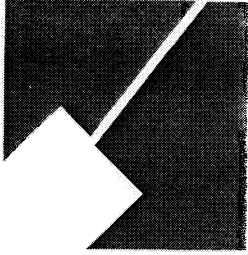


M-NCPPC



MONTGOMERY COUNTY DEPARTMENT OF PARK & PLANNING

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

8787 Georgia Avenue
Silver Spring, Maryland 20910-3760

MCPB
Item #8
6/27/03

DATE: June 27, 2003
TO: Montgomery County Planning Board *JRO*
VIA: Joseph R. Davis, Chief, Development Review
FROM: Greg Russ, Zoning Coordinator *GR*
REVIEW TYPE: Zoning Text Amendment
PURPOSE: To amend the Zoning Ordinance to allow under certain circumstances a registered noncomplying multi-family dwelling changed to a less intensive use to revert to the number of dwelling units that existed when the noncomplying multi-family dwelling was registered.

TEXT AMENDMENT: No. 03-13
REVIEW BASIS: Advisory to the County Council sitting as the District Council, Chapter 59 of the Zoning Ordinance
INTRODUCED BY: Councilmembers Perez and Floreen
INTRODUCED DATE: June 10, 2003

PLANNING BOARD REVIEW: July 03, 2003
PUBLIC HEARING: July 15, 2003; 1:30 pm

STAFF RECOMMENDATION: DENIAL

PURPOSE OF THE TEXT AMENDMENT

To amend the Zoning Ordinance to allow under certain circumstances a registered noncomplying multi-family dwelling changed to a less intensive use to revert to the number of dwelling units that existed when the noncomplying multi-family dwelling was registered.

BACKGROUND

Zoning Text Amendment (ZTA) 03-13 is proposed to allow a noncomplying multi-family dwelling to be restored to the number of dwelling units that existed in the building when the building was registered. The ZTA is general legislation that will have immediate application to a registered noncomplying building in Takoma Park.

At the time the multi-family building was purchased by the current owner in 1980, the building conformed to zoning regulations. The building had been registered as a noncomplying multi-family dwelling with six units. The current owner at some point combined two of the six dwelling units into one apartment for the owner's use. The owner now no longer lives in the building and would like to re-divide the vacant unit back to its original status. The Zoning Ordinance currently does not permit such a reversion. ZTA 03-13 would modify this policy slightly by providing that if not more than two dwelling units in a registered noncomplying multi-family building were combined into one dwelling unit before (ZTA Effective Date), the one dwelling unit may revert to two dwelling units, as existed when the noncomplying multi-family building was registered. Further discussion is included in the Analysis section below.

ANALYSIS

The proposed text amendment language is as follows:

59-G-4.34 ***Continuation of noncomplying multi-family dwellings
existing before January 1, 1954.***

Any building or structure located in a single family residential zone which has been converted and used continuously as a multi-family dwelling from before January 1, 1954, to March 23, 1978, may continue the use for a period not to exceed 10 years even though the buildings, structures or uses do not comply with the regulations applicable to the zone in which the building, structure or use is located, subject to this section. Buildings or structures located in a single family residential zone which were originally constructed as multi-family dwellings are exempt from the 10-year phase-out if they meet all other requirements of this section.

* * *

- (f) *No registered noncomplying multi-family dwelling is allowed to be extended, expanded or increased in intensity of use in any way.*
- (g) *No registered noncomplying multi-family dwelling which has been changed in whole or in part to a less intensive use is allowed to revert to a more intensive use. However, if not more than two dwelling units in a registered noncomplying multi-family building were combined into one dwelling unit before (ZTA Effective Date), the one dwelling unit may revert to two dwelling units, as existed when the noncomplying multi-family building was registered. No noncomplying use, once abandoned, is allowed to be reestablished. For the purpose of this section,*

“abandoned” is defined as the cessation of use as a multi-family dwelling for a period of 6 months or more.

In the past, the County determined that there were too many single-family houses being converted to apartment units, especially in areas like Takoma Park. Many of these were done illegally, particularly in Montgomery County. In 1978 a text amendment was adopted to regulate the uses. Some uses were to be eliminated in 10 years and others were to be registered and brought into compliance with County codes. In no case, was a property to restore or increase the number of units in a single-family house. (See memo from Deane Mellander-Attachment 2.)

The issue was again addressed in the Takoma Park Master Plan (2000). Similar circumstances were recognized in the portion of Takoma Park that had been recently unified from Prince George’s County. Similar zoning provisions were extended to this area. (See excerpts from the Master Plan-Attachment 2.) The County Council adopted Ordinance No. 14-31 (ZTA No. 00-07) on December 12, 2000 (effective on January 1, 2001) to implement these Master Plan recommendations (see Attachment 3).

Staff believes that the Zoning Ordinance and Master Plan history suggest that the concern is that a large number of dwellings converted to multi-family use pose an unreasonable burden on the community. The burden can include excessive crowding and demand on neighborhood facilities, such as on-street parking. While the intent is to protect and retain the existing density for those properties that are registered, the County would not want to increase density in such areas and will seek to reduce the density when possible.

RECOMMENDATION

The staff does not support the proposed text amendment to amend the Zoning Ordinance to allow under certain circumstances a registered noncomplying multi-family dwelling changed to a less intensive use to revert to the number of dwelling units that existed when the noncomplying multi-family dwelling was registered. The current language in Section 59-G-4.34(g) that prohibits a noncomplying multifamily use which has been changed to a less intensive use to revert to a more intensive use clearly intends to reduce the density in these areas when possible.

Attachment 1 depicts the proposed text amendment as proposed.

GR

Attachments

1. Proposed Text Amendment 03-13
2. Memorandum from Don Downing to Greg Russ
3. Ordinance No. 14-31

ATTACHMENT 1

Zoning Text Amendment No: 03-13
Concerning: Registered noncomplying dwellings
Draft No. & Date: 1 – 6/3/03
Introduced: June 10, 2003
Public Hearing: July 15, 2003; 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: Councilmembers Perez and Floreen

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

- allowing under certain circumstance a registered noncomplying multi-family dwelling changed to a less intensive use to revert to the number of dwelling units that existed when the noncomplying multi-family dwelling was registered.

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

DIVISION 59-G-4 “NONCONFORMING USES, BUILDINGS, AND STRUCTURES”
Section 59-G-4.34 “Continuation of noncomplying multi-family dwellings existing before January 1, 1954”

*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:

Sec. 1. Division 59-G-4 is amended as follows:

DIVISION 59-G-4. NONCONFORMING USES, BUILDINGS, AND STRUCTURES.

