

Ordinance No.:
Subdivision Regulation Amend. No.: 08-02
Concerning: Alternative Review
Committee - Functions
Draft No. & Date: 1- 4/17/08
Introduced: April 29, 2008
Public Hearing:
Adopted:
Effective:

**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: The District Council at the request of the County Executive

AN AMENDMENT to the Subdivision Regulations to:

- remove the Alternative Review Committee from the preliminary plan approval process;
- allow certain preliminary plans to exceed density or building height limits to permit the construction of all MPDUs and bonus units on-site; and
- generally amend provisions relating to preliminary plans.

By amending the following section of County Code Chapter 50:

Sec. 50-35. "Preliminary subdivision plans – Approval procedure."

Boldface

Underlining

[Single boldface brackets]

Double underlining

[[Double boldface brackets]]

* * *

Heading or defined term.

Added to existing law by original bill.

Deleted from existing law by original bill.

Added by amendment.

Deleted from existing law or the bill by amendment.

Existing law unaffected by bill.

OPINION

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. Section 50-35 is amended as follows:**

2 **50-35. Preliminary subdivision plans – Approval procedure .**

3 * * *

4 (1) *Relation to Master Plan.* In determining the acceptability of a
5 preliminary plan submitted under this Chapter, the Planning Board
6 must consider the applicable master plan, sector plan, or urban
7 renewal plan. A preliminary plan must substantially conform to the
8 applicable master plan, sector plan, or urban renewal plan, including
9 maps and text, unless the Planning Board finds that events have
10 occurred to render the relevant master plan, sector plan, or urban
11 renewal plan recommendation no longer appropriate.

12 [However, to permit the construction of all MPDUs required under
13 Chapter 25A, including any bonus density units, on-site, a preliminary
14 plan may exceed, in proportion to the MPDUs to be built on site,
15 including any bonus density units, any applicable residential density
16 or building height limit established in a master plan or sector plan if a
17 majority of an Alternative Review Committee composed of the
18 Director of the Department of Housing and Community Affairs, the
19 Executive Director of the Housing Opportunities Commission, and the
20 Director of Park and Planning, or their respective designees, find that
21 a development that includes all required MPDUs on site, including
22 any bonus density units, would not be financially feasible within the
23 constraints of any applicable density or height limit.

24 If the Committee finds that the development would not be financially
25 feasible, the Planning Board must decide which if any of the

26 following measures authorized by Chapter 59 or Chapter 50 should be
27 approved to assure the construction of all required MPDUs on site:

- 28 (1) exceeding an applicable height limit, lower than the maximum
29 height in the zone, that is recommended in a master plan or
30 sector plan,
31 (2) exceeding an applicable residential density limit, lower than the
32 maximum density in the zone, that is recommended in a master
33 plan or sector plan, or
34 (3) locating public use space off-site.]

35 However, to permit the construction of all MPDUs under Chapter
36 25A, including any bonus density units, on-site in zones with a
37 maximum permitted density more than 39 dwelling units per acre or a
38 residential FAR more than .9, a preliminary plan may exceed:

- 39 (1) any dwelling unit per acre or FAR limit recommended in a
40 master plan or sector plan, but not to exceed the maximum
41 density of the zone; and
42 (2) any building height limit recommended in a master plan or
43 sector plan, but not to exceed the maximum height of the zone.

44 The additional FAR and height allowed by this subsection is limited to the
45 FAR and height necessary to accommodate the number of MPDUs built on
46 site plus the number of bonus density units.

47 * * *

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

50 *Approved:*

51

52

Isiah Leggett, County Executive

Date

53 *This is a correct copy of Council action.*

54

55

Linda M. Lauer, Clerk of the Council

Date