PHED Committee #3
January 17, 2013

MEMORANDUM

January 15, 2012

TO: Planning, Housing, and Economic Development Committee

FROM: Jeff Zyontz, Legislative Attorney

SUBJECT: Zoning Text Amendment 12-16, One-Family Dwelling – Pre-1928 Lots

Zoning Text Amendment (ZTA) 12-16, sponsored by Councilmember Floreen, was introduced on September 25, 2012. ZTA 12-16 would clarify that a one-family dwelling can be constructed on a lot recorded before 1928 on a land area smaller than 5,000 square feet, and existing houses on such lots can be reconstructed.

The Board of Appeals interprets the Zoning Ordinance as prohibiting the construction of a house on a lot recorded before 1928 that did not meet the minimum lot size for a one-family house (5,000 square feet of land area) required by the 1928 Ordinance.[1] In addition to preventing new construction, the Board's decision would prevent the reconstruction of existing houses without an approved variance. The Board's decision was petitioned for judicial review and is now before the Circuit Court. ZTA 12-16 is an opportunity for the Council to determine its intent with regard to lots created before 1928. In the absence of any clarification, the Circuit Court must determine the Council's intent when it enacted the provision of the Zoning Ordinance at issue.

Planning Board Recommendation

The Planning Board was concerned about the unintended consequences of approving ZTA 12-16 as introduced. They recognized that there are several areas of the County where houses were constructed across pre-1928 lot lines. Under ZTA 12-16 as introduced, the houses could be replaced by 2 houses in a manner that would be out of character with established neighborhoods. The Planning Board recommended a requirement that adjoining substandard (smaller than 5,000 square feet) lots in common ownership must be combined.

[1] BOA Case No. A-6361.

Planning Staff Comments

Planning Staff recommended changing the word "size" to "area" in ZTA 12-16. Planning Staff suggested that the provision to allow the construction of houses on all undersized lots could have undesirable consequences.

Public Hearing

On November 13, 2012, the Council held a public hearing on ZTA 12-16. A representative of the owner of the lot that was denied a building permit by the Board of Appeals supported ZTA 12-16 as a reflection of the intent of the current provisions concerning pre-1928 lots. The Mayor of the Town of Glen Echo and the Cabin John Citizens Association supported the ability to rebuild an existing house, but believed that the ability to build on any size lot without a variance would be disruptive to the character of their neighborhoods. Citizens from Silver Spring and Capitol View also spoke in opposition to allowing houses on any size lot recorded before 1928. Chevy Chase Section 3, Chevy Chase West, and Kensington View opposed ZTA 12-16 as introduced. In correspondence there was support for ZTA 12-16 from building interests.

Background

The County first adopted a Zoning Ordinance in 1928. The Ordinance required a minimum lot area of 5,000 square feet for a one-family dwelling constructed after the adoption of the Ordinance. Before 1928, there were no laws regulating record plats. Landowners filed plats at their own discretion, creating lots without any standards for lot area or street frontage. There are a number of instances where a plat was recorded, but land was sold by deed for areas that included part of a lot or parts of several lots. It was not uncommon for a landowner to purchase 2 abutting lots and then build across lot lines when the lots were particularly small.

Houses built on lots smaller than 5,000 square feet are non-conforming, and currently may not be reconstructed if demolished, in the absence of a variance. Some lots created before 1928 are vacant. Vacant lots less than 5,000 square feet in area may not construct a new single-family house under the current Zoning Ordinance.

There are 1,646 one-family zoned lots (R-60 or R-90) in private ownership that are smaller than 5,000 square feet but more than 1,000 square feet. This represents the **maximum** number of lots that could be affected by ZTA 12-16. To the extent that some of these lots were created after 1928, the actual number of lots would be fewer.[2] The lots are located in the oldest suburban areas of the County: Friendship Heights, Glen Echo, Capitol View, Chevy Chase, and Silver Spring. Of the 1,646 small lots, 1,117 have houses on them and 486 are vacant. The number of undersized lots that have common ownership with abutting property is 134.

