


MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

 THE MARYLAND-NATIONAL CAPITAL
 PARK AND PLANNING COMMISSION

 8787 Georgia Avenue
 Silver Spring, Maryland 20910-3760
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MCPB
Item #8
09/14/06

DATE: September 6, 2006
TO: Montgomery County Planning Board
VIA: Rose Krasnow, Chief, Development Review
 Carlton Gilbert, Zoning Supervisor
FROM: Greg Russ, Zoning Coordinator *[Signature]*
REVIEW TYPE: Zoning Text Amendment
PURPOSE: To provide a process for reclassification of a split-zoned property to a single zone classification; and generally to amend provisions related to a corrective map amendment

TEXT AMENDMENT: No. 06-09
REVIEW BASIS: Advisory to the County Council sitting as the District Council, Chapter 59 of the Zoning Ordinance
INTRODUCED BY: Councilmember Silverman
INTRODUCED DATE: March 28, 2006
PLANNING BOARD REVIEW: May 25, 2006 and September 14, 2006
PUBLIC HEARING: May 2, 2006; 1:30 pm; PHED Committee, September 25, 2006.

STAFF RECOMMENDATION: DENIAL

PURPOSE OF THE TEXT AMENDMENT

To provide a process for reclassification of a split-zoned property to a single zone classification; and generally to amend provisions related to a corrective map amendment

BACKGROUND

- Councilmember Silverman introduced the subject text amendment to provide a process for reclassifying of a split-zoned property to only one of the split-zones to allow such properties to be developed under a uniform set of development standards. The process for reclassification of a split-zoned property would not require the District Council to find a change in character of the neighborhood or a

mistake in the last comprehensive zoning. The application and public hearing requirements would be the same as those for a corrective map amendment. As discussed within the staff report below, County Council staff is recommending a modification of the text amendment to establish a remedial map amendment process that does not incorporate the corrective map provisions.

- The Planning Board held a public hearing on May 25, 2006 and expressed a number of concerns with the proposed legislation. Questions raised during the hearing include: Is the corrective map amendment process the appropriate approach to addressing this issue; Does a real problem exist to warrant a new process (more extensive examination of the data depicting 781 split-zoned properties in the County is required) or can many of the split-zoned parcels be corrected as technical errors;

ANALYSIS

During the master or sector plan review process, many properties are found with anomalies that include split-zoned lots or parcels. Many zoning lines implemented by previous Sectional Map Amendments (SMAs) followed property lines that predated subdivisions and had not been adjusted according to lot lines. Newly digitized mapping techniques identify anomalies while new title searches and surveys by property owners identify others. Although their numbers are gradually being reduced, it is still not uncommon to find split-zoned properties. As stated in the previous staff report, GIS has identified approximately 781 split-zoned parcels throughout the County. Approximately 25% of the parcels are split between residential and non-residential zones, with the remaining properties either split-zoned residentially, non-residentially or with all mixed-use zones (CBDs, TS-R and TS-M, TS, etc.).

I. At its previous hearing, the Planning Board raised the question of what percentage of the split-zoned parcels were intentionally zoned as such and which ones were anomalies.

Extensive conversations with Community-Based Planning staff reflect the difficulty in identifying a finite figure depicting parcels that were intentionally split-zoned. In many cases the master plans were silent on this issue. In other instances, we find that the GIS database misread the status of the lots. Below, Community-Based Planning has provided analysis of the GIS delineated split-zoned properties located in the Potomac Subregion, Upper Rock Creek, Kensington-Wheaton, Kensington, Glenmont and Forest Glen master plan areas as a sample of existing conditions. This information is intended to assist the Planning Board in determining the need for the proposed legislation.

Potomac Subregion

In 2002, following adoption of the Potomac Subregion Master Plan, the County Council approved a Sectional Map Amendment (SMA) (G-800). In addition to thirteen master planned zoning recommendations to be implemented through the SMA process, the SMA also included thirty-five corrective amendments.

The corrective amendments were applied to approximately 340 properties, both lots and parcels, with anomalous split zones. Many zoning lines implemented by previous SMAs followed property lines that predated subdivisions and had not been adjusted according to lot lines. Newly digitized mapping techniques identified anomalies while new title searches and surveys by property owners identified others.

