

Ordinance No.: 16-15
Zoning Text Amendment No. 08-03
Concerning: Executive Branch
Reorganization – Department of
Transportation
Draft No. & Date: 3 2-29-08
Introduced: March 4, 2008
Public Hearing: April 8, 2008
Adopted: April 15, 2008
Effective: July 1, 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**

By: Council President at the Request of the County Executive

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- (1) transfer certain functions to the Department of Transportation; and
- (2) update obsolete provisions, make stylistic and conforming changes, and generally amend the Zoning Ordinance regarding the abolition of the Department of Public Works and Transportation and creation of the Department of Transportation.

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

ARTICLE 59- C “Zoning Districts; Regulations.”
DIVISION 59-C-13 “Transit Oriented, Mixed Use Zones”
Sections 59-C-13.237 “Special standards and guidelines for standard method and optional
method of development projects
ARTICLE 59-F “Signs”
DIVISION 59-F-7 “Prohibited Signs”
Section 59-F-7.1 “Unlawful to erect or to retain”
ARTICLE 59-G “Special Exceptions, Variances, and Nonconforming Uses”
DIVISION 59-G-2 “Special Exceptions-Standards and Requirements”
Section 59-G-2.38.1 “Offices, general”

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

Zoning Text Amendment 08-03 was introduced on March 4, 2008, as one of three pieces of legislation necessary to implement the County Executive's proposed reorganization of the Department of Public Works and Transportation into new Departments of Transportation and General Services. The related legislation is Expedited Bill 4-08 and Subdivision Regulation Amendment 08-01.

The County Planning Board recommended approval of the amendment to update references in current law to reflect the names of the new departments.

The Zoning Text Amendment was referred to the Transportation, Infrastructure, Energy, and Environment Committee for review and recommendation. The Committee reviewed the Zoning Text Amendment at a worksession on April 14, 2008, and, after careful review of the materials of record recommended approval of the Zoning Text Amendment.

The District Council held a public hearing on February 27, 1996, to receive testimony concerning the proposed Zoning Text Amendment.

The District Council reviewed Zoning Text Amendment 08-03 at a worksession held on April 15, 2008, and agrees with the recommendation of the Transportation, Infrastructure, Energy, and Environment Committee.

For these reasons and because approving 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 08-03 is approved.

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. Chapter 59 is amended as follows:**

2 **59-C-13.237. Special standards and guidelines for Standard Method and Optional Method of**
3 **Development projects.**

4 * * *

5 (c) Site Plan Streetscape Guidelines:

- 6 — Provide street lighting designed to avoid an adverse impact on surrounding
- 7 uses, while also providing a sufficient level of illumination for access and
- 8 security.
- 9 — Provide a canopy of closely spaced street trees along each street.
- 10 — Provide street furniture such as benches, trash receptacles and planters.
- 11 — Enhance crosswalk areas with accessible curb ramps unless prohibited by the
- 12 Department of [Public Works and] Transportation.

13 * * *

14 **59-F-7.1. Unlawful to erect or ~~[[to]]~~ retain.**

15 * * *

16 (f) **Sign in the Public Right-of-way.** [Except if approved pursuant to Section 59-F-
17 10.2(b)(1)(H) as part of a sign concept plan for an optional method development
18 project within an urban renewal area, a] A sign must not be [erected or] placed in the
19 public right-of-way, except:

- 20 (1) [A] a sign erected by a government agency or utility company in the
- 21 performance of its [official] public duties[.];
- 22 (2) [An] an additional square footage sign [erected] for a subdivision or multi-
- 23 family development, public facility, place of assembly, an industrial or

24 commercial center [pursuant to] under subsections 59-F-4.2(a)(3) and 59-F-
25 4.2(b)(4)(B), or a commercial or industrial use, [provided] if:

26 (A) the sign is approved by the Sign Review Board, and

27 (B) the appropriate transportation jurisdiction issues a permit after [a
28 review and approval of] approving the structural adequacy, physical
29 location, sight distance, pedestrian access, and other safety
30 characteristics of the sign.];

31 [Nothing in this Section affects the authority of the appropriate
32 transportation jurisdiction to regulate signs within the right-of-way,
33 nor does it restrict the authority of the Montgomery County
34 Department of Public Works and Transportation to regulate the right-
35 of-way as provided in this Code.]

