



**Committee:** PHP  
**Committee Review:** At a future date  
**Staff:** Livhu Ndou, Legislative Attorney  
**Purpose:** To introduce agenda item – no vote expected  
**Keywords:** #MixedUse #MPDU #RegulatoryApprovals  
#AffordableHousing

AGENDA ITEMS#4A & 4B  
March 28, 2023  
**Introduction**

## **SUBJECT**

Zoning Text Amendment (ZTA) 23-02, Regulatory Approvals - Mixed-Use Housing Community

Subdivision Regulation Amendment (SRA) 23-01, Administrative Subdivision - Mixed-Use Housing Community

Lead Sponsors: Councilmembers Sayles and Friedson

Co-Sponsors: Councilmembers Luedtke and Stewart

## **EXPECTED ATTENDEES**

None

## **COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION**

To introduce ZTA and SRA – no votes expected

## **DESCRIPTION/ISSUE**

ZTA 23-02 will define a Mixed-Use Housing Community and provide an expedited approval process for a Mixed-Use Housing Community plan. SRA 23-01 will create an administrative subdivision process for a Mixed-Use Housing Community plan.

## **SUMMARY OF KEY DISCUSSION POINTS**

- ZTA 23-02, Regulatory Approvals - Mixed-Use Housing Community, will create an expedited approval process for projects that contain a specified percentage of affordable housing as well as 2 commercial uses.
- SRA 23-01 will create an administrative subdivision process for a Mixed-Use Housing Community plan to ensure that the timelines are compatible in the event subdivision is necessary.
- A public hearing is tentatively scheduled for May 2, 2023.

### **This report contains:**

Staff Report  
ZTA 23-02  
SRA 23-01

Pages 1-2  
© 1  
© 22

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**MEMORANDUM**

March 23, 2023

TO: County Council

FROM: Livhu Ndou, Legislative Attorney

SUBJECT: Zoning Text Amendment (ZTA) 23-02, Regulatory Approvals - Mixed-Use Housing Community  
Subdivision Regulation Amendment (SRA) 23-01, Administrative Subdivision - Mixed-Use Housing Community

PURPOSE: Introduction – no Council votes required

Zoning Text Amendment (ZTA) 23-02, Regulatory Approvals - Mixed-Use Housing Community and Subdivision Regulation Amendment (SRA) 23-01, Administrative Subdivision - Mixed-Use Housing Community, lead sponsors Councilmembers Sayles and Friedson, co-sponsors Councilmembers Luedtke and Stewart, is scheduled for introduction on March 28, 2023. ZTA 23-02 will define a Mixed-Use Housing Community and provide an expedited approval process for a Mixed-Use Housing Community plan. SRA 23-01 will create an administrative subdivision process for a Mixed-Use Housing Community plan.

Public hearing is tentatively scheduled for May 2, 2023.

**BACKGROUND**

ZTA 23-02 will create an expedited approval process for a Mixed-Use Housing Community plan, similar to the regulatory approval processes for a Signature Business Headquarters plan and a Biohealth Priority Campus plan. A Mixed-Use Housing Community would be defined as:

- at least 150,000 square feet of new commercial and residential floor area;
- containing Multi-Unit Living under Section 3.3.1.E and at least 2 commercial uses;
- with 30 or more dwelling units; and either:
  - 50% of the units satisfying the requirements for an MPDU in Chapter 25A or a DHCA equivalent; or

- 35% of the units satisfying the requirements for an MPDU in Chapter 25A or a DHCA equivalent with 15% of the total units affordable to a household with a household income of 30% percent of Area Median Income (AMI) or below for at least 30 years.

Other provisions include a waiver of the parking requirement if within ½ mile of a red policy area or a planned or existing Bus Rapid Transit route. The Planning Board will be able to grant an exception to the commercial requirement if certain conditions are met. This use would be allowed in all zones where Multi-Unit Living is currently allowed. The commercial uses must be uses that are already allowed in the underlying zone.

SRA 23-01 will add a Mixed-Use Housing Community plan to the list of administrative subdivision plans in Chapter 50, Subdivision of Land. This will ensure that in the event subdivision is required the timelines for review will be compatible.

