



MONTGOMERY COUNTY PLANNING DEPARTMENT
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB 07/31/08
ITEM #16

TO: Montgomery County Planning Board
FROM: Ralph Wilson, Zoning Supervisor *RW*
VIA: Rose Krasnow, Chief, Development Review Division *RK*
DATE: July 24, 2008
SUBJECT: Zoning Text Amendment - Pre-Application Review Process

Development Review staff is recommending a ZTA that would establish a pre-application review process for special exception and local map amendments and would update related submission requirements. We are proposing that applicants be required to meet with Development Review staff before filing either a special exception or local map amendment application in Rockville to ensure that the applicant fully understands what items must be included with their submission to allow a complete analysis of their case.

We think a careful review of the application submittal requirements at the beginning of the process may save time overall for the applicant and reduce postponements later on. In the more complex cases we are often finding that a full analysis of the case requires information about lighting, stormwater management, and traffic impacts, none of which is now required to be submitted with a special exception application and only traffic impact information for a local map amendment application. We would also like to see all required surveys, site plans, and landscape plans signed and certified to ensure professional standards are followed and that the data on the plans can be relied upon in our analysis.

Under current rules, special exception applications are filed with the Board of Appeals and local map amendments are filed with the Hearing Examiner. Public Hearing dates are set at the time of filing and the applications are forwarded to us for review and recommendation. Board of Appeals and Hearing Examiner staffs cannot be expected to anticipate application deficiencies at a level required by the reviewing agency.

For these and other reasons, staff recommends that the attached proposal for a pre-application review process for special application and local map amendments be transmitted to the Council for introduction. The Hearing Examiner, Chair of the Board of Appeals, and Peoples Council have each had an opportunity to review the pre-application proposal and have suggested important refinements. Each office has indicated support for the concept.

Elements of the proposal include:

- Plan submitted to Development Review staff for pre-application review before filing with the Hearing Examiner or Board of Appeals;
- Pre-application meeting within 15 days after receiving a meeting request and comments back to the applicant within 15 days after the pre-application meeting;

- Applicant to submit revised or additional materials to comply with comments from staff;
- Application must be determined to be complete by Development Review staff before it can be filed with Hearing Examiner or Board of Appeals;
- Surveys, site plans, and landscape plans must be signed and certified by professional preparing the plan;
- Lighting, stormwater management, and traffic levels to be part of submittal requirement;
- Statement justifying the application will be required; and a
- Waiver provision from some of the more rigorous submission requirements for accessory apartment and similar applications.

RDW

Zoning Text Amendment No: 08-__
Concerning: Pre-Application Review
Process
Draft No. & Date: 5 (7/25/08):
Public Hearing:
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: District Council at the request of the Planning Board

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- establish a pre-application review process for special exception and local map amendment petitions;
- revise data required to accompany special exception, local map amendment, and development plan amendment petitions; and
- generally amend provisions related to special exception, local map amendment, and development plan amendment petitions.

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

DIVISION 59-A-4	COUNTY BOARD OF APPEALS.
Section 59-A-4.2	Petitions for special exceptions and variances.
Section 59-A-4.22	Data to accompany petition for special exception.
Article 59-D	Approval Procedures
Section 59-D-1.3	Contents of development plan
DIVISION 59-H-2.	MAP AMENDMENTS--APPLICATIONS
New Sec. 59-H-2.1.1	Pre-application review
Section 59-H-2.4	Contents of standard method of application
Section 59-H-2.5	Contents of optional method of application

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-A-4 is amended as follows:**
2 **DIVISION 59-A-4. COUNTY BOARD OF APPEALS.**

3
4 * * *

5
6 **Sec. 59-A-4.2. Petitions for special exceptions and variances.**

7
8 **59-A-4.21 Filing of petitions**

9 A petition for a special exception or variance must be filed with the Board or, where
10 appropriate, with the [Hearing Examiner] Office of Zoning and Administrative Hearings
11 on forms provided for that purpose, together with the fee set by the County Council by
12 resolution. [If a variance is needed because of an error by a government agency in its
13 approval of a site plan under Section 59-D-3, the Board may waive or refund all of part of
14 the filing fee.]

