



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

MCPB
Item 14
05/15/08

DATE: May 7, 2006
TO: Montgomery County Planning Board
VIA: Glenn Kreger, Acting Chief, Community-Based Planning *SK*
Rose Krasnow, Chief, Development Review *Rob X*
Ralph Wilson, Zoning Supervisor *RW*
FROM: Judy Daniel, Team Leader, Community-Based Planning *JD*
Greg Russ, Zoning Coordinator *GR*
REVIEW TYPE: Zoning Text Amendment
PURPOSE: To amend the Zoning Ordinance language based on recommendations from the Draft Twinbrook Sector Plan. Specifically, to define an accessory residential unit; allow an accessory residential unit as a permitted use in the I-4 zone if the use is located in a Transit Station Development Area; and modify the special regulations of the I-4 zone to address development in a Transit Station Development Area

TEXT AMENDMENT: 08-06
REVIEW BASIS: Advisory to the County Council sitting as the District Council, Chapter 59, the Zoning Ordinance
INTRODUCED BY: District Council at the request of the Planning Board
INTRODUCED DATE: April 15, 2008

PLANNING BOARD REVIEW: May 15, 2008
PUBLIC HEARING: May 20, 2008, 7:30 p.m.

STAFF RECOMMENDATION: APPROVAL with modifications to make plain language clarifications to provide text consistent with existing Zoning Ordinance terminology

BACKGROUND OF THE TEXT AMENDMENT

The Twinbrook Sector Plan recommends amendments to the I-4 Zone that would modify the development standards, and allow a new use (accessory residential unit) in Transit Station Development Areas. The zone as amended will establish development standards that make the best use of small urban lots and allow limited housing as an accessory use to a business. These changes will support the Plan's goal to maintain the area's existing light industrial and commercial service use character.

ANALYSIS

The changes to the I-4 zone allow development on properties smaller than one acre (reflecting the existing ownership patterns) and allow multiple buildings on a lot if authorized by the Planning Board. An accessory housing option will allow live/work structures, providing upper floor housing for business owners or employees – if clearly subordinate to the business. The accessory live/work units require site plan review, and they must meet standards to address compatibility, ownership, parking, and size.

The proposed changes are summarized below, and a copy of the proposed Zoning Text Amendment is attached.

- **Uses Allowed** – An accessory residential unit (defined in 59-A) is allowed under the Special Regulations section of 59-C-5.44 and under Site Plan procedures, if it meets certain limiting requirements.
- **Development Standards** – Special standards for sites in a Transit Station Development Area are established, requiring Site Plan approval limited to the specific special standards sought. These standards would be applicable for I-4 Zoned properties near Metro in Twinbrook, White Flint and Silver Spring. These special standards include:
 - (a) **Setbacks** –Building setbacks *from a street* may be reduced to not less than 10 feet if authorized by the Planning Board. Building setbacks *from mixed-use or residential zones* must be at least 50 feet unless the Planning Board reduces the number based on certain impact criteria or master plan recommendations
 - (b) **Area Requirements** – The I-4 Zone currently has a minimum one-acre lot size, geared to suburban locations, but unnecessary for urban sites near Metro stations and for those developed on smaller, previously residential lots. The proposed amendment would allow, for areas near Metro, development on smaller lots, but not less than 5,000 square feet.
 - (c) **Off-street parking**- The Planning Board may waive the minimum off-street parking setback requirements in order to achieve a better development design.
 - (d) **Green Area** – The amendment would allow reduction of the green area requirement for areas near Metro, from 20 percent to 10 percent, recognizing the area's industrial and urban – not suburban and residential - character. A maximum of 50% of the required green

area may be located off-site in the same Transit Station Development Area.

- (e) **Accessory Residential Unit** – As defined in Section 59-A, this residential unit is allowed only in a non-residential building and must be located above the first floor and must comprise less than 40% of the total floor area of the building. As the footnote included in the land use table indicates, an accessory residential unit can only be located in a Transit Station Development Area and under the standards of Section 59-C-5.44. The special standards of Section 59-C-5.44(f) also do not permit parking along the front of the building

RECOMMENDATION

The staff recommends that ZTA No. 08-06, which addresses Twinbrook Sector Plan recommendations, be approved as modified. The Sector Plan envisions the potential for limited use of live-work structures, providing upper floor housing for business owners, managers, or employees – if clearly subordinate to the main business. These structures will incorporate living and working space, provide locations where new businesses can start up, and provide opportunities for people to live near frequent public transit without disrupting the primary focus of the zone.

