

Public Hearing

MEMORANDUM

January 15, 2010

TO: County Council

FROM: Jeffrey L. Zyontz,  Legislative Attorney

SUBJECT: **Public Hearing** - Zoning Text Amendment 09-14,
Hearing Examiner – Report Dissemination

Zoning Text Amendment (ZTA) 09-14, sponsored by Councilmembers Knapp, Trachtenberg, and Leventhal at the request of the Hearing Examiner, was introduced on December 8, 2009. Currently, when the Hearing Examiner completes a report, copies must be mailed to the petitioner, the Planning Board, and to people and organizations that appeared and testified at the Examiner's hearing. The requirement to copy and mail full reports and recommendations was written when the internet was not universally available.

Under ZTA 09-14, a mailed letter would describe the special exception or local map amendment request, state whether the Hearing Examiner recommended approval or denial, and provide instructions to locate a copy of the report on the County's website. The notice would also include a statement concerning a party's right to request oral argument before the Board of Appeals. The Hearing Examiner's office would be required to mail full reports and recommendations only to a person or entity entitled to notice of the report's issuance who states in writing that they do not have access to the internet and that they want the full report.

The Planning, Housing, and Economic Development Committee has tentatively scheduled a January 21, 2010 worksession on this ZTA.

Although mailing a summary to parties is significantly less costly than copying and mailing full reports, it is still more expensive than e-mailing that information. The Hearing Examiner fears that e-mail would get lost in the ever present flood of e-mail. In her opinion, mailing the summary strikes the appropriate balance between mailing everything and merely e-mailing.

This Packet Contains
ZTA 09-14

© number
1 – 3

Zoning Text Amendment No: 09-14
Concerning: Hearing Examiner -
Report Dissemination
Draft No. & Date: 1 - 12/01/09
Introduced: December 8, 2009
Public Hearing: January 19, 2010
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: Councilmembers Knapp, Trachtenberg, and Leventhal

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- amend the dissemination requirements for reports and recommendations from the Hearing Examiner

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

DIVISION 59-A-4. COUNTY BOARD OF APPEALS
Section 59-A-4.61 Generally

DIVISION 59-H-5 HEARING EXAMINER
Section 59-H-5.12 Report

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-A-4. is amended as follows:**

2
3 **Division 59-A-4 COUNTY BOARD OF APPEALS.**

4 * * *

5 **59-A-4.61. Generally.**

6 * * *

7 (d) When the Hearing Examiner transmits a report to [Concurrently with the
8 transmittal to the Council or] the Board of Appeals, the Examiner must at
9 the same time send written notification that the report and recommendation
10 has been issued, by regular mail, [copies of the Hearing Examiner's report
11 and recommendation must be mailed] to the petitioner, the Planning Board,
12 and [to] all persons [who and associations which] or entities who appeared
13 and testified in person or by counsel at the hearing, as evidenced by the
14 hearing transcript. The notification must briefly describe the special
15 exception requested, state whether the Hearing Examiner recommended
16 approval or denial, provide instructions to locate a readable and printable
17 copy of the report on the County's web site, and identify the right to request
18 oral argument before the Board of Appeals. The Hearing Examiner must
19 send a paper copy of the report and recommendation to the Planning Board
20 on request, and to any person or entity entitled to notice of the report's
21 issuance who states in writing that they do not have access to email and/or
22 the internet.

23 * * *

24 **Sec. 2. DIVISION 59-H-5 is amended as follows:**

25 **DIVISION 59-H-5. HEARING EXAMINER.**

26 * * *

27 **Section 59-H-5.12. Report.**

28 * * *

29 (c) When the Hearing Examiner transmits a report to the District Council, the
30 Examiner must also send written notification that the report and
31 recommendation has been issued, by regular mail, [copies] to the applicant,
32 the Planning Board, and each person or [association] entity who entered an
33 appearance at the hearing, as shown in the hearing transcript. The
34 notification must briefly describe the rezoning requested, state whether the
35 Hearing Examiner recommended approval or denial, provide instructions to
36 locate a readable and printable copy of the report on the County's web site,
37 and identify the right to request oral argument before the District Council.
38 The Hearing Examiner must send a paper copy of the report and
39 recommendation to the Planning Board on request, and to any person or
40 entity entitled to notice of the report's issuance who states in writing that
41 they do not have access to email and/or the internet.

42 * * *

43 **Sec. 3. Effective date.** This ordinance takes effect 20 days after the date of
44 Council adoption.

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46 This is a correct copy of Council action.

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Linda M. Lauer, Clerk of the Council