15
16 **59-A-4.21.1 Pre-application review**

17
18 Before a petition for a special exception may be filed, the applicant must participate in a
19 pre-application meeting with staff of the Planning Board. One copy of the petition
20 containing all information required under Sec. 59-A-4.22 must be submitted to Planning
21 Board staff with a request for a pre-application meeting. Planning Board staff must hold
22 a pre-application meeting within 15 days after receiving a request for such a meeting and
23 within 15 days after the meeting must provide the applicant with conclusions as to
24 whether the petition contains all the information required under Section 59-A-4.22, and
25 therefore is complete. A petition that fails to meet the special exception submittal
26 requirements must be deemed incomplete. If Planning Board staff determines that the
27 petition is not complete, the applicant may present revised or additional materials. The
28 Board of Appeals and the Office of Zoning and Administrative Hearings must not accept
29 a petition for a special exception until Planning Board staff has determined that the
30 petition is complete, and notified the Board of its conclusions.

31
32 **59-A-4.22. Data to accompany petition for special exception.**

33
34 (a) [Each petition for special exception must be accompanied at the time of its filing by
35 4 copies of a statement that includes:] Each petition for a special exception must include
36 8 copies of the following materials:

- 37
38 (1) A statement explaining in detail how the special exception would be
39 operated, including hours of operation, number of anticipated employees,
40 occupants and clientele, equipment involved, and any special conditions or
41 limits [which] that the applicant proposes.
42
43 (2) A [S]urvey [plats or other accurate drawings showing boundaries,
44 dimensions, area, topography and frontage of the property involved, as
45 well as the location and dimensions of all structures existing and proposed
46 to be erected, and the distances of such structures from the nearest

47 property lines] certified by a professional land surveyor licensed by the
48 State of Maryland showing, at a minimum, property boundaries,
49 topography, water bodies, easements, rights-of-way, existing structures,
50 and paved areas.

51
52 (3) A site plan [Plans, or other accurate drawings showing boundaries,
53 dimensions, area, topography and frontage of the property involved, as
54 well as the location and dimensions of all structures existing and proposed
55 to be erected, and the distances of such structures from the nearest
56 property lines] certified by a professional engineer, land surveyor,
57 architect, or landscape architect licensed by the State of Maryland,
58 depicting the following information: (1) existing structures to remain on-
59 site, (2) proposed building locations, (3) parking areas, (4) driveways (5)
60 proposed signage, and (6) setbacks. This requirement may be satisfied by
61 site plan documents [which] that comply with the requirements of
62 [section] Section 59-D-3.2 [, as provided in subsection (b)(2)]. A petition
63 for an accessory apartment special exception that does not involve any
64 modification to the exterior of the residence may be submitted with a site
65 plan that is not certified by a professional engineer, land surveyor,
66 architect or landscape architect, provided that the site plan is drawn to
67 scale and is sufficiently detailed and accurate to permit Planning Board
68 staff, the Hearing Examiner and the Board of Appeals to assess
69 compliance with all applicable requirements.

70
71 (4) A landscape plan certified by a professional landscape architect licensed
72 by the State of Maryland indicating [Complete information concerning]
73 the size, type and location of any existing and proposed trees, landscaping,
74 [and] screening, and exterior illumination. This requirement may be
75 satisfied by site plan documents [which] that comply with the
76 requirements of [section] Section 59-D-3.2[, as provided in [subsection]
77 Subsection (b)(2)]. A petition for an accessory apartment special
78 exception that does not involve any modification to the exterior of the
79 residence may be submitted with a landscape plan that is not certified by a
80 professional landscape architect, provided that the landscape plan is drawn
81 to scale and is sufficiently detailed and accurate to permit Planning Board
82 staff, the Hearing Examiner and the Board of Appeals to assess
83 compliance with all applicable requirements.

84
85 (5) A lighting plan showing the type, location, and height of each outdoor
86 light fixture and any other information necessary to show the lighting does
87 not exceed levels of 0.1 foot-candles along the side and rear lot lines.