* * *

59-G-4.34 Continuation of noncomplying multi-family dwellings existing before January 1, 1954.

Any building or structure located in a single family residential zone which has been converted and used continuously as a multi-family dwelling from before January 1, 1954, to March 23, 1978, may continue the use for a period not to exceed 10 years even though the buildings, structures or uses do not comply with the regulations applicable to the zone in which the building, structure or use is located, subject to this section. Buildings or structures located in a single family residential zone which were originally constructed as multi-family dwellings are exempt from the 10-year phase-out if they meet all other requirements of this section.

* * *

- (f) No registered noncomplying multi-family dwelling is allowed to be extended, expanded or increased in intensity of use in any way.
- (g) No registered noncomplying multi-family dwelling which has been changed in whole or in part to a less intensive use is allowed to revert to a more intensive use. However, if not more than two dwelling units in a registered noncomplying multi-family building were combined into one dwelling unit before (ZTA Effective Date), the one dwelling unit may revert to two dwelling units, as existed when the noncomplying multi-family building was registered. No noncomplying use, once abandoned, is allowed to be reestablished. For the purpose of this section, "abandoned" is defined as the cessation of use as a multi-family dwelling for a period of 6 months or more.

28 (h) In the event of destruction or serious damage by fire, flood or similar cause,
29 no registered noncomplying multi-family dwelling is allowed to be
30 reconstructed for the purpose of carrying on the noncomplying use.

31 "Serious damage" shall be defined as damage which reduces the market
32 value of any structure by more than one-half.

33 * * *

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

36

37 This is a correct copy of Council action.

38

39

40

41

42 Mary A. Edgar, CMC

43 Clerk of the Council

June 18, 2003

TO: Greg Russ, Zoning Analyst

FROM: Don Downing, Planner Coordinator *D, D -*

SUBJECT: ZTA 03-13, Non-Complying Multi-Family Dwellings

The text amendment addresses multi-family dwellings that are located in single-family residential zones. The proposal is to allow a non-complying multi-family dwelling to restore one dwelling unit that had existed in the building when the building was registered.

Many years ago the County determined that there were too many apartment units in single-family houses, especially in areas like Takoma Park. In 1978 a text amendment was adopted to regulate the uses. Some uses were to be eliminated in 10 years and others were to be registered and brought into compliance with County codes. In no case, was a property to restore or increase the number of units in a single-family house. (See memo from Deane Mellander.)

The issue was again addressed in the Takoma Park Master Plan (2000). Similar circumstances were recognized in the portion of Takoma Park that had been recently unified from Prince George's County. Similar zoning provisions were extended to this area. (See excerpts from the Master Plan.)

The ZTA seems to be based on one house that previously had six units and has since become five units, one of which is a double unit occupied by the owner. The owner now wishes to restore a sixth unit in the house. Grounds for support of this proposal could include equity for the owner who at one time had six units and provision of one additional affordable housing unit in the area.

The zoning ordinance and Master Plan history suggest that the County concern is that a large number of dwellings converted to multi-family use pose an unreasonable burden on the community. The burden can include excessive crowding and demand on neighborhood facilities, such as on-street parking. While the intent is to protect and retain the existing density for those properties that are registered, the County would not want to increase density in such areas and will seek to reduce the density when possible.

While I recognize the equity issue, I also support the desire to limit density increases in single-family neighborhoods. I would be more comfortable if this measure were linked to adequacy of off-street parking.

Cc: Glenn Kreger and Joel Gallihue
Attachments:

- Selected text from Takoma Park Master Plan, December 2000
- Selected text from memo, Deane Mellander to Montgomery County Planning Board, March 2, 2000

Dd:e:\takoma\zta 03-13 multi-family dwelling

MCPB
Item #
3/9/00

MEMORANDUM

DATE: March 2, 20000
TO: Montgomery County Planning Board
VIA: Joe Davis, Chief, Development Review Division
FROM: Deane Mellander, Zoning Coordinator
SUBJECT: Proposed Zoning Text Amendments to Implement the Recommendations of the Takoma Park and East Silver Spring Master Plans

STAFF RECOMMENDATION: APPROVAL to transmit to the County Council for Introduction.

Background

In the course of preparing the master plans for East Silver Spring and the City of Takoma Park, it became apparent that amendments to the text of the Zoning Ordinance would be necessary to implement the master plan recommendations. These text amendments are intended to allow certain uses in the annexation area to be conforming under Montgomery County code provisions, allow existing multi-family development built under previous ordinances to be conforming, and provide for design review in the commercial areas through overlay zones.

The Planning Board has previously reviewed all of these text amendments in the course of the master plan worksessions. The proposed Commercial Revitalization Overlay Zone has been

substantially modified as a result of discussion between the staff and the City of Takoma Park to reflect the City's desire to have input into the design review process.

Analysis

Annexation Area (Begins at circle 1)

The text amendment is intended to allow uses that were originally in Prince Georges County, and would not meet the Code requirements for either uses or structures, to become conforming. This is in line with the intent of the master plan to "hold harmless" those uses that were validly constructed in Prince Georges County to continue.

Section 59-B-6.2 covers structures. Any structure in existence as of June 30, 1998 that was conforming under the Prince Georges County Code, and has a valid use-and-occupancy permit from Prince Georges, is considered conforming and may be altered, renovated, or enlarge in accordance with Montgomery County Code provisions, and may also be replaced in kind if destroyed by fire, flood, or similar event if it does not meet Montgomery County Code requirements.

Section 59-B-6.3 covers existing uses. Any use in the Annexation Area that had a valid use-and-occupancy permit from Prince Georges County as of June 30, 1998 is considered a conforming use and may be continued.

Section 59-B-6.4 concerns lots recorded in Prince Georges County between 1928 and 1949. Through apparent oversight, the Prince Georges County Zoning Ordinance does not "grandfather" lots that were recorded by plat in that time frame. Record lots that did not meet the current R-55 standards were required to obtain a variance from the Prince Georges County Board of Appeals. Because such not are not considered buildable by right in Prince Georges County, they currently would be required to obtain a variance from Montgomery County. The proposed language would treat these lots the same as any other legally recorded lot in Montgomery County. If the lot meets the standards of the 1928 Zoning Ordinance, it will be considered buildable.

Section 59-B-6.5 deletes the sunset provision that was added to the Code at the time of the annexation, since this text amendment covers the special provisions referenced.

The Land Use provisions in Section 59-C-4.2, Commercial Zones, is also proposed for modification. There are one or two auto-related uses in the Annexation Area that do not meet the separation requirement from residential zones. The text amendment will allow those uses to continue as conforming uses if they held a valid use-and-occupancy permit from Prince Georges County as of the annexation date.