The Master Plan and SMA did not recommend any changes to approximately 42 properties that were split zoned between a commercial or industrial zone and a residential zone where a previous master plan had deliberately created a buffer situation. Approximately 22 split zoned residential properties where a stream constituted the zoning boundary were similarly left unchanged. Although their numbers are gradually being reduced, split-zoned properties are therefore not uncommon.

The proposed text amendment provides for a map amendment to be filed by an owner of a split zoned property. It further provides that the District Council is not required to find a change in the character of the neighborhood, or a mistake in the last comprehensive zoning, to grant a reclassification of a split-zoned property to a single zone. The required findings provide protection for adjacent properties by including consistency with the applicable master plan and by referencing compatibility in terms of uses and densities.

Upper Rock Creek

There were 57 split-zoned properties found in Upper Rock Creek. More than half of them—36—pose issues that were resolved in the Sectional Map Amendment that implemented the Upper Rock Creek Area Master Plan. Another four actually depict a split only in the 200-scale zoning sheet; there is no actual split in the zone for the property. In the remaining 17 cases, the zoning classification occurred *before* the subdivision that created the split lot. Ten of the 17 lots are shown on the relevant record plat as split by a zoning line. It appears that, in these cases, large parcels, usually farms, were reclassified as part of master plans. The parcels were then assembled and the subsequent subdivision took no note of the original farms' property lines, creating individual lot lines that straddled original zoning lines. It is possible that these subdivisions predate the Ordinance's language in Section 59-A-1.6 stating that zone boundaries are intended to follow lot lines. If the subdivisions do not predate this language, the split-zoned individual lots seem to conflict with the Ordinance's intent.

Kensington-Wheaton and Kensington Sector Plan Areas

The database depicts 11 split-zoned properties in the Kensington-Wheaton and Kensington Sector Plan areas. For seven of the properties, the zoning classification occurred prior to the subdivision that created the lot. In one case, the zoning line runs along the streambed. In another case, the property shown as split in the database is actually 14 separate recorded lots, two of which are in the I-1 Zone and 12 of which are in the R-60 Zone. Two properties were explicitly created with two zones. In one of the cases, the property was the subject of separate local map amendments; in the other, a residential zone was deliberately

retained on a portion of the property to provide a clear separation between residential and non-residential uses.

Glenmont and Forest Glen

The single split-zoned property in Glenmont is in public ownership. The zoning split occurred in or prior to 1978. The property's ownership status is unlikely to change, (the property is part of Metro Station complex) which diminishes the impact of the zoning split. The two split-zoned properties in Forest Glen also were reclassified prior to the creation of the lots.

Most of the split-zoned properties reviewed seem to have been created with the understanding that the lots being created would have two zones. While it is now true that this conflicts to some extent with the language in the Zoning Ordinance (59-A-1.6) that issue appears not to have concerned reviewers or decision makers at the time the subdivisions creating the split-zoned lots were approved. Recent master plans have not addressed this issue consistently. The Potomac Master Plan adjusted zoning lines (to follow property boundaries) when those lines split properties even when the zoning reclassification occurred before subdivision. The Upper Rock Creek Master Plan did not.

II. Is the Corrective Map Amendment Process Appropriate?

The Planning Board expressed a number of concerns with use of the corrective map amendment process. First, this process was established to correct technical errors or inaccurate depictions of zoning boundary lines on an adopted map that are known as the result of mapping, surveying, or other technical information without reopening the comprehensive sectional map amendment. In the case of split-zoned properties that were not created in error, the corrective approach is not appropriate based on its established purpose. Instead, County Council staff is now recommending that a new section (59-H-11) be established to provide a "Remedial Map Amendment" procedure for a split-zoned property.

