



MONTGOMERY COUNTY PLANNING DEPARTMENT
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB
Item #
09/11/08

DATE: August 25, 2008
TO: Montgomery County Planning Board
VIA: Rose Krasnow, Chief, Development Review *RK*
Ralph Wilson, Zoning Supervisor
FROM: Greg Russ, Zoning Coordinator
REVIEW TYPE: Zoning Text Amendment and Subdivision Regulation
Amendment
PURPOSE: To amend the Zoning Ordinance and Subdivision
Regulations to allow certain development plans, project
plans and preliminary plans to exceed density or building
height limits of the master plan or sector plan to permit the
construction of workforce housing units on-site.

TEXT AMENDMENT: 08-16
SUBDIVISION REGULATION: 08-04
REVIEW BASIS: Advisory to the County Council sitting as the District
Council, Chapter 59, the Zoning Ordinance and
Chapter 50, the Subdivision Regulations
INTRODUCED BY: Councilmember Floreen
INTRODUCED DATE: July 29, 2008
PLANNING BOARD REVIEW: September 11, 2008
PUBLIC HEARING: September 16, 2008, 1:30 PM

STAFF RECOMMENDATION: Approve ZTA 08-16 and SRA 08-04, as
introduced.

Workforce Housing Program

On July 11, 2006 (effective date of December 1, 2006), the District Council adopted Zoning Text Amendment (ZTA) 05-16. The purpose of the ZTA was to establish a new affordable housing program to complement the MPDU provisions and geared toward families with incomes near the area median (less than 120% of area median income). The program applies in higher density areas near metro stations and requires that a development provide not less than 10 percent of the market rate dwelling units as workforce housing. Specifically, under Section 59-A-6.18.2(c), to allow the construction of all workforce housing units on site, the Planning Board must permit:

- (1) any residential density or residential FAR limit of the applicable zone to be exceeded to the extent required for the number of workforce housing units that are constructed, but not by more than 10 percent;
- (2) any residential density or residential FAR limit established in a master or sector plan to be exceeded to the extent required for the number of workforce housing units that are constructed, but not to more than the maximum density and FAR of the zone, except as provided in paragraph (1), and
- (3) any building height limit established in a master or sector plan to be exceeded to the extent required for the number of workforce housing units that are constructed, but not to more than the maximum height of the zone.

Currently, the Zoning Ordinance and Subdivision Regulations require that:

- 1) a development plan substantially comply with the density and building height recommendations of the relevant master or sector plan;
- 2) a project plan conform to the master plan or sector plan recommendations; and
- 3) a preliminary subdivision plan substantially conform to the applicable master plan or sector plan unless the Planning Board finds that events have occurred to render the relevant master plan or sector plan recommendation no longer appropriate.

ZTA 08-16 and SRA 08-04

ZTA 08-16 and SRA 08-04 were introduced by Councilmember Floreen. The amendments would restate the basic workforce housing law that the Council in approving a development plan and the Planning Board in approving a project plan or subdivision plan, must permit any residential density or building height limit to be exceeded to the extent necessary to accommodate workforce housing units. Under the basic law and the proposed amendments, increases above the residential density limit of the applicable zone and increases above any residential density or building height limit established in a master or sector plan, must be permitted consistent with the standards under (1), (2), and (3), of Section 59-A-6.18.2(c), as indicated above.

Staff Comments

The existing workforce housing law (as indicated in Section 59-A-6.18) *requires* the County Council and Planning Board to permit master plan limits to be exceeded to accommodate workforce housing. Including workforce housing

provisions in the subdivision regulations clarifies the legislative intent that, notwithstanding any master or sector plan established residential density or building height limit, the Planning Board is authorized to approve subdivisions with increased density and building height to accommodate workforce housing. Staff does not believe that it is necessary to codify the workforce housing provision under the development plan or project plan sections since the basic zoning law is clear in this respect; but does not object to the language since it only reiterates the applicable text of Section 59-A-6.18.

Overall, the existing language (and the proposed amendments thereto) in effect amends approved and adopted sector plans for the purpose of providing workforce housing—a legislative judgment that has established that the need for affordable housing takes precedence.

RECOMMENDATION

Staff recommends approval of ZTA 08-16 and SRA 08-04, as introduced.

Attachments

1. Zoning Text Amendment No. 08-16 and SRA 08-04

ATTACHMENT 1

Zoning Text Amendment No: 08-16
Concerning: Workforce Housing
- Findings
Draft No. & Date: 2 – 7/10/08
Introduced: July 29, 2008
Public Hearing:
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 Floreen

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- allow certain development plans or project plans to exceed density or building height limits to permit the construction of all Workforce Housing units on-site; and
- generally amend provisions relating to Development Plans and Project Plans.

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

DIVISION 59-D-1	“DEVELOPMENT PLAN”
Section 59-D-1.6	“Approval by district council”
Section 59-D-1.61	“Findings”
DIVISION 59-D-2	“PROJECT PLAN FOR OPTIONAL METHOD OF DEVELOPMENT, CBD ZONES AND RMX ZONES”
Section 59-D-2.4	“Action by planning board”
Section 59-D-2.42	“Findings required for approval”

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:

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

DIVISION 59-D-1. DEVELOPMENT PLAN.

