


MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

 THE MARYLAND-NATIONAL CAPITAL
 PARK AND PLANNING COMMISSION

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MCPB
Item #5
05/25/06

DATE: May 12, 2006
TO: Montgomery County Planning Board
VIA: Rose Krasnow, Chief, Development Review *RK*
 Carlton Gilbert, Zoning Supervisor
FROM: Greg Russ, Zoning Coordinator *GR*
REVIEW TYPE: Zoning Text Amendment
PURPOSE: To provide a process for reclassification of a split-zoned property to a single zone classification; and generally to amend provisions related to a corrective map amendment

TEXT AMENDMENT: No. 06-09
REVIEW BASIS: Advisory to the County Council sitting as the District Council, Chapter 59 of the Zoning Ordinance
INTRODUCED BY: Councilmembers and Silverman
INTRODUCED DATE: March 28, 2006
PLANNING BOARD REVIEW: May 25, 2006
PUBLIC HEARING: May 2, 2006; 1:30 p.m.

STAFF RECOMMENDATION: APPROVAL with modifications

PURPOSE OF THE TEXT AMENDMENT

To provide a process for reclassification of a split-zoned property to a single zone classification; and generally to amend provisions related to a corrective map amendment

BACKGROUND

Councilmember Silverman introduced the subject text amendment to provide a process for reclassifying of a split-zoned property to only one of the split-zones to allow such properties to be developed under a uniform set of development standards. The process for reclassification of a split-zoned property would not require the District Council to find a change in character of the neighborhood or a mistake in the last comprehensive zoning.

The application and public hearing requirements would be the same as those for a corrective map amendment

ANALYSIS

During the master or sector plan review process, many properties are found with anomalies that include split-zoned lots or parcels. Many zoning lines implemented by previous SMAs followed property lines that predated subdivisions and had not been adjusted according to lot lines. Newly digitized mapping techniques identify anomalies while new title searches and surveys by property owners identify others. Although their numbers are gradually being reduced, it is still not uncommon to find split-zoned properties. Staff has identified approximately 781 split-zoned parcels located throughout the County. Approximately 25% of the parcels are split between residential and non-residential zones, with the remaining properties either split-zoned residentially, non-residentially or with all mixed-use zones (CBDs, TS-R and TS-M, TS, etc.). In addition, approximately 12% of the parcels contain a minimum of 10 acres on at least one part (one of the zones) of the split-zoned parcel.

The proposed text amendment would permit a corrective map amendment process to allow the owner, contract purchaser or person with a financial interest in the split-zoned property to reclassify split-zoned property. A number of findings would be required to be made by the District Council before a split-zoned property could be reclassified. These findings include:

- (1) That at the time the corrective map amendment application was filed, the property was classified in two or more zones;*
 - (2) That the reclassification of the property to a single zone will aid in the systematic development of the Regional District;*
 - (3) That the zone classification requested will not result in the development of uses and densities incompatible with the uses and densities allowed under the zone classification of adjacent properties;*
 - (4) That reclassification of the property to a single zone will eliminate inconsistent regulations; and*
 - (5) That the requested zoning classification is not inconsistent with the land use recommendation of the applicable master or sector plan.*
- (b) District Council action. If a master or sector plan recommends one specific classification for a split-zoned property that property may only be rezoned to the zoning classification recommended in the master or sector plan. The District Council is not required to find a change in the character of the neighborhood, or a mistake in the last comprehensive zoning, to grant a reclassification of a split-zoned property to a single zone.*

The required findings listed above address compatibility of uses and densities with adjacent properties. In addition, they require consistency of the reclassification with the applicable master or sector plan. In sum, the required findings help minimize the potential that reclassifying a split-zoned parcel to a single zone would be incompatible with the adjacent parcels.

The text amendment as submitted does not address the potential concern of assembling single-zoned parcels with a split-zoned lot, thereby creating larger properties that could eventually reclassify through the corrective map amendment process (parcel consolidations). This is not the intent of the legislation. As such, ***staff recommends that findings (a)(1) and (a)(2) be modified to state that each lot, parcel or tract of land subject to the corrective map amendment must have been classified in two or more zones at the time of the last comprehensive rezoning and that the reclassification of the property is to a single zone that is currently on the property (see Attachment 1).***

District Council Action (“b” of new Section 59-H-10.3)

The language of the first sentence in this section does not appear necessary. If a master or sector plan recommends one specific classification for a split-zoned property (a Euclidean Zone) it typically is rezoned at the time of the Sectional Map Amendment (SMA) and therefore would not need the subject process. Staff recommends deleting the first sentence of Section “b”

RECOMMENDATION

The staff supports the proposed text amendment to provide a process for reclassification of a split-zoned property to a single zone classification; and generally to amend provisions related to a corrective map amendment. Staff also recommends adding a finding that prohibits the utilization of these provisions for parcels that were not split-zoned at the time of the last comprehensive zoning. The proposed text amendment language as modified by staff is included as Attachment 1.

