

**M E M O R A N D U M**

July 7, 2011

TO: Planning, Housing, and Economic Development Committee  
FROM: Jeff Zyontz,  Legislative Attorney  
SUBJECT: Zoning Text Amendment 11-03, Special Exception Standards – Professional Offices

Zoning Text Amendment (ZTA) 11-03, sponsored by Councilmember Rice, was introduced on April 12, 2011.

Under limited circumstances, a special exception may currently be approved so that an existing single-family structure may be used for professional office purposes by any member or members of a recognized profession, such as a doctor, lawyer, architect, accountant, engineer, or veterinarian.<sup>1</sup> ZTA 11-03 would expand those circumstances to include houses in the R-200 zone with more than 1 lot line abutting a fire station, police station, ambulance squad, or rescue squad. In the opinion of the sponsor, single-family houses surrounding active emergency service uses should be given the opportunity to convert to an office use if the property can satisfy the current special exception requirements.

On June 2, 2011, the Planning Board recommended approval of ZTA 11-03 with a clarifying amendment. The amendment would note in the land use table that non-residential professional offices would be allowed as special exceptions under certain circumstances. Planning Staff noted that the proposed ZTA limited the locations where non-residential offices would be allowed, and thereby protected established neighborhoods from commercial encroachments.

On June 14, 2011, the Council held a public hearing. All of the testimony recommended the approval of ZTA 11-03.

---

<sup>1</sup> A special exception for a professional office may currently be approved if the property satisfies 1 of the following criteria:

- (1) be located in a central business district that is designated as being suitable for the transit station-residential (TS-R) zone on an approved and adopted sector plan;
- (2) be designated as suitable for a nonresidential professional office in the R-60 zone on an approved and adopted master or sector plan and located along a highway with an existing right-of-way width of at least 90 feet or along a portion of an arterial road designated as a boundary of a Central Business District;
- (3) be located in the R-90 zone and:
  - (i) designated as historic in the Master Plan for Historic Preservation;
  - (ii) located along a highway with an existing right-of-way of at least 120 feet; and
  - (iii) contain a structure formerly used for nonresidential purposes.

**Issue**

*Should ZTA 11-03 be approved?*

A non-residential professional office is defined as follows:

An existing single-family structure used for professional office purposes by any member or members of a recognized profession, such as, but not limited to, doctors, lawyers, architects, accountants, engineers and veterinarians, but not including medical, dental or veterinarian clinics or inpatient treatment facilities. Professional offices do not include general business offices, such as the offices of insurance companies, trade associations, manufacturing companies, investment concerns, banks or real estate companies.

A non-residential professional office is currently allowed in properties zoned R-60 and R-90 under certain circumstances. The use often makes a successful transition between intensive commercial uses and single-family detached homes. ZTA 11-03 would allow the use to separate a fire station, police station, ambulance squad, or rescue squad from a single-family area. There are a maximum of 35 properties in the County that could potentially take advantage of this flexibility.

*Staff recommends approval of ZTA 11-03 with the revisions recommended by the Planning Board.*

This Packet Contains

ZTA 11-03

Planning Board Recommendation

Planning Staff Recommendation

© number

1 – 3

4 – 5

6 – 14

Zoning Text Amendment No.: 11-03  
Concerning: Special Exception Standards  
– Professional Offices  
Draft No. & Date: 1 -  
Introduced: April 12, 2011  
Public Hearing: June 14, 2011  
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 Rice

---

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- amend the standards for allowing professional non-residential offices near public safety facilities; and
- generally amend the provisions for professional non-residential offices allowed as a special exception.

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

Division 59-G-2       “SPECIAL EXCEPTIONS-STANDARDS AND  
                                  REQUIREMENTS”  
Section 59-G-2.38    “Offices, professional, nonresidential”

**EXPLANATION:** ***Boldface** indicates a Heading or a defined term.*  
*Underlining indicates text that is added to existing law by the original text amendment.*  
*[Single boldface brackets] indicate that text is deleted from existing law by 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-G-2 is amended as follows:

2 DIVISION 59-G-2. SPECIAL EXCEPTIONS-STANDARDS AND  
3 REQUIREMENTS

4 \* \* \*

5 **Sec. 59-G-2.38. Offices, professional, nonresidential.**

6 (a) An existing single-family structure may be used for professional office  
7 purposes by any member or members of a recognized profession, such as a  
8 doctor, lawyer, architect, accountant, engineer, or veterinarian, but not  
9 including the following:

10 [(a)](1) a medical, dental or veterinarian clinic;

11 [(b)](2) an in-patient treatment facility; or

12 [(c)](3) a general business office, such as an insurance company office,  
13 a trade association, a manufacturing company, an investment  
14 company, a bank, or a real estate company.