36 (3) [A] a limited duration sign [erected in accordance with] which satisfies the
37 requirements of this [ordinance.] Chapter; or

38 (4) a sign approved under Section 59-F-10.2(b)(1)(H) as part of a sign concept
39 plan for an optional method development in an urban renewal area.

40 Nothing in this Section affects the authority of the appropriate transportation
41 jurisdiction to regulate signs in its right-of-way or the authority of the Department of
42 Transportation to otherwise regulate the right-of-way. [Any] The appropriate
43 transportation jurisdiction or the Director of Permitting Services may remove any
44 sign in the public right-of-way that [does not meet the exceptions described in] is not
45 allowed under this subsection [may be removed by the appropriate transportation
46 jurisdiction or by the Director].

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59-G-2.38.1. Offices, general.

A special exception may be granted for general offices [subject to] under the following provisions:

* * *

(b) In the RS zone, a general office use may be allowed [upon a finding] if the Board finds, in addition to the general findings required in Division 59-G-1, that the [following conditions are met: (1) The] location of [such] the proposed use is adequately accessible [by means of existing and proposed roads and public transportation facilities,] and the proposed use will not have an unacceptably adverse effect on nearby roads. The location [shall] must be deemed adequately accessible [via] by existing or proposed roads and public transportation facilities if [any of the following conditions are present] either:

[(i)] (1) [Existing] existing publicly maintained, all-weather roads are adequate to accommodate the traffic that would be generated by the proposed use[,] in addition to existing traffic and traffic that will be generated by other development on [existing] recorded lots[.]; or

[(ii)] In its determination of the adequacy of a road to accommodate traffic, the Board must consider the recommendation of the State Highway Administration or County Department of Public Works and Transportation, the applicable levels of traffic service, peak hour use and average use, and any other information presented.]

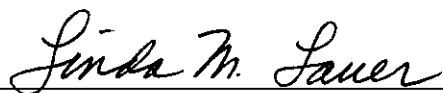
[(iii)] (2) [The approval of] the [general] proposed office use will not increase traffic to the extent that other industrial, commercial, or residential uses that are

71 permitted by right are precluded from development [within the] in the same
 72 traffic analysis area as the proposed office.

73 In assessing the adequacy of a road to accommodate traffic under paragraph (1), the
 74 Board must consider the recommendation of the State Highway Administration or
 75 County Department of Transportation, the applicable levels of traffic service, peak
 76 hour use and average use, and any other relevant information. [It is the intention of
 77 the District Council that the provisions of this] This subsection should be
 78 [administered] generally applied in a manner which closely parallels the
 79 [administration] application of [the adequate public facilities provisions of the
 80 subdivision regulations (] Section 50-35(k) [of this Code)] and the County Growth
 81 Policy. The recommendations of the Planning Board under this subsection must be
 82 based on its [administrative practices under] standards applying Section 50-35(k)
 83 and the Growth Policy, and the Board of Appeals must adopt these
 84 recommendations [must be adopted by the Board of Appeals] unless the Board of
 85 Appeals finds that a modification is justified by the weight of the evidence [supplied
 86 by the parties to] in the case. In its recommendations, the Planning Board must
 87 consider and report the recommendations of the State Highway Administration and
 88 County Department of [Public Works and] Transportation, the applicable levels of
 89 traffic service, peak hour use and average use, and any other information presented.

90 **Sec 2. Effective date.** This ordinance takes effect on July 1, 2008.

91 This is a correct copy of Council action.

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94 Linda M. Lauer, