

Thrive Montgomery 2050 Neighborhood Coalition

February 2, 2021

Mr. Casey Anderson, Chair,
and Members of the County Planning Board
Montgomery County Planning Board
2425 Reddie Drive, 14th Floor
Wheaton, MD 20902

Re: Thrive Montgomery Neighborhood Coalition's Questions about ZTA 20-07

Dear Chair Anderson and Members of the Planning Board,

On behalf of the undersigned incorporated municipalities and community organizations, we are writing to express our concern with the speed at which ZTA 20-07 is being considered by the County Council.

Process matters, and following a process makes for good policy. Most of us have been deeply engaged in reviewing Thrive Montgomery 2050 (TM 2050), the proposed set of revisions to the Montgomery County general plan. The County Council will receive the Planning Board Draft of TM 2050 later this spring, after careful consideration by the Planning Board, and the Council will then review and act upon it. We believe strongly that any material change to zoning should await completion of that review and should reflect the considered conclusions of the new general plan and a holistic assessment of what policies will best achieve the goals of the plan. Indeed, a rush to implement a specific piece of legislation at this time undercuts the value and meaning of the deliberative planning process that the County has undertaken with TM 2050. The Planning Department recently expressed concern about another ZTA (ZTA 20-05), saying that “the proposed amendment seems contrary to the public nature of the engagement process and could be seen as an attempt to circumvent the planning process.” It appears to us that ZTA 20-07 is not supported by enough planning review or study, given that TM 2050 planning review is still underway.

Let's use the established tools in the right way. Significant land use policy changes, such as what is being proposed through ZTA 20-07, should be first developed in a general, master, or sector plan and then should be implemented by amendment to the focused master and sector plans and then the zoning map and zoning code, as needed. We believe that ZTAs drafted outside this full planning process are appropriate only for minor policy changes in zoning, but any that make material alterations to the zoning code such as that proposed in ZTA 20-07 should represent the final product arrived at after a comprehensive planning review. For example, ZTA 20-07 has the potential to add substantial density to areas already struggling with stormwater drainage and parking concerns. Whether streets, public facilities, and the like can handle additional density should be studied before the density arrives. As noted in the TM 2050 Public Hearing Draft, **“Many of Thrive Montgomery 2050's recommendations cannot be implemented with a one-size-fits-all approach. Area master plans will help refine Thrive Montgomery 2050 recommendations and implement them at a scale tailored to specific neighborhoods”** (p. 127). The “Missing Middle” housing movement, led by Daniel Parolek, makes it abundantly clear that it is critical (1) that the form, scale, and context of the multifamily

housing must be compatible with the single-family neighborhood’s existing patterns and built form and (2) that the form-based codes for a location are developed through extensive public participation to ensure they are representative of the specific location. ZTA 20-07 is a one-size-fits all approach, lacking this contemplated site-specific review. Parolek has discussed conventional zoning codes and the fact that they often do a poor job of regulating building size and form in proportion to lot sizes. This can lead to an awkward juxtaposition of houses on neighboring properties.

Finding an effective policy will take time. TM2050 is a not-yet-adopted 30-year plan that will be implemented in stages, after further study of pertinent issues. One such issue is determining whether and how “affordable” housing and “Missing Middle” housing can actually be created in certain established single-family areas. Notably, Action 5.1.10.a of the TM2050 Public Hearing Draft calls for the creation of “a Housing Functional Master Plan to provide measurable housing goals and strategies for different market segments in Montgomery County as well as an analysis of affordability gaps and impediments to the housing supply.” We understand that plan has not been written yet. Also, per Action 5.1.5.a, “financial tools and zoning incentives” are to be considered “to encourage alternative construction types”.

We take the issue of “Missing Middle” housing seriously – and have many questions that need to be answered. We are committed to a careful review of this issue. COVID restrictions and school facility closures have severely limited our ability to conduct the public outreach within our communities that is necessary to develop substantive positions on the merits of “Missing Middle” housing. Nonetheless, we are undertaking due diligence and have compiled a list of questions that we believe need to be answered to engage in thoughtful discussions about the value of “Missing Middle” housing and any policy to promote it. We expect answers to these questions to arise out of full-fledged review by many stakeholders, including County Departments, elected officials, and communities. We look forward to continued discussions with you and others and to developing this through the general, master, and sector planning process.