88
89 ([8]6) A preliminary forest conservation plan [prepared under Chapter 22A,] and
90 an approved natural resources inventory [prepared in accordance with the
91 technical manual adopted by the Planning Board, and in addition:] or
92 written documentation from Planning Board staff that such documentation

93 is not required under Chapter 22A. Any submitted preliminary forest
94 conservation plan or natural resources inventory must be prepared in
95 accordance with the technical manual adopted by the Planning Board and
96 must depict, in addition to those elements required by the technical
97 manual[in addition]:

- 98
99 (i) Other natural features, such as rock outcroppings and scenic views;
100 and
101
102 (ii) Historic buildings and structures.

103
104 This requirement does not apply to a petition for an accessory apartment
105 special exception that does not involve any modification to the exterior of
106 the residence.

- 107
108 (7) A concept stormwater management plan, together with written
109 correspondence from the Department granting conceptual approval of the
110 submitted plan or written notification from the Department that the
111 application is exempt from stormwater management requirements. This
112 requirement does not apply to a petition for an accessory apartment special
113 exception that does not involve any modification to the exterior of the
114 residence.

- 115
116 (8) Photographs or other detailed information depicting fully the exterior
117 appearance from all sides of existing structures to remain, as well as
118 architectural drawings or building elevations for proposed structures.

- 119
120 ([5]9) Certified copy of official zoning vicinity map for a 1000-foot radius
121 surrounding the subject property, and other information to indicate the
122 general conditions of use and locations of existing improvements on
123 adjoining and confronting properties, along with a list of those adjoining
124 and confronting property owners in the [county] County tax records who
125 are entitled to notice of the filing under subsection 59-A-4.46.

- 126
127 ([6]10) A copy of the recorded deed showing that the petitioner is the owner of the
128 subject property. [If the applicant is not the owner of the property
129 involved, the lease, rental agreement or contract to purchase by which the
130 applicant's legal right to prosecute the petition is established] If the
131 applicant is not the owner of the land, written documentation of the
132 applicant's financial, contractual or proprietary interest in the land to be
133 affected by the amendment must be submitted, together with a signed
134 affidavit from the owner of the land to be reclassified, consenting to the
135 reclassification.

137 ([7]11) Applicable master plan maps reflecting recommended land use, zoning,
138 and transportation, together with any other portions of the applicable
139 master plan [which] that the applicant considers relevant.

140
141 ([9]12) If a property proposed for development lies within a special protection
142 area, the applicant must submit water quality inventories and plans and
143 secure required approvals in accordance with Article V of Chapter 19. The
144 development plan should demonstrate how any water quality protection
145 facilities proposed in the preliminary water quality plan can be
146 accommodated on the property as part of the project.

147
148 (13) If required by Planning Board staff as part of pre-application review, a
149 traffic impact study to demonstrate that acceptable peak hour levels of
150 service will result after implementation of the special exception after
151 taking into account existing and programmed roads, and any
152 improvements to be provided by the applicant.

153
154 ([10]14) All additional exhibits [which] that the applicant intends to introduce.

155
156 ([11]15) A summary of what the applicant expects to prove, including the names of
157 applicant's witnesses, summaries of the testimonies of expert witnesses,
158 and the estimated time required for presentation of the applicant's case.

159
160 (16) A statement of the justification for the special exception addressing the
161 general and specific special exception conditions, standards and
162 requirements specified under Sections 59-G-1.21 through 59-G-1.26 and
163 Division 59-G-2. The statement must address all requirements and
164 provisions applicable to the proposed use. This requirement does not
165 apply to a petition for an accessory apartment special exception that does
166 not involve any modification to the exterior of the residence.

167
168 (17) Such other relevant information as the Board of Appeals, Hearing
169 Examiner, or Planning Board staff finds necessary to evaluate the impact
170 of the proposed development on public facilities or existing or proposed
171 development in the general neighborhood of the property. Any
172 information otherwise required to accompany a petition for a special
173 exception may be waived by Planning Board staff, if staff determines that
174 the information is not necessary to evaluate the impact of the proposed
175 special exception.