15 (b) The property must [be] satisfy one of the following criteria:

16 [(a)](1) be located in a central business district that is designated as  
17 being suitable for the transit station-residential (TS-R) zone on an  
18 approved and adopted sector plan;

19 [(b)](2) be designated as suitable for a nonresidential professional office  
20 in the R-60 zone on an approved and adopted master or sector plan  
21 and located along a highway with an existing right-of-way width of at  
22 least 90 feet or along a portion of an arterial road designated as a  
23 boundary of a Central Business District; [or]

24 [(c)](3) be located in the R-90 zone and:

25 [(1)](i) designated as historic in the Master Plan for Historic  
26 Preservation;





**MONTGOMERY COUNTY PLANNING BOARD**  
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

OFFICE OF THE CHAIR

**MONTGOMERY COUNTY PLANNING BOARD**

The Maryland-National Capital Park and Planning Commission

June 9, 2011

**TO:** The County Council for Montgomery County, Maryland, sitting as the District Council for the Maryland-Washington Regional District in Montgomery County, Maryland

**FROM:** Montgomery County Planning Board

**SUBJECT:** Zoning Text Amendment No. 11-03

**BOARD RECOMMENDATION**

The Montgomery County Planning Board of The Maryland–National Capital Park and Planning Commission reviewed Zoning Text Amendment No. 11-03 at its regular meeting on June 2, 2011. By a vote of 3:0, the Board recommends approval of the text amendment to amend the standards for allowing nonresidential professional offices in residential zones. Several plain language and technical clarifications are recommended and included in the attached technical staff report.

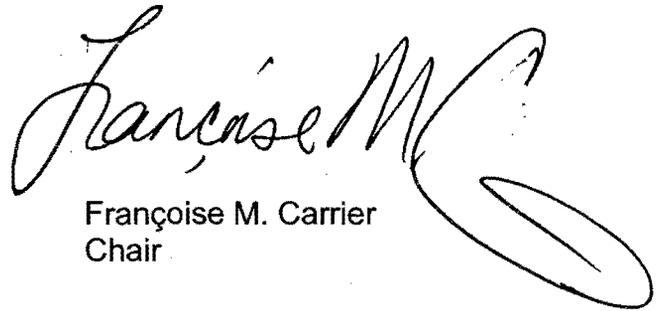
ZTA 11-03 proposes to allow nonresidential professional offices by special exception in the R-200 zone only where the property is encumbered on more than one property boundary by a public safety facility (fire station, police station, ambulance squad, or rescue squad). Currently under certain circumstances within the R-60 and R-90 zones, and with special exception approval, an existing single-family structure may be used for professional office purposes (nonresidential professional office) by any member or members of a recognized profession, such as a doctor, lawyer, architect, accountant, engineer, or veterinarian.

The Planning Board believes that the proposed parameters for permitting the subject use in the R-200 zone provide protection from encroachment of the use in established neighborhoods by limiting its locations to those most impacted by active emergency services. Further, the general and specific provisions and conditions of the Zoning Ordinance as well as the public hearing process provide additional protections to

neighborhoods when considering a special exception application. The Board also recognizes that the proposed land use-type is consistent with existing special exception uses allowed in the R-200 zone.

### CERTIFICATION

This is to certify that the attached report is a true and correct copy of the technical staff report and the foregoing is the recommendation adopted by the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission, at its regular meeting held in Silver Spring, Maryland, on Thursday, June 2, 2011.



Françoise M. Carrier  
Chair

FC:GR



**MONTGOMERY COUNTY PLANNING DEPARTMENT**  
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

**MCPB**  
**Item #10**  
**6/02/11**

**DATE:** May 23, 2011  
**TO:** Montgomery County Planning Board  
**VIA:** Rose Krasnow, Chief, Area 1 *WK*  
**FROM:** Greg Russ, Zoning Coordinator, Functional Planning & Policy *GR*  
**REVIEW TYPE:** Zoning Text Amendment  
**PURPOSE:** To allow a nonresidential professional office by special exception in the R-200 zone under limited circumstances; and to make technical, stylistic, and conforming changes throughout the nonresidential office special exception section.