This packet contains:

ZTA 23-02  
SRA 23-01

Circle #

© 1  
© 23

Ordinance No.: \_\_\_\_\_  
Zoning Text Amendment No.: 23-02  
Concerning: Regulatory Approvals –  
Mixed-Use Housing  
Community  
Revised: 3/14/2023 Draft No.: 1  
Introduced: March 28, 2023  
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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Lead Sponsors: Councilmembers Sayles and Friedson  
Co-Sponsors: Councilmembers Luedtke and Stewart

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**AN AMENDMENT** to the Montgomery County Zoning Ordinance to:

- (1) define a Mixed-Use Housing Community;
- (2) provide an expedited approval process for a Mixed-Use Housing Community plan;  
and
- (3) generally amend the development standards for mixed-use properties.

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

Division 1.4.	“Defined Terms”
Section 1.4.2.	“Specific Terms and Phrases Defined”
Division 3.1.	“Use Table”
Section 3.1.6.	“Use Table”
Division 4.4.	“Residential Zones”
Section 4.4.2.	“Optional Method Development”
Division 4.5.	“Commercial/Residential Zones”
Section 4.5.4.	“Optional Method Development”
Division 7.3.	“Regulatory Approvals”
Section 7.3.3.	“Sketch Plan”
Division 7.5.	“Notice Standards”
Section 7.5.1.	“Noticed Required”

And by adding the following sections:

Section 3.3.4.  
Section 7.3.7.

“Mixed-Use Housing Community”  
“Mixed-Use Housing Community”

**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 text that 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.*

#### 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:*



14

USE OR USE GROUP	Definitions and Standards	Ag	Rural Residential			Residential												Commercial / Residential			Employment				Industrial			
						Residential Detached						Residential Townhouse			Residential Multi-Unit													
			AR	R	RC	RNC	RE-2	RE-2C	RE-1	R-200	R-90	R-60	R-40	TLD	TMD	THD	R-30	R-20	R-10	CRN	CRT	CR	GR	NR	LSC	EOF	IL	IM
* * *																												
RESIDENTIAL																												
* * *																												
Accessory Residential Uses	3.3.3																											
* * *																												
Mixed-Use Housing Community	3.3.4														⌊	⌊	⌊	⌊	⌊	⌊	⌊	⌊	⌊	⌊	⌊	⌊	⌊	⌊
* * *																												

15



16 **Sec. 3. Division 59-3.3 is amended as follows:**

17 **Division 3.3. Residential Uses**

18 \* \* \*

19 **Section 3.3.4. Mixed-Use Housing Community**

20 **A. Defined**

21 Mixed-Use Housing Community means at least 150,000 square feet of new  
22 commercial and residential floor area containing Multi-Unit Living under  
23 Section 3.3.1.E and at least 2 commercial uses allowed in the underlying  
24 zone. A Mixed-Use Housing Community must have 30 or more dwelling  
25 units and either:

- 26 1. 50% of the units must satisfy the requirements for an MPDU in  
27 Chapter 25A or a DHCA equivalent; or
- 28 2. 35% of the units must satisfy the requirements for an MPDU in  
29 Chapter 25A or a DHCA equivalent with 15% of the total units  
30 affordable to a household with a household income of 30% percent of  
31 Area Median Income (AMI) or below for at least 30 years.

32 **B. Exemptions**

- 33 1. A sketch plan and a site plan are not required for a Mixed-Use  
34 Housing Community if the Planning Board approves a Mixed-Use  
35 Housing Community plan under Section 7.3.7.
- 36 2. After a Mixed-Use Housing Community is approved, subsequent  
37 additions or expansions of the Mixed-Use Housing Community  
38 building or buildings, in any size or amount, will be processed under  
39 Section 7.3.7 as amendments. The plan, as amended, must still qualify  
40 as a Mixed-Use Housing Community plan under Section 3.3.4.A.
- 41 3. No off-street parking is required for a Mixed-Use Housing  
42 Community that is located on property:

- 43 a. within a red policy area including contiguous properties
- 44 separated from a red policy area only by a public right-of-way;
- 45 or
- 46 c. within ½ mile of a planned or existing Bus Rapid Transit route
- 47 including the Corridor Connectors.