The Zone will provide limited housing potential. Because of transit access, the housing will not impact traffic to any measurable degree. The purpose is to support the primary economic function of the area, not to create significant housing resources.

Accessory residential units in the I-4 Zone, located in Transit Station Development Areas, would only be applicable for Twinbrook, White Flint, and a few sites in the Silver Spring CBD, which are appropriate locations for this type of limited housing potential. The use would be further limited to commercial or service use structures, protecting any potential residential use from incompatible industrial uses.

Attachments

1. Zoning Text Amendment No. 08-06 (as modified by staff)

ATTACHMENT 1

Zoning Text Amendment No: 08-06
Concerning: I-4 Zone - Transit Station
Development Areas
Draft No. & Date: 3-
Introduced: 4/15/08
Public Hearing: 5/20/08
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: District Council at the request of the Planning Board

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- define an accessory residential unit
- allow an accessory residential unit as a permitted use in the I-4 zone if the use is located in a Transit Station Development Area;
- modify the special regulations of the I-4 zone to address development in a Transit Station Development Area; and
- generally amending the I-4 Zone.

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

- DIVISION 59-A-2 "DEFINITIONS AND INTERPRETATION"
- Section 59-A-2.1 "Definitions"
- DIVISION 59-C-5 "INDUSTRIAL ZONES"
- Section 59-C-5.2 "Land uses"
- Section 59-C-5.3 "Development standards."
- Section 59-C-5.44 "Special regulations-I-4 zone"

*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-A-2 is amended as follows:**

2 **DIVISION 59-A-2 DEFINITIONS AND INTERPRETATION.**

3 **Sec. 59-A-2.1. Definitions.**

4 * * *

5 **Accessory residential unit:** A residential unit in a non-residential building. An
 6 accessory residential unit must be located above the first floor and must comprise
 7 less than 40% of the total floor area of a non-residential building.

8 * * *

9 **59-C-5.2. Land uses.**

10 * * *

11 **59-C-5.21. Allowable uses.**

12 * * *

	I-1	I-2	I-3	I-4	R&D	LSC
(a) Residential.						
<u>Accessory residential unit</u> *				<u>P</u>		
Dwellings.	SE		SE	SE		
Dwellings, for caretakers or watchkeepers and their families or for bona fide agricultural operations.	P	P	P	P	P	
Hotel or motel. ¹	SE		SE			
* * *						

13
 14 * Only in a non-residential structure in a Transit Station Development Area
 15 and under section 59-C-5.44.

16 * * *

17

18 **Sec. 59-C-5.3. Development standards.**

	I-1	I-2	I-3	I-4	R&D	LSC
59-C-5.31 Building height.						

No building shall exceed the following height limits:						
(a) Normally:						
-In stories	3	5		3		
-In feet	42	70	100	42	50	100
* * *						
59-C-5.32. Coverage limitations. (Percent of gross tract area)						
-Green area shall be provided for not less than	10	10	35	20*	20	25
* * *						

19

20 * May be reduced in a Transit Station Development Area under 59-C-5.44(f).

21 * * *

22 **59-C-5.35. Normal setbacks in the I-4 zone.**

23 All buildings [shall] must be set back at least as follows, except any building in a
 24 Transit Station Development Area must satisfy section 59-C-5.44(f):

25 (a) One hundred feet from any residential zone. If the lot adjoins a residential
 26 zone which is recommended on an approved and adopted master or sector
 27 plan for mixed-use, commercial, or industrial zoning, [then] the setback
 28 [shall] must be not less than 10 feet.

29 (b) Ten feet from any mixed-use, commercial, or industrial zone.