176 * * *

177
178 **Sec. 2. Article 59-D is amended as follows:**

179
180 * * *

181
182

183 **Sec. 59-D-1.3. Contents of development plan.**

184
185 The development plan must clearly indicate how the proposed development meets the standards
186 and purposes of the applicable zone. The development plan must include the following, in
187 addition to any other information which the applicant considers necessary to support the
188 application:

189 (a) A preliminary forest conservation plan and [a] an approved natural resources
190 inventory, or written documentation from Planning Board staff that such
191 documentation is not required under Chapter 22A. Any submitted preliminary
192 forest conservation plan or natural resources inventory must be prepared in
193 accordance with a technical manual adopted by the Planning Board and must
194 depict, in addition to those elements required by the technical manual:

195
196 (1) other natural features, such as rock outcroppings and scenic views; and

197
198 (2) historic buildings and structures and their approximate ages.

199
200 (b) A map showing the relationship of the site to the surrounding area and the use
201 of and location of structures on adjacent land.

202
203 (c) Except for the town sector zone, a land use plan showing:

204
205 (1) The general locations of the points of access to the site.

206
207 (2) The locations and uses of all buildings and structures.

208
209 (3) A preliminary classification of dwelling units by type and by number of
210 bedrooms.

211
212 (4) The location of parking areas, with calculations of the number of parking
213 spaces.

214
215 (5) The location of land to be dedicated to public use.

216
217 (6) The location of the land which is intended for common or quasi-public use
218 but not proposed to be in public ownership, and proposed restrictions,
219 agreements or other documents indicating the manner in which it will be
220 held, owned and maintained in perpetuity for the indicated purposes.

221
222 [(7)The preliminary forest conservation plan prepared in accordance with
223 Chapter 22A.]

224
225 (d) Except for the town sector zone, a development program stating the sequence
226 in which all structures, open spaces, vehicular and pedestrian circulation
227 systems and community recreational facilities are to be developed. For the
228 town sector zone, a development program stating the sequence of the

229 following in relation to the development of the residential and commercial
230 areas specified in subsection 59-D-1.3(f), below:

- 231
- 232 (1) Dedication of land to public use.
- 233
- 234 (2) Development of the arterial road system.
- 235
- 236 (3) Development of pedestrian and bicycle circulation systems.
- 237
- 238 (4) Development of community facilities and open space.
- 239 (5) Development of regional stormwater management facilities.
- 240

241 (e) The relationship, if any of the development program to the county's capital
242 improvements program.

243 (f) * * *

244

245 (g) * * *

246

247 (h) * * *

248

249 (i) * * *

250

251 * * *

252
253 **Sec. 3. Article 59-H is amended as follows:**

254

255 * * *

256
257 **DIVISION 59-H-2. MAP AMENDMENTS--APPLICATIONS**

258

259 * * *

260
261 **Sec. 59-H-2.21.1. Pre-application review**

262
263 Before an application for a local map amendment may be filed, the applicant must participate in
264 a pre-application meeting with staff of the Planning Board. One copy of the application material
265 required to file a standard or optional method application must be submitted to Planning Board
266 staff with a request for a pre-application meeting. Planning Board staff must hold a pre-
267 application meeting within 15 days after receiving a request for such a meeting, and within 15
268 days after the meeting must provide the applicant with conclusions as to whether the application
269 contains all the information required under Section 59-H-2.4 or 59-H-2.5 and therefore is
270 complete. An application that fails to meet the local map amendment submittal requirements
271 must be deemed incomplete. If Planning Board staff determines that the application is not
272 complete, the applicant may present revised or additional materials. The Hearing Examiner
273 must not accept an application for a local map amendment until after Planning Board staff has
274 determined that the application is complete.

275
276
277
278
279
280
281
282
283
284
285
286
287
288
289
290
291
292
293
294
295
296
297
298
299
300
301
302
303
304
305
306
307
308
309
310
311
312
313
314
315
316
317
318
319
320

* * *

Sec. 59-H-2.4. Contents of standard method of application - Local map amendments.