48 4. The Planning Board may grant a waiver of the commercial use  
 49 requirement if:

- 50 a. the maximum residential density allowed is used; and
- 51 b. the commercial space requirement would result in particular or
- 52 unusual practical difficulty, exceptional or undue hardship, or
- 53 significant economic burden.

54 \* \* \*

55 **Sec. 4. Division 59-4.4 is amended as follows:**

56 **Division 4.4. Residential Zones**

57 \* \* \*

58 **Section 4.4.2. Optional Method Development**

59 \* \* \*

60 **A. Optional Method MPDU Development**

61 \* \* \*

62 **1. Development Approval Procedure**

63 Site plan approval under Section 7.3.4 is required unless a Mixed-Use  
 64 Housing Community plan is approved under Section 7.3.7.

65 \* \* \*

66 **Sec. 5. DIVISION 59-4.5 is amended as follows:**

67 **Division 4.5. Commercial/Residential Zones**

68 \* \* \*

69 **Section 4.5.4. Optional Method Development**

70 The CRT and CR zones allow development under the optional method.

71 **A. General Requirements**

72 **1. Procedure for Approval**

73 A sketch plan must be approved under Section 7.3.3, unless a  
74 Signature Business Headquarters plan is approved under Section  
75 7.3.5, [or] a Biohealth Priority Campus plan is approved under  
76 Section 7.3.6, or a Mixed-Use Housing Community plan is approved  
77 under Section 7.3.7. A site plan must be approved under Section 7.3.4  
78 for any development on a property with an approved sketch plan.

79 \* \* \*

80 **Sec. 6. DIVISION 59-4.6 is amended as follows:**

81 **Division 4.6. Employment Zones**

82 **Section 4.6.4. Optional Method Development**

83 The LSC and EOF zones allow development under the optional method.

84 **A. General Requirements**

85 **1. Procedure for Approval**

86 A sketch plan must be approved under Section 7.3.3, unless a  
87 Signature Business Headquarters plan is approved under Section  
88 7.3.5, [or] a Biohealth Priority Campus plan is approved under  
89 Section 7.3.6, or a Mixed-Use Housing Community plan is approved  
90 under Section 7.3.7. A site plan must be approved under Section 7.3.4  
91 for any development on a property with an approved sketch plan.

92 \* \* \*

93 **Sec. 7. DIVISION 59-7.3 is amended as follows:**

94 **Division 7.3. Regulatory Approvals**

95 \* \* \*

96 **Section 7.3.3. Sketch Plan**

97 **A. Applicability and Description**

98 1. Development under optional method in the CRT, CR, EOF, or LSC  
99 zone requires approval of a sketch plan, unless the development is  
100 approved as a Signature Business Headquarters plan under Section  
101 7.3.5, [or] a Biohealth Priority Campus plan under Section 7.3.6[.], or  
102 a Mixed-Use Housing Community plan under Section 7.3.7.

103 \* \* \*

104 **Section 7.3.7. Mixed-Use Housing Community Plan**

105 **A. Applicability and Description**

106 A Mixed-Use Housing Community plan provides a detailed overview of a  
107 proposed Mixed-Use Housing Community. A Mixed-Use Housing  
108 Community plan review will be used to determine if the proposed  
109 development satisfies current laws, regulations, and this Chapter, and  
110 substantially conforms with the intent of the applicable master plan and  
111 approved guidelines.

112 **B. Application Requirements**

113 **1. Ownership**

114 **a. An applicant must own the subject property or be authorized by**  
115 **the owner to file the application.**

116 **b. If any land or right-of-way encompassed by a Mixed-Use**  
117 **Housing Community plan application is owned or controlled by**  
118 **the State, County, or any other entity or agency, a written**  
119 **agreement or authorization from that entity or agency must be**  
120 **submitted with the Mixed-Use Housing Community plan**  
121 **application.**