[2] Staff did not undertake the time-consuming task of counting all lots created on individual plats filed before 1928. Life is just too short.

Issues

What is the status of a house built on a substandard lot created before 1928?

The Board of Appeals concluded that, under the current Zoning Ordinance, one-family houses on lots smaller than 5,000 square feet recorded before 1928 are not conforming. If they are demolished or need substantial renovations (more than 50 percent of the building's floor area), they would be denied a building permit in the absence of applying for and getting a variance approved by the Board of Appeals. Depending upon the circumstances, it is possible that the owner of a house demolished by fire that could not rebuild would argue that the use and enjoyment of their property has been "taken" by County regulations.

ZTA 12-16 would allow the reconstruction of existing houses without the need for a variance by amending §59-B-5.3(a).

The building permit applicant in the Board of Appeals decision took the position that "development standards" did not include compliance with the minimum lot area. In the 1928 Ordinance there was no single section of code that used the term "development standards". The provision for "area regulation" included minimum lot area and setbacks. Building height limits are in a separate subsection of the 1928 code. The Board of Appeals concluded that "development standards" includes minimum lot area. In the current code, the "development standards" subsection in residential zones includes minimum lot size, lot width, setbacks for lot lines, and building height. In any event, ZTA 12-16 would clarify that a one-family dwelling built before 1958 on a lot recorded before 1928 need not be on a lot that meets the development standards of 1928 with regard to lot size.

Staff recommends approval of ZTA 12-16 for its treatment of existing houses (§59-B-5.3), with a replacement of the word "size" with "area" (recommended by Planning Staff):

> Sec. 59-B-5.3. One-family dwelling.
>
> Any one-family dwelling in a residential zone or agricultural zone that was built on a lot legally recorded by deed or subdivision plat before June 1, 1958**[**,**]** is not a nonconforming building. The dwelling may be altered, renovated, **[**or**]** enlarged, or replaced by a new dwelling, under the zoning development standards in effect when the lot was recorded, except that:
>
> (a) a one-family dwelling on a lot recorded before March 16, 1928**[**,**]** in the original Maryland-Washington Metropolitan District**[**,**]** must meet the development standards in the 1928 Zoning Ordinance; however, compliance with the minimum lot **[[**size**]]** area for a one-family dwelling is not required;

What is the status of vacant substandard lots created before 1928?

The owner of these lots may not get a building permit for a house under the Board of Appeals interpretation. This is a point of contention with DPS. In the case that gave rise to the Board of Appeals interpretation, DPS looked at the following section of code:

> Sec. 59-B-5.1. Buildable lot under previous ordinance.
>
> Any lot that was recorded by subdivision plat prior to June 1, 1958, or any lot recorded by deed prior to June 1, 1958 that does not include parts of previously platted properties, *and that was a*

buildable lot under the law in effect immediately before June 1, 1958, is a buildable lot for building a one-family dwelling only, even though the lot may have less than the minimum area for any residential zone. [*emphases added*]

DPS read this provision ("buildable lot under the law in effect before June 1, 1958) as meaning that a lot buildable for ANY purpose (church, museum, library, etc.) is then buildable for a single family. The Board of Appeals did not find this to be a sound interpretation given the context of the sentence, which was grandfathering lots.

If the Council agrees with the DPS interpretation, the construction of houses on any size lot created before 1928 would be allowed. It would, as testimony suggested, allow the demolition of houses that are built across 2 undersized lots to build 2 houses. In addition, currently vacant lots created before 1928 (as many as 529) would be buildable, even when they are the side yards of abutting houses. *After considering the consequences of this provision, Councilmember Floreen recommends ZTA 12-16 should be amended such that a minimum lot area for vacant properties is retained.*

Staff recommends clarifying the provision for buildable lots as follows, in favor of the Board of Appeals interpretation:

Sec. 59-B-5.1. Buildable lot under previous ordinance.