As with the original proposal, the modified text amendment would allow the owner, contract purchaser or person with a financial interest in the split-zoned property to reclassify split-zoned property if a number of findings are made by the District Council. These findings include (Bold language indicates staff's further modifications):

(a) That [[at the time]] each lot, parcel or tract of land subject to the remedial map amendment [[application was filed, the property]] was classified in two or more zones at the time of the last comprehensive zoning and where all parts of the property were zoned commercial, industrial or residential thereby preventing an entire change in use in the less intense zone:

(b) That the reclassification of the property to a single zone that is currently on the property will aid in the systematic development of the Regional District:

- (c) That the zone classification requested will result in the development of uses and densities compatible with the uses and densities allowed under the zone classification of adjacent properties and lawfully existing structures and uses on the adjacent properties;
- (d) That reclassification of the property to a single zone will facilitate consistent regulations;
- (e) That the requested zoning classification is consistent with the land use recommendation of the applicable master or sector plan; and
- (f) That the property has not changed in size or shape since the last comprehensive rezoning and is not an assemblage of parcels or lots that were separate parcels or lots at the time of the last comprehensive rezoning.
- (g) The single zone classification would result in a better and more cohesive development that could otherwise be constructed.

The required findings listed above address compatibility of uses and densities with adjacent properties. In addition, they require consistency of the reclassification with the applicable master or sector plan. **As the Board previously requested, the findings are written in the affirmative (not in the negative as previous introduced). Additional proposed new language establishes procedures (noticing, application content, filing of application, Planning Board review etc.) that closely resemble those of the local map amendment process (see Attachment 1). This change from the previous proposal addresses the Planning Board's concern with the possibility of relinquishing its application acceptance authority for a corrective map amendment (for split zone applications only). A remedial map amendment application would be filed with the Hearing Examiner's Office, consistent with the process for other types of local map amendments. As such, the Planning Board would retain its authority in application acceptance for all corrective map situations.**

Policy Basis and Summary

Section 59-A-1.6 (a) states that zone boundary lines are intended to follow street, alley or lot lines or lines parallel or perpendicular thereto, unless such zone boundary lines are otherwise identified on the zoning map. Property is intentionally split-zoned for a number of reasons, some of which include: buffering incompatible uses; respecting natural or man-made barriers and property lines; and preparing for anticipated annexations.

The proposed remedial map amendment process provides an opportunity for split-zoned properties to be reclassified to one of the zones for the purpose of being developed under a uniform set of development standards.

One major concern with the subject request is how we address the intentional versus unintentional nature of split-zoning specific properties as part of a SMA. The intentionality of a split zoning in many cases is indecipherable. A number of master or sector plans are older and/or

lack the specific history on a parcel-by-parcel basis. Other master plan updates may have been silent where no changes are recommended to existing parcels (single- or split-zoned). In some cases, many of the traditional reasons for split-zoning a parcel might not be immediately obvious. Therefore, it becomes difficult in some cases to determine why a property was split-zoned. This could create confusion when trying to address the finding of consistency with the land use recommendations of the applicable master or sector plan (proposed as part of the text amendment). As such, another major concern stems from possible unintended impacts created by rezoning split-zoned parcels (through the remedial or correctional process proposed) that were intentionally classified in two or more zones.

Staff finds no compelling public benefit in making it easier to rezone property from a lower to a higher intensity zone. While limiting the up-zoning within a single category of use would minimize unintended consequences, it should be noted that the range of intensity even within a single category, such as industrial, is very broad.

RECOMMENDATION

Based on the policy discussion and summary above, staff recommends denial of the proposed text amendment to provide a process for reclassification of a split-zoned property to a single zone classification by creating either a corrective map amendment or a remedial map amendment. Should the County Council decide to approve the text amendment, staff recommends that the remedial map amendment process be used versus the corrective map approach. The staff further recommends that the findings be modified as discussed herein including a finding that limits a remedial map amendment request to split zoned parcels where all parts of the property are zoned commercial, industrial or residential, thereby preventing an entire change in use in the less intense zone (for example, do not provide an opportunity to reclassify a property that is split-zoned between a R-90 zone and a C-2 zone but provide an opportunity to rezone a R-90/R-200 zoned site or a C-2/C-1 zoned, pursuant to all the findings). The proposed text amendment language as modified by staff is included as Attachment 1.