**TEXT AMENDMENT:** No. 11-03  
**REVIEW BASIS:** Advisory to the County Council sitting as the District Council, Chapter 59 of the Zoning Ordinance  
**INTRODUCED BY:** Councilmember Rice  
**INTRODUCED DATE:** April 12, 2011

**PLANNING BOARD REVIEW:** June 2, 2011  
**PUBLIC HEARING:** June 14, 2011; 1:30 pm

---

**STAFF RECOMMENDATION:** **APPROVAL with modifications** to amend the standards for allowing nonresidential professional offices in residential zones. The subject ZTA proposes to allow such offices by special exception in the R-200 zone only where the property is encumbered on more than one property boundary by a public safety facility (fire station, police station, ambulance squad, or rescue squad). Currently, a nonresidential professional office is allowed by special exception only in the R-60 and R-90 zones under certain circumstances.

Modifications by staff include: technical clarifications adding the subject special exception to the R-200 zone category of the land use table (Section 59-C-1.31); and providing the criteria for allowing a nonresidential professional office use in the R-200 zone (abuts a fire station, police station, ambulance squad, or rescue squad on more than 1 lot line) in footnote 44 of the land use table.

**BACKGROUND/ANALYSIS**

## Current and Proposed Regulations

Currently under certain circumstances within the R-60 and R-90 zones, and with special exception approval, an existing single-family structure may be used for professional office purposes (nonresidential professional office) by any member or members of a recognized profession, such as a doctor, lawyer, architect, accountant, engineer, or veterinarian.

A nonresidential professional office may be established by special exception only in the R-60 zone if it is considered suitable by the applicable master or sector plan and located along a highway with an existing right-of-way width of at least 90 feet or along a portion of an arterial road designated as a boundary of a Central Business District.

A nonresidential professional office in the R-90 zone is allowed by special exception if it is located in a structure designated as historic in the master plan for historic preservation and located along a highway with an existing right-of-way width of at least 120 feet. In addition, the structure must have been formerly used for a nonresidential purpose.

A property may also develop as a nonresidential professional office if it is located in the R-60 zone or R-90 zone and is located within a central business district that is designated as being suitable for the transit station-residential (TS-R) zone on an approved and adopted sector plan.

ZTA 11-03 would expand the possibility of a nonresidential professional office in the R-200 zone by special exception as long as more than one lot line is abutting a fire station, police station, ambulance squad, or rescue. In the opinion of the sponsor, single family houses surrounding active emergency service uses should be given the opportunity to expand to convert to an office use.

As currently depicted in footnote 44 of Section 59-C-1.31 (the land use table), a nonresidential professional office may be established by special exception only in the R-60 zone if it is considered suitable by the applicable master or sector plan. Footnote 44 further states that, in the R-90 zone, a nonresidential professional office can be allowed by special exception only if designated as historic in the Master Plan for Historic Preservation. Staff recommends that the "SE" designation be placed in the land use table under the R-200 zone and additional language be added to footnote 44 to depict the circumstances where a nonresidential professional office could be permitted by special exception in the R-200 zone. The following modifications to footnote 44 are recommended by staff:

<sup>44</sup> *If designated as being suitable for nonresidential professional offices in an approved and adopted master or sector plan; [[or]] classified in the R-90 zone and designated as historic in the Master Plan for Historic Preservation; or*

classified in the R-200 zone and abuts a fire station, police station, ambulance squad, or rescue squad on more than 1 lot line.

Staff believes that the proposed parameters for permitting the subject use in the R-200 zone provide protection from encroachment of the use in established neighborhoods by limiting its locations to those most impacted by active emergency services. The attached GIS information (Attachment 2) indicates a limited number of potential properties that fit the criteria necessary for permitting the subject use on R-200 zoned land. Further, the general and specific provisions and conditions of the Zoning Ordinance as well as the public hearing process provide additional protections to neighborhoods when considering a special exception application.