Respectfully Submitted,

Nancy Abeles, Outside Impacts Committee Chair
Bethesda Crest Homeowners Association

Joyce Gwadz, Board Member
Edgemoor Citizens Association

Stacey Band, Community Representative
Bradley House Condominiums

Richard Derksen, President
Friends of Glenwood Neighborhood Association

Joan Barron & Shelley Yeutter, Co-Presidents
Chevy Chase West Neighborhood Association

Roger Conley, President & Peter Rizik, Smart
Growth Committee Chair
Kenwood Citizens Association

Melanie Rose White, Chair & Jenny Sue Dunner
Citizens Coordinating Committee of Friendship
Heights

Elizabeth Joyce
Saratoga Neighbors from Silver Spring

Andy O’Hare, President
East Bethesda Citizens Association

Cecily Baskir, Mayor
Town of Chevy Chase

Paula Fudge, Council Chair
Town of Chevy Chase View

Gregory S. Chernack, Council Chairman
Village of Chevy Chase, Section 5

Willem Polak, Mayor
Town of Glen Echo

Melanie Rose White, Mayor
Village of Friendship Heights

Tracey Furman, Mayor
Town of Kensington

Dana Peterson, Manager
Village of North Chevy Chase

Jeffrey Slavin, Mayor
Town of Somerset

David Forman
Westmoreland Citizens Association

Town Council
Town of Somerset

Bill Scanlan, President
Woodside Civic Association

Andy Leon Harney, Manager
Village of Chevy Chase, Section 3

cc: Gwen Wright, Director, Montgomery County Planning Department

Appendix A: Thrive Montgomery Coalition Questions about ZTA 20-07

1. Current Law: Some Montgomery County municipalities and HOAs have more restrictive land-use standards (height, setbacks, etc.) than the County.
 - Will the proposed zoning change honor municipalities' current building standards?
 - For HOAs that have different standards, will these standards be recognized as well?
 - Will ZTA 20-07 apply to historic districts? If so, please describe how it would operate within them.
2. Undercutting Master Plans: The ZTA negates some of the carefully developed objectives of master plans. For example, the recently adopted Veirs Mill Corridor Master Plan and Forest Glen-Montgomery Hills Sector Plan proposed introducing "Missing Middle" housing only in a limited number of targeted locations along Veirs Mill Road and Georgia Avenue. The ZTA would expand the area where "Missing Middle" housing could go. In Bethesda, one of the focuses of the Bethesda Downtown Plan (adopted in 2017 after 3 years of work) was on preservation of single-family neighborhoods adjacent to the CBD in exchange for greater density along Bethesda's edges. But the ZTA would bring "Missing Middle" housing to those adjacent neighborhoods and also nearly 200 properties within the Bethesda Downtown (in East Bethesda, in the Battery Lane District, and in the Sacks neighborhood). Under the Plan, "Missing Middle" housing was envisioned only for the Sacks neighborhood and only with consensus among some or all residents, and with implementation to be done under a special "floating zone" recognizing that and emphasizing compatibility of such housing (included in the master plan). Further, "Missing Middle" housing is currently being considered as part of the Silver Spring Downtown Plan update. When the Planning Staff updates a master plan, they review each property and determine its role in the context of the plan for the entire area.
 - Why is a blanket approach being proposed by the ZTA rather than the more targeted approach afforded through the master plan/sector plan approach?
 - How will the ZTA affect existing master plans that are not due for updates for at least a decade?
 - Thrive Montgomery 2050 will not in itself change any zoning, but it will establish parameters for zoning changes. Why short circuit that process?
3. Potential: ZTA 20-07 proposes putting "Missing Middle" housing within one mile of Red Line Metrorail stations.
 - How did you determine the 1-mile distance?
 - Why only in neighborhoods proximate to Red Line stations? Why were neighborhoods near Purple Line stations (as is being considered in the Silver Spring Downtown Plan update), MARC stations, and BRT routes not included?
4. Affordability: Is a goal of the ZTA to increase affordable housing near transit?
 - If so, what definition of affordable housing is being used?
 - New "Missing Middle" housing built in areas with high land values tends not to be affordable, at least not for middle- or lower income families. For example, townhouses built near downtown Silver Spring on the former Chelsea School site and the old police station site are as expensive as or more expensive than the single-family homes surrounding them. Townhouses may have been missing in that neighborhood, but what is being built isn't "middle," in the sense of being affordable. We are being told that adding density to our transit-proximate neighborhoods will lead to more affordable housing elsewhere. Is there any data to support this claim? Does it make sense

to push construction of multi-family housing only in high land value areas where the resulting housing is not going to be affordable for many residents, rather than other parts of the County where land values are lower?