GR

Attachments

1. Proposed Text Amendment 06-09 (as modified by staff)
2. Previous staff report dated May 12, 2006

ATTACHMENT 1

Sec 1. DIVISION 59-H-1 is amended as follows:

DIVISION 59-H-1 MAP AMENDMENTS.

Sec. 59-H-1.1. Generally.

Application for amendment of the zoning map may be in the form of:

* * *

(e) A remedial map amendment. A remedial map amendment may cover one or more tracts of land in the Maryland-Washington Regional District.

* * *

Sec. 2 DIVISION 59-H-11 is hereby added as follows:

DIVISION 59-H-11. REMEDIAL MAP AMENDMENT.

* * *

Sec. 59-H-11.1. Generally.

* * *

The purpose of a remedial map amendment is to enable the District Council to reclassify a split-zoned property to one of the split-zoned classifications upon the request of the property owner, contract purchaser or person with a financial interest.

* * *

Sec. 59-H-11.2. Notices and posting.

* * *

Within 3 days after acceptance for filing of an application for a remedial map amendment, the applicant must post a sign on the property that is the subject of the application. The applicant must also provide written notice to abutting and confronting property owners. The sign, obtained from the Office of Zoning and Administrative Hearings when the appropriate application fee and deposit have been paid, must comply with the provisions of Section 59-H-4.2.

* * *

Sec. 59-H-11.3. Contents of an application.

* * *

An application for a remedial map amendment to reclassify split-zoned property may be filed by the owner, contract purchaser or person with a financial interest in the split-zoned property and must include:

- (a) A plat and boundary survey description by metes and bounds of the parcel of property proposed for adjustment.
- (b) A map depicting the existing zoning for the property and the proposed zoning adjustment.
- (d) A statement describing the rationale in support of the zoning adjustment.
- (e) An approved Natural Resource Inventory/Forest Stand Delineation Plan.
- (f) An as-built of any existing improvements located upon the property proposed for adjustment.
- (g) Information as to the use and zoning of abutting properties.
- (h) A list of adjoining and confronting property owners.

* * *

Sec. 59-H-11.4. Filing an application.

* * *

The owner, contract purchaser or person with a financial interest in the split-zoned property may file an application for a remedial map amendment with the Office of Zoning and Administrative Hearings for transmittal to the District Council and Planning Board. The file must be maintained by the District Council.

* * *

Sec. 59-H-11.5. Planning Board review, recommendation and action.

* * *

(a) The Planning Board must hold a public hearing for review of the proposed remedial map amendment, no sooner than forty-five (45) days after the date of posting of the property and mailing of notices to adjoining and confronting property owners. The purpose of the public hearing is to allow interested persons the opportunity to comment on the proposed

amendment. The applicant must provide written notice of the Planning Board's public hearing to all adjoining and confronting property owners, civic associations within one mile of the property and to all other interested persons who request it. The applicant must file an affidavit with the Planning Board stating that the requisite notice was sent in accordance with this section.

(b) The Planning Board must prepare a written report and recommendation to be forwarded to the District Council recommending approval, approval subject to conditions or denial, together with copies of all external communications received concerning the proposed remedial map amendment.

(c) The Planning Board must also transmit to the District Council, for inclusion in the administrative record, copies of all notices and communications sent and a copy of the transcript of the Planning Board public hearing pertaining to the remedial map amendment.

(d) If the Planning Board recommends an additional public hearing by the District Council, the District Council must conduct an additional, de novo public hearing on the remedial map amendment.

(e) If the Planning Board recommends denial of the remedial map amendment, the applicant may request within fifteen (15) days after transmittal of Planning Boards recommendation to the District Council, request that the District Council conduct a de novo public hearing on the application. The District Council may in its discretion, grant or deny the request for a de novo public hearing.

(f) The administrative record from a public hearing held by the District Council under this section will be compiled by the District Council in the same manner as the record is compiled by the Office of Zoning and Administrative Hearings for a local map amendment application.

* * *

Sec. 59-H-11.6. Required findings for split-zoned properties.

* * *

In order to reclassify a split-zoned property to one of the split-zoned classifications, the District Council must find:

(a) That [[at the time]] each lot, parcel or tract of land subject to the remedial map amendment [[application was filed, the property]] was classified in two or more zones at the time of the last comprehensive zoning and where all parts of the property were zoned commercial, industrial or residential thereby preventing an entire change in use in the less intense zone;

(b) That the reclassification of the property to a single zone that is currently on the property will aid in the systematic development of the Regional District;

(c) That the zone classification requested will result in the development of uses and densities compatible with the uses and densities allowed under the zone classification of adjacent properties and lawfully existing structures and uses on the adjacent properties;

(d) That reclassification of the property to a single zone will facilitate consistent regulations;

(e) That the requested zoning classification is consistent with the land use recommendation of the applicable master or sector plan; and

(f) That the property has not changed in size or shape since the last comprehensive rezoning and is not an assemblage of parcels or lots that were separate parcels or lots at the time of the last comprehensive rezoning.

(g) The single zone classification would result in a better and more cohesive development than could otherwise be constructed.

* * *

Sec. 59-H-11.7. Action by the District Council.

* * *

(a) An application for a remedial map amendment that does not require a de novo public hearing by the District Council must be decided by the District Council on the basis of the evidence of record compiled by the Planning Board. Action on a remedial map amendment application must be taken, in open session, within 60 days of the receipt of the Planning Board's recommendation.

(b) Whenever the District Court conducts a de novo public hearing on a remedial map amendment, the application must be decided on the basis of the evidence of record of that public hearing, in open session, within 30 days of the public hearing, unless such time has been extended by the District Council. The District Council may delegate the hearing process to a Zoning Hearing Examiner and the time for decision shall commence upon receipt of the Zoning Hearing Examiners Report and Recommendation.

(c) The District Council is not required to find a change in the character of the neighborhood, or a mistake in the last comprehensive zoning, in order to grant a remedial map amendment.

(d) The District Council may approve a remedial map amendment with respect to property included in the application if it finds that the remedial map amendment application complies with Section 59-H-11.6(a)-(f). A remedial map amendment does not alter the prior comprehensive zoning as the basis for determining change in the character of the neighborhood.

(e) Action by the District Council must be by resolution securing the affirmative vote of 5 members of the District Council. A copy of the resolution and opinion setting forth the District Council findings and conclusions must be mailed to all parties of record and to the Planning Board. A resolution that does not receive the minimum number of votes is denied.

(f) Any party aggrieved by a final decision of the District Council may appeal that decision in accordance with section 59-H-8.4.

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MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

8787 Georgia Avenue
Silver Spring, Maryland 20910-3760
301-495-4500, www.mncppc.org

MCPB
Item #5
05/25/06

DATE: May 12, 2006
TO: Montgomery County Planning Board
VIA: Rose Krasnow, Chief, Development Review *RK*
Carlton Gilbert, Zoning Supervisor
FROM: Greg Russ, Zoning Coordinator *GR*
REVIEW TYPE: Zoning Text Amendment
PURPOSE: To provide a process for reclassification of a split-zoned property to a single zone classification; and generally to amend provisions related to a corrective map amendment

TEXT AMENDMENT: No. 06-09
REVIEW BASIS: Advisory to the County Council sitting as the District Council, Chapter 59 of the Zoning Ordinance
INTRODUCED BY: Councilmembers and Silverman
INTRODUCED DATE: March 28, 2006

PLANNING BOARD REVIEW: May 25, 2006
PUBLIC HEARING: May 2, 2006; 1:30 p.m.

STAFF RECOMMENDATION: APPROVAL with modifications

PURPOSE OF THE TEXT AMENDMENT

To provide a process for reclassification of a split-zoned property to a single zone classification; and generally to amend provisions related to a corrective map amendment

BACKGROUND

Councilmember Silverman introduced the subject text amendment to provide a process for reclassifying of a split-zoned property to only one of the split-zones to allow such properties to be developed under a uniform set of development standards. The process for reclassification of a split-zoned property would not require the District Council to find a change in character of the neighborhood or a mistake in the last comprehensive zoning.

