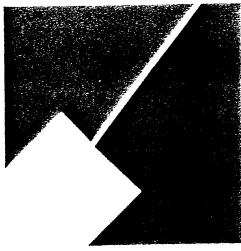


M-NCPPC



MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

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Silver Spring, Maryland 20910-3760
301-495-4500, www.mncppc.org

**MCPB
Item #21
7/27/06**

DATE: July 19, 2006
TO: Montgomery County Planning Board
VIA: Rose Krasnow, Chief, Development Review
Carlton Gilbert, Zoning Supervisor
FROM: Greg Russ, Zoning Coordinator
REVIEW TYPE: Zoning Text Amendment
PURPOSE: To amend the Zoning Ordinance to amend the maximum building coverage for lots under 25,000 square feet using the cluster option in the RE-1 zone; and generally to amend building coverage requirements for clustered lots in residential zones

TEXT AMENDMENT: No. 06-21
REVIEW BASIS: Advisory to the County Council sitting as the District Council, Chapter 59 of the Zoning Ordinance
INTRODUCED BY: Councilmember Leventhal
INTRODUCED DATE: June 27, 2006
PLANNING BOARD REVIEW: July 27, 2006
PUBLIC HEARING: August 1, 2006; 1:30pm

STAFF RECOMMENDATION: DEFERRAL

Staff recommends deferral of the proposed Zoning Text Amendment (ZTA) for the following reasons:

- No rationale for including an increase in building coverage for the RE-1 clustered properties but not the remaining zones—Staff recommends that we look comprehensively at possible changes to building coverage for clustered developments in all applicable one-family residential zones

PURPOSE OF THE TEXT AMENDMENT

To amend the Zoning Ordinance to amend the maximum building coverage for lots under 25,000 square feet using the cluster option in the RE-1 zone; and

generally to amend building coverage requirements for clustered lots in residential zones

BACKGROUND/DISCUSSION

As stated by County Council staff, the Zoning Ordinance produces a disincentive to using the minimum lot size allowed in the RE-1 zone using the cluster provisions. A house allowed on the smallest RE-1 clustered lot, does not meet market expectations.

The ZTA attempts to correct an anomaly in the existing building coverage limits for clustered RE-1 lots. The RE-1 zone has a minimum lot size requirement of 40,000 square feet and a maximum building coverage of 15%. The cluster provisions of the RE-1 zone permit a minimum lot size of 15,000 square feet. However, no modification is provided to the percentage of the lot that can be covered by buildings. The RE-2C zone has a building coverage limit of 25% yet it is intended to be a lower density zone. The proposed text amendment establishes a building coverage limit of 25% for the smallest possible RE-1 clustered lot (15,000 square feet) by establishing a 3,750 square foot building coverage ($15,000 \times .25 = 3,750$) for any lot in this zone that is less than 25,000 square feet in size. Lots of 25,000 square feet or larger using the cluster provisions would continue to be limited by the 15% building coverage requirement.

ANALYSIS

"The purpose of the cluster method of development is to provide an optional method of development that encourages the provision of community open space for active or passive recreation as well as the preservation of trees. The cluster method provides for flexibility in lot layout and for variety in the types of residential buildings while preserving the same limitations on density of dwelling units per acre as normally permitted in the respective zones; protecting the character of existing neighborhoods; and providing open space for common use..."

The cluster provisions of Section 59-C-1.5 are applicable to seven zones (see below) as an optional development approach that allows the lot sizes to be decreased to provide for common open space including the preservation of existing vegetation. Currently, the maximum building coverage requirement for use of the cluster provisions of the respective zones is the same as those of the standard method of development. Therefore, the concern raised in the RE-1 zone parallels those in the other six applicable clustered development zones. **Staff recommends that further exploration be conducted of the clustered building coverage provisions for all applicable one-family residential zones to examine whether an increase in building coverage requirements should be considered.**

Below is a table depicting the existing minimum lot area requirement for the standard and cluster option methods, and the maximum building coverage requirement for both methods of development.