122 **2. A Mixed-Use Housing Community plan application must include:**

- 123 a. a legally binding commitment or other evidence accepted by the  
 124 Planning Director that the Mixed-Use Housing Community will  
 125 meet the requirements of Section 3.3.4;
- 126 b. an application form and fees required by the Planning Director;
- 127 c. a vicinity map at 1" = 200", and a site map showing existing  
 128 buildings, structures, circulation routes, significant natural  
 129 features, historic resources, and zoning and legal descriptions  
 130 on the proposed development site and within 500 feet of the  
 131 perimeter boundary;
- 132 d. a list of abutting and confronting property owners in the State  
 133 tax records;
- 134 e. a list of any civic, homeowners, and renters associations that  
 135 are registered with the Planning Department and located within  
 136 ½ mile of the site;
- 137 f. documentation of property interest in the proposed development  
 138 site under Section 7.3.7.B.1 and, if applicant is not the property  
 139 owner, documentation from the property owner authorizing the  
 140 application;
- 141 g. a statement of justification outlining how the proposed  
 142 development satisfies the standards and criteria required to  
 143 grant the application;
- 144 h. verification that the applicant has posted notice on the property,  
 145 notified affected properties, and held a pre-submittal  
 146 community meeting that followed the Planning Department's  
 147 Administrative Procedures for Development Review process;
- 148 i. a Traffic Statement or Study accepted by the Planning Director,  
 149 if not submitted with a previous or concurrent application;

- 150           j.     environmental documentation or exemption for:  
 151                 i.     an approved Natural Resources Inventory/Forest Stand  
 152                         Delineation;  
 153                 ii.    a Stormwater Management Concept Application or, if  
 154                         required, a Water Quality Plan Application; and  
 155                 iii.    a final Forest Conservation Plan application;  
 156           k.     existing and proposed dry and wet utility plan;  
 157           l.     plans of proposed development showing:  
 158                 i.     use, ground-floor layout, building footprints, massing,  
 159                         and heights of all on-site buildings and structures, and  
 160                         approximate footprints and height for buildings located  
 161                         on abutting and confronting lots;  
 162                 ii.    required open spaces and recreational amenities;  
 163                 iii.    detailed layout and dimensions for all sidewalks, trails,  
 164                         paths, roadways, parking, loading, and bicycle storage  
 165                         areas;  
 166                 iv.    grading;  
 167                 v.     landscaping and lighting; and  
 168           m.    a development program and inspection schedule detailing the  
 169                         construction schedule for the project.  
 170           3.     The applicant must submit an initial application to the Planning  
 171                         Director for approval of completeness. The Planning Director must  
 172                         review the application for completeness within 3 business days after  
 173                         receipt. An application is incomplete if any required element is  
 174                         missing or is facially defective, e.g., a drawing that is not to scale or  
 175                         lacks proper signatures. The assessment of completeness must not  
 176                         address the merits of the application.

- 177           4.     The applicant must submit any required revisions to the Planning  
178                     Director. The Planning Director must review the revised application  
179                     for completeness within 2 business days after receipt.
- 180           5.     Once the Planning Director verifies that the application is complete,  
181                     the applicant must file the final application with the Planning  
182                     Director, who will accept the application and establish a hearing date  
183                     under Section 7.3.7.C.
- 184           6.     Public notice is required under Division 7.5.

185     **C.   Hearing Date**

186     The Planning Board must schedule a public hearing to begin 60 to 65 days after the  
187     date an application is accepted. If the next regularly scheduled hearing date would  
188     fall after the 60- or 65-day period due to a holiday or recess, then the next regularly  
189     scheduled hearing date should be used. The applicant may request an extension  
190     with Planning Director approval. Any extension of the public hearing must be  
191     noticed on the hearing agenda with the new public hearing date indicated.

192     **D.   Review and Recommendation**

- 193           1.     State and County Agencies
- 194                     a.     Reviewing State and County agencies and utilities must submit  
195                             comments within 15 days after the date an application is  
196                             accepted. If no comments are submitted within that time, the  
197                             reviewing agency or utility's portion of the application is  
198                             deemed approved.
- 199                     b.     The applicant must submit revised drawings to address the  
200                             comments a minimum of 25 days before the date of the hearing.  
201                             The Planning Director may extend the deadline if the applicant

202 submits a written request within 5 days after the revised  
203 drawings were due.

204 2. Planning Director

205 The Planning Director must publish a report and recommendation a  
206 minimum of 10 days before the Planning Board hearing.

207 3. Withdrawal of an Application

208 The Planning Board must send a notice to all parties entitled to notice  
209 of the hearing when an applicant withdraws an application for an  
210 Mixed-Use Housing Community plan.