Multiple-Family Dwellings (Begins and Circle 6)

Prior to 1954, multi-family development was allowed in the Residential "C" Zone, which allowed a density of up to 69.7 units per acres. There was no minimum lot size or height requirement at that time. A number of multi-family dwellings were constructed under this zone in the Takoma Park area. Many of these are small 6 or 8 unit structures along Flower Avenue.

In 1954, the R-10, R-20, and R-30 zones were established. The older multi-family dwelling were placed in the zone closest to their existing density. There were no specific grandfather provisions in the Code at that time. In 1958, and again in 1965 these zones were amended to provide minimum lot area requirements.

In 1993 the County Council adopted text amendment No. 92017, which added Section 59-C-2.25, Existing Structures, to the multi-family zones. This language provided (1) that multi-family dwellings built in the old C-2 Zone were conforming, and (2) that multi-family dwellings built prior to October 23, 1973 will also be conforming.

Discussions with the staff from the Department of Permitting Services indicates that they would like clarification on the status of the pre-1954 multi-family dwellings. Since they were nonconforming when the 1954 Code was adopted, it is possible to construe them as not being conforming today. Therefore, the staff proposes to modify this section of the Code to make clear what is and is not a conforming use. It is obvious from the intent of Text Amendment No. 92017 that the Council intended to retain and conform the older multi-family dwellings as an important housing resource.

The amendment proposed by staff (see circle 8) allows any multi-family development that was validly recorded and holds a valid use-and-occupancy permit, but does not meet the current density or lot area requirements, to continue as a conforming use, and may be repair or replaced so long as the density is not increased. New development, including replacement, must meet the current parking standards.

In the Annexation Area, existing multi-family lots and development will be conforming if they hold a valid use-and-occupancy permit from Prince Georges County as of the annexation date. Any dwelling units that do not have a valid U&O permit will be nonconforming. This provision is necessary because there have been cases where illegal units have been carved out of existing dwellings and must be regulated. Finally, and new development will be required to conform to the current parking standards.

Multi-family Uses in One-Family Zones in the Annexation Area (Begins at Circle 10)

In the past, there have been problems with conversions of one-family houses in the Takoma Park area into multi-family dwellings. Many of these were done illegally, particularly in Montgomery County. In 1978 Montgomery County approved Text Amendment No. 77003, which regulated these uses and eventually have them cease. This is the current language in Section 59-G-4.32. However, in Prince Georges County some of these pre-1954 conversions

were allowed and issued use-and-occupancy permits.

The staff proposes minor plain-language changes to the existing text of Sections 59-G-4.32 through 4.34. No substantive changes to the language or intent are proposed by these changes. Those uses originally in Montgomery County will continue to be regulated by this section. The staff proposes to add a new subsection 59-G-4.35 to regulate those uses in the Annexation Area. If they hold a valid U&O permit from Prince Georges County they may continue if they register with Montgomery County as set forth in the current language. The registered use will be subject to the provisions of subparagraphs (b), (c), (d), (e), (f), (g), (i), and (j) of section 59-G-4.34 (see circles 13-14). If the use is destroyed, it may be replaced as a multi-family dwelling, but the number of dwelling units cannot be increased beyond what was in existence as of the date of registration. If reconstruction brings the use into conformance with the one-family zone, the multi-family use cannot be reinstated.

Neighborhood Retail Overlay Zone (Begins on Circle 16)

This new overlay zone is proposed for the area along Maple Avenue in the City of Takoma Park. This area has a large concentration of multi-family developments, in both garden and high-rise configurations. The draft master plan proposes additional neighborhood-serving retail uses for this large population concentration. Rather than attempt to locate a specific site for such retail, the plan proposes this overlay zone to guide the character and location of such retail uses.

Currently, accessory retail uses are allowed in moderate to high density multi-family dwellings in the R-10 and R-H zones. No direct street access is allowed. Current examples exist in developments such as Grosvenor Park in North Bethesda and The Point in White Oak. The text amendment would allow for additional neighborhood retail within the overlay zone as either a free-standing use, or within an existing multi-family structure. Total square footage allowed must be in conformance with the master plan recommendation. If the use is within an existing multi-family structure, the retail use may have direct access to the street.

The overlay zone will require site plan review of any development that includes commercial uses. At the time of site plan review, the Board may waive certain parking setbacks and numbers of spaces required to provide better design and encourage the use of transit.

Commercial Revitalization Overlay Zone (Begins on Circle 20)

The draft master plans propose an overlay zone to promote commercial revitalization in the Takoma-East Silver Spring area. The purpose of the overlay zone is to guide development in the various commercial districts in accordance with the master plan recommendations. It is intended to use this overlay zone at multiple locations. As such, it has been drafted such that it could be utilized elsewhere in the County.

The proposed overlay zone would allow certain additional land uses not otherwise permitted in the underlying zone where such uses are recommended as suitable in the relevant

Zoning Text Amendment No:
Concerning: Multi-family uses in one-family
zones within the Takoma Park Annexation
Area
Draft No. & Date: 4- 11/2/99
Introduced:
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 for the purpose
of:

- Accommodating existing multi-family properties in one-family zones within
the Takoma Park Annexation Area

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

59-G-4.32 "Termination of Multi-family Dwellings"

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:

Sec. 1. Section 59-G-4.32, title "Termination of multi-family dwellings" as amended as follows:

59-G-4.32. Termination of multi-family dwellings.

Any building or structure located in a single family residential zone which, subsequent to December 31, 1953, has been used or converted to use as a multi-family dwelling and any building or structure, located in a single family residential zone, which at any time prior to January 1, 1954, has been used or converted to use as a multifamily dwelling [and which fails to] must register and meet the requirements provided for registration as a noncomplying use [as provided]in section 59-G-4.34 [hereof shall] no later than September 1, 1979[.]. [discontinue such use and shall reduce] If not registered, the noncomplying use must be discontinued and the number of dwelling units within the building or structure must be reduced to the number permitted in the zone in which the building or structure is located.

59-G-4.33. Temporary continuation of multi-family uses.

As of the effective date of this section any building or structure converted to multi-family use in a single family residential zone may be continued until September 1, 1979.

59-G-4.34. Continuation of nonconforming multi-family dwellings existing before January 1, 1954.

Any building or structure located in a single family residential zone which has been converted and used continuously as a multi-family dwelling from before January 1, 1954, to the effective date of this amendment may continue the use for a period not to exceed 10 years even though the buildings, structures or uses do not comply with the regulations applicable to the zone in which the building, structure or use is located, subject to this Section. Buildings or structures located in a single family residential zone which were originally constructed as multi-family dwellings are exempt from the 10 year phase-out if they meet all other requirements of this section.

- (a) All noncomplying multi-family dwellings in existence before January 1, 1954, and converted and used continuously from before January 1, 1954 to the effective date of this section must be registered with the Department in accordance with the following procedure:
- (1) Applications for registration must be filed on forms provided by the Department;



- (2) Each application for registration [shall] must be accompanied by notarized affidavits or such other evidence as may be appropriate to establish that the multi-family dwelling use existed prior to January 1, 1954, and has existed continuously since then;
 - (3) Each application for registration [shall] must be accompanied by evidence of a use and occupancy certificate and a rental facility license, if required;
 - (4) Each application for registration [shall] must be accompanied by a registration fee.
- (b) The Department must publish, in a newspaper of local distribution, notice of all applications for registrations and allow 30 days after publication for the filing of comments by the public, other agencies, municipalities and concerned parties. The director may hold a public hearing on any application for registration for which objections are received.
 - (c) The [d]Director [shall] must make an inspection of each property for which an application for registration has been submitted and each such property must be brought into compliance with all applicable codes and regulations of both the county and municipal jurisdictions within 180 days after notification of violation or deficiencies.
 - (d) The [d]Director [shall] must deny any application or revoke or suspend any registration upon failure to comply with the provisions of this section or upon conversion to other use. Any decision of the [d]Director hereunder may be appealed to the Board of Appeals.
 - (e) Structural alterations of a building or structure which do not conform to the provisions of the zoning district in which it is located may be made only if the building is being altered to conform to the provisions of this section or to conform with other applicable codes or regulations.
 - (f) No registered noncomplying multi-family dwelling [shall hereafter] is allowed to be extended, expanded or increased in intensity of use in any way.

- (g) No registered noncomplying multi-family dwelling which has been changed in whole or in part to a less intensive use [shall again be devoted] is allowed to revert to a more intensive use. No noncomplying use, once abandoned, [shall thereafter] is allowed to be re-established. For the purpose of this section, "abandoned" [shall be] is defined as the cessation of use as a multi-family dwelling for a period of 6 months or more.
- (h) In the event of destruction or serious damage by fire, flood or similar cause, [N]no registered noncomplying multi-family dwelling [shall, In the event of destruction or serious damage by fire, flood or similar cause] is allowed to be reconstructed for the purpose of carrying on the noncomplying use. "Serious damage" shall be defined as damage which reduces the market value of any structure by more than one-half.
- (i) Each registered multi-family dwelling [shall] must be maintained in good condition and in compliance with all applicable federal, state, county and municipal laws and regulations. The [d]Director [shall cause a regularly scheduled] must establish a regular schedule of inspections to be made of each registered multi-family dwelling, said inspection to coincide with the biennial rental facility licensing inspection, where applicable.
- (j) The County Executive, by written regulation, must establish administrative procedures, exterior maintenance standards necessary to protect the public health, safety and welfare, off-street parking requirements, registration fees in an amount sufficient to pay the costs to the County to administer this section, and an inspection schedule applicable to buildings, structures and lands registered under this section. The County Executive, by written regulation, may establish an administrative procedure to allow the City of Takoma Park to administer the registration procedure for properties located in the City if the City adopts the procedures in subsection 59-G-4.34. The regulation must allow the Director to vary the specific requirements for off-street parking upon a finding that the strict imposition of those requirements would be physically impossible for a noncomplying multi-family dwelling use to achieve due to lot/house configuration or other extenuating circumstances.

59-G-4.35. Special provisions for properties in the City of Takoma Park annexed into Montgomery County on July 1, 1997.

Any building or structure located in a single-family residential zone which has been converted and used continuously as a multi-family dwelling and has a valid use-and-occupancy permit as of (the effective date of this amendment) may continue, provided that the use is registered as set forth in section 59-G-4.34(a). A registered multi-family use is subject to the provisions of subparagraphs (b), (c), (d), (e), (f), (g), (i), and (j) of section 59-G-4.34. Any such multi-family use which does not register becomes noncomplying and must terminate the noncomplying use by July 1, 2001.

In the event of destruction or serious damage by fire, flood or similar cause, a registered multi-family dwelling is allowed to be reconstructed for the purpose of continuing the multi-family use. However, the use cannot be expanded beyond what is in existence at the time the use is registered. If reconstruction or repair brings the use into compliance with the provisions of the zone in which the use is located, the multi-family use cannot be re-established.

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

This is a correct copy of Council action.

Mary A. Edgar, CMC
Clerk of the Council

noncomply.tp

Approved and Adopted

TAKOMA PARK MASTER PLAN

December 2000

Prepared by

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
Montgomery County Department of Park and Planning
8787 Georgia Avenue
Silver Spring, Maryland 20910

COMMUNITY PRESERVATION, STABILITY, AND CHARACTER

The Takoma Park Master Plan seeks to preserve existing residential character, encourage neighborhood reinvestment, and enhance the quality of life throughout Takoma Park.

INTRODUCTION TO THE THEME

Like many Urban Ring communities, Takoma Park is almost totally built-out, with an established character and density of development and little vacant land. The focus of this Master Plan is on preserving and enhancing the existing neighborhoods to ensure a good quality of life for area citizens and businesses.

The intent of the Master Plan is to preserve the existing residential character and to reinforce the many desirable features of Takoma Park neighborhoods. These neighborhoods are appealing places with enduring character and historic value that are cherished by local residents. This Plan's challenge is to preserve livable qualities—stability, cohesiveness, scale, historic character, convenience, nearby natural resources—while addressing deficiencies and planning for change that is harmonious and beneficial to the community.

This chapter contains general recommendations for residential land uses in Takoma Park. This Plan generally reaffirms the existing land use pattern throughout the area and the existing zoning. The Community Preservation, Stability, and Character theme is illustrated on Map 6. Areas with recommended zoning changes are shown on Map 2.

From the General Plan Refinement:

“While encouraging continued growth in the Urban Ring, the General Plan Refinement seeks to preserve the flourishing neighborhoods already located there. It designates the Urban Ring area as a high priority location for new infrastructure to support existing development. The Refinement encourages the County to protect these areas from the encroachment of non-conforming land uses, excessive noise, and through traffic. It seeks to maintain and reinforce the many desirable community features that are common in the Urban Ring.”

LAND USE AND NEIGHBORHOOD PRESERVATION

Land Use and Zoning

Takoma Park's residential neighborhoods contain both single-family detached houses and a variety of apartments. There are also a limited number of townhouses at several locations. Many of the neighborhoods contain houses with a variety of distinctive styles, architectural details, and historic significance. These neighborhoods are some of the most well established and distinguished with some of the oldest houses in the Silver Spring/Takoma Park area.