Any lot that was recorded by subdivision plat **[**prior to**]** <u>before</u> June 1, 1958, or any lot recorded by deed **[**prior to**]** <u>before</u> June 1, 1958 that does not include parts of previously platted properties, and that was a buildable lot <u>for a one-family dwelling</u> under the law in effect immediately before June 1, 1958, is a buildable lot for building a one-family dwelling only, even though the lot may have less than the minimum area for any residential zone. Any such lot may be developed under the zoning development standards in effect when the lot was recorded, except that:

a) a lot recorded before March 16, 1928**[**,**]** in the original Maryland-Washington Metropolitan District must meet the development standards in the 1928 Zoning Ordinance**[[**; <u>however, compliance with the minimum lot size for a one-family dwelling is not required</u>**]]**<u>, including the minimum lot area standard</u>;

A substandard lot either is in common ownership of an abutting lot or parcel or it is not. If the lot is abutting property in common ownership and the lot area for the house is less than 5,000 square feet, a Court may conclude that there has been a defacto subdivision by merger. If the lot is owned without abutting property under common ownership, the owner might argue that the use and enjoyment of their property has been "taken" by County regulations.

Should ZTA 12-16 concern itself with a house on part of a lot?

The Planning Board was particularly concerned about any house built on part of a lot. The Board recommends making the building "not non-conforming" and requiring a new record plat to consolidate 2 abutting undersized lots in common ownership. This issue may be addressed in ZTA 12-18 and SRA 12-03. These amendments would amend the provision concerning the ability of any lot owner to build on a resubdivided substandard lot. Staff recommends taking action on resubdividing tracts of land in ZTA 12-18 and SRA 12-03.

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Zoning Text Amendment No.: 12-16
Concerning: One-Family Dwelling – Pre-1928 Lots
Draft No. & Date: 2- 1/10/13
Introduced: September 25, 2012
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 the construction of a one-family dwelling located on any size lot recorded before 1928;]]
- allow the reconstruction of any one-family dwelling located on any size lot recorded before 1928; and
- generally revise the grandfathering provisions for undersized lots

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."
Section 59-B-5.1.	"Buildable lot under previous ordinance."
Section 59-B-5.3.	"One-family dwelling."

EXPLANATION: ***Boldface*** *indicates a Heading or a defined term.*
Underlining indicates text that is added to existing law by the original text amendment.
[Single boldface brackets] indicate text that is deleted from existing law by 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-B-5 is amended as follows:

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

* * *

Sec. 59-B-5.1. Buildable lot under previous ordinance.

Any lot that was recorded by subdivision plat [prior to] before June 1, 1958, or any lot recorded by deed [prior to] before June 1, 1958 that does not include parts of previously platted properties, and that was a buildable lot for a one-family dwelling under the law in effect immediately before June 1, 1958, is a buildable lot for building a one-family dwelling only, even though the lot may have less than the minimum area for any residential zone. Any such lot may be developed under the zoning development standards in effect when the lot was recorded, except that:

a) a lot recorded before March 16, 1928[,] in the original Maryland-Washington Metropolitan District must meet the development standards in the 1928 Zoning Ordinance[[; however, compliance with the minimum lot size for a one-family dwelling is not required]] ,including the minimum lot area standard;

