

AGENDA ITEM #5  
April 29, 2008

**Introduction**

**MEMORANDUM**

April 25, 2008

TO: County Council

FROM: Jeffrey L. Zyontz, Legislative Attorney

SUBJECT: **Introduction:** Subdivision Regulation Amendment 08-02,  
Alternative Review Committee - Functions

Subdivision Regulation Amendment (SRA) 08-02 is sponsored by the District Council at the request of the County Executive. SRA 08-02 is scheduled to be introduced on April 29, 2008. A public hearing will be held on June 17 at 1:30 p.m. if the Council approves the attached resolution.

Currently the Alternative Review Committee has the authority in subdivision regulations to allow certain developments to exceed the density and building height limits recommended by the applicable master plan. SRA 08-02 would remove the Alternative Review Committee from the preliminary plan approval process. The Planning Board would be authorized to approve certain preliminary plans that exceed the density or building height limits recommended in the applicable master plan to permit the construction of Moderately Priced Dwelling Units (MPDUs) and bonus units on-site.

The Alternative Review Committee was established under §25A-5(A) of the County Code for the purpose of allowing development flexibility for MPDUs. Two bills before the Council (Bill 07-38 and 07-13) would eliminate the Committee. ZTA 08-07 would eliminate references to the Alternative Review Committee from the Zoning Ordinance.

Ordinance No.:  
Subdivision Regulation Amend. No.: 08-02  
Concerning: Alternative Review  
Committee - Functions  
Draft No. & Date: 1- 4/17/08  
Introduced: April 29, 2008  
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**

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

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**AN AMENDMENT** to the Subdivision Regulations to:

- remove the Alternative Review Committee from the preliminary plan approval process;
- allow certain preliminary 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 preliminary plans.

By amending the following section of County Code Chapter 50:

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

<b>Boldface</b>	<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>

OPINION

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. Section 50-35 is amended as follows:**

2   **50-35. Preliminary subdivision plans – Approval procedure .**

3   \*       \*       \*

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

12                   [However, to permit the construction of all MPDUs required under  
13                   Chapter 25A, including any bonus density units, on-site, a preliminary  
14                   plan may exceed, in proportion to the MPDUs to be built on site,  
15                   including any bonus density units, any applicable residential density  
16                   or building height limit established in a master plan or sector plan if a  
17                   majority of an Alternative Review Committee composed of the  
18                   Director of the Department of Housing and Community Affairs, the  
19                   Executive Director of the Housing Opportunities Commission, and the  
20                   Director of Park and Planning, or their respective designees, find that  
21                   a development that includes all required MPDUs on site, including  
22                   any bonus density units, would not be financially feasible within the  
23                   constraints of any applicable density or height limit.

24                   If the Committee finds that the development would not be financially  
25                   feasible, the Planning Board must decide which if any of the

26 following measures authorized by Chapter 59 or Chapter 50 should be  
27 approved to assure the construction of all required MPDUs on site:

28 (1) exceeding an applicable height limit, lower than the maximum  
29 height in the zone, that is recommended in a master plan or  
30 sector plan,

31 (2) exceeding an applicable residential density limit, lower than the  
32 maximum density in the zone, that is recommended in a master  
33 plan or sector plan, or

34 (3) locating public use space off-site.]

35 However, to permit the construction of all MPDUs under Chapter  
36 25A, including any bonus density units, on-site in zones with a  
37 maximum permitted density more than 39 dwelling units per acre or a  
38 residential FAR more than .9, a preliminary plan may exceed:

39 (1) any dwelling unit per acre or FAR limit recommended in a  
40 master plan or sector plan, but not to exceed the maximum  
41 density of the zone; and

42 (2) any building height limit recommended in a master plan or  
43 sector plan, but not to exceed the maximum height of the zone.

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

47 \* \* \*

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

50 *Approved:*

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Isiah Leggett, County Executive

Date

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

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Linda M. Lauer, Clerk of the Council

Date

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  
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By: District Council

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**Subject: Notice of Public Hearing on Subdivision Regulation Amendment 08-02**

Background

1. §50-6A of the County Code requires that, within 30 days after any subdivision regulation amendment is introduced, the Council must by resolution set a date and time for public hearing on the proposed amendment.
2. Subdivision Regulation Amendment 08-02 was introduced on April 29, 2008.

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 must 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, to give the public an opportunity to comment on SRA 08-02.

This is a correct copy of Council action.

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Linda M. Lauer, Clerk of the Council