A Master Plan typically considers what change, if any, should occur in the land use of a community. This Plan seeks to sustain livable neighborhoods in Takoma Park by preserving their positive attributes and guiding change so that it strengthens the function, character, and appearance of the area. New development and approved special exception uses should be compatible with the existing residential character. As a result, the existing land use pattern should remain essentially the same.

Although this Plan reaffirms the basic land use pattern in Takoma Park, there are numerous complexities associated with the zoning of property throughout Takoma Park. Some of the zoning applied at the time of unification of Takoma Park into Montgomery County in 1997 included provisions that protected existing development rights, but many of those provisions will "sunset," or expire, on July 1, 2001. Essentially, these provisions "hold harmless" the rights of property owners until the land uses and zoning could be addressed in this Master Plan. The principal approach followed in the Sectional Map Amendment and the Zoning Ordinance text amendment following the Takoma Park unification was that existing uses in the Unification Area would retain similar uses, densities, and development rights as they had with Prince George's County zoning until 2001 or a new policy was established.

A limited amount of new development is possible throughout Takoma Park. There are a few vacant parcels and some properties that could be assembled and developed. Stability and zoning issues in various neighborhoods are addressed below. Revitalization and zoning issues in the commercial centers are addressed in another chapter.

The land use and zoning issues in this Plan generally fall into two categories. One, there are **Zoning Ordinance requirement issues**. The land use may be appropriate, but the lot size, the particular use, or the layout of the structure(s) on the site may not conform to the Zoning Ordinance standards. Two, there are **site specific parcel or area issues**. The current land use may not be appropriate, and there may be problems with Zoning Ordinance standards.

Recommendations

- **Retain the existing single-family detached character throughout most of Takoma Park, the existing mix and distribution of apartment uses, and the rights to develop existing properties and replace existing residential structures.**
- **Confirm the existing residential zoning throughout Takoma Park, except as recommended below.**
- **Amend the appropriate zones to allow low and medium density apartment properties to continue or to be replaced at the current density.**
- **Recognize the extensive and adequate supply of affordable housing in Takoma Park. Support some addition of elderly housing if appropriate locations become available.**
- **Support townhouse development at selected locations to increase housing choice between apartment and single-family detached housing.**

Revitalization and Diversity

Some residential properties in Takoma Park suffer problems typical of aging communities which have many residents of modest means. Such housing may be in poor condition, especially apartment complexes that have been poorly maintained or were inexpensively constructed. Buildings of 3 to 11 units with inexperienced landlords seem particularly at risk. Some of the single-family houses need replacement of basic systems, an expense that may be beyond the financial reach of owners with modest incomes. In both single-family and multi-family housing, poor condition is frequently related to the landlord or owner's inadequate financial resources, insufficient understanding of proper maintenance, or unsophisticated tenant selection.

The potential for continued deterioration exists. To address the problem, the master plan supports establishment of a task force representing all disciplines and interest groups to examine the full range of issues and solutions affecting the aging housing stock in the East Silver Spring and Takoma Park area. Measures a task force could undertake include development of strategies conducive to revitalization, such as tax incentives, government grants, tenant ownership groups, private/public partnerships, neighborhood improvement programs, and assembly and redevelopment efforts. Outside organizations, such as the Urban Land Institute, that are experienced in working with distressed communities may be able to provide valuable assistance in addressing the problem. Successful revitalization will require a concentrated effort on the part of County Government. An on-site County revitalization office should be considered to provide a presence in the area and to encourage renewed investment in maintaining and upgrading the area's aging apartment stock.

Government, nonprofit organizations, and neighbors can often help revitalize declining areas through incentives, education, and enforcement of community standards. Land use plans support these activities, with special attention to the provision of quality infrastructure and community facilities.

Recommendations

- **Encourage maintenance and preservation of housing through code enforcement, neighborhood improvement programs, and other appropriate techniques.** Coordinate City and County code enforcement and maintenance activities.
- **Restore, maintain, and improve the infrastructure of older neighborhoods by provision of sidewalks, curbs, lighting, landscaping, and other improvements, as needed.** Consider both pedestrian access and safety when planning improvements. Areas such as Pinecrest and Circle Woods are in need of such improvements.
- **Support remodeling and rehabilitation of residential properties through various County or City home or neighborhood improvement programs.** Possible tools can include tax incentives, grants, low cost loans, and energy-saving retrofits.
- **Support acquisition and maintenance of apartment buildings by various owners, such as County government, non-profit, or cooperative ownership groups.**
- **Support the efforts of the County Department of Housing and Community Affairs (DHCA) to address the capital repair needs of deteriorated multi-family buildings.**
- **Form a task force to address the full range of issues and solutions affecting the large number of apartments in the Takoma Park and East Silver Spring area.** The task force could develop strategies conducive to remodeling and rehabilitation of the area's aging apartments. Establishment of an on-site redevelopment office should be considered.

Takoma Park and the adjacent communities of East Silver Spring and Langley Park contain a socially and economically diverse population that differs significantly from any other part of Montgomery County. Takoma Park is proud of its racial and ethnic diversity. Many residents are foreign born. Residents' economic, social, and employment characteristics are also varied. Takoma Park has a variety of household types, including more people living alone and more single-parent households than the County. There are more low-income households, more residents who work outside the County, fewer commuters who drive alone to work, fewer cars per household, and more households living in apartments than County-wide. The large supply of apartments, more than 55 percent of the East Silver Spring and Takoma Park area housing stock, is key to the differences. Apartment dwellers tend to be comparatively young. Apartments are the first homes in the United States for many immigrants who benefit from the convenience to area jobs, including those in downtown Silver Spring. Access to transit and to nearby Metrorail stations reduce dependence on the automobile.

Public safety is a serious concern to many residents and businesses. Adequate lighting is needed along sidewalks and trails, as well as in parks, shopping centers and other public spaces. Police services in this region, which are provided by the City within Takoma Park and by a number of adjacent jurisdictions, should be coordinated.

While Takoma Park has been supportive of such diversity, numerous issues affect the daily lives of area residents. Some residents rely on low paying jobs, as well as informal employment or day labor arrangements. Due to low incomes and other factors, many residents have special needs for social services and public health assistance.

Land use plans address these social and economic needs by addressing the location and design of places that provide services. For example, some service organizations need larger facilities at new locations. The Master Plan supports efforts by both public and private organizations to address all of these needs as a way to build a healthy community.

