



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

MCPB
Item # 10
6/4/09

DATE: May 28, 2009
TO: Montgomery County Planning Board
VIA: Rose Krasnow, Chief, Development Review
Cathy Conlon, Subdivision Supervisor
Ralph Wilson, Zoning Supervisor
FROM: Greg Russ, Zoning Coordinator
REVIEW TYPE: Zoning Text Amendment
PURPOSE: Amend the Zoning Ordinance to allow the consolidation of certain lots, parts of lots, or parcels with dwellings that predated 1958

TEXT AMENDMENT: 09-02
INTRODUCED BY: Councilmember Berliner
INTRODUCED DATE: April 21, 2009

PLANNING BOARD REVIEW: June 4, 2009
COUNCIL PUBLIC HEARING: June 9, 2009; 1:30pm

STAFF RECOMMENDATION

Staff recommends approval of ZTA 09-02, with modifications, to allow two or more tracts of land created by deed or plat before June 1, 1958 to be consolidated by record plat into one buildable lot without regard to the width and size requirements of the underlying zone if the tracts are under common ownership and a one-family dwelling crossed a property line created by deed or plat. Staff recommends that:

- 1. provision (a)(2) be modified to include the requirement that documentation be provided to verify the existence of a dwelling; and**
- 2. a new provision (a)(3) be added to require all the tracts of land on which the dwelling is, or was, located to be included in the newly created lot.**

Staff has revised the ZTA to include our recommendations. Other revisions have been made to clarify the overall intent of ZTA 09-02.

BACKGROUND/ANALYSIS

The proposed amendment permits existing lots, parts of lots, or parcels to be consolidated into a recorded lot that does not meet certain requirements of the underlying zone so that a one-family dwelling that is, or was, located across the property lines can undergo major renovation or be replaced. The amendment is needed because the Subdivision Regulations (Chapter 50 of the Montgomery County Code) do not permit a building permit to be issued for most structures that are not located on a recorded lot, or for any structure that crosses a lot line. The affected tracts of land can be subdivided or resubdivided into a buildable lot to eliminate the interior property lines, however, the resulting lot must satisfy all applicable zoning requirements of Chapter 59. If the proposed amendment is adopted, the affected tracts of land will be able to be consolidated under the Subdivision Regulations through either submission of a preliminary plan of subdivision (unrecorded parcels and certain parts of lots), or submission of a new record plat application under the minor subdivision approval procedure (lots and certain parts of lots).

Staff supports the proposed amendment, but recommends additional language to clarify the intent. First, we recommend that provision (a)(2) be modified to include the requirement that documentation be provided to verify the existence of a dwelling, which is primarily important when the dwelling no longer exists. Second, we recommend a new provision (a)(3) that requires all the tracts of land on which the dwelling is, or was, located to be included in the newly created lot. In staff's opinion, this provision is necessary to prevent more than one lot from being created in an instance where a dwelling crosses several property lines. For example, a 42' wide house could be located directly in the center of four 20' wide lots and cross the three internal lot lines. Staff is concerned that, as written, the provision does not clearly prevent consolidating the properties into two 40' wide lots.

CC/GR

Attachments

1. Proposed ZTA No. 09-02

ATTACHMENT 1

Zoning Text Amendment No: 09-02
Concerning: Special Provision - Parcel
Consolidation
Draft No. & Date: 1 – 4/1/09
Introduced: April 21, 2009
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 Berliner

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- allow the consolidation of certain lots, parts of lots, or parcels under certain circumstances.

By amending the following sections of the Montgomery County Zoning Ordinance, Chapter 59 of the Montgomery County code:

DIVISION 59-B-5. “SPECIAL PROVISIONS FOR CONDITIONS PREDATING 1958”

Adding:

Section 59-B-5.4. “Resubdivision of lots, parts of lots, or parcels with dwellings”

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-B-5 is amended by adding Section 59-B-5.4 as**
2 **follows:**

3 DIVISION 59-B-5. SPECIAL PROVISIONS FOR CONDITIONS PREDATING
4 1958.

5 * * *

6 **Sec. 59-B-5.4. Resubdivision of lots, parts of lots, or parcels with dwellings.**

7 (a) Any two or more tracts of land created by deed or plat before June 1, 1958
8 may be consolidated by record plat into one buildable lot, even if the new lot
9 does not meet the width and size requirements of the underlying zone, if:

10 (1) the tracts of land are under common ownership; ~~and~~

11 (2) a habitable one-family dwelling located on the tracts, before {the
12 effective date}, crossed a property line created by deed or plat~~and~~ as
13 documented by a professionally certified house location plan,
14 previously issued demolition permit, or similar substantial evidence;
15 and

16 (3) all the tracts of land on which the dwelling is, or was, located are
17 included in the newly created lot.

18 (b) The dwelling on any lot created under subsection (a) may be altered,
19 renovated, enlarged, or replaced by a new dwelling under the zoning
20 development standards in effect when the application is approved, even if
21 the lot's width and size standards are not satisfied.

22
23 **Sec. 2. Effective date.** This ordinance takes effect 20 days after the date of
24 Council adoption.

25
26 This is a correct copy of Council action.

28

29 Linda M. Lauer, Clerk of the Council