

Zoning Text Amendment No: 06-26
Concerning: Development Plan Findings
Draft No. & Date: 1 – 12/12/06
Introduced: December 12, 2006
Public Hearing: 1/16/07; 1:30 pm.
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: Councilmember Knapp

AN AMENDMENT to the Montgomery County Zoning Ordinance for the purpose of:

- exempting existing commercially and industrially zoned land from a development plan finding of substantial compliance with the use and density recommend by a master plan or sector plan; and
- generally amending development plan requirements.

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

DIVISION 59-D-1	“DEVELOPMENT PLAN”
Section 59-D-1.6.	“Approval by district council”
Section 59-D-1.61	“Findings”

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-D-1 is amended as follows:**

2   **DIVISION 59-D-1. DEVELOPMENT PLAN.**

3                                           \* \* \*

4   **59-D-1.6. Approval by district council.**

5   **59-D-1.61. Findings.**

6   Before approving an application for classification in any of these zones, the  
7   District Council must consider whether the application, including the development  
8   plan, fulfills the purposes and requirements in Article 59-C for the zone. In so  
9   doing, the District Council must make the following specific findings, in addition  
10   to any other findings which may be necessary and appropriate to evaluate the  
11   proposed reclassification:

12   (a)   The zone applied for substantially complies with the use and density  
13          indicated by the master plan or sector plan and does not conflict with the  
14          general plan, the county capital improvements program, or other applicable  
15          county plans and policies, except that a finding of substantial compliance  
16          with the use and density indicated by the master plan or sector plan is not  
17          required if the existing zoning is a commercial or industrial zone. However,  
18          to permit the construction of all MPDUs required under Chapter 25A,  
19          including any bonus density units, on-site, a development plan may exceed,  
20          in proportion to the MPDUs to be built on site, including any bonus density  
21          units, any applicable residential density or building height limit established  
22          in a master plan or sector plan if a majority of an Alternative Review  
23          Committee composed of the Director of the Department of Housing and  
24          Community Affairs, the Executive Director of the Housing Opportunities  
25          Commission, and the Director of Park and Planning, or their respective  
26          designees, find that a development that includes all required MPDUs on site,  
27          including any bonus density units, would not be financially feasible within

28 the constraints of any applicable density or height limit. If the Committee  
29 finds that the development would not be financially feasible, the Planning  
30 Board must recommend to the District Council which if any of the following  
31 measures authorized by Chapter 59 or Chapter 50 should be approved to  
32 assure the construction of all required MPDUs on site:

- 33 (1) exceeding an applicable height limit, lower than the maximum height  
34 in the zone, that was recommended in a master plan or sector plan,
- 35 (2) exceeding an applicable residential density limit, lower than the  
36 maximum density in the zone, that was recommended in a master plan  
37 or sector plan, or
- 38 (3) locating any required public use space off-site.

39 \* \* \*

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

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43 This is a correct copy of Council action.  
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48 Linda M. Lauer, Clerk of the Council