

Zoning Text Amendment No: 08-07
Concerning: Alternative Review Committee
- Functions
Draft No. & Date: 1 – 4/17/08
Introduced: April 29, 2008
Public Hearing: June 10, 2008
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: The District Council at the request of the County Executive

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- remove the Alternative Review Committee from the development plan and project plan approval processes;
- allow certain development plans or project plans to exceed density or building height limits to permit the construction of all MPDUs and bonus 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:

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

2 **DIVISION 59-D-1. DEVELOPMENT PLAN.**

3 * * *

4 **59-D-1.6. Approval by district council.**

5 **59-D-1.61. Findings.**

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

- 12 (a) The [zone applied for] proposed development plan substantially
13 complies with the use and density indicated by the master plan or
14 sector plan, and does not conflict with the general plan, the county
15 capital improvements program, or other applicable county plans and
16 policies. [However, to permit the construction of all MPDUs required
17 under Chapter 25A, including any bonus density units, on-site, a
18 development plan may exceed, in proportion to the MPDUs to be built
19 on site, including any bonus density units, any applicable residential
20 density or building height limit established in a master plan or sector
21 plan if a majority of an Alternative Review Committee composed of
22 the Director of the Department of Housing and Community Affairs,
23 the Executive Director of the Housing Opportunities Commission, and
24 the Director of Park and Planning, or their respective designees, find
25 that a development that includes all required MPDUs on site,
26 including any bonus density units, would not be financially feasible
27 within the constraints of any applicable density or height limit. If the

28 Committee finds that the development would not be financially
29 feasible, the Planning Board must recommend to the District Council
30 which if any of the following measures authorized by Chapter 59 or
31 Chapter 50 should be approved to assure the construction of all
32 required MPDUs on site:

- 33 (1) exceeding an applicable height limit, lower than the maximum
34 height in the zone, that was recommended in a master plan or
35 sector plan,
- 36 (2) exceeding an applicable residential density limit, lower than the
37 maximum density in the zone, that was recommended in a
38 master plan or sector plan, or
- 39 (3) locating any required public use space off-site.]

40 However, to permit the construction of all MPDUs under Chapter 25A,
41 including any bonus density units, on-site in zones with a maximum
42 permitted density more than 39 dwelling units per acre or a residential FAR
43 more than .9, a development plan may exceed:

- 44 (1) any dwelling unit per acre or FAR limit recommended in a
45 master plan or sector plan, but not to exceed the maximum
46 density of the zone; and
- 47 (2) any building height limit recommended in a master plan or
48 sector plan, but not to exceed the maximum height of the zone.

49 The additional FAR and height allowed by this subsection is limited to the
50 FAR and height necessary to accommodate the number of MPDUs built on
51 site plus the number of bonus density units.

52 * * *

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

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

56 * * *

57 **59-D-2.4. Action by planning board.**

58 * * *

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

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

65 (a) It would comply with all of the intents and requirements of the zone.

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

67 [However, to permit the construction of all MPDUs required under
68 Chapter 25A, including any bonus density units, on-site, a project plan
69 may exceed, in proportion to the MPDUs to be built on site, including any
70 bonus density units, any applicable residential density or building height
71 limit established in a master plan or sector plan if a majority of an
72 Alternative Review Committee composed of the Director of the
73 Department of Housing and Community Affairs, the Executive Director of
74 the Housing Opportunities Commission, and the Director of Park and
75 Planning, or their respective designees, find that a development that
76 includes all required MPDUs on site, including any bonus density units,
77 would not be financially feasible within the constraints of any applicable

78 density or height limit. If the Committee finds that the development
79 would not be financially feasible, the Planning Board must decide which
80 if any of the following measures authorized by Chapter 59 or Chapter 50
81 should be approved to assure the construction of all required MPDUs on
82 site:

- 83 (1) exceeding an applicable height limit, lower than the maximum
84 height in the zone, that is recommended in a master plan or
85 sector plan,
- 86 (2) exceeding an applicable residential density limit, lower than the
87 maximum density in the zone, that is recommended in a master
88 plan or sector plan, or
- 89 (3) locating any required public use space off-site.]

90 However, to permit the construction of all MPDUs under Chapter 25A,
91 including any bonus density units, on-site in zones with a maximum
92 permitted density more than 39 dwelling units per acre or a residential FAR
93 more than .9, a project plan may exceed:

- 94 (1) any dwelling unit per acre or FAR limit recommended in a
95 master plan or sector plan, but not to exceed the maximum
96 density of the zone; and
- 97 (2) any building height limit recommended in a master plan or
98 sector plan, but not to exceed the maximum height of the zone.

99 The additional FAR and height allowed by this subsection is limited to the
100 FAR and height necessary to accommodate the number of MPDUs built on
101 site plus the number of bonus density units.

102

103 * * *

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

106

107 This is a correct copy of Council action.

108

109 _____

110 Linda M. Lauer, Clerk of the Council

Resolution No:
Introduced: April 29, 2008
Adopted: April 29, 2008

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS A DISTRICT COUNCIL FOR THAT PORTION
OF THE MARYLAND-WASHINGTON REGIONAL DISTRICT
WITHIN MONTGOMERY COUNTY, MARYLAND

By: The District Council at the request of the County Executive

Subject: Notice of Public Hearing on Zoning Text Amendment 08-07

Background

1. Section 59-H-9.3 of the Montgomery County Ordinance requires that, within 30 days of introduction of any text amendment, the Council act by resolution to set a date and time for public hearing on the proposed amendment.
2. Zoning Text Amendment No. 08-07, introduced on April 29, 2008, would amend the Zoning Ordinance to remove the Alternative Review Committee from the development plan and project plan approval process. The Planning Board would be authorized to approve certain plans to exceed density or building height limits recommended in a master plan to permit the construction of all Moderately Priced Dwelling Units (MPDUs) and bonus units on-site.

Action

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 resolution:

Legal notice will be given of the public hearing to be held on June 17, 2008 at 1:30 p.m., in the Council Hearing Room, Stella Werner Council Office Building, Rockville, Maryland, for the purpose of giving the public an opportunity to comment on the proposed amendment.

This is a correct copy of Council action.

Linda M. Lauer, Clerk of the Council