Recommendations

- **Support the provision and location of adequate social, employment, and health facilities and services to meet the needs of area residents.**
- **Support adequate police services, attention to safe design of public areas such as parks and shopping centers, and inter-jurisdictional coordination of police services.**
- **Support the involvement of public, private, and faith-based organizations in addressing area service needs.**

Neighborhood Protection

Residential properties located along major highways and adjacent to commercial areas often appeal to individuals who want to establish businesses in relatively low cost facilities. Such locations are very visible to passing drivers. Houses in such location are often sold at a lower price than those located a block or more away from the highway or commercial area. The recommendations in this Plan are designed to stabilize the residential character of neighborhoods along major highways and near commercial areas, enhance the appearance of such properties, and strengthen the distinction between commercial and residential areas.

Recommendations

- **Protect land uses near commercial areas and along New Hampshire Avenue.**
 1. Confirm existing zoning of residential properties abutting Major Highways and commercial areas, as well as the properties beyond them to preserve the identity and integrity of the residential areas.
 2. Avoid excessive concentration of special exception and other nonresidential land use along Major Highways and next to commercial areas. Especially avoid permitting over-concentration of commercial service or office type special exception uses in residential communities.

These guidelines do not apply along University Boulevard since the portion in Takoma Park has no single-family detached housing neighborhoods in need of protection.

- **Land uses near commercial areas and along New Hampshire Avenue, including special exceptions, should follow these site development guidelines:**
 1. Screening from residential uses should be required for existing buildings and for parking.
 2. New or expanded structures should be sensitive to the character and the scale of adjoining neighborhoods. Buildings should not be significantly larger than nearby structures.

3. Landscaping and setbacks along New Hampshire Avenue should be consistent with the streetscape recommendations in this Master Plan.

Neighborhoods are sometimes subject to through traffic seeking alternatives to congestion along Major or Arterial Highways, particularly at intersections. Large volumes of vehicular traffic can be disruptive to the comfort and safety of residential areas. Congestion along such routes can also make access from local neighborhoods difficult. Approaches to maintaining traffic flow on Major and Arterial Highways are discussed in the Neighborhood-Friendly Circulation chapter.

Increased congestion along major routes through Takoma Park results in motorists cutting through neighborhood streets, many of which do not have sidewalks or driveways. Heavy traffic is inappropriate in neighborhoods. Where possible, commercial and through traffic should be served by Major Highways and Arterials and be separated from neighborhood streets.

Recommendation

- **Protect residential neighborhoods from commercial and through traffic.** To discourage through traffic from using local streets, the City of Takoma Park seeks to reduce operating speeds by installing speed humps, ovals, all-way stop signs, and other impediments. The City also encourages walking, biking, transit use, telecommuting, and flexible work schedules.

FLOWER AVENUE NEIGHBORHOODS (IN TAKOMA PARK)

Flower Avenue provides a boundary between the City of Takoma Park and East Silver Spring. Overall, the residential uses in the general vicinity of Flower Avenue are similar in type and condition. For purposes of this Master Plan discussion, the Flower Avenue neighborhoods also includes the New Hampshire Gardens apartments, which occupy the block on Kennewick and Lockney Avenues, behind the Hampshire-Langley Shopping Center. The Flower Avenue neighborhoods in Takoma Park are shown as Focus Neighborhood number 1 on Map 4, the Community Preservation, Stability, and Character concept.

Part of this area was formerly in Prince George's County until Takoma Park was unified in Montgomery County in 1997. All of the properties discussed in this section are currently classified in the R-10, R-20, and R-30 Zones. Map 7 shows the location of Multi-Family Properties.

Several areas within these neighborhoods include a mix of low to medium density mixed housing types which do not presently conform to the development standards of the R-10, R-20, or R-30 Zones. These areas include about 100 lots and structures. Existing lot areas typically range from 2,000 to 5,000 square feet, rather than the 12,000- to 20,000-square-foot minimum lot size requirement. In some cases, properties exceed the current density maximums of 14.5 to 43.5 dwelling units per acre. The Plan addresses protecting the development rights of existing property owners, while also encouraging neighborhood stability by facilitating owner reinvestment in small multi-family buildings.

Recommendation

- **Retain the existing mixed density apartment or multi-family character and the right to rebuild existing structures to existing Montgomery County development standards.**
- **Confirm the existing residential zoning in the Takoma Park Flower Avenue neighborhoods, including New Hampshire Gardens apartments, except as recommended below.**

- **Amend Division 59-C of the Montgomery County Zoning Ordinance to provide special regulations for multiple-family lots with R-10, R-20, or R-30 zoning that do not currently meet Montgomery County Development standards.**

The amendment should apply to lots that were recorded in the Montgomery County land records in a multi-family zone prior to January 1, 1954. The amendment would also apply to lots formerly in Prince George's County that were recorded in the Prince George's County land records in a multi-family zone prior to July 1, 1997. The zoning text amendment will incorporate some of the standards of the Montgomery County Residential "C" Zone, which was in effect prior to January 1, 1954.

- **The provisions of the text amendment should:**
 1. Permit any existing apartment structure that has a valid use-and-occupancy permit, but exceeds the permitted density of the zone, to be a conforming structure which may be altered, repaired, or replaced so long as the existing development density is not increased.
 2. Provide that any new development, including replacement of an existing structure, must conform to the off-street parking requirements set forth in Division 59-E-3.
 3. Provide that one-family lots recorded by plat prior to 1949 in Prince George's County are buildable lots under the Montgomery County Zoning Ordinance. This will allow these lots to be treated the same as those in Montgomery County recorded prior to 1958.

CARROLL AVENUE SOUTH NEIGHBORHOODS

The Carroll Avenue South neighborhoods include areas located near Carroll Avenue, but south of Sligo Creek Park and are shown on Map 4, the Community Preservation, Stability, and Character concept. Properties with R-10, R-20, and R-30 zoning are located in areas such as Manor Circle and Lee Avenue, as well as Carroll Avenue, between Takoma Junction and Columbia Avenue. These areas include about 70 lots and structures. The area along Carroll Avenue is located in the Takoma Park Historic District. These areas have the same issue as described in the Flower Avenue Neighborhoods discussion, in that they do not conform to the current development standards. Map 7 shows the location of Multi-Family Properties.

The one-block area along Carroll Avenue separates the two commercial areas at the commercial center of Takoma Park. The narrow sidewalk and lack of street trees result in a degraded pedestrian environment. Some of the properties do not present an attractive appearance to the community. There is a potential to upgrade the pedestrian environment, improve the appearance of properties along the street, and better link the two commercial areas.