30 (c) Fifty feet from:

- 31 (1) A railroad or utility right-of-way or an arterial road that separates the
- 32 industrial [park] area from a residential zone;
- 33 (2) A limited-access freeway or parkway; or
- 34 (3) A major highway.

35 (d) Twenty-five feet from:

- 36 (1) An arterial road that separates the industrial [park] area from a
- 37 commercial zone; or

38 (2) An arterial road, local street or private right-of-way within the
39 industrial [park] area.

40 * * *

41 **59-C-5.44. Special regulations-I-4 zone.**

42 (a) **Location.** It is intended that the I-4 zone be located in [areas] an area
43 designated for low-intensity, light industrial [uses] use on an adopted and
44 approved master or sector [plans] plan. The I-4 zone is also appropriate as a
45 transitional industrial zone between a residentially zoned [areas] area and
46 land classified in the I-1 and the I-2 zones.

47 (b) **Area requirements.**

48 (1) No tract of land shall be zoned I-4 unless it has an area of at least 10
49 acres; except that a tract with an area of not less than 2 acres may be
50 permitted where such tract adjoins and has a common boundary with
51 an I-1, I-2 or I-3 zone, or where such tract is recommended for I-4
52 zoning on an approved and adopted master or sector plan.

53 (2) Within any I-4 zoned area located outside of a Transit Station
54 Development Area, each main building [hereafter] erected, together
55 with [its] any accessory [buildings, shall] building, must be located on
56 a separate lot having an area of at least one acre.

57 (c) **Floor area.** The total floor area of [buildings] a building, not including
58 parking areas, [shall] must not exceed FAR 1.0.

59 (d) **Off-street parking.** The off-street parking required by article 59-E [shall]
60 must be provided on land that is classified in the I-4 zone. In the I-4 zone, all
61 off-street parking areas [shall] must be set back at least as follows unless
62 development occurs under the optional method of development, as specified
63 in paragraph (e):

64 (1) Fifty feet from any residential zone unless the adjoining residential
65 property is recommended on an approved and adopted master or
66 sector plan for commercial or industrial zoning or has an approved
67 special exception for off-street parking in connection with a
68 commercial use, then the setback shall be not less than 10 feet.

69 (2) Ten feet from any commercial or industrial zone.

70 (3) Twenty-five feet from a limited access freeway, a major highway,
71 arterial road, a railroad or utility right-of-way, or a local street or
72 private drive within the industrial park.

73 (e) **Optional method of development.** In order to encourage the orderly
74 grouping and planned development of low-intensity, light industrial parks,
75 and to generally enhance appearance of such planned industrial areas
76 without requiring the extensive building and parking setbacks normally
77 applicable, the following optional method of development may be permitted,
78 provided that the site plan approval procedures, contained in division 59-D-
79 3, are [met] satisfied. If the optional method of development is used, all of
80 the [normal] requirements of the I-4 zone [shall] must be in effect except as
81 follows:

82 (1) **Setbacks.** Under the optional method of development, all buildings
83 [shall] must be set back at least 50 feet from any residential zone
84 except as follows:

85 (A) If the lot adjoins a residential zone [which] that is
86 recommended on an approved and adopted master or sector
87 plan for a non-residential land use [other than residential], the
88 Planning Board may approve a lesser setback upon a finding
89 that the resulting development would not have an adverse
90 impact on such adjoining land.

91 (B) If the lot adjoins a residentially zoned property which contains
92 physical features that would permit a lesser setback or which is
93 developed with or dedicated to [a use other than residential]
94 non-residential use, the Planning Board may approve a
95 [reduction in the amount of] lesser setback [upon a finding] if it
96 finds that the resulting development would not have an adverse
97 impact on the use of such adjoining land.

98 (2) **Off-street parking.** Under the optional method of development and in
99 a Transit Station Development Area, off-street parking [shall] must be
100 provided as required in article 59-E and the minimum setbacks
101 enumerated in section 59-C-5.44(d), off-street parking, shall not
102 apply.