211 **E. Necessary Findings**

212 To approve a Mixed-Use Housing Community plan, the Planning Board must find  
213 that the proposed development:

214 1. satisfies any previous approval that applies to the site, unless exempt  
215 under Section 3.3.4 or amended;

216 2. satisfies the applicable use and development standards and general  
217 requirements of this Chapter;

218 3. satisfies the applicable requirements of Chapter 19 and Chapter 22A;

219 4. provides safe, well-integrated parking, circulation patterns, building  
220 massing, and site amenities;

221 5. substantially conforms with the intent of the applicable master plan,  
222 existing and approved or pending adjacent development, the  
223 requirements of this chapter, and any guidelines approved by the  
224 Planning Board that implement the applicable plan;

225 6. if on a property in a master plan area that requires staging based on  
226 Non-Auto Driver Mode Share (NADMS), is exempt from the staging  
227 requirement if:



- 228 a. the applicant agrees to enter into a Transportation Demand  
229 Management plan that provides an action plan for substantial  
230 achievement of the applicable NADMS goal;  
231 b. parking below the minimum required under Section 6.2.4 is  
232 provided; and  
233 c. transit, bicycle, and pedestrian infrastructure required by the  
234 applicable stage of the master plan is funded in the Capital  
235 Improvements Program or Consolidated Transportation  
236 Program, or provided by the applicant; and  
237 7. will be served by adequate public services and facilities, including  
238 schools, police and fire protection, water, sanitary sewer, public roads,  
239 storm drainage, and other public facilities.

240 **F. Decision**

- 241 1. The Planning Board must act upon the close of the record of the  
242 public hearing by majority vote of those present to approve, approve  
243 with modifications or conditions, or deny the application. The  
244 Planning Board must issue a resolution reflecting its decision within 7  
245 days of the Planning Board vote.  
246 2. Any party aggrieved by a decision of the Planning Board may file a  
247 petition for judicial review of the decision within 30 days after the  
248 Planning Board's action.  
249 3. Within 30 days of submission, the final Mixed-Use Housing  
250 Community plans must be certified by the Planning Director to  
251 confirm that the drawings reflect the Planning Board's approval. If the  
252 certified plans do not address or comply with the Planning Board's  
253 approval, the plans will be rejected with comments for the applicant to

254 address. If no action is taken by the Planning Director within 30 days,  
 255 the plan is deemed approved and certified.

256 **G. Conforming Permits**

257 For any development requiring a Mixed-Use Housing Community plan, DPS must  
 258 not issue a sediment control permit, building permit, or use-and-occupancy permit  
 259 unless the Planning Board has approved a Mixed-Use Housing Community plan  
 260 and a bond has been approved under Section 7.3.7.K.4.

261 **H. Duration of Approval**

- 262 1. A Mixed-Use Housing Community plan expires unless a certified  
 263 Mixed-Use Housing Community plan is approved by the Planning  
 264 Director within 24 months after the date the resolution is mailed.
- 265 2. A Mixed-Use Housing Community plan does not become effective  
 266 until a record plat, if required, is recorded that satisfies any approved  
 267 subdivision plan for the subject property. If no record plat is required,  
 268 then the Mixed-Use Housing Community plan becomes effective  
 269 upon certification under Section 7.3.6.F.3.
- 270 3. Development activities under Section 7.3.6 must satisfy the certified  
 271 Mixed-Use Housing Community plan and any conditions of approval.
- 272 4. If the Planning Board approves a Mixed-Use Housing Community  
 273 plan, the applicant must have a building permit application, accepted  
 274 by DPS, that includes the core and shell of the principal building  
 275 within two years of the date of the Planning Board's resolution.  
 276 Within two years after DPS accepts the building permit application  
 277 that includes the core and shell of the principal building, the applicant  
 278 must obtain that building permit.
- 279 5. The deadlines under Section 7.3.6.H may be extended with approval  
 280 of the Planning Board by up to 18 months.

281           6.     If an applicant fails to comply with any of the deadlines within this  
 282                     section, the Mixed-Use Housing Community plan approval shall be  
 283                     revoked. The applicant may request reinstatement of a revoked  
 284                     approval within 30 days of revocation. After holding a hearing on the  
 285                     reinstatement, the Planning Board may reinstate the approval and  
 286                     extend the deadline for good cause shown.