GR

Attachments

1. Proposed Text Amendment 06-09 (as modified by staff)

ATTACHMENT 1

Zoning Text Amendment No.: 06-09
Concerning: Split-zoned property
Draft No. & Date: 1 – 3/21/06
Introduced: March 28, 2006
Public Hearing: May 2, 2006; 1:30 pm
Adopted:
Effective:
Ordinance No.:

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF
THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN
MONTGOMERY COUNTY, MARYLAND**

By: Councilmember Silverman

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

- providing a process for reclassification of a split-zoned property to a single zone classification; and
- generally amending provisions related to a corrective map amendment.

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

Division 59-H-10	“CORRECTIVE MAP AMENDMENTS”
Section 59-H-10.1	“Generally”
Section 59-H-10.2	“Planning Commission to file an application”
Section 59-H-10.3	“Contents of an application”
Section 59-H-10.4	“Planning Board recommendation”
Section 59-H-10.5	“District Council Public Hearing”
Section 59-H-10.6	“Deferral, postponement, or continuance of hearing”
Section 59-H-10.7	“Action by the District Council”

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-H-10 is amended as follows:**

2 **DIVISION 59-H-10. CORRECTIVE MAP AMENDMENTS.**

3 **59-H-10.1. Generally.**

4 (a) A corrective map amendment may cover one or more tracts of land or
5 a section of the Maryland-Washington Regional District.

6 (b) The purpose of a corrective map amendment is to enable the District
7 Council in lieu of a comprehensive sectional map amendment to
8 correct technical errors or inaccurate depictions of zoning boundary
9 lines on an adopted map that are known as the result of mapping,
10 surveying, or other technical information[.] and to allow split-zoned
11 property to be reclassified to one of the split-zoned classifications. A
12 corrective map amendment does not alter the prior comprehensive
13 zoning as the basis for determining change in the character of the
14 neighborhood.

15 **59-H-10.2. [Planning Commission to file an application] Authority to file an**
16 **application.**

17 Except for a corrective map amendment application to reclassify property that is
18 split-zoned, [T]the Planning [Commission] Board, or designee, may submit an
19 application for a corrective map amendment. The District Council may request
20 that the Planning [Commission] Board initiate a review of possible errors which
21 may necessitate the need for preparing a corrective map amendment. A corrective
22 map amendment application to reclassify split-zoned property may be filed by the
23 owner, contract purchaser or person with a financial interest in the split-zoned
24 property. No time limitations will attach when such an application may be filed.
25 The application must be filed with the District Council and the file must be
26 maintained by the Council.

27 **59-H-10.3. Required findings and development procedure for split-zoned**
28 **properties.**

29 (a) Findings required. In order to reclassify a split-zoned property to one of the
30 split-zoned classifications, the District Council must find:

31 (1) That [[at the time]] each lot, parcel or tract of land subject to the
32 corrective map amendment [[application was filed, the property]] was
33 classified in two or more zones at the time of the last comprehensive
34 zoning;

35 (2) That the reclassification of the property is to a single zone that is
36 currently on the property and will aid in the systematic development
37 of the Regional District;

38 (3) That the zone classification requested will not result in the
39 development of uses and densities incompatible with the uses and
40 densities allowed under the zone classification of adjacent properties;

41 (4) That reclassification of the property to a single zone will eliminate
42 inconsistent regulations; and

43 (5) That the requested zoning classification is not inconsistent with the
44 land use recommendation of the applicable master or sector plan.

45
46 (b) District Council action. [[If a master or sector plan recommends one
47 specific classification for a split-zoned property that property may only be
48 rezoned to the zoning classification recommended in the master or sector
49 plan.]] The District Council is not required to find a change in the character
50 of the neighborhood, or a mistake in the last comprehensive zoning, to grant
51 a reclassification of a split-zoned property to a single zone.

52
53 **59-H-10.[3]4. Contents of an Application.**

54 An application for a corrective map amendment must include:

55 (1) A description of each parcel of property proposed for adjustment.

56 (2) A map depicting the existing zoning for each property and the
57 proposed zoning adjustment.

58 (3) A statement describing the rationale in support of the zoning
59 adjustments.

60 **59-H-10.[4]5. Planning Board recommendation.**

61 * * *

62 **59-H-10.[5]6. District Council Public Hearing.**

63 * * *

64 **59-H-10.[6]7. Deferral, postponement, or continuance of hearing.**

65 * * *

66 **59-H-10.[7]8. Action by the District Council**

67 * * *

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

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71 This is a correct copy of Council action

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Linda M. Lauer, Clerk of the Council