

Ordinance No: 16-37
Zoning Text Amendment No: 09-02
Concerning: Special Provision -
Parcel Consolidation
Draft No. & Date: 2 – 6/24/09
Introduced: April 21, 2009
Public Hearing: June 9, 2009
Adopted: June 30, 2009
Effective: July 20, 2009

**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 Berliner

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- allow the consolidation of certain lots, parts of lots, or parcels under certain circumstances.

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”

Adding:

Section 59-B-5.4. “Resubdivision of lots, parts of lots, or parcels with dwellings”

*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.*

OPINION

Zoning Text Amendment 09-02 was introduced on April 21, 2009. Zoning Text Amendment 09-02 would amend the Zoning Ordinance to allow 2 or more tracts of land created by deed or plat before June 1, 1958 to be consolidated by record plat into 1 buildable lot, without regard to the width and size requirements of the underlying zone, if:

- (1) the tracts of land are under common ownership; and
- (2) a habitable one-family dwelling crosses a property line created by a deed or plat.

The Montgomery County Planning Board, in its report to the Council, recommended that the text amendment be approved with amendments. The Planning Board recommended approval of ZTA 09-02 with revisions to require an applicant to provide documentation of the current or past house. The revisions would also require a plat to include all of the parcels under the house in a single lot.

The County Council held a public hearing on June 9, 2009 to receive testimony concerning the proposed text amendment. All of the testimony favored the approval of the ZTA.

The text amendment was referred to the Planning, Housing, and Economic Development Committee for review and recommendation. The Planning, Housing, and Economic Development Committee held a worksession on June 22, 2009 to review the amendment. The Committee was persuaded that the current requirements that: 1) a house must be built on a recorded lot, and 2) a record plat must satisfy zoning ordinance standards, leaves some home owners in an untenable situation. The Committee agreed with an amendment to the ZTA to require documentation of a pre-existing house. The Committee also agreed that ZTA 09-02 should be amended to prevent a property owner from creating more than one lot.

The District Council reviewed Zoning Text Amendment 09-02 at a worksession held on June 30, 2009 and agreed with the recommendations of the Planning, Housing, and Economic Development Committee.

For these reasons, and because to approve this amendment will assist in the coordinated, comprehensive, adjusted and systematic development of the Maryland-Washington Regional District located in Montgomery County, Zoning Text Amendment 09-02 will be approved as amended.

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-B-5 is amended by adding Section 59-B-5.4 as**
2 **follows:**

3 DIVISION 59-B-5. SPECIAL PROVISIONS FOR CONDITIONS PREDATING
4 1958.

5 * * *

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

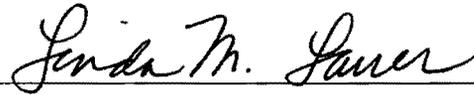
7 (a) Any two or more tracts of land created by deed or plat before June 1, 1958
8 may be consolidated by record plat into one buildable lot, even if the new lot
9 does not meet the width and size requirements of the underlying zone, if:

- 10 (1) the tracts of land are under common ownership; [[and]]
- 11 (2) a habitable one-family dwelling located on the tracts, before July 20,
12 2009, crossed a property line created by deed or plat[.] documented
13 by a professionally certified house location plan, previously issued
14 demolition permit, or similar substantial evidence; and
- 15 (3) all the tracts of land on which the dwelling is, or was, located are
16 included in the newly created lot.

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

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

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25 This is a correct copy of Council action.

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28 Linda M. Lauer, Clerk of the Council