[In the case of a local map amendment, the application therefor shall be in such form as the district council may prescribe and shall include the following] Each application for a local map amendment must follow a form prescribed by the District Council and must include 8 copies of the following materials:

- (a) A written statement specifying the following:
 - (1) The election district and municipality or community in which [is located] the land proposed to be reclassified is located, and the street number, if any, or, if none, the location with respect to nearby public roads [in common use].
 - (2) A description by metes and bounds, courses and distances of land, or if the boundaries conform to lot boundaries within a subdivision for which a plat is recorded in the land records of the county, then the lot, block and subdivision designations with appropriate plat reference.
 - (3) The present zoning classification of the land, the proposed classification, and the alternative classification, if any.
 - (4) The name and address of the owner of the land and a copy of the recorded deed for the property. If the applicant is not the owner of the land, written documentation of the applicant's financial, contractual or proprietary interest in the land to be affected by the amendment must be submitted, together with a signed affidavit from the owner of the land to be reclassified, consenting to the reclassification.
 - (5) The area of the land proposed to be reclassified, stated in square feet if less than one acre, and in acres if one acre or more.
 - (6) The application number and the date of application of, and action taken on, all prior applications filed within 3 years previously for the reclassification of the whole or any part of the land proposed to be reclassified.
- (b) [An identification plat prepared by a civil engineer, surveyor or other competent person, and certified thereon by him to be correct and in conformity with this subsection, showing by metes and bounds, courses and distances the land proposed to be reclassified, or if] A survey certified by a professional engineer or land surveyor licensed by the State of Maryland showing, at a minimum, property boundaries, topography, water bodies, easements, rights-of-way, existing structures, and paved areas. If the property

321 boundaries conform to lot boundaries within a subdivision for which a plat is
322 recorded among the land records of the [county] County, then a copy of [such]
323 the plat [, the land proposed to be reclassified appearing in color distinctive
324 from that of other land shown on the plat] must also be submitted.

325
326 (c) A vicinity map [shall be furnished by the commission] covering the area
327 within at least 1,000 feet of the boundaries of the land proposed to be
328 reclassified to the extent that such area lies within the County, Prince George's
329 County or the District of Columbia[, showing the]. The vicinity map must
330 show: [existing] (1) the zoning classification of all Montgomery County land
331 appearing on the official zoning map [on file in the office of the department or
332 the office of the commission], [and](2) all roads, streets, alleys, parks and
333 other public or governmental areas in public ownership or on public rights-of-
334 way or proposed on a plan adopted by the commission, and (3) all streams and
335 railroad rights-of-way within the area covered by the map [and the names
336 thereof].

337
338 (d) If the land proposed to be reclassified lies in whole or in part within an area
339 covered by a [sectional] highway or zoning plan map adopted by the
340 [commission] Commission, [then] a copy of [such] the map [shall] must be
341 furnished to the applicant by the [commission] Commission and submitted
342 with the application.

343
344 (e) On the plat and maps required under the above paragraphs, the land proposed
345 to be reclassified [shall] must appear in a color distinctive from that of the
346 other land shown thereon. The scale of the plat and map required by the above
347 paragraphs shall be noted thereon and [shall] must be not less than 200 feet to
348 the inch if the land proposed to be reclassified is of an area of 10 acres or less,
349 and not less than 400 feet to the inch for an area of more than 10 acres. A
350 north direction arrow [shall] must appear on such plat and maps.

351
352 (f) Sufficient information to demonstrate a reasonable probability that available
353 public facilities and services will be adequate to serve the proposed
354 development under the Growth Policy standards in effect when the application
355 is submitted.

356
357 [(g) Such other relevant information as either the District Council or the Hearing
358 Examiner finds necessary to evaluate the impact of a proposed development
359 on public facilities or existing or proposed development near the application
360 site.]

361
362 (g) Such other relevant information as the District Council, the Hearing
363 Examiner, or Planning Board staff finds necessary to evaluate the impact of a
364 proposed development on public facilities or existing or proposed
365 development near the application site. Any information otherwise required to
366 accompany a local map amendment petition may be waived by Planning

367 Board staff, if staff determines that the information is not necessary to
368 evaluate the impact of the proposed local map amendment.