Recommendations

- **Retain the right to rebuild existing mixed density apartment structures. Adopt a Zoning Ordinance text amendment that will include development standards allowing multiple-family lots to meet minimum net lot area standards and other standards, as described in the Flower Avenue Neighborhoods discussion.**
- **Provide streetscape improvements along Carroll Avenue, as discussed in the Circulation chapter.**

A property at 7105 Carroll Avenue, Block 19 and Lot 15, is shown in the Zoning Atlas, sheet 208NE01, with the R-60 Zone. The zoning for this area was applied by application number G-748, which was approved by the Montgomery County Council on February 10, 1998. The Zoning Atlas should have shown the property in the R-20 Zone, as is the case for other properties along this area of Carroll Avenue. The correct zoning for this property is shown on zoning application number G-351, which was adopted by the Montgomery County Council on August 11, 1982.

Recommendation

- Apply the correct R-20 Zone at the time of the Sectional Map Amendment for the Takoma Park Master Plan.

NEW HAMPSHIRE AVENUE NEIGHBORHOODS

Neighborhoods located along either side of New Hampshire Avenue, in Montgomery County, are shown as Area 3 on Map 4, the Community Preservation, Stability, and Character concept. Owners of single-family properties in the R-60 Zone should retain development standards and special exception rights similar to those they had in Prince George's County prior to unification. The intent of this Master Plan is to avoid potential harm to existing property owners that were in conformance with Prince George's County development standards. The recommendations for this section apply to all of the unification-area, including portions of the Flower Avenue area south of Carroll Avenue.

Land use situations include single-family detached units converted to 2-3 family units, including some residential special exception uses and some non-conforming residential uses. These properties are subject to expiration of the "sunset" provisions of the Zoning Ordinance, which was adopted by the Montgomery County Council on July 1, 1998.

Recommendations

- Retain the existing single-family detached character, the existing residential use mix, and the existing development rights within the R-60 zoned portion of the Unification Area. Reconfirm the existing residential zoning in all of the unification area, including the New Hampshire Avenue neighborhoods, except as recommended below.
- Amend Montgomery County Zoning Ordinance Division 59-B-6, which expires on July 1, 2001. The amendment will include the following provisions:
 1. Permit alterations, renovation, or enlargements that are in accordance with the Montgomery County Zoning Ordinance.
 2. Permit reconstruction of structures after a fire, flood, or similar event to substantially the same footprint. The structure must otherwise be in accordance with the standards of the Montgomery County Zoning Ordinance.
 3. Provide that multi-family uses in the R-60 Zone would be free to remodel, as a multi-family unit or rebuild as a single-family structure. Such uses would be permitted to rebuild as a multi-family structure in the case of fire, flood, or natural disaster, provided that the use cannot be expanded beyond what was in existence when the event occurred.
 4. Provide that one-family lots recorded by plat prior to 1949 or by deed prior to 1982, in Prince George's County, are buildable lots under the Montgomery County Zoning Ordinance. This will allow these lots to be treated the same as those in Montgomery County recorded prior to 1958.

The following recommendations address the VFW hall and the Washington McLaughlin Adult Day Care special exception uses in the Pinecrest/Circle Woods residential areas. The uses and Prince George's County special exception provisions were "grandfathered" at the time of unification.

Recommendations

- Adopt a text amendment to the Zoning Ordinance to delete the July 1, 2001 sunset provisions, confirm the "grandfathered" use provisions, and confirm the existing special exception conditions of approval.

H I

HIS

Tak
of th
line:

Befo
Car
hor
at 1:

In 1:
into
cent
chur

Tak
from
incl
Craf
and

Loc:
cont
Dist

HIS

The
one-
corn
the 1

Tak
also
Mon

The
hist
findi
grou
made

App
adop

Takor

Ordinance No: 14-31
Zoning Text Amendment No: 00-07
Concerning: Multi-family uses in one-family
Zones within the Takoma Park Annexation
Area
Draft No. & Date: 6 – 12/12/00
Introduced: June 6, 2000
Public Hearing: July 11, 2000; 7:30 PM
Adopted: December 12, 2000
Effective: January 1, 2001

**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 for the purpose of:

allowing single-family conversions formerly in Prince George's County to continue as conforming uses and structures.

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

ARTICLE 59-G "SPECIAL EXCEPTIONS—AUTHORITY AND PROCEDURE"
Section 59-G-4.32. "Termination of multi-family dwellings"

*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.*

OPINION

Zoning Text Amendment (ZTA) No. 00-07 was introduced on June 6 at the request of the Montgomery County Planning Board to allow single-family residences formerly in Prince George's County that were converted to multi-family use, to continue as conforming uses and structures if: (1) a use and occupancy permit for the multi-family use was issued by the City of Takoma Park; and (2) the owner registers the multi-family use with the Department of Permitting Services (DPS) and complies with other registration requirements. As was done for other uses and structures formerly in Prince George's County, special zoning provisions were adopted in 1998 that allowed all single-family conversions not in conformance with Montgomery County zoning regulations to continue unaffected until July 1, 2001 or until a new master plan policy was established. The effect of ZTA 00-07 is to continue the status of the converted properties as conforming uses, subject to registration and inspection requirements.

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

The County Council held a public hearing on July 11, 2000, to receive testimony concerning the proposed text amendment. The text amendment was referred to the Planning, Housing, and Economic Development Committee for review and recommendation.

The Planning, Housing, and Economic Development Committee held worksessions on September 14 and October 23, 2000 to review ZTA 00-07. The practice of converting single-family residences located in single-family zones to multi-family use was first addressed in legislation approved by the Council in 1979. It was established at the time, that conversions from single to multi-family use were conducted throughout the County and that the majority of the structures converted were located in Takoma Park. The conversions within the City were determined to have been encouraged and carried out with the tacit approval of the City to abate the severe housing shortage that existed after World War II. January 1, 1954 was established by the Council as the demarcation ending the period of encouragement by government officials for conversion of single-family residences to multi-family use and the owners who converted were deemed faultless. The post-1954 conversions were required to phase out within a year and the pre-1954 conversions were given a 10-year phase-out period. The conversion problem was handled somewhat differently in Prince George's County. Phase-out was not required. The conversions that had valid use and occupancy permits were allowed to continue as conforming uses. For these reasons, the Committee supported approval of ZTA 00-07, with revisions.

