

Zoning Text Amendment No: 08-06
Concerning: I-4 Zone - Transit Station
Development Areas
Draft No. & Date: 2- 4/11/08
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 that is recommended on an approved and adopted master or sector plan
 27 for mixed-use, commercial or industrial zoning [, then] the setback [shall]
 28 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)] (i) 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)] (ii) 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 (6) **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.** The following special standards may be
118 applied by the Planning Board for a lot in a Transit Station
119 Development Area through the site plan approval procedures of
120 Division 59-D-3. However, site plan review is limited to the specific
121 special standards sought, for which applicable exhibits must be
122 provided.

123 (2) **Area requirements.** Each main building, together with any accessory
124 building, may be located on a separate lot that is smaller than one
125 acre, but at least 5,000 square feet. However, more than one main
126 building and accessory building may be located on a lot if the
127 Planning Board finds this to result in a better design for the lot.

128 (3) **Setbacks from mixed-use and residential zones.** Any building
129 must be set back at least 50 feet from any mixed-use or residential
130 zone unless the Planning Board finds that a lesser setback would not
131 have an adverse impact on adjoining residentially zoned property that:

- 132 (i) is recommended on an approved and adopted master or sector
133 plan for a land use other than residential, or
- 134 (ii) contains physical features that permit a lesser setback, or
- 135 (iii) is developed with or dedicated to a use other than residential.

136 (4) **Setbacks from a street.** The Planning Board may authorize any
137 building to be set back not less than 10 feet from:

- 138 (i) an arterial road that separates the industrial area from a
139 commercial zone; or
- 140 (ii) an arterial road, local street or private right-of-way within the
141 industrial area.

142 (5) **Off-street parking.** Off-street parking must be provided as required
143 under article 59-E, but to achieve a better development design, the
144 Planning Board may waive the minimum setbacks requirements.

145 (6) **Green Area.** The Planning Board may approve a reduction of the
146 green area requirement to no less than 10% of the gross tract area. A
147 maximum of 50% of the required green area may be located off-site in
148 the same Transit Station Development Area.

149 (7) **Accessory Residential Unit.** One or more accessory residential units
150 in a non-residential structure may be allowed if approved in the site
151 plan.

152 (i) The parking standards for multi-family dwelling units in 59-E-
153 3.7 and the mixed use standards of 59-E-3.1 apply. No
154 designated A parking space for any accessory residential unit
155 may not be located along the front of the building, and

156 (ii) Before issuance of a building permit, the property owner must
157 sign a declaration of use, including all the standards for the use
158 as approved, to serve notice to future owners of the property of
159 its status as a limited residential use subject to the conditions of
160 the approval.

161
162 **59-C-5.441. Special provisions for lots containing pre-existing uses.**

163 Where land, improved by existing lawfully conforming structures and uses
164 under the standards and special regulations of the immediately preceding
165 zone, is reclassified to the I-4 zone and the standards of the I-4 zone do not
166 allow such structures and uses, such structures and uses may continue as
167 conforming structures and uses as of the date of reclassification. However,
168 additions or structural alterations cannot increase the amount of floor area

169 devoted to such uses by more than 10 percent. Any such changes or
170 additions must conform to the setback, height, floor area ratio, and green
171 area regulations required in Section 59-C-5.35 or Section 59-C-5.44, as
172 applicable.

173 * * *

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

176

177 This is a correct copy of Council action.

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180 Linda M. Lauer, Clerk of the Council