* * *

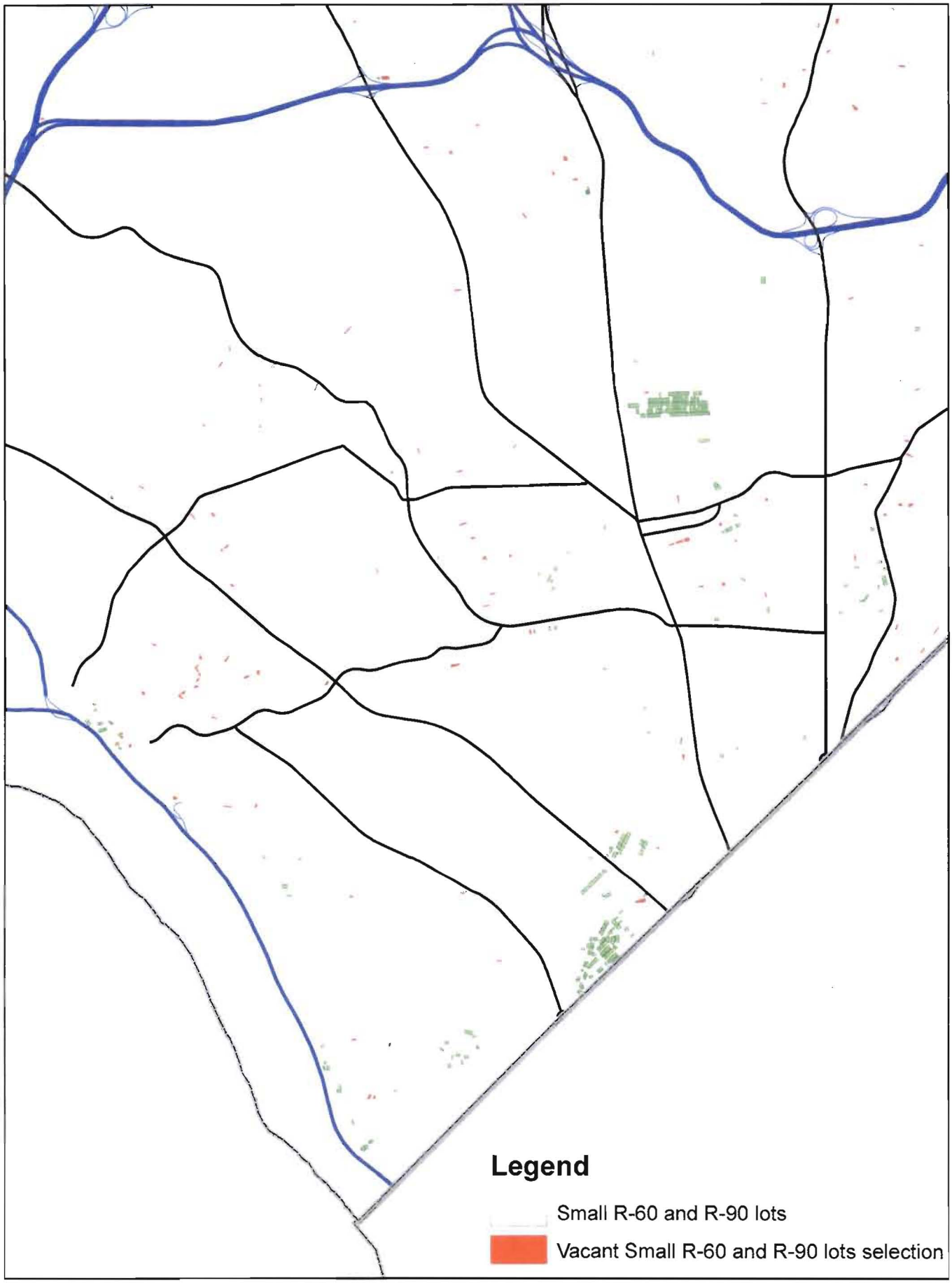
Sec. 59-B-5.3. One-family dwelling.

Any one-family dwelling in a residential zone or agricultural zone that was built on a lot legally recorded by deed or subdivision plat before June 1, 1958[,] is not a nonconforming building. The dwelling may be altered, renovated, [or] enlarged, or replaced by a new dwelling, under the zoning development standards in effect when the lot was recorded, except that:

(a) a one-family dwelling on a lot recorded before March 16, 1928[,] in the original Maryland-Washington Metropolitan District[,] must meet the

27 development standards in the 1928 Zoning Ordinance; however, compliance
28 with the minimum lot **[[size]]** area for a one-family dwelling is not required;
29 * * *
30 **Sec. 2. Effective date.** This ordinance becomes effective 20 days after the
31 date of Council adoption.
32
33 This is a correct copy of Council action.
34
35 _____
36 Linda M. Lauer, Clerk of the Council

Western Small Lots



Eastern Small Lots

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

OFFICE OF THE CHAIR

MONTGOMERY COUNTY PLANNING BOARD

The Maryland-National Capital Park and Planning Commission

November 16, 2012

TO: The County Council for Montgomery County, Maryland, sitting as the District Council for the Maryland-Washington Regional District in Montgomery County, Maryland