287     **I.     Recording Procedures**

288     The certified Mixed-Use Housing Community plan and Planning Board resolution  
 289     must be maintained in the permanent files of the Planning Department.

290     **J.     Amendments**

291     Any property owner may apply for a Mixed-Use Housing Community plan  
 292     amendment to change a certified Mixed-Use Housing Community plan. There are  
 293     two types of amendments: a major and a minor amendment.

294           1.     Major Amendment

- 295           a.     A major amendment includes any request to:
  - 296                     i.     increase density or height by more than that allowed  
 297                             under a minor amendment (Section 7.3.6.J.2);
  - 298                     ii.    decrease open space;
  - 299                     iii.   deviate from a condition of approval; or
  - 300                     iv.   alter a basic element of the plan.
- 301           b.     Public notice is required under Division 7.5.
- 302           c.     A major amendment must follow the same hearing procedures  
 303                     and satisfy the same necessary findings as the original Mixed-  
 304                     Use Housing Community plan.

305           2.     Minor Amendment

- 306           a.     A minor amendment includes any request to:

- 307 i. increase density by up to 10% or 15,000 square feet,  
308 provided the increase is less than or equal to the total  
309 mapped density, including any density increases or  
310 bonuses;
- 311 ii. increase height by up to 10%, provided the height is less  
312 than or equal to the height and any increases allowed  
313 under Section 3.5.8.D;
- 314 iii. change an ancillary use, a parking or loading area,  
315 landscaping, sidewalk, recreational facility or area,  
316 configuration of open space, or any other plan element  
317 that will have a minimal effect on the overall design,  
318 layout, quality or intent of the plan; or
- 319 iv. a reduction in approved parking to satisfy Article 59-6,  
320 but not any change that prevents circulation on any street  
321 or path.
- 322 b. Public notice is required under Division 7.5.
- 323 c. A minor amendment may be approved by the Planning Director  
324 without a public hearing if no objection to the application is  
325 received within 15 days after the application notice is sent. If an  
326 objection is received within 15 days after the application notice  
327 is sent, and the objection is considered relevant, a public  
328 hearing is required. A public hearing must be held under the  
329 same procedures as an original application.

330 **K. Compliance and Enforcement**

- 331 1. If the Planning Board finds, after holding a public hearing or  
332 designating a hearing officer to hold a public hearing, that a property

- 333 under development is not in compliance with a certified Mixed-Use  
 334 Housing Community plan, it may:
- 335 a. impose a civil fine or administrative civil penalty authorized by  
 336 Chapter 50 (Section 50.10.6.D);
  - 337 b. suspend or revoke the non-compliant portion of the Mixed-Use  
 338 Housing Community plan approval;
  - 339 c. order a compliance program that would permit the applicant to  
 340 take corrective action to satisfy the certified Mixed-Use  
 341 Housing Community plan;
  - 342 d. allow the applicant to propose modifications to the certified  
 343 Mixed-Use Housing Community plan; or
  - 344 e. take any combination of these actions.
- 345 2. If the Planning Board or its designee finds that the applicant has failed  
 346 to comply with a compliance program approved under Section  
 347 7.3.6.K.1.c, the Planning Board may, without holding any further  
 348 hearing, take any of the actions identified in Section 7.3.6.K.1.a  
 349 through Section 7.3.6.K.1.e.
- 350 3. If the Planning Board suspends or revokes all or any portion of a  
 351 Mixed-Use Housing Community plan, DPS must immediately  
 352 suspend any applicable building permit under which construction has  
 353 not been completed or withhold any applicable use-and-occupancy  
 354 permit, until the Planning Board reinstates the applicable portion of  
 355 the Mixed-Use Housing Community plan or approves a new plan for  
 356 the development.
- 357 4. The Planning Board may require the applicant to post a commercially  
 358 acceptable form of surety securing compliance with and full  
 359 implementation of specified features of the certified Mixed-Use

360                   Housing Community plan in an amount set by the Planning Board. If  
361                   such surety is required, DPS must not issue a building permit or use-  
362                   and-occupancy permit until such surety is accepted.