- Are you concerned that an unintended consequence of the ZTA could be an increase in the loss of existing naturally occurring affordable housing - for example, smaller older houses, that may be less expensive than newly built duplexes or townhouses?
- For townhouses and apartment buildings built on R-60 lots, will a certain percentage of the units be required to be MPDUs? In the Bethesda Downtown, multifamily buildings are required to provide 15% MPDUs – will that requirement apply to “Missing Middle” townhouses and apartments?
- Why is “Missing Middle” housing being conflated with affordability when definitionally they are achieving different objectives?

5. Need for New Housing Units: There are thousands of housing units that are under construction across the County and tens of thousands more units that have been approved by the Planning Board but have not started construction because developers are waiting to time the market. Planning staff estimate that about 10,000 (7,000-8,000 units under M-NCPPC zoning) are needed by 2030 for the County to fulfill the MWCOG goals. Thus, the County seems to be well on its way to accomplishing the 2030 goals. Additionally, there are now significant developable areas at White Flint Metro and White Oak. White Flint has Metro, and White Oak has BRT. Both areas offer opportunities for greenfield/brownfield development that can provide thousands of dwelling units. M-NCPPC does not have zoning authority over all of Montgomery County (e.g., Rockville and Gaithersburg). But these municipalities will be providing housing units to help meet the county’s housing goals and numbers presented should reflect this.

- How many housing units does the County want to provide by 2030? By 2050? What are the goals set for the County by MWCOG?
- How many of the MWCOG housing units will be built under M-NCPPC zoning and how many under the zoning authority of municipalities?
- How many housing units are now in the pipeline as of December 2020? How many are under construction? Does this include housing units in municipalities that have zoning authority?
- Why is there such a rush to implement “Missing Middle” housing by changing zoning in existing neighborhoods near Metrorail stations?

6. Location and Quantity of “Missing Middle” Housing Details: The ZTA would allow “Missing Middle” housing to be constructed on all lots within 1 mile of a Metrorail station, but the literature on “Missing Middle” housing states that it should be carefully located in old neighborhoods if it is to successfully fit into the surrounding area, and the quantity of these housing types must be kept in proportion.

- Will language be added to ZTA 20-07 to limit the location and quantity of “Missing Middle” housing within neighborhoods?
- In R-60 zones, density is limited to 7.26 houses per acre. But the ZTA places no limit on the number of “Missing Middle” housing dwelling units that could be built on a lot or aggregation of lots. A lack of a density cap seems problematic, especially with regard to potential impacts on infrastructure, impervious surfaces, and parking, but also with regard to compatibility with surrounding homes. Why not set a density cap?

7. Compatibility of Form and Scale: ZTA 20-07 speaks of adding housing types that are compatible in form and scale with the detached houses in existing neighborhoods. This is a fundamental principle of the “Missing Middle” housing movement. While the form of duplexes and townhouses could be built so they look much like the houses in a neighborhood, it is unlikely that apartment buildings would resemble houses. Regarding scale, requiring the same height and setbacks that are used for houses will ensure compatibility of scale for “Missing Middle” Housing built on single lots. But it will not ensure compatibility if lots are aggregated. If lots are aggregated and a single structure is built, it will be substantially larger than the houses around it and clearly not be compatible in scale.
- There is nothing in the ZTA that addresses “form”. How will form compatibility be achieved?
 - Will building models be identified for the different neighborhoods across the Red Line or design guidelines specified? When would this happen?
 - What assurances will be added so that the new residential buildings won’t be out of proportion to the rest of the neighborhood?
 - Why does this ZTA allow apartment buildings (which would be better suited to transition areas), and how can their compatibility with the existing neighborhoods be ensured?
8. Environmental: Replacing small older homes with larger “Missing Middle” housing types (especially if multiple lots are aggregated) will result in significant loss of tree canopy and increased impervious surfaces. This will be especially true because of on-site parking requirements (many of the older R-60 lots have no current parking requirements). Loss of tree canopy will have significant impacts on the microclimate – less cooling than is now provided by the canopy trees and the potential that neighborhoods would become heat islands. Increased impervious surfaces will have a significant impact on stormwater run-off.
- What modifications would you make to the ZTA to remedy this?
 - The lot coverage limit in R-60 properties exempts many items - for example, driveways and detached garages. Please provide a list of all the things that are not included in the 35% lot coverage, whether detached, attached, or impervious surface.
9. Studies on Best Practices:
- What best practices and expert studies on “Missing Middle” housing have been explored and will be shared with residents so that communities can begin to have relevant discussions?
 - Has there been an analysis of the actual supply and demand for the different types of “Missing Middle” housing and price points (including factors such as rental vs. condo vs. owner occupied)?
 - Can the County provide studies on demand for “Missing Middle” housing in high land value areas and what the market rate prices might be?
 - The publicity for ZTA 20-07 implies that it will lead to an increase in moderately priced housing. Where is the evidence for that (will developers actually build moderately priced “Missing Middle” housing without incentives or is the County planning subsidies)?
 - What will be the impact on property values of existing properties in the impacted neighborhoods? If property values decline, this will impact the revenues the County collects from property taxes. Has the impact on county revenues been estimated?
 - What capacity studies exist or will be initiated to determine if the current infrastructure (stormwater drainage, soil conditions, street width, water, sewer, electricity grid, gas lines, schools, parking) can accommodate increased density? Studies need to be done to assess how much increased density a neighborhood can tolerate. The impacts can be modeled under various assumptions of different amounts of “Missing Middle” housing.