The application and public hearing requirements would be the same as those for a corrective map amendment

ANALYSIS

During the master or sector plan review process, many properties are found with anomalies that include split-zoned lots or parcels. Many zoning lines implemented by previous SMAs followed property lines that predated subdivisions and had not been adjusted according to lot lines. Newly digitized mapping techniques identify anomalies while new title searches and surveys by property owners identify others. Although their numbers are gradually being reduced, it is still not uncommon to find split-zoned properties. Staff has identified approximately 781 split-zoned parcels located throughout the County. Approximately 25% of the parcels are split between residential and non-residential zones, with the remaining properties either split-zoned residentially, non-residentially or with all mixed-use zones (CBDs, TS-R and TS-M, TS, etc.). In addition, approximately 12% of the parcels contain a minimum of 10 acres on at least one part (one of the zones) of the split-zoned parcel.

The proposed text amendment would permit a corrective map amendment process to allow the owner, contract purchaser or person with a financial interest in the split-zoned property to reclassify split-zoned property. A number of findings would be required to be made by the District Council before a split-zoned property could be reclassified. These findings include:

- (1) That at the time the corrective map amendment application was filed, the property was classified in two or more zones;
 - (2) That the reclassification of the property to a single zone will aid in the systematic development of the Regional District;
 - (3) That the zone classification requested will not result in the development of uses and densities incompatible with the uses and densities allowed under the zone classification of adjacent properties;
 - (4) That reclassification of the property to a single zone will eliminate inconsistent regulations; and
 - (5) That the requested zoning classification is not inconsistent with the land use recommendation of the applicable master or sector plan.
- (b) District Council action. If a master or sector plan recommends one specific classification for a split-zoned property that property may only be rezoned to the zoning classification recommended in the master or sector plan. The District Council is not required to find a change in the character of the neighborhood, or a mistake in the last comprehensive zoning, to grant a reclassification of a split-zoned property to a single zone.

The required findings listed above address compatibility of uses and densities with adjacent properties. In addition, they require consistency of the reclassification with the applicable master or sector plan. In sum, the required findings help minimize the potential that reclassifying a split-zoned parcel to a single zone would be incompatible with the adjacent parcels.

The text amendment as submitted does not address the potential concern of assembling single-zoned parcels with a split-zoned lot, thereby creating larger properties that could eventually reclassify through the corrective map amendment process (parcel consolidations). This is not the intent of the legislation. As such, *staff recommends that findings (a)(1) and (a)(2) be modified to state that each lot, parcel or tract of land subject to the corrective map amendment must have been classified in two or more zones at the time of the last comprehensive rezoning and that the reclassification of the property is to a single zone that is currently on the property (see Attachment 1).*

District Council Action (“b” of new Section 59-H-10.3)

The language of the first sentence in this section does not appear necessary. If a master or sector plan recommends one specific classification for a split-zoned property (a Euclidean Zone) it typically is rezoned at the time of the Sectional Map Amendment (SMA) and therefore would not need the subject process. Staff recommends deleting the first sentence of Section “b”

RECOMMENDATION

The staff supports the proposed text amendment to provide a process for reclassification of a split-zoned property to a single zone classification; and generally to amend provisions related to a corrective map amendment. Staff also recommends adding a finding that prohibits the utilization of these provisions for parcels that were not split-zoned at the time of the last comprehensive zoning. The proposed text amendment language as modified by staff is included as Attachment 1.

GR

Attachments

1. Proposed Text Amendment 06-09 (as modified by staff)

ATTACHMENT 1

Zoning Text Amendment No.: 06-09
Concerning: Split-zoned property
Draft No. & Date: 1 – 3/21/06
Introduced: March 28, 2006
Public Hearing: May 2, 2006; 1:30 pm
Adopted:
Effective:
Ordinance No.:

**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: Councilmember Silverman

AN AMENDMENT to the Montgomery County Zoning Ordinance for the purpose of:

- providing a process for reclassification of a split-zoned property to a single zone classification; and
- generally amending provisions related to a corrective map amendment.