The District Council reviewed Zoning Text Amendment No. 00-07 at a worksession held on December 12, 2000, 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, Zoning Text Amendment No. 00-07 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. Article 59-G is amended as follows:**

2 **ARTICLE 59-G. SPECIAL EXCEPTIONS—AUTHORITY AND**
3 **PROCEDURE.**

4 * * *

5 **59-G-4.32. Termination of multi-family dwellings.**

6 Any building or structure located in a single family residential zone which,
7 subsequent to December 31, 1953, has been used or converted to use as a multi-
8 family dwelling and any building or structure, located in a single family residential
9 zone, which at any time prior to January 1, 1954, has been used or converted to use
10 as a multifamily dwelling [and which fails to] must register and meet the
11 requirements provided for registration as a noncomplying use [as provided] in
12 section 59-G-4.34 [hereof shall] no later than September 1, 1979[.]. [discontinue
13 such use and shall reduce] If not registered, the noncomplying use must be
14 discontinued and the number of dwelling units within the building or structure
15 must be reduced to the number permitted in the zone in which the building or
16 structure is located.

17
18 **59-G-4.33. Temporary continuation of multi-family uses.**

19 As of the effective date of this section any building or structure converted to multi-
20 family use in a single family residential zone may be continued until September 1,
21 1979.

22
23 **59-G-4.34. Continuation of nonconforming multi-family dwellings existing**
24 **before January 1, 1954.**

25 Any building or structure located in a single family residential zone which has
26 been converted and used continuously as a multi-family dwelling from before
27 January 1, 1954, to the effective date of this amendment may continue the use for a

1 period not to exceed 10 years event though the buildings, structures or uses do not
2 comply with the regulations applicable to the zone in which the building, structure
3 or use is located, subject to this Section. Buildings or structures located in a
4 single-family residential zone which were originally constructed as multi-family
5 dwellings are exempt from the 10 year phase-out if they meet all other
6 requirements of this section.

7

8 (a) All noncomplying multi-family dwellings in existence before January 1,
9 1954, and converted and used continuously from before January 1, 1954 to
10 the effective date of this section must be registered with the Department in
11 accordance with the following procedure:

12

13 (1) Applications for registration must be filed on forms provided by the
14 Department;

15

16 (2) Each application for registration [shall] must be accompanied by
17 notarized affidavits or such other evidence as may be appropriate to
18 establish that the multi-family dwelling use existed prior to January 1,
19 1954, and has existed continuously since then;

20

21 (3) Each application for registration [shall] must be accompanied by
22 evidence of a use and occupancy certificate and a rental facility
23 license, if required;

24

25 (4) Each application for registration [shall] must be accompanied by a
26 registration fee.

27

- 1 (b) The Department must publish, in a newspaper of local distribution, notice of
2 all applications for registrations and allow 30 days after publication for the
3 filing of comments by the public, other agencies, municipalities and
4 concerned parties. The director may hold a public hearing on any
5 application for registration for which objections are received.
6
- 7 (c) The [d] Director [shall] must make an inspection of each property for which
8 an application for registration has been submitted and each property must be
9 brought into compliance with all applicable codes and regulations of both
10 the county and municipal jurisdictions within 180 days after notification of
11 violation or deficiencies.
12
- 13 (d) The [d] Director [shall] must deny any application or revoke or suspend any
14 registration upon failure to comply with the provisions of this section or
15 upon conversion to other use. Any decision of the [d] Director hereunder
16 may be appealed to the Board of Appeals.
17
- 18 (e) Structural alterations of a building or structure which do not conform to the
19 provisions of the zoning district in which it is located may be made only if
20 the building is being altered to conform to the provisions of this section or to
21 conform with other applicable codes or regulations.
22
- 23 (f) No registered noncomplying multi-family dwelling [shall thereafter] is
24 allowed to be extended, expanded or increased in intensity of use in any
25 way.
26

1 (g) No registered noncomplying multi-family dwelling which has been changed
2 in whole or in part to a less intensive use [shall again be devoted] is allowed
3 to revert to a more intensive use. No noncomplying use, once abandoned,
4 [shall thereafter] is allowed to be re-established. For the purpose of this
5 section, “abandoned” [shall be] is defined as the cessation of use as a multi-
6 family dwelling for a period of 6 months or more.

7
8 (h) In the event of destruction or serious damage by fire, flood or similar cause,
9 [N] no registered noncomplying multi-family dwelling [shall, In the event of
10 destruction or serious damage by fire, flood or similar cause] is allowed to
11 be reconstructed for the purpose of carrying on the noncomplying use.
12 “Serious damage” shall be defined as damage which reduces the market
13 value of any structure by more than one-half.

14
15 (i) Each registered multi-family dwelling [shall] must be maintained in good
16 condition and in compliance with all applicable federal, state, county and
17 municipal laws and regulations. The [d] Director [shall, cause a regularly
18 scheduled] must establish a regular schedule of inspections to be made of
19 each registered multi-family dwelling, said inspection to coincide with the
20 biennial rental facility licensing inspection, where applicable.

21
22 (j) The County Executive, by written regulation, must establish administrative
23 procedures, exterior maintenance standards necessary to protect the public
24 health, safety and welfare, off-street parking requirements, registration fees
25 in an amount sufficient to pay the costs to the County to administer this
26 section, and an inspection schedule applicable to buildings, structures and
27 lands registered under this section. The County Executive, by written

1 regulation, may establish an administrative procedure to allow the City of
2 Takoma Park to administer the registration procedure for properties located
3 in the City if the City adopts the procedures in subsection 59-G-4.34. The
4 regulation must allow the Director to vary the specific requirements for off-
5 street parking upon a finding that the strict imposition of those requirements
6 would be physically impossible for a noncomplying multi-family dwelling
7 use to achieve due to lot/house configuration or other extenuating
8 circumstances.


9
10 **59-G-4.35. Special provisions for properties in the City of Takoma Park**
11 **annexed into Montgomery County on July 1, 1997.**

12
13 Any building or structure located in a single-family residential zone which has
14 been converted and used continuously as a multi-family dwelling and has a valid
15 use-and-occupancy permit as of January 1, 2001 may continue, provided that the
16 use is registered with the Department of Permitting Services [[as set forth in
17 section 59-G-4.34(a)]. A registered multi-family use is subject to the provisions
18 of subparagraphs (b), (c), (d), (e), (f), (g), (i), and (j) of section 59-G-4.34. Any
19 such multi-family use which does not register becomes noncomplying and must
20 terminate the noncomplying use by July 1, 2001.

21
22 In the event of destruction or serious damage by fire, flood or similar cause, a
23 registered multi-family dwelling is allowed to be reconstructed for the purpose of
24 continuing the multi-family use. However, the use cannot be expanded beyond
25 what is in existence at the time the use is registered. If reconstruction or repair
26 brings the use into compliance with the provisions of the zone in which the use is
27 located, the multi-family use cannot be reestablished.

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

3
4 This is a correct copy of Council action.

5
6
7
8  _____

9 Mary A. Edgar, CMC

10 Clerk of the Council