- What impact on on-street parking will the proposed reduction in on-site parking for “Missing Middle” housing within ½ mile of a Metrorail station have? Car ownership (especially in this COVID time) is not necessarily less for residences within a mile of Metrorail.
 - What studies of the environmental impacts of ZTA 20-07 in older neighborhoods exist? Even with current density levels, these neighborhoods are experiencing problems with increased tree canopy loss, impervious surfaces, and stormwater run-off.
 - Can the County provide analyses of “Missing Middle” housing on temperature, the creation of heat islands, habitat loss, green space and other environmental factors?
 - Where are the environmental requirements for these new buildings?
10. Assembling Lots & Setbacks: The aggregation of lots raises questions that are not addressed in the ZTA.
- How would setbacks be employed when lots are assembled?
 - If lots are combined, will there be additional green space requirements as well?
 - If lots are assembled, at what point would there be a planning review of a proposed multi-family structure versus the standard permitting process for approval?
11. Subdividing Lots: The ZTA does not distinguish between owned and rented dwelling units.
- If duplexes, triplexes, quadruplexes, or townhouses are built on an R-60 lot, will there be just one landowner, or will the lot be subdivided into small lots so that each owner of a part of one of these housing types owns a portion of the land as well?
 - If an existing R-60 lot is less than 60 feet wide or less than 6,000 square feet, will it be eligible for “Missing Middle” housing? How would this eligibility be affected by the date the lot was platted?
12. Lot coverage: Lot coverage limits will be increased to 35% for lots within ½ mile of Metrorail stations. The ZTA does not limit this increase to construction of “Missing Middle” housing types. What is your position on the unintended consequence of encouraging construction of larger single-family houses in this area too?
13. Impact taxes: How will impact taxes be levied for “Missing Middle” housing?
14. Infrastructure Capacity: The ZTA does not contain any infrastructure requirements or any planning review.
- Currently, many of our older municipalities have inadequate stormwater management and already have issues with flooding. Increased density in these neighborhoods will result in more impervious surfaces and reduced tree canopy, which will in turn result in more stormwater flooding. At present, it is incumbent upon municipalities to fix infrastructure issues (such as stormwater flooding). DPS routinely waives stormwater run-off requirements for infill development on R-60 lots, so it is inevitable that construction of “Missing Middle” housing in the older neighborhoods will result in increased stormwater run-off and flooding. Will the County accept responsibility for upgrading stormwater systems where there are flooding problems?
 - As density increases, how will parking be managed since lots that were recorded before 1955 do not have parking requirements and the streets in these older neighborhoods are very narrow?
 - The zoning code contains provisions for businesses operating in areas zoned single-family residential, referred to as home occupations and home health practitioners. These range from unregulated no-impact home occupations (for example, writing and editing) to considerably more

active operations involving employees, deliveries, client/customer/patient visits, and parking facilities. How would ZTA 20-07 deal with home occupations, and their potential impact within communities and on residential streets?

- If there are infrastructure shortcomings, how will they be handled?
- How will residents be assured of Adequate Public Facilities so that associated infrastructure for increased density will be upgraded and maintained?
- It is likely that “Missing Middle” housing will bring in more families which could further overcrowd schools. How will this be managed?
- Is the intent for some of these details to be worked out by developers?
- The Department of Permitting Services often grants waivers, (especially for stormwater run-off), with payments in lieu, for otherwise necessary infrastructure improvements. Should the ZTA include a prohibition on such waivers? If not, why not?

15. Financial Viability: There is concern that there is much higher demand for single-family homes than multi-family units, and in areas that have high land values, the economics of building a duplex may not compete with a single-family home (unless other policy changes are made). ZTA 20-07 aims in part to increase affordable housing.

- Can you cite any studies showing that increasing housing generally increases affordable housing?

16. How have developers and builders reacted to the ZTA?