

Ordinance No: 16-30  
Zoning Text Amendment No: 08-06  
Concerning: I-4 Zone - Transit Station  
Development Areas  
Draft No. & Date: 5 – 10/24/08  
Introduced: April 15, 2008  
Public Hearing: May 20, 2008  
Adopted: November 18, 2008  
Effective: December 8, 2008

**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: District Council at the Request of the Planning Board

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**AN AMENDMENT** to the Montgomery County Zoning Ordinance to:

- define an accessory residential unit
- allow an accessory residential unit as a permitted use in the I-4 zone if the use is located in a Transit Station Development Area;
- modify the special regulations of the I-4 zone to address development in a Transit Station Development Area; and
- generally amending the I-4 Zone.

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

DIVISION 59-A-2    “DEFINITIONS AND INTERPRETATION”  
Section 59-A-2.1    “Definitions”  
DIVISION 59-C-5    “INDUSTRIAL ZONES”  
Section 59-C-5.2    “Land uses”  
Section 59-C-5.3    “Development standards.”  
Section 59-C-5.44    “Special regulations-I-4 zone”

**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) 08-06, sponsored by the District Council at the request of the Planning Board, was introduced on April 15, 2008. ZTA 08-06 would implement the Planning Board Draft Twinbrook Sector Plan. ZTA 08-06 would:

- define an accessory residential unit;
- allow an accessory residential unit as a permitted use in the I-4 zone if the use is located in a Transit Station Development Area;
- modify the special regulations of the I-4 zone to address development in a Transit Station Development Area; and
- generally amend the I-4 Zone.

The Planning Staff, the Planning Board, and the Executive recommended approval of ZTA 08-06 as introduced. The Executive commented favorably on allowing accessory residential units in the I-4 zone. The Council held a public hearing on ZTA 08-06, ZTA 08-05, and the Twinbrook Sector Plan Amendment on May 20, 2008. No other testimony was submitted. 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 a worksession on September 8, 2008 to review the amendment. Based upon a September 4, 2008 staff report to the Committee and after careful review of the material of record, the Committee (3-0) recommended approval of ZTA 08-06 with the following amendments:

- 1) Only require site plan approval for development that uses the special development standards applicable in Transit Station Development Areas;
- 2) Allow reduced setback if the Planning Board finds no adverse impact; and
- 3) Clarify that more than one accessory residential unit may be located on a lot.

The District Council reviewed Zoning Text Amendment No. 08-06 at a worksession held on November 18, 2008, 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. 08-06 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:*

**Sec. 1. Division 59-A-2 is amended as follows:**

**DIVISION 59-A-2 DEFINITIONS AND INTERPRETATION.**

**Sec. 59-A-2.1. Definitions.**

\* \* \*

**Accessory residential unit:** A residential unit in a non-residential building. An accessory residential unit must be located above the first floor and all such units must comprise less than 40% of the total floor area of a non-residential building.

\* \* \*

**59-C-5.2. Land uses.**

\* \* \*

**59-C-5.21. Allowable uses.**

\* \* \*

	I-1	I-2	I-3	I-4	R&D	LSC
<b>(a) Residential.</b>						
<u>Accessory residential unit*</u>				P		
Dwellings.	SE		SE	SE		
Dwellings, for caretakers or watchkeepers and their families or for bona fide agricultural operations.	P	P	P	P	P	
Hotel or motel. <sup>1</sup>	SE		SE			
* * *						

\* Only [[in a non-residential structure]] in a Transit Station Development Area [[and under section 59-C-5.44]].

\* \* \*

21 **Sec. 59-C-5.3. Development standards.**

	I-1	I-2	I-3	I-4	R&D	LSC
<b>59-C-5.31 Building height.</b>						
No building shall exceed the following height limits:						
(a) Normally:						
-In stories	3	5		3		
-In feet	42	70	100	42	50	100
* * *						
<b>59-C-5.32. Coverage limitations.</b> (Percent of gross tract area)						
-Green area shall be provided for not less than	10	10	35	20 <sup>a</sup>	20	25
* * *						

22

23 \* May be reduced in a Transit Station Development Area under 59-C-5.44(f).

