

Ordinance No.: 17-14
Zoning Text Amendment No.: 12-04
Concerning: Site Plans - Surety
Draft No. & Date: 2 – 4/4/12
Introduced: February 14, 2012
Public Hearing: March 27, 2012
Adopted: April 10, 2012
Effective: April 30, 2012

**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:

- allow developers to provide additional forms of surety to insure the completion of site plan elements; and
- clarify the language to state that the surety being required by the Planning Board covers only certain certified site plan elements.

By amending the following sections of the Montgomery County Zoning Ordinance, Chapter 59 of the Montgomery County Code:

Division 59-D-3 “Site Plan”
Section 59-D-3.5 “Effect of Site Plan”

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 that text 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.*

OPINION

Zoning Text Amendment No. 12-04 was introduced on February 14, 2012 at the request of the Planning Board.

Although the Planning Board has long had the ability to require bonds, it only began doing so a few years ago when the economic downturn resulted in a number of developers walking away from projects before all of the required elements, such as street trees and sidewalks, were completed. The Board recognized that it was in the public interest to make sure that funds were available to ensure the completion of these features if a developer was unable to do so. Several developers have requested that forms of surety other than a performance bond, such as a letter of credit, be deemed acceptable. Under ZTA 12-04, the Planning Board would have the authority to accept other forms of surety and to require surety for some aspects of site plan rather than all the aspects of a site plan.

The Montgomery County Planning Board, in its report to the Council, recommended that the text amendment be approved.

The County Council held a public hearing on March 27, 2012 to receive testimony concerning the proposed text amendment. All of the testimony favored adoption of ZTA 12-04. The Planning, Housing, and Economic Development Committee did not conduct a worksession on ZTA 12-04 and therefore had no recommendation for the Council.

The District Council reviewed Zoning Text Amendment No. 12-04 at a worksession held on April 10, 2012 and approved an amendment to remove the Planning Board's authority to reject a commercially acceptable form of surety.

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 No. 12-04 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-D-3 is amended as follows:**

2 DIVISION 59-D-3. SITE PLAN.

3 * * *

4 **Sec. 59-D-3.5. Effect of site plan.**

5 * * *

6 (d) The Planning Board may require the applicant to post a [performance bond]
7 commercially acceptable form of surety ~~[[approved by the Planning Board]]~~
8 securing compliance with and full implementation of [all] specified features
9 of the certified site plan in an amount set by the Planning Board. If [a bond]
10 such surety is required, the Department must not issue a sediment control
11 permit, building permit, or use-and-occupancy permit until [this bond] such
12 surety is [posted] accepted.

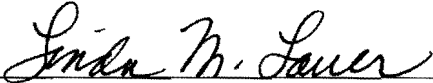
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14 **Sec. 2. Effective date.** This ordinance becomes effective 20 days after the
15 date of Council adoption.

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17 This is a correct copy of Council action.

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20 Linda M. Lauer, Clerk of the Council