* * *

59-D-1.6. Approval by district council.

59-D-1.61. Findings.

Before approving an application for classification in any of these zones, the District Council must consider whether the application, including the development plan, fulfills the purposes and requirements in Article 59-C for the zone. In so doing, the District Council must make the following specific findings, in addition to any other findings which may be necessary and appropriate to evaluate the proposed reclassification:

- (a) The [zone applied for] proposed development plan substantially complies with the use and density indicated by the master plan or sector plan, and does not conflict with the general plan, the county capital improvements program, or other applicable county plans and policies.

* * *

- (3) locating any required public use space off-site.

To permit the construction of all workforce housing units required under Chapter 25B on-site, the proposed development may exceed, in proportion to the workforce housing units to be built on site, any applicable residential density or building height limit established in a master plan or sector plan. Any residential density or residential FAR limit of the applicable zone may be exceeded to the extent required for the number of workforce housing units to be constructed, but not by

26 more than 10 percent. Any building height limit recommended in a
27 master or sector plan may be exceeded to the extent required for the
28 number of workforce housing units that are constructed, but not to
29 more than the maximum height of the zone.

30 * * *

31 **Sec. 2. DIVISION 59-D-2 is amended as follows:**

32 **DIVISION 59-D-2. PROJECT PLAN FOR OPTIONAL METHOD OF**
33 **DEVELOPMENT, CBD ZONES AND RMX ZONES.**

34 * * *

35 **59-D-2.4. Action by planning board.**

36 * * *

37 **59-D-2.42. Findings required for approval.**

38 The fact that an application complies with all of the specific requirements and
39 intent of the applicable zone does not create a presumption that the application
40 must be approved. The Planning Board can approve, or approve subject to
41 modifications, an application only if it finds that the proposed development meets
42 all of the following requirements:

43 (b) It would conform to the applicable sector plan or urban renewal plan.

44 * * *

45 (3) locating any required public use space off-site.

46 To permit the construction of all workforce housing units required
47 under Chapter 25B on-site, a project plan may exceed, in proportion
48 to the workforce housing units to be built on site, any applicable
49 residential density or building height limit established in a master plan
50 or sector plan. Any residential density or residential FAR limit of the

51 applicable zone may be exceeded to the extent required for the
52 number of workforce housing units to be constructed, but not by more
53 than 10 percent. Any building height limit recommended in a master
54 or sector plan may be exceeded to the extent required for the number
55 of workforce housing units that are constructed, but not to more than
56 the maximum height of the zone.

57 * * *

58 **Sec. 3. Effective date.** This ordinance takes effect 20 days after the date of
59 Council adoption.

60

61 This is a correct copy of Council action.

62

63

64 _____
Linda M. Lauer, Clerk of the Council

Ordinance No.:
Subdivision Regulation Amend. No.: 08-04
Concerning: Workforce Housing-
Findings
Draft No. & Date: 2- 7/17/08
Introduced:
Public Hearing:
Adopted:
Effective:

**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 Floreen

AN AMENDMENT to the Subdivision Regulations to:

- allow certain preliminary plans to exceed density or building height limits to permit the construction of all Workforce Housing units on-site; and
- generally amend provisions relating to preliminary plans.

By amending the following section of County Code Chapter 50:

Sec. 50-35. "Preliminary subdivision plans – Approval procedure."

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

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

2 **Sec. 1. Section 50-35 is amended as follows:**

3 **50-35. Preliminary subdivision plans – Approval procedure .**

4 * * *

5 (1) *Relation to Master Plan.* In determining the acceptability of a
6 preliminary plan submitted under this Chapter, the Planning Board
7 must consider the applicable master plan, sector plan, or urban
8 renewal plan. A preliminary plan must substantially conform to the
9 applicable master plan, sector plan, or urban renewal plan, including
10 maps and text, unless the Planning Board finds that events have
11 occurred to render the relevant master plan, sector plan, or urban
12 renewal plan recommendation no longer appropriate.

13 * * *

14 (3) locating public use space off-site.

15 To permit the construction of all Workforce Housing Units required
16 under Chapter 25B on-site, a preliminary plan may exceed, in
17 proportion to the Workforce Housing Units to be built on site, any
18 applicable residential density or building height limit established in a
19 master plan or sector plan. Any residential density or residential FAR
20 limit of the applicable zone may be exceeded to the extent required for
21 the number of workforce housing units to be constructed, but not by
22 more than 10 percent. Any building height limit recommended in a
23 master or sector plan may be exceeded to the extent required for the
24 number of workforce housing units that are constructed, but not to
25 more than the maximum height of the zone.

26 * * *

27 **Sec. 2. Effective date.** This ordinance takes effect 20 days after the date of
28 Council adoption.

29 *Approved:*

30

31

Isiah Leggett, County Executive

Date

32 *This is a correct copy of Council action.*

33

34

Linda M. Lauer, Clerk of the Council

Date