24 \* \* \*

25 **59-C-5.35. Normal setbacks in the I-4 zone.**

26 All buildings [shall] must be set back at least as follows, except that any building  
 27 in a Transit Station Development Area [[must]] may satisfy section 59-C-5.44(f):

28 (a) One hundred feet from any residential zone. If the lot adjoins a residential  
 29 zone [[which]] that is recommended on an approved and adopted master or  
 30 sector plan for mixed-use, commercial, or industrial zoning, [then] the  
 31 setback [shall] must be not less than 10 feet[[.]];

32 (b) Ten feet from any mixed-use, commercial, or industrial zone[[.]];

33 (c) Fifty feet from:

34 (1) A railroad or utility right-of-way or an arterial road that separates the  
 35 industrial [park] area from a residential zone;

36 (2) A limited-access freeway or parkway; or

37 (3) A major highway[[.]];

(d) Twenty-five feet from:

(1) An arterial road that separates the industrial [park] area from a commercial zone; or

(2) An arterial road, local street, or private right-of-way within the industrial [park] area.

\* \* \*

#### **59-C-5.44. Special regulations-I-4 zone.**

(a) **Location.** It is intended that the I-4 zone be located in [areas] an area designated for low-intensity, light industrial [uses] use on an adopted and approved master or sector [plans] plan. The I-4 zone is also appropriate as a transitional industrial zone between a residentially zoned [areas] area and land classified in the I-1 and the I-2 zones.

(b) **Area requirements.**

(1) No tract of land shall be zoned I-4 unless it has an area of at least 10 acres; except that a tract with an area of not less than 2 acres may be permitted where such tract adjoins and has a common boundary with an I-1, I-2, or I-3 zone, or where such tract is recommended for I-4 zoning on an approved and adopted master or sector plan.

(2) Within any I-4 zoned area located outside of a Transit Station Development Area, each main building [hereafter] erected, together with [its] any accessory [buildings, shall] building, must be located on a separate lot having an area of at least one acre.

(c) **Floor area.** The total floor area of [buildings] a building, not including parking areas, [shall] must not exceed FAR 1.0.

(d) **Off-street parking.** The off-street parking required by article 59-E [shall] must be provided on land that is classified in the I-4 zone. In the I-4 zone, all off-street parking areas [shall] must be set back at least as follows unless

development occurs under the optional method of development, as specified in paragraph (e):

- (1) Fifty feet from any residential zone, unless the adjoining residential property is recommended on an approved and adopted master or sector plan for commercial or industrial zoning or has an approved special exception for off-street parking in connection with a commercial use, then the setback shall be not less than 10 feet;
- (2) Ten feet from any commercial or industrial zone;
- (3) Twenty-five feet from a limited access freeway, a major highway, an arterial road, a railroad or utility right-of-way, or a local street or private drive within the industrial park.

(e) **Optional method of development.** In order to encourage the orderly grouping and planned development of low-intensity, light industrial parks, and to generally enhance the appearance of such planned industrial areas without requiring the extensive building and parking setbacks normally applicable, the following optional method of development may be permitted, provided that if the site plan approval procedures contained in Division 59-D-3 are met, satisfied. If the optional method of development is used, all of the requirements of the I-4 zone shall must be satisfied except as follows:

- (1) **Setbacks.** Under the optional method of development, all buildings shall must be set back at least 50 feet from any residential zone except as follows:

- (A) If the lot adjoins a residential zone which that is recommended on an approved and adopted master or sector plan for a non-residential land use [other than residential], the Planning Board may approve a lesser setback upon a finding

that the resulting development would not have an adverse impact on such adjoining land~~[[.]]~~;

(B) If the lot adjoins a residentially zoned property ~~[[which]]~~ that contains physical features that would permit a lesser setback or ~~[[which]]~~ that is developed with or dedicated to [a use other than residential] non-residential use, the Planning Board may approve a [reduction in the amount of] lesser setback [upon a finding] if it finds that the resulting development would not have an adverse impact on the use of such adjoining land.

(2) **Off-street parking.** Under the optional method of development ~~[[and in a Transit Station Development Area]]~~, off-street parking [shall] must be provided as required in article 59-E, and the minimum setbacks ~~[[enumerated in]]~~ under section 59-C-5.44(d), off-street parking, shall not apply.

(3) **Area requirements.** Under the optional method of development, the one-acre minimum lot size requirement of subsection 59-C-5.44(b)(2) may be waived by the Planning Board for:

~~[[1]]~~(A) lots recorded [prior to] before February 4, 1986; and

~~[[2]]~~(B) lots recorded [prior to] before February 4, 1986 that are assembled and resubdivided after February 4, 1986, ~~[[and]]~~ if the Planning Board finds that the consolidation will result in a more desirable form of development than would occur without the waiver. More than one main building and accessory [buildings] building may be located on a lot, provided that the lot has an area of at least one acre.