	RE-2C	RE-1	R-200	R-150	R-90	R-60	RMH 200
59-C-1.322. Lot Area and Width.							
(a) Minimum net lot area for a main building together with its accessory buildings (in square feet).							
-For one-family detached dwelling:	87,120	40,000	20,000	20,000	9,000	6,000	20,000
* * *							
59-C-1.328. Coverage							
Maximum percentage of net lot area that may be covered by buildings, including accessory buildings.	25	15	25	25	30	35	25
* * *							
Cluster Provisions:							
59-C-1.535. Regulations Governing One-Family Detached and One-Family Semi-Detached Dwelling Units.							
Minimum net lot area (in sq.ft.)	25,000	15,000	10,000	8,000	5,000	4,000	10,000

Lot sizes in RE-1 Clustered Development

The maximum building limit is expressed in the Zoning Ordinance as a percentage of lot size. Smaller lots are permitted to build smaller building floor plate areas.

723 building lots were identified in the RE-1 zone using the RE-1 cluster option. Less than 20% of RE-1 cluster subdivisions take full advantage of using the minimum lot size of 15,000 for the lots they create. Some 17% of the lots (120 lots) are less than 16,000 square feet. Further, out of the 723 RE-1 clustered lots, 14% (100 lots) are more than 30,000 square feet. What we do not know at this point is the likelihood that a greater number of smaller lots (closer to the minimum lot size of the zone) would be created (thereby larger areas of open space/tree preservation) if lot coverage allowances were increased. **Staff recommends that, at a minimum, similar information as provided above for the RE-1 zone be analyzed for all applicable one-family residential zones as part of a comprehensive review of the clustered building coverage provisions of the one-family residential zones.**

Specifics of the Proposed ZTA Language

The proposed language of ZTA 06-21 is as follows:

Sec. 59-C-1.5 Cluster Development.

* * *

	RE-2C	RE-1	R-200	R-150	R-90	R-60	RMH 200
59-C-1.535. Regulations governing One- Family Detached and One-Family Semi-Detached Dwelling Units.							
<u>Maximum percentage of net lot area that may be covered by buildings, including accessory buildings.</u>	<u>25</u>	<u>15*</u>	<u>25</u>	<u>25</u>	<u>30</u>	<u>35</u>	<u>25</u>
* * *							

* However, lots less than 25,000 square feet may cover 3,750 square feet.

By adding a building coverage section to 59-C-1.535, the proposed language clarifies that the building coverage requirements of the standard method of development and those of the clustered lots within the same zones are identical.

As stated above, one exception to these requirements is a footnote to the 15% building coverage requirement for the RE-1 zone (cluster standards). Rather than increase the building coverage allowance to 25% for all proposed clustered development, the sponsor elected to limit the coverage to 15% for lots of at least 25,000 square feet. The rationale for using this method is to minimize the potential building coverage for proposed larger lots (larger than 25,000 square feet). However, it should be recognized that with larger lots comes additional open space/tree preservation. Further, it is not clear how and why 25,000 square feet was chosen as the threshold for limiting the building coverage. **Additional analysis should be done to depict how this method could coincide with the other clustered residential zones should a more comprehensive approach be taken. Should the County Council decide to implement the subject text amendment, staff recommends that the footnote be reworded as follows:**

However, on lots less than 25,000 square feet, buildings may cover 3,750 square feet.

Comments from the Department of Permitting Services (Attachment 3)

In the course of reviewing plans for single family dwellings and townhouse developments, both standard method and optional method, **it does not seem appropriate for lot coverage in cluster zones, or any optional method of development. If a lot coverage limit is applied to a development, perhaps it should be determined at the time of site plan review or preliminary plan review** with MNCPPC. If lot coverage isn't specified then there shouldn't be a coverage limit. It seems contrary to what a cluster zone is trying to accomplish.

The text amendment doesn't address the subdivisions with townhouses. Most townhouses will have difficulty meeting a maximum lot coverage limitation as recommended in the proposed text amendment.