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

Division 59-H-10	“CORRECTIVE MAP AMENDMENTS”
Section 59-H-10.1	“Generally”
Section 59-H-10.2	“Planning Commission to file an application”
Section 59-H-10.3	“Contents of an application”
Section 59-H-10.4	“Planning Board recommendation”
Section 59-H-10.5	“District Council Public Hearing”
Section 59-H-10.6	“Deferral, postponement, or continuance of hearing”
Section 59-H-10.7	“Action by the District Council”

EXPLANATION:

***Boldface** indicates a heading or a defined term.*

Underlining indicates text that is added to existing laws by the original text amendment.

[Single boldface brackets] indicate text that is deleted from existing law by the 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.*

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:

1 **Sec 1. DIVISION 59-H-10 is amended as follows:**

2 **DIVISION 59-H-10. CORRECTIVE MAP AMENDMENTS.**

3 **59-H-10.1. Generally.**

4 (a) A corrective map amendment may cover one or more tracts of land or
5 a section of the Maryland-Washington Regional District.

6 (b) The purpose of a corrective map amendment is to enable the District
7 Council in lieu of a comprehensive sectional map amendment to
8 correct technical errors or inaccurate depictions of zoning boundary
9 lines on an adopted map that are known as the result of mapping,
10 surveying, or other technical information[.] and to allow split-zoned
11 property to be reclassified to one of the split-zoned classifications. A
12 corrective map amendment does not alter the prior comprehensive
13 zoning as the basis for determining change in the character of the
14 neighborhood.

15 **59-H-10.2. [Planning Commission to file an application] Authority to file an**
16 **application.**

17 Except for a corrective map amendment application to reclassify property that is
18 split-zoned, [T]the Planning [Commission] Board, or designee, may submit an
19 application for a corrective map amendment. The District Council may request
20 that the Planning [Commission] Board initiate a review of possible errors which
21 may necessitate the need for preparing a corrective map amendment. A corrective
22 map amendment application to reclassify split-zoned property may be filed by the
23 owner, contract purchaser or person with a financial interest in the split-zoned
24 property. No time limitations will attach when such an application may be filed.
25 The application must be filed with the District Council and the file must be
26 maintained by the Council.

27 **59-H-10.3. Required findings and development procedure for split-zoned**
28 **properties.**

29 (a) Findings required. In order to reclassify a split-zoned property to one of the
30 split-zoned classifications, the District Council must find:

31 (1) That [[at the time]] each lot, parcel or tract of land subject to the
32 corrective map amendment [[application was filed, the property]] was
33 classified in two or more zones at the time of the last comprehensive
34 zoning;

35 (2) That the reclassification of the property is to a single zone that is
36 currently on the property and will aid in the systematic development
37 of the Regional District;

38 (3) That the zone classification requested will not result in the
39 development of uses and densities incompatible with the uses and
40 densities allowed under the zone classification of adjacent properties;

41 (4) That reclassification of the property to a single zone will eliminate
42 inconsistent regulations; and

43 (5) That the requested zoning classification is not inconsistent with the
44 land use recommendation of the applicable master or sector plan.

45
46 (b) District Council action. [[If a master or sector plan recommends one
47 specific classification for a split-zoned property that property may only be
48 rezoned to the zoning classification recommended in the master or sector
49 plan.]] The District Council is not required to find a change in the character
50 of the neighborhood, or a mistake in the last comprehensive zoning, to grant
51 a reclassification of a split-zoned property to a single zone.

52
53 **59-H-10.[3]4. Contents of an Application.**

54 An application for a corrective map amendment must include:

55 (1) A description of each parcel of property proposed for adjustment.

56 (2) A map depicting the existing zoning for each property and the
57 proposed zoning adjustment.

58 (3) A statement describing the rationale in support of the zoning
59 adjustments.

60 **59-H-10.[4]5. Planning Board recommendation.**

61 * * *

62 **59-H-10.[5]6. District Council Public Hearing.**

63 * * *

64 **59-H-10.[6]7. Deferral, postponement, or continuance of hearing.**

65 * * *

66 **59-H-10.[7]8. Action by the District Council**

67 * * *

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

70
71 This is a correct copy of Council action

72
73
74 _____
75 Linda M. Lauer, Clerk of the Council