103 (3) **Area requirements.** Under the optional method of development, the
104 one-acre minimum lot size requirement of subsection 59-C-5.44(b)(2)
105 may be waived by the Planning Board for: 1) lots recorded [prior to]
106 before February 4, 1986; and 2) lots recorded [prior to] before
107 February 4, 1986 that are assembled and resubdivided after February
108 4, 1986, and the Planning Board finds that the consolidation will
109 result in a more desirable form of development than would occur
110 without the waiver. More than one main building and accessory
111 [buildings] building may be located on a lot provided that the lot has
112 an area of at least one acre.

113 (4) **Development procedure.** Under the optional method of development,
114 the applicant must satisfy the procedure for site plan approval [shall
115 be as set forth in division] under Division 59-D-3.

116 (f) **Special Standards - Transit Station Development Area.**

- 117 (1) **[[Review requirements]] Development procedure.** [[The following
118 special standards may be applied by the Planning Board for a lot in a
119 Transit Station Development Area through the site plan approval
120 procedures of Division 59-D-3.]] Under the special standards for a
121 Transit Station Development Area, the applicant must satisfy the
122 procedure for site plan approval under Division 59-D-3. However, site
123 plan review is limited to the specific special standards sought, for
124 which applicable exhibits must be provided.
- 125 (2) **Area requirements.** Each main building, together with any accessory
126 building, may be located on a separate lot that is smaller than one
127 acre, but at least 5,000 square feet. However, more than one main
128 building and accessory building may be located on a lot if the
129 Planning Board finds this to result in a better design for the lot.
- 130 (3) **Setbacks from mixed-use and residential zones.** Any building
131 must be set back at least 50 feet from any mixed-use or residential
132 zone unless the Planning Board finds that a lesser setback would not
133 have an adverse impact on adjoining residentially zoned property that:
134 (i) is recommended on an approved and adopted master or sector
135 plan for a land use other than residential, or
136 (ii) contains physical features that permit a lesser setback, or
137 (iii) is developed with or dedicated to a use other than residential.
- 138 (4) **Setbacks from a street.** The Planning Board may authorize any
139 building to be set back not less than 10 feet from:
140 (i) an arterial road that separates the industrial area from a
141 commercial zone; or
142 (ii) an arterial road, local street or private right-of-way within the
143 industrial area.

- 144 (5) **Off-street parking.** Off-street parking must be provided as required
145 under article 59-E, but to achieve a better development design, the
146 Planning Board may waive the minimum setbacks requirements.
- 147 (6) **Green Area.** The Planning Board may approve a reduction of the
148 green area requirement to not less than 10% of the gross tract area. A
149 maximum of 50% of the required green area may be located off-site in
150 the same Transit Station Development Area.
- 151 (7) **Accessory Residential Unit.** One or more accessory residential units
152 in a non-residential structure may be allowed if approved in the site
153 plan.
- 154 (i) The parking standards for multi-family dwelling units in 59-E-
155 3.7 and the mixed use standards of 59-E-3.1 apply. ~~[[No~~
156 designated]] A parking space for an~~[[y]]~~ accessory residential
157 unit ~~[[may]]~~ must not be located along the front of the building,
158 and
- 159 (ii) Before issuance of a building permit, the property owner must
160 sign a declaration of use, including all the standards for the use
161 as approved, to serve notice to future owners of the property of
162 its status as a limited residential use subject to the conditions of
163 the approval.

164
165 **59-C-5.441. Special provisions for lots containing pre-existing uses.**

166 Where land, improved by existing lawfully conforming structures and uses
167 under the standards and special regulations of the immediately preceding
168 zone, is reclassified to the I-4 zone and the standards of the I-4 zone do not
169 allow such structures and uses, such structures and uses may continue as
170 conforming structures and uses as of the date of reclassification. However,

171 additions or structural alterations cannot increase the amount of floor area
172 devoted to such uses by more than 10 percent. Any such changes or
173 additions must conform to the setback, height, floor area ratio, and green
174 area regulations required in Section 59-C-5.35 or Section 59-C-5.44, as
175 applicable.

176 * * *

177 **Sec. 3. Effective date.** This ordinance becomes effective 20 days after the date of
178 Council adoption.

179

180 This is a correct copy of Council action.

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183 _____
Linda M. Lauer, Clerk of the Council