In the standard method RE-1 zone the lot coverage is 15%. Several months ago a question was raised by staff about this zone having a maximum lot coverage of 15%, versus the RE-2, RE-2C and R-200 zones which has a limit of 25%. It is unclear from some of our research through previous zoning ordinances, as to why the RE-1 zone does not have the same lot coverage requirements as the RE-2, RE-2C and R-200. This 15% lot coverage limit is in the proposed amendment for the RE-1 cluster zone also. However the 15% is so restrictive for some subdivisions that this coverage limit does apply to lots smaller than 25,000 sq. ft. and has to be addressed by a footnote. Perhaps the RE-1 zone lot coverage limit for standard method and cluster development should be a similar requirement as it is in the other larger zones.

How Other Localities Address Building Coverage.

Staff researched several of the surrounding localities to discover how building coverage is addressed. The results varied from having greater building coverage for cluster developments (greater than the building coverage allowance for the standard development lot, including no building coverage requirement) to maintaining the same building coverage percentage for both the standard development lot and the clustered lot.

General Issues and Some Possible Alternative Solutions to Lot Coverage for Clustered Development

Staff recognizes the delicate balance that building coverage allowances must adhere to in residential zones. Staff also recognizes the merit in providing building coverage for clustered zones that is fair to all concerned parties while also meeting the intent and purpose of providing usable community open space for active and passive recreation and preserving existing vegetation. A number of questions still need to be addressed including, but not limited to, provisions for the clustering of townhouses and duplex units, and should the Planning Board become more involved in establishing the building coverage requirement in certain instances. **Staff's recommendation in this case is to defer this application and request that the County Council establish a working group to comprehensively address building coverage requirements for all applicable residential zones.** Staff has provided below several preliminary thoughts on addressing building coverage for clustered lots.

- The Planning Board could recommend approval of the current proposal (as amended by staff) but request that a more comprehensive approach be conducted at a later date.
- Allow a 25% building coverage for the RE-1 zone clustered development (instead of the proposal as written). This figure for a minimum 15,000 square foot lot (RE-1 cluster) would be comparable to the building coverage requirement (25%) for the standard method of development for the R-200 and R-150 zones (20,000 square foot minimum lot size). This method could be used for all of the one-family residential zones. For example, a clustered lot in the R-200 zone (10,000 sq. ft. minimum lot size), would include a maximum building coverage of 35% since it is similar in lot size to the standard method R-90 zone where the building coverage requirement is also 35%.
- Another approach could be to leave the zones as they currently are, and allow the Planning Board at the time of Preliminary Plan or Site Plan (if required or requested by the Planning Board) to waive the current requirement and increase the coverage based on the average lot size of the proposed clustered lots. Issues of compatibility and open space can

be addressed at that time. In any situation, building coverage for townhouses and duplex units needs to be clarified.

RECOMMENDATION

Based on the analysis as discussed above, staff recommends that ZTA 06-21 be deferred. In lieu of the proposed text amendment, staff believes that a final decision on the subject proposal should occur only after a working group has been established and has analyzed the numerous impacts typically associated with building coverage requirements in clustered development.

GR

Attachments

1. Proposed Text Amendment No. 06-21
2. Table reflecting Building Coverage Requirements in the Area
3. DPS Memorandum

ATTACHMENT 1

Zoning Text Amendment No: 06-21
Concerning: Building coverage - RE-1
Cluster
Draft No. & Date: 1 – 5/8/2006
Introduced: June 27, 2006
Public Hearing: 8/1/06; 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 Leventhal

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

- amending the maximum building coverage for lots under 25,000 square feet using the cluster option in the RE-1 zone ; and
- generally amending building coverage requirements for clustered lots in residential zones.

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

DIVISION 59-C-1 “RESIDENTIAL ZONES, ONE-FAMILY”
Section 59-C-1.5 “Cluster Development”

*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-C-1 is amended as follows:

DIVISION 59-C-1. RESIDENTIAL ZONES, ONE-FAMILY.

* * *

Sec. 59-C-1.5 Cluster Development.

