

## ATTACHMENT 5

Subdivision Regulation Amendment: 04-01  
Concerning: MPDU – Exceptions-Master  
Plan Conformity Requirement and Tertiary  
Road Right-of-way  
Draft No. & Date: 1 – 7/16/04  
Introduced: July 20, 2004  
Public Hearing: 9/23/04 – 7:30 p.m.  
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**

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By: Councilmembers Floreen, Silverman, Subin, Knapp and Leventhal

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AN AMENDMENT to the Montgomery County Code for the purpose of:

- allowing a reduction in the right-of-way width of a tertiary road to achieve MPDUs on-site; and
- allowing an exception to the master plan conformity requirement for a preliminary subdivision plan that includes MPDUs on-site.

By amending the following section of the Montgomery County Subdivision Regulations, Chapter 50 of the Montgomery County Code:

Article III	“Subdivision Regulations Generally”
Section 50-26	“Roads and streets—Design standards”
Section 50-35	“Preliminary subdivision plans—Approval procedure”

**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.*

**Sec. 1. Chapter 50 is amended as follows:**

**Chapter 50. SUBDIVISION OF LAND.**

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**ARTICLE III. SUBDIVISION REGULATIONS GENERALLY.**

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**Sec. 50-26. Roads and streets—Design standards.**

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(h) *Tertiary streets.* Section 49-34(f) of the County Code gives the Planning Board the authority to determine when a tertiary street may be used and to establish the right-of-way width. The following standards will be applied to any proposed tertiary streets:

- (1) A tertiary street may be used only if approved by the Planning Board at the time of preliminary plan approval or site plan approval.
- (2) The standard right-of-way width of a tertiary street is fifty (50) feet. However, an applicant may voluntarily submit to site plan review and at that stage the Planning Board may approve a lesser width if it can be demonstrated that: (1) this lesser width is environmentally better, or (2) the limits on development at that site would not allow the applicant to achieve MPDUs under Chapter 25A on-site, and this lesser width either (3) improves compatibility with adjoining properties, or (4) allows better use of the parcel under consideration. In no case shall the right-of-way be less than twenty-seven (27) feet four (4) inches for two-way traffic and twenty-one (21) feet four (4) inches for one-way traffic.

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**Sec. 50-35. Preliminary subdivision plan [s]—Approval procedure.**

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28 (1) *Relation to Master Plan.* In determining the acceptability of [the] a  
29 preliminary plan submitted under [the provisions of] this Chapter, the  
30 Planning Board must consider the applicable master plan, sector plan or [an]  
31 urban renewal plan [approved in accordance with the provisions of Chapter  
32 56]. A preliminary plan must substantially conform to the applicable master  
33 plan, sector plan or urban renewal plan, including maps and text, unless the  
34 Planning Board finds that events have occurred to render the relevant master  
35 plan, sector plan or urban renewal plan recommendation no longer  
36 appropriate. However, a preliminary plan may allow the residential portion  
37 of a development to exceed, up to the maximum [[density or]] height  
38 allowed in the applicable zone, any [[density or]] building height limit  
39 included in a master plan, sector plan, or urban renewal plan to the extent  
40 necessary to achieve all required MPDUs under Chapter 25A on-site. The  
41 density limit in a master plan, sector plan or urban renewal plan may be  
42 exceeded by the amount of any MPDU density bonus provided in  
43 accordance with Chapter 25A.

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45           **Sec. 2. Effective date.** This ordinance becomes effective 20 days after the  
46 date of Council adoption or, if the County Executive disapproves this ordinance,  
47 10 days after the date of Council adoption following disapproval by the Executive.

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49 This is a correct copy of Council action.

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54 Mary A. Edgar, CMC

55 Clerk of the Council

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57 Approved

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60 Douglas M. Duncan, County Executive

\_\_\_\_\_ Date