FROM: Montgomery County Planning Board

SUBJECT: Zoning Text Amendment No. 12-16

BOARD RECOMMENDATION

The Montgomery County Planning Board of The Maryland–National Capital Park and Planning Commission reviewed Zoning Text Amendment No. 12-16 at our regular meetings on October 25, 2012 and November 8, 2012. By a vote of 5:0, the Board recommends approval of the text amendment, as modified, to allow, under certain circumstances, the construction of a one-family dwelling located on any size lot recorded before 1928 and allow the reconstruction of any one-family dwelling located on any size lot recorded before 1928. Modifications to the text amendment as introduced will eliminate the ability of small lots that currently contain one dwelling built over the lot lines of two or more small lots to redevelop with multiple dwellings.

Currently, any lot recorded by subdivision plat prior to June 1, 1958 (or recorded by deed prior to June 1, 1958 that does not include parts of previously platted properties) and a buildable lot under the law in effect immediately before June 1, 1958 are considered a buildable lot for a one-family dwelling only, even though the lot may have less than the minimum area for any residential zone. Any such lot may be developed under the zoning development standards in effect when the lot was recorded, although there are several exceptions to this allowance. One exception requires lots recorded before March 16, 1928, in the original Maryland-Washington Metropolitan District to meet the development standards in the 1928 Zoning Ordinance. These standards include a requirement that a one-family residential lot have a minimum area of five thousand (5,000) square feet and a minimum width of fifty (50) feet at the front building line. The minimum side yard was established at 7 feet, except when a lot or parcel of land has a width of forty (40) feet or less and is included in

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www.montgomeryplanningboard.org E-Mail: mcp-chair@mncppc.org

a plat of record at the time of the passage of the 1928 Ordinance, in which case the minimum side yard setback is five feet.

The Board of Appeals interprets the Zoning Ordinance as prohibiting the construction of a house on a lot recorded before 1928 that did not meet the minimum lot area required by the 1928 Ordinance. ZTA 12-16 would establish that a one-family dwelling can be constructed on a lot smaller than 5,000 square feet, and existing houses on such lots can be reconstructed. All other dimensional and setback requirements would apply.

Planning Board staff as well as several County citizen groups and other interested parties recognized that the ZTA as introduced could also permit redevelopment in those situations where one dwelling is built over the lot lines of two or more small lots. There are many neighborhoods where the established character results from dwellings being located on more than one small lot. In those neighborhoods in particular, redevelopment of each lot separately could be an undesirable consequence of the proposed ZTA as introduced. The Planning Board believes that this unintended consequence of the legislation could be minimized with the proposed modifications, as included as a separate attachment to the technical staff report. The Board's modifications would require consolidation of the substandard lots should the property owner wish to replace the existing dwelling.

CERTIFICATION

This is to certify that the attached report is a true and correct copy of the technical staff report and the foregoing is the recommendation adopted by the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission, at its regular meeting held in Silver Spring, Maryland, on Thursday, November 8, 2012.

Françoise M. Carrier
Chair

FC: GR/am

AS MODIFIED BY THE PLANNING BOARD NOVEMBER 8, 2012

Zoning Text Amendment No.: 12-16
Concerning: One-Family Dwelling - Pre-1928 Lots
Draft No. & Date: 1- 9/19/12
Introduced: September 25, 2012
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 the construction of a one-family dwelling located on any size lot recorded before 1928;
- allow the reconstruction of any one-family dwelling located on any size lot recorded before 1928;
- require consolidation of certain contiguous lots recorded before 1928; and
- generally revise the grandfathering provisions for undersized lots

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."
Section 59-B-5.1.	"Buildable lot under previous ordinance."
Section 59-B-5.3.	"One-family dwelling."
Section 59-B-5.4.	"Resubdivision of lots, parts of lots, or parcels with dwellings."
Add new Section	
Section 59-B-5.5.	"One-family dwelling built on contiguous substandard lots recorded before March 16, 1928"

Sec. 1. DIVISION 59-B-5 is amended as follows:

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

* * *

Sec. 59-B-5.1. Buildable lot under previous ordinance.