369 * * *

370
371
372 **Sec. 59-H-2.5. Contents of optional method of application- Local map amendments.**

373 * * *

374
375
376 **59-H-2.53. Schematic development plan.**

377
378 In addition to the other requirements contained in this article, the application for the optional
379 method must include a schematic development plan [which] that adheres to the following
380 requirements:

- 381 (a) The schematic development plan must illustrate or specify how and to what
382 extent the applicant will restrict the development standards or the use of the
383 property to less than the maximum permitted in the requested zone, and
384 whether and how development will be staged.
385
386 (b) If the applicant proposes to stage development, the schematic development
387 plan must illustrate or specify the binding development program stating the
388 sequence or timing in which development is to occur. The development
389 program must indicate the relationship, if any, between the program and the
390 county's capital improvements program.
391
392 (c) If the applicant proposes to limit the use of the property to less than the
393 maximum intensity of use permitted in the requested zone, such limitation
394 must be specified in writing on the face of the schematic development plan.
395
396 (d) The schematic development plan must consist of a written specification
397 containing sufficient detail with respect to the proposed restrictions or
398 limitations and [, if relevant, a drawing of appropriate scale containing [the
399 following elements as applicable to the proposal] a site plan, certified by a
400 professional engineer, land surveyor, architect, or landscape architect licensed
401 by the State of Maryland, depicting the following elements of the proposal:
402
403 (1) The location, height, and uses of existing buildings and structures to
404 remain and proposed buildings and structures.
405
406 (2) The location of parking areas.
407
408 (3) The location of points of access to the site.
409
410 [(4)A natural resources inventory prepared in accordance with a technical
411 manual adopted by the Planning Board, and in addition:
412

- 413 a. Other natural features, such as rock outcroppings and scenic views;
414 and
415
416 b. Historic sites as indicated in the master plan for historic preservation.]
417
418 (e) The application must include the following documentation in support of the
419 schematic development plan:
420
421 (1) A preliminary forest conservation plan and an approved natural resources
422 inventory, or written documentation from Planning Board staff that such
423 documentation is not required under Chapter 22A. Any submitted
424 preliminary forest conservation plan or natural resources inventory must
425 be prepared in accordance with a technical manual adopted by the
426 Planning Board and must depict, in addition to those elements required by
427 the technical manual:
428
429 a. Other natural features, such as rock outcroppings and scenic views; and
430
431 b. Historic sites as indicated in the Master plan for Historic Preservation.
432
433 (2) A concept stormwater management plan, together with written
434 correspondence from the Department granting conceptual approval of the
435 submitted plan or written notification from the Department that the
436 application is exempt from stormwater management requirements.
437
438 (3) Photographs from all sides of all existing structures to remain, and
439 architectural drawings or elevations for all proposed structures.
440
441 ([e]f) [Such drawing]The schematic development plan must differentiate between
442 any elements that have been included for illustrative purposes and those
443 elements intended to be binding.
444
445 ([f]g) The schematic development plan is subject to amendment in the manner of a
446 development plan in accordance with section 59-D-1.7.
447
448 ([g]h) The schematic development plan approved by the district council must be
449 certified and filed as provided in section 59-D-1.63.
450
451 ([h]i) The site plan required by [Division] 59-D-3 must conform to the binding
452 elements of the schematic development plan approved by the District Council.
453
454 ([i]j) * * *
455
456 ([j]k) If a property proposed for development lies within a special protection area,
457 the applicant must submit water quality inventories and plans and secure
458 required approvals in accordance with Article V of Chapter 19. The

459 development plan should demonstrate how any water quality protection
460 facilities proposed in the preliminary water quality plan can be accommodated
461 on the property as part of the project.

462
463 * * *

464
465 **Sec. 3. Effective date.** This ordinance becomes effective 20 days after the date of Council
466 adoption.

467
468 This is a correct copy of Council action.

469
470
471
472
473

Linda M. Lauer, Clerk of the Council