED DWELLING UNIT (MPDU)***

This existing section of the zoning ordinance permits an increase in density for specific zoning districts above the standard number of dwelling units, and permits a reduction in certain area and dimensional requirements where certain requirements are met. Existing provisions for the previously mentioned increase and reductions are provided for each zoning district within section 1-19-8.620.5. The MX district has been added to the existing provisions for the R16 district which is consistent with the 16 dwelling units per acre permitted in the MX district.

***ARTICLE X: OPTIONAL METHODS OF DEVELOPMENT
DIVISION 4. MINERAL MINING DISTRICT (MM)
§1-19-10.400 MINERAL MINING (MM)
§1-19-10.400.2 GENERAL PROVISIONS***

Provisions within this existing section have been updated to include the MX district in requirements for an increased mineral mining land use setback where adjacent to another zoning district.

STAFF RECOMMENDATION

Staff requests a decision regarding the Mixed Use (Euclidean) Text Amendment (ZT-11-14).

EXHIBITS

Exhibit 1 – Mixed Use (Euclidean) Text Amendment (ZT-11-14)