

Ordinance No.: 16-33
Subdivision Regulation Amendment No.: 08-04
Concerning: Workforce Housing-Findings
Draft No. & Date: 4 – 11/19/08
Introduced: July 29, 2008
Public Hearing: September 16, 2008
Adopted: January 13, 2009
Effective: February 2, 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 Floreen

AN AMENDMENT to the Subdivision Regulations to:

- allow certain preliminary plans to exceed density or building height limits to permit the construction of all workforce housing 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 plan – Approval procedure."

Boldface	<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

Zoning Text Amendment (ZTA) 08-16 and Subdivision Regulation (SRA) 08-04, sponsored by Councilmember Floreen, were introduced on July 29, 2008. ZTA 08-16 would amend the Zoning Ordinance to change the development plan and project plan findings required for master plan or sector plan compliance. SRA 08-04 would similarly amend the Subdivision Regulations.

The Zoning Ordinance currently requires different findings to approve different applications: 1) a development plan must substantially comply with the density and building height recommendations of the relevant master plan or sector plan; and 2) a project plan must be consistent with the master plan or sector plan recommendations. The Subdivision Regulations currently require the Planning Board to make a finding that the subdivision application substantially conforms to the applicable master plan or sector plan. Under ZTA 08-16 and SRA 08-04, the flexibility to exceed the master plan or sector plan recommended density would be allowed to the extent required to accommodate workforce housing, but no more than 10 percent above the maximum residential density allowed by the project's zone. The flexibility to exceed the master plan or sector plan recommended building height would be allowed to the extent required to accommodate workforce housing, but no more than the maximum height allowed by the project's zone.

Flexibility for a project with workforce housing is currently allowed. Section 59-A-6.18.2(c) of the Zoning Ordinance follows:

To allow the construction of all workforce housing units on site, the Planning Board must permit:

- (1) any residential density or residential FAR limit of the applicable zone to be exceeded to the extent required for the number of workforce housing units that are constructed, but not by more than 10 percent;
- (2) any residential density or residential FAR limit established in a master or sector plan to be exceeded to the extent required for the number of workforce housing units that are constructed, but not to more than the maximum density and FAR of the zone, except as provided in paragraph (1); and
- (3) any building height limit established in a master or sector plan to be exceeded to the extent required for the number of workforce housing units that are constructed, but not to more than the maximum height of the zone.

The Council's commitment to workforce housing would be reinforced by the adoption of ZTA 08-16. ZTA 08-16 repeats the workforce housing provisions of §59-A-6.18. It would remove any doubt about the application of its provisions to development plans, project plans, and subdivisions.

The Planning staff recommended approval of ZTA 08-16 and SRA 08-04 as introduced. On September 12, 2008, the Planning Board recommended approval of ZTA 08-16 and SRA 08-04 with amendments to closely mirror the language and format of §59-A-6.18.

The Council held a public hearing on ZTA 08-16 and SRA 08-04 on September 16, 2008. The Montgomery County Civic Federation testified in favor of ZTA 08-16 and SRA 08-04, with a minor amendment to reference §59-A-6.18 in addition to Chapter 25B.

The Planning, Housing, and Economic Development Committee held a worksession on December 1, 2008 to review the amendments. The Committee recommended approving ZTA 08-16 and SRA 08-04 with amendments to make the workforce housing provisions consistent throughout the Code and to reference the current provision for workforce housing. The Committee's recommendations reflected the recommendations of the Department of Housing and Community Affairs, the Planning Board, and the Civic Federation.

The District Council reviewed Subdivision Regulation Amendment No. 08-04 at a worksession held on January 13, 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, Subdivision Regulation Amendment No. 08-04 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:

Sec. 1. Section 50-35 is amended as follows:

50-35. Preliminary subdivision plan – Approval procedure.

* * *

(l) *Relation to Master Plan.* In determining the acceptability of a preliminary plan submitted under this Chapter, the Planning Board must consider the applicable master plan, sector plan, or urban renewal plan. A preliminary plan must substantially conform to the applicable master plan, sector plan, or urban renewal plan, including maps and text, unless the Planning Board finds that events have occurred to render the relevant master plan, sector plan, or urban renewal plan recommendation no longer appropriate. However ~~[[,]]~~:

(1) ~~[[to]]~~ To permit the construction of all MPDUs under Chapter 25A, including any bonus density units, on-site in zones with a maximum permitted density more than 39 dwelling units per acre or a residential floor area ratio (FAR) more than .9, a preliminary plan may exceed:

~~[[(1)]]~~ (A) any dwelling unit per acre or FAR limit recommended in a master plan or sector plan, but must not exceed the maximum density of the zone; and

~~[[(2)]]~~ (B) any building height limit recommended in a master plan or sector plan, but must not exceed the maximum height of the zone.

The additional FAR and height allowed by this subsection is limited to the FAR and height necessary to accommodate the

number of MPDUs built on site plus the number of bonus density units.

[[To permit the construction of all Workforce Housing Units required under Chapter 25B on-site, a preliminary plan may exceed, in proportion to the Workforce Housing Units to be built on site, any applicable residential density or building height limit established in a master plan or sector plan. Any residential density or residential FAR limit of the applicable zone may be exceeded to the extent required for the number of workforce housing units to be constructed, but not by more than 10 percent. Any building height limit recommended in a master or sector plan may be exceeded to the extent required for the number of workforce housing units that are constructed, but not to more than the maximum height of the zone.]]

(2) To permit the construction of all workforce housing units required under §59-A-6.18 and Chapter 25B on-site, the Planning Board must permit:

(A) any residential density or residential FAR limit of the applicable zone to be exceeded to the extent required for the number of workforce housing units that are constructed, but not by more than 10 percent;

(B) any residential density or residential FAR limit recommended in a master or sector plan to be exceeded to the extent required for the number of workforce housing units that are constructed, but not to more than

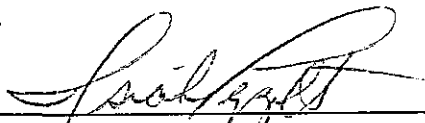
49 the maximum density and FAR of the zone, except as
50 provided in paragraph (1); and

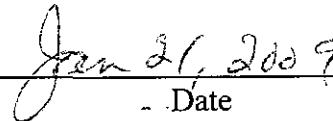
51 (C) any building height limit recommended in a master or
52 sector plan to be exceeded to the extent required for the
53 number of workforce housing units that are constructed,
54 but not to more than the maximum height of the zone.

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56 * * *

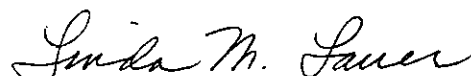
57 **Sec. 2. Effective date.** This ordinance takes effect 20 days after the date of
58 Council adoption.

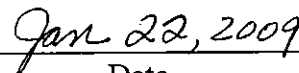
59 *Approved:*

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61 
Isiah Leggett, County Executive


Date

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

63
64 
Linda M. Lauer, Clerk of the Council


Date