Any lot that was recorded by subdivision plat [prior to] before June 1, 1958, or any lot recorded by deed [prior to] before June 1, 1958 that does not include parts of previously platted properties, and that was a buildable lot under the law in effect immediately before June 1, 1958, is a buildable lot for building a one-family dwelling only, even though the lot may have less than the minimum area for any residential zone. Any such lot may be developed under the zoning development standards in effect when the lot was recorded, except that:

a) a one-family dwelling on a lot recorded before March 16, 1928[,] in the original Maryland-Washington Metropolitan District must meet the [[development]] setback and yard standards [[in]] of the 1928 Zoning Ordinance; [[however, compliance with the minimum lot size for a one-family dwelling is not required.]] provided that if such lot adjoins a substandard lot in common ownership any time after {effective date of the ZTA}, the lots must be consolidated under Section 59-B-5.4.

* * *

Sec. 59-B-5.3. One-family dwelling on single lot.

Any one-family dwelling in a residential zone or agricultural zone that was built on a lot legally recorded by deed or subdivision plat before June 1, 1958[,] is not a nonconforming building. The dwelling may be altered, renovated, [or] enlarged, or replaced by a new dwelling on the single lot, under the zoning development standards in effect when the lot was recorded, except that:

(a) a one-family dwelling on a lot recorded before March 16, 1928[,] in the original Maryland-Washington Metropolitan District[,] must meet the [[development]] setback and yard standards [[in]] of the 1928 Zoning Ordinance; [[however, compliance with the minimum lot size for a one-family dwelling is not required.]]

* * *

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

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

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

(2) a habitable one-family dwelling located on the tracts, before [[July 20, 2009]] {effective date of the ZTA}, crossed a property line created by deed or plat documented by a professionally certified house location plan, previously issued demolition permit, or similar substantial evidence; and

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

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

Sec. 59-B-5.5. One-family dwelling built on contiguous substandard lots recorded before March 16, 1928.

53 Any one-family dwelling in a residential zone or agricultural zone that was built on
54 two or more contiguous substandard lots recorded before March 16, 1928 in the
55 original Maryland-Washington Metropolitan District is not a nonconforming
56 building and may be altered, renovated or enlarged. A dwelling that is, or was,
57 located on such contiguous substandard lots as of {the effective date of the ZTA}
58 may be replaced by a new dwelling but only upon consolidation of the substandard
59 lots in accordance with Section 59-B-5.4, including any vacant substandard lot
60 adjacent to the lots upon which the dwelling was located if in common ownership.
61
62 **Sec. 2. Effective date**. This ordinance becomes effective 20 days after the
63 date of Council adoption.
64 * * *
65
66 This is a correct copy of Council action.
67
68 _____
69 Linda M. Lauer, Clerk of the Council

MCPB
Item No. 11
Date: 10-25-12

Zoning Text Amendment (ZTA) No. 12-16, One-Family Dwelling - Pre-1928 Lots

Gregory Russ, Planner Coordinator, Functional Planning & Policy Division, gregory.russ@montgomeryplanning.org, 301-495-2174
Mary Dolan, Chief, Functional Planning & Policy Division, mary.dolan@montgomeryplanning.org 301-495-4552

Completed: 10/18/12

Description

ZTA 12-16 amends the pre-1928 provisions of Sections 59-B-5.1 and 59-B-5.3 of the Zoning Ordinance. Specifically, the ZTA allows the construction of a one-family dwelling located on any size lot recorded before 1928 and allows the reconstruction of any one-family dwelling located on any size lot recorded before 1928.