* * *

	RE-2C	RE-1	R-200	R-150	R-90	R-60	RMH 200
59-C-1.535. Regulations governing One- Family Detached and One-Family Semi-Detached Dwelling Units.							
<u>Maximum percentage of net lot area that may be covered by buildings, including accessory buildings.</u>	<u>25</u>	<u>15*</u>	<u>25</u>	<u>25</u>	<u>30</u>	<u>35</u>	<u>25</u>
* * *							

* However, on lots less than 25,000 square feet, buildings may cover 3,750 square feet.

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

This is a correct copy of Council action.

Linda M. Lauer, Clerk of the Council

ATTACHMENT 2

EXAMPLE: LOT COVERAGE STANDARDS FOR 1-ACRE ZONE: Comparisons By Jurisdiction				
JURISDICTION	Minimum Lot Size	Maximum Lot Coverage (%)	Min. Cluster Lot Size (sq. ft.)	Max. Cluster Lot Coverage (%)
Montgomery County, MD	40,000 sq. ft (RE-1)	15%	15,000 sq. ft.	15%
Anne Arundel County, MD	40,000 sq. ft	25%	20,000 sq. ft.	25%
Fairfax County, VA	36,000 sq. ft.	None, controlled by setbacks	25,000 sq. ft.	None, controlled by setbacks and other bulk regulations; also there is a 10 acre minimum tract and 30% open space requirement.
Prince Georges' County, MD	40,000 sq. ft.	20%	10,000 sq. ft.	None

**DEPARTMENT OF PERMITTING SERVICES****July 20, 2006**

TO: Susan Scala-Demby
Permitting Services Manager

FROM: Robin Ferro
Permitting Services Specialist

RE: Proposed Zoning Text Amendment 06-21, Building Coverage in RE-1 Zone

This is in response to your email requesting comments concerning this proposed text amendment. The text amendment is adding lot coverage limitations in the following cluster zones R-60, R-90, R-200, RE-1, RE-2C and RMH-200. The proposal also permits lots in the RE-1 cluster zone, on lots smaller than 25,000 sq. ft., to cover a maximum of 3750 sq. ft. of the lot, regardless of the percentage.

In the course of reviewing plans for single family dwellings and townhouse developments, both standard method and optional method, it does not seem appropriate for lot coverage in cluster zones, or any optional method of development. If a lot coverage limit is applied to a development, perhaps it should be determined at the time of site plan review or preliminary plan review with MNCPPC. If lot coverage isn't specified then there shouldn't be a coverage limit. It seems contrary to what a cluster zone is trying to accomplish.

The purpose of a cluster development as stated in 59-C-1.5 reads: "the purpose of the cluster method of development is to provide an optional method of development that encourages the provision of community open space for active or passive recreation...; it provides for flexibility in lot layout and for variety in the types of residential buildings while preserving the same limitations on density of dwelling units per acre as normally permitted in the respective zones...; providing open space for common use...; In order to accomplish this purpose certain changes in lot areas and dimensions are permitted, a greater variety of building types is introduced in certain zones, and the use of this method of development and site plan approval for portions of such development are subject to approval by the Planning Board."

The text amendment doesn't address the subdivisions with townhouses. Most townhouses will have difficulty meeting a maximum lot coverage limitation as recommended in the proposed text amendment.

In the standard method RE-1 zone the lot coverage is 15%. Several months ago a question was raised by staff about this zone having a maximum lot coverage of 15%, versus the RE-2, RE-2C and R-200 zones which has a limit of 25%. It is unclear from some of our research through previous zoning ordinances, as to why the RE-1 zone does not have the same lot coverage requirements as the RE-2, RE-2C and R-200. This 15% lot coverage limit is in the proposed amendment for the RE-1 cluster zone also. However the 15% is so restrictive for some subdivisions that this coverage limit does apply to lots smaller than 25000 sq. ft. and has to be addressed by a footnote. Perhaps the RE-1 zone lot coverage limit for standard method and cluster development should be a similar requirement as it is in the other larger zones.