### **Uses Permitted in the R-200 Zone**

Section 59-C-1.31, Land Uses, depicts a number of service and other uses that are permitted by special exception only in the R-200 zone including: charitable and philanthropic institutions; child day care centers; medical clinics for no more than 4 practitioners; day care facilities for more than 4 senior adults and persons with disabilities; private educational institutions; funeral parlors; hospice care facilities; hospitals; veterinary hospitals; medical practitioners offices for use by other than a resident of the dwelling; and private clubs and service organizations. In staff's opinion, a nonresidential professional office, with the limited locations of its applicability, could be accommodated in the R-200 zone. The special exception process would provide the necessary site-specific measures for deciding the appropriateness of the use at any given location.

Staff further believes that the proposed land use-type is consistent with existing special exception uses allowed in the R-200 zone.

### **RECOMMENDATION**

The staff supports the proposed text amendment, as modified by staff, to allow a nonresidential professional office by special exception in the R-200 zone under limited circumstances; and to make technical, stylistic, and conforming changes throughout the nonresidential office special exception section.

GR

### **Attachments**

1. Proposed Text Amendment 11-03
2. GIS Table of Applicable R-200 zoned Properties

# ATTACHMENT 1

Zoning Text Amendment No.: 11-03  
Concerning: Special Exception Standards  
– Professional Offices

Draft No. & Date: 1 -  
Introduced: April 12, 2011  
Public Hearing:  
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 Rice

---

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- amend the standards for allowing professional non-residential offices near public safety facilities; and
- generally amend the provisions for professional non-residential offices allowed as a special exception.

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-1.31    “Land uses”  
Division 59-G-2      “SPECIAL EXCEPTIONS-STANDARDS AND  
REQUIREMENTS”  
Section 59-G-2.38    “Offices, professional, nonresidential”

**EXPLANATION:** *Boldface indicates a Heading or a defined term.*

*Underlining indicates text that is added to existing law by the original text amendment.*

*[Single boldface brackets] indicate that text is deleted from existing law by 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

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19

Sec. 1. Division 59-C-1 is amended as follows:

**Sec. 59-C-1.3. Standard development.**

The procedure for approval is as set forth in Chapter 50, title "Subdivision of Land," of the Montgomery County Code, as amended.

**59-C-1.31. Land uses.**

No use is allowed except as indicated in the following table:

- **Permitted Uses.** Uses designated by the letter "P" are permitted on any lot in the zones indicated, subject to all applicable regulations.
- **Special Exception Uses.** Uses designated by the letters "SE" may be authorized as special exceptions, in accordance with the provisions of Article 59-G.

	RE-2	RE-2C	RE-1	R-200	R-150	R-90	R-60	R-40	R-4plex	RMH 200
<b>(d) Services.</b>										
* * *										
Offices, professional, nonresidential. <sup>44</sup>				<u>SE</u>		SE	SE			
* * *										

---

44 If designated as being suitable for nonresidential professional offices in an approved and adopted master or sector plan; ~~[[or]]~~ classified in the R-90 zone and designated as historic in the Master Plan for Historic Preservation; or classified in the R-200 zone and abuts a fire station, police station, ambulance squad, or rescue squad on more than 1 lot line.

28 Sec. ~~[[1]]~~2. Division 59-G-2 is amended as follows:

29 DIVISION 59-G-2. SPECIAL EXCEPTIONS-STANDARDS AND  
30 REQUIREMENTS

31 \* \* \*

32 **Sec. 59-G-2.38. Offices, professional, nonresidential.**

33 (a) An existing single-family structure may be used for professional office  
34 purposes by any member or members of a recognized profession, such as a  
35 doctor, lawyer, architect, accountant, engineer, or veterinarian, but not  
36 including the following:

37 ~~[(a)]~~(1) a medical, dental or veterinarian clinic;

38 ~~[(b)]~~(2) an in-patient treatment facility; or

39 ~~[(c)]~~(3) a general business office, such as an insurance company office,  
40 a trade association, a manufacturing company, an investment  
41 company, a bank, or a real estate company.

42 (b) The property must ~~[be]~~ satisfy one of the following criteria:

43 ~~[(a)]~~(1) be located in a central business district that is designated as  
44 being suitable for the transit station-residential (TS-R) zone on an  
45 approved and adopted sector plan;

46 ~~[(b)]~~(2) be designated as suitable for a nonresidential professional office  
47 in the R-60 zone on an approved and adopted master or sector plan  
48 and located along a highway with an existing right-of-way width of at  
49 least 90 feet or along a portion of an arterial road designated as a  
50 boundary of a Central Business District; ~~[or]~~

51 ~~[(c)]~~(3) be located in the R-90 zone and:

52 ~~[(1)]~~(i) designated as historic in the Master Plan for Historic  
53 Preservation;



ATTACHMENT 2

ALL R-200 PARCELS THAT ABUT EITHER A POLICE OR FIRE STATION

ABUT MORE THAN	ACCT	TAXM/PROP_C	TAXAREA	ACRE_C	LU_CATEG	LAND_TYPI	PREMISE_1	PREMISE_2	PREMISE_3	PREMISE_4	GR_FLR_AR
Y	03259358	gs42	200	9.97	A	Industrial	C	7331	CALHOUN PL	ROCKVILLE	150348
Y	00778536	eu63	200	6463	F	Vacant	V	0	BOLAND F/ RD		0
Y	01469773	gq23	200	3.35	A	Vacant	C	0	WILD OLIV DR		0
Y	02369598		200	350.87	A	TBD	C	20701	CLARKSBUI RD		0
Y	00921126	cu22	200	6.63	A	Other	C	19805	BEALLSVILI RD		0
Y	00796012	eu63	200	12857	F	Vacant	V	0	BOLAND F/ RD		0
N	03472761	dx62	200	39282	F	Other	C	15035	HYATTSTO' RD		837
N	02468502	ev21	200	18300	F	Vacant	C	0	CHRISMAN DR		0
N	00774744	eu63	200	20000	F	SF Detache	R	11809	COLLINS DR	GERMANTI	1463
N	03271750	eu63	200	20000	F	SF Detache	C	20627	BOLAND F/ RD	GERMANTI	3044
N	03636154		200	2.74	A	Vacant	R	0	FALLS RD	POTOMAC	0
N	02515604	gs41	200	269518	F	Office	C	15400	CALHOUN DR	ROCKVILLE	122240
N	02239173	gs42	200	26760	F	Vacant	V	0	GOLD RINCTER	DERWOOD	0
N	01691633	gs41	200	43.93	A	Retail	C	600	GUDE DR	ROCKVILLE	23185
N	00921104	cu22	200	21780	F	Other	C	19801	BEALLSVILI RD	BEALLSVILI	6244
N	00778560	eu63	200	20000	F	SF Detache	R	11813	COLLINS DR	GERMANTI	1344
N	03636165		200	27281	F	Vacant	V	11408	FALLS RD	POTOMAC	0
N	00768355	ft22	200	21885	F	Vacant	C	0	METROPOIRD		0
N	03570097		200	14934	F	Vacant	V	0	BRIGGS CH RD	SILVER SPR	0
N	00387197	jr61	200	20661	F	SF Detache	R	13212	NEW HAM AVE	SILVER SPR	1618
N	00387120	jr61	200	18421	F	Other	C	6	WOLF DR	SILVER SPR	0
N	03271748	eu63	200	20010	F	SF Detache	C	20625	BOLAND F/ RD	GERMANTI	3231
N	00251298	kr42	200	27073	F	Other	C	2825	BRIGGS CH RD	SILVER SPR	8729
N	00917055	cu42	200	54450	F	SF Detache	C	19715	DARNESTO RD	BEALLSVILI	3530
Y	03047093	eu63	200	24225	F	SF Detache	C	20629	BOLAND F/ RD	GERMANTI	7285
N	02239377	gs41	200	68302	F	Vacant	V	0	INDIANOLA DR	DERWOOD	0
N	03271737	eu63	200	25304	F	SF Detache	C	20619	BOLAND F/ RD	GERMANTI	2548
N	00775885	eu63	200	20000	F	SF Detache	R	11817	COLLINS DR	GERMANTI	1376
N	02239388	gs41	200	54939	F	Vacant	C	0	INDIANOLA DR		0

13

parcels\_R200\_abut

N	00320978	200	20752 F	SF Detache R	2821	OLD BRIGG RD	SILVER SPR	1455
N	00011993 gv41	200	21780 F	SF Detache R	21404	LAYTONSV RD	GAITHERSE	1632
N	02239162 gs42	200	102582 F	Vacant V	0	GOLD RING TER	DERWOOD	0
N	02216456 gv41	200	54885 F	Vacant C	21300	LAYTONSV RD	LAYTONSV	0
N	00862334	200	7.07 A	Other C	11510	FALLS RD	ROCKVILLE	69142
N	00795713 eu63	200	23200 F	SF Detache R	20600	FREDERICK RD	GERMANTI	1216

(14)