Summary/Analysis

Staff recommends that the Planning Board transmit the following comments to the County Council concerning ZTA 12-16:

- **Staff recommends that the phrase on lines 15 and 27 be modified from "minimum lot size" to "minimum lot area" to adhere to consistent language usage of the Ordinance.**
- **ZTA 12-16 could potentially allow development of a number of properties with less than the minimum lot area and lot width required for any residential zone including, redevelopment of properties that currently have one dwelling on more than one small lot to build multiple dwellings.**

Currently, any lot that meets the following criteria is considered a buildable lot for a one-family dwelling only, even though the lot may have less than the minimum area for any residential zone. This includes lots:

- recorded by subdivision plat prior to June 1, 1958, or
- recorded by deed prior to June 1, 1958 that do not include parts of previously platted properties, and
- buildable lots under the law in effect immediately before June 1, 1958.

Any such lot may be developed under the zoning development standards in effect when the lot was recorded although there are several exceptions to this allowance. One exception requires lots recorded before March 16, 1928, in the original Maryland-Washington Metropolitan District to meet the development standards in the 1928 Zoning Ordinance. These standards include a requirement that a one-family residential lot have a minimum area of five thousand (5,000) square feet and a minimum width of fifty (50) feet at the front building line. The minimum side yard was established at 7 feet, except

when a lot or parcel of land has a width of forty (40) feet or less and is included in a plat of record at the time of the passage of the 1928 Ordinance, the minimum side yard setback is five feet.

The Board of Appeals interprets the Zoning Ordinance as prohibiting the construction of a house on a lot recorded before 1928 that did not meet the minimum lot area required by the 1928 Ordinance. ZTA 12-16 would establish that a one-family dwelling can be constructed on a lot smaller than 5,000 square feet, and existing houses on such lots can be reconstructed. All other dimensional and setback requirements would apply.

ZTA Language

Under lines 13-16 and 24-27 of the ZTA the following phrase was added to Sections 59-B-5.1 and 59-B-5.3 to accomplish the intent:

however, compliance with the minimum lot size for a one-family dwelling is not required;

Staff recommends that the phrase "minimum lot size" be amended to state "minimum lot area" to adhere to consistent language usage of the Ordinance.

GIS Lot Size Information

Generally, there are thousands of lots presently zoned R-60 or R-90 (the current zoning for most small lots in the County) that were platted prior to 1928. To obtain specific details (number of lots, lot widths, etc.) would entail researching each plat book (100+ plats per book) and each plat (dozens to hundreds of lots per plat), since there is currently no GIS information based on properties platted prior to 1928 or based on the width of street frontage.

GIS provided information on the number of R-60 and R-90 properties that are less than 5,000 square feet. Currently there are approximately 15,910 (5.93% of total number of R-60 and R-90 properties) R-60 and R-90 lots less than 5,000 square feet in the County (There are a total of 268,276 R-60 and R-90 lots in the County). Again, we currently have no detailed information on the street frontage widths although generally, we know that thousands of lots in the down-county areas that are zoned R-60 and R-90 were originally recorded with widths between 20 and 40 feet. GIS data is not available to specifically identify how many of these small lots were recorded prior to 1928, but based on staff's experience researching lots over the years, most of them were.

Effect of the Proposed ZTA

The existing provisions of 59-B-5.1 and 59-B-5.3 permit development on lots legally recorded by deed or subdivision plat before June 1, 1958, and after March 16, 1928, that may have less than the minimum area for any residential zone provided they meet the other development standards of the zone in effect when the lot was recorded. The existing provisions of subsections 59-B-5.1(a) and 59-B-5.3(a) override the exception from the minimum lot area requirement in these sections and require lots recorded by deed or subdivision plat before March 16, 1928, to have at least 5,000 square feet of lot area. ZTA 12-16 grants the minimum lot area exception to these lots. A significant number of the R-60 and R-90 lots that are noted above were recorded prior to March 16, 1928, so ZTA 12-16 would permit development or redevelopment of a number of properties with less than the minimum lot area and lot width required for the applicable zone that currently do not have that right. Redevelopment could include building

multiple dwellings on small lots that currently contain one dwelling built over the lot lines of two or more small lots. There are many neighborhoods where the established character results from dwellings being located on more than one small lot. In those neighborhoods in particular, redevelopment to create multiple dwellings could be an undesirable consequence of the proposed ZTA.

GR/MD/am

ATTACHMENTS

1. ZTA 12-16 as modified by staff