118 **[(4) Development procedure.** Under the optional method of  
 119 development, the applicant must satisfy the procedure for site plan  
 120 approval [shall be as set forth in division] under Division 59-D-3.]]

121 **(f) Special Standards - Transit Station Development Area.**

122 **(1) Review requirements.** The following special standards may be  
 123 applied by the Planning Board for a lot in a Transit Station  
 124 Development Area through the site plan approval procedures of  
 125 Division 59-D-3. [[However, site plan review is limited to the  
 126 specific special standards sought, for which applicable exhibits must  
 127 be provided.]]

128 **(2) Area requirements.** [[Each]] A main building[[, together with any]]  
 129 and one accessory building[.]] may be located on a separate lot that is  
 130 smaller than one acre[.]] but at least 5,000 square feet. However,  
 131 more than one main building and accessory building may be located  
 132 on such a lot if the Planning Board finds this to result in a better  
 133 design for the lot.

134 **(3) Setbacks from mixed-use and residential zones.** Any building must  
 135 be set back at least 50 feet from any mixed-use or residential zone  
 136 [[unless the]]. The Planning Board may approve a lesser setback if it  
 137 finds that a lesser setback would not have an adverse impact on  
 138 adjoining residentially or mixed-use zoned property [[that:

139 (i) is recommended on an approved and adopted master or sector  
 140 plan for a land use other than residential, or

141 (ii) contains physical features that permit a lesser setback, or

142 (iii) is developed with or dedicated to a use other than residential]].

143 **(4) Setbacks from a street.** The Planning Board may [[authorize]]  
 144 approve any building to be set back not less than 10 feet from:



145 [[i)]A an arterial road that separates the industrial area from a  
 146 commercial zone; or

147 [[ii)]B an arterial road, local street, or private right-of-way  
 148 within the industrial area.

149 (5) **Off-street parking.** Off-street parking must be provided as required  
 150 under article 59-E, [[but to achieve a better development design,]]  
 151 except that the Planning Board may waive the minimum [[setbacks  
 152 requirements]] setback requirement to achieve a better development  
 153 design.

154 (6) **Green Area.** The Planning Board may approve a reduction of the  
 155 green area requirement to no less than 10% of the gross tract area. A  
 156 maximum of 50% of the required green area may be located off-site in  
 157 the same Transit Station Development Area.

158 (7) **Accessory Residential Unit.** One or more accessory residential units  
 159 [[in a non-residential structure]] may be [[allowed if approved in the  
 160 site plan.]] approved subject to the following:

161 [[i)]A The parking standards for multi-family dwelling units in  
 162 59-E-3.7 and the mixed use standards of 59-E-3.1 apply.  
 163 [[No designated]] A parking space for any accessory  
 164 residential unit may not be located along the front of the  
 165 building[.]; and

166 [[ii)]B Before issuance of a building permit, the property owner  
 167 must sign a declaration of use, including all the standards  
 168 for the use as approved, to [[serve]] provide notice to  
 169 future owners of the property of its status as a limited  
 170 residential use subject to the conditions of the approval.

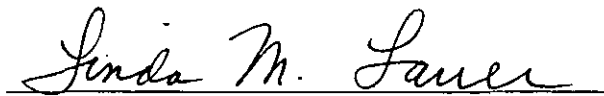
**59-C-5.441. Special provisions for lots containing pre-existing uses.**

Where land, improved by existing lawfully conforming structures and uses under the standards and special regulations of the immediately preceding zone, is reclassified to the I-4 zone and the standards of the I-4 zone do not allow such structures and uses, such structures and uses may continue as conforming structures and uses as of the date of reclassification. However, additions or structural alterations cannot increase the amount of floor area devoted to such uses by more than 10 percent. Any such [[changes or additions]] increase in floor area must conform to the setback, height, floor area ratio, and green area regulations required in Section 59-C-5.35 or Section 59-C-5.44, as applicable.

\* \* \*

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

This is a correct copy of Council action.

A handwritten signature in cursive script that reads "Linda M. Lauer". The signature is written in dark ink and is positioned above a horizontal line.

Linda M. Lauer, Clerk of the Council