\* \* \*

364 **Sec. 8. DIVISION 59-7.5 is amended as follows:**

365 **Division 7.5. Notice Standards**

366 **Section 7.5.1. Notice Required**

367 Notice is required for each application according to the following table:

Application	Newspaper	Pre-Submittal Meeting	Application Sign	Application Notice	Hearing Notice	Resolution Notice	Building Permit Sign Notice	Website Posting
* * *								
<b>Regulatory Approvals</b>								
* * *								
Site Plan		X	X	X	X	X		X
Signature Business Headquarters Plan		X	X	X	X	X		X
Biohealth Priority Campus Plan		X	X	X	X	X		X
<u>Mixed-Use Housing Community</u>		X	X	X	X	X		X
* * *								
<b>Amendments to Approvals</b>								
* * *								
Minor Site Plan Amendment				X				X
Major Signature Business Headquarters Plan Amendment			X	X	X	X		X

Minor Signature Business Headquarters Plan Amendment				x				
Major Biohealth Priority Campus Plan Amendment			x	x	x	x		x
Minor Biohealth Priority Campus Plan Amendment				x				
Major Mixed-Use Housing Community Plan Amendment			<u>x</u>	<u>x</u>	<u>x</u>	<u>x</u>		<u>x</u>
Minor Mixed-Use Housing Community Plan Amendment				<u>x</u>				

368 **KEY:** x = Required



369

\* \* \*

370           **Sec. 9. Effective date.** This ordinance becomes effective 20 days after the  
371 date of Council adoption.

372           **Sec. 10. Short Title.** This text amendment may be cited as “Opening  
373 Pathways to Economic Necessity (O.P.E.N.)”

Ordinance No.: \_\_\_\_\_  
Subdivision Regulation Amendment No.: 23-01  
Concerning: Administrative Subdivision –  
Mixed-Use Housing Community  
Revised: 3/9/2023 Draft No.: 1  
Introduced: March 28, 2023  
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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Lead Sponsors: Councilmembers Sayles and Friedson

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**AN AMENDMENT to:**

- (1) create an administrative subdivision process for a Mixed-Use Housing Community plan;
- (2) and generally amend the subdivision provisions for mixed-uses.

By amending

Montgomery County Code  
Chapter 50. “Subdivision of Land”  
Division 50.6. “Administrative Subdivision Plan”  
Section 50.6.1. “Applicability”

<b>Boldface</b>	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by introduced Subdivision Regulation Amendment.</i>
[Single boldface brackets]	<i>Deleted from existing law by introduced Subdivision Regulation Amendment.</i>
<u>Double underlining</u>	<i>Added to the Subdivision Regulation Amendment by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the Subdivision Regulation Amendment by amendment.</i>
* * *	<i>Existing law unaffected by Subdivision Regulation Amendment.</i>

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. Chapter 50 is amended as follows:**

2   \*   \*   \*

3           **DIVISION 50.6. Administrative Subdivision Plan**

4   \*   \*   \*

5           **Section 6.1. Applicability**

6           The subdivider may file an administrative subdivision plan application under the  
7           following circumstances. Administrative subdivision plans may only be used to  
8           create lots, as expressly described below.

9   \*   \*   \*

10          G.    Subdivision application for property to be used as a Mixed-Use Housing  
11               Community under Section 3.3.4 of the Zoning Ordinance. A lot created for a  
12               Mixed-Use Housing Community may be approved if:

- 13            1.    the Planning Board approves a Mixed-Use Housing Community plan  
14               under Section 59-7.3.7, including a finding of adequate public facilities  
15               under the standards of Section 50-4.3.J, before approval of the plat;
- 16            2.    any required road dedications, or covenants for future dedications, and  
17               associated public utility easements are shown on the record plat;
- 18            3.    forest conservation plan approval, stormwater management, and  
19               environmental protection requirements, if applicable, are satisfied  
20               before approval of the plat; and
- 21            4.    when located in a special protection area, all applicable special  
22               protection area requirements and guidelines are satisfied before  
23               approval of the plat.

24   \*   \*   \*

25           **Sec. 2. Effective Date.** This amendment takes effect 20 days after the date of  
26 Council adoption.