

Ordinance No: 07-17
Zoning Text Amendment No:
Concerning: Growth Policy –
Special Exceptions and
Local Zoning Map Amendments
Draft No. & Date:
Introduced: December 11, 2007
Public Hearing: January 29, 2008
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: Council President Knapp

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- clarify and update the process for special exceptions to address certain adequate public facilities issues;
- require an application for a local zoning map amendment to address certain adequate public facilities issues; and
- update and generally amend the process for review of special exceptions and local zoning map amendments.

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

- DIVISION 59-G-1. “Special Exceptions - Authority and Procedure”
 - Section 59-G-1.21. General conditions
- DIVISION 59-H-2. Map Amendments – Applications
 - Section 59-H-2.4. Contents of standard method of application-Local map
- DIVISION 59-H-5. Hearing Examiner
 - Section 59-H-5.11. The hearing
 - Section 59-H-5.12. The report
 - Section 59-H-5.3. Authority of hearing examiner

*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:

28 consider whether the available public facilities and
29 services will be adequate to serve the proposed
30 development under the Growth Policy standards in effect
31 when the application was submitted.

32 [(ii)] (B) With regard to [findings relating to] public roads, the
33 Board[,] or the Hearing Examiner[, or the District
34 Council, as the case may be,] must further [determine]
35 find that the [proposal] proposed development will not
36 reduce the safety of vehicular or pedestrian traffic.

37 * * *

38 **Sec. 2. Division 59-H-2 Map Amendments – Applications is amended as**
39 **follows:**

40 * * *

41 **59-H-2.4. Contents of standard method of application-Local map**
42 **amendments.**

43 [In case of] Each application for a local map amendment[, the application
44 therefor shall be in such] must follow a form [as the district council may prescribe]
45 prescribed by the District Council and [shall] must include [the following]:

46 * * *

47 (f) Sufficient information to show that available public facilities and
48 services will be adequate to serve the proposed development under
49 the Growth Policy standards in effect when the application is
50 submitted.

51 [(f)] (g) Such other relevant information as either the District Council or
52 the Hearing Examiner [determines to be] finds necessary to
53 evaluate the impact of a [particular application] proposed

80 (c) [Concurrently with the transmittal] When the Hearing Examiner
81 transmits a report to the [district council] District Council, the
82 Examiner must also send copies [of the hearing examiner's report shall
83 be mailed] to the applicant, the [planning board] Planning Board, and
84 [to all persons and associations entering] each person or association
85 who entered an appearance at the hearing, as [evidenced by] shown in
86 the hearing transcript.

87 * * *

88 **59-H-5.3. Authority of hearing examiner.**

89 (a) The [hearing examiner is hereby authorized to] Hearing Examiner
90 may:

91 (1) schedule for public hearing any application for a local map
92 amendment;

93 (2) [to] extend the time for [the] closing [of] the record, either to a
94 time certain or for a reasonable [period of] time, [in those
95 applications where in his discretion] if:

96 (A) the Hearing Examiner finds additional information or
97 [governmental] government action is necessary on
98 [matters material and] any relevant [to an application
99 under consideration] issue, or

100 (B) [when] the applicant or [other] another party requests
101 [such] a delay for good cause [shown];

102 (3) [to suspend, defer,] postpone or continue a public [hearings,
103 either] hearing to a time certain or for a reasonable [period of]
104 time [when in his discretion] if:

105 (A) the Hearing Examiner finds that the pendency of any
106 proposed [preliminary or final] master plan, [or] sector

107 plan, [or amendments thereto] plan amendment, highway
108 [plans] plan, capital improvement [programs or
109 amendments thereto] program, zoning [and] or planning
110 [studies] study, zoning text [amendments] amendment,
111 pending court [decisions] case, or other [matters of a]
112 relevant [or material nature] matter may substantially
113 affect [or bear upon] the application under consideration;
114 or

115 (B) [when] the applicant or [other] another party for good
116 cause requests [such suspension, deferral,] a
117 postponement or continuance.

118 (b) The [district council] District Council may, by resolution, order the
119 hearing examiner to [suspend, defer,] postpone or continue a public
120 [hearings, the scheduling of public hearings] hearing or the issuance
121 of [the examiner's] a report and recommendation on a local map
122 amendment application, either to a time certain or for a reasonable
123 [period of] time, when [such action] a delay is necessary to [provide]
124 allow sufficient [reasonable] time for the [district council's adoption
125 or approval of] District Council to approve any [preliminary or final]
126 master plan, [or] sector plan, [or amendments thereto] plan
127 amendment, zoning [plan] or planning study, highway plan or project,
128 zoning text amendment, sewer, water, or other capital improvements
129 project, [or amendments thereto] which may [in its discretion] have a
130 substantial effect [or bearing upon] on any local map amendment
131 application before the [hearing examiner] Hearing Examiner.

132 (c) The [hearing examiner is hereby authorized to] Hearing Examiner
133 may issue subpoenas to compel the attendance of witnesses and

134 production of documents at any public hearing and [to] administer
135 [oaths] an oath to [witnesses] any witness appearing before the
136 [examiner] Examiner.

137 **Sec. 2. Effective date.** This ordinance takes effect 20 days after Council
138 adoption.

139 This is a correct copy of Council action.

140

141 _____

142 Linda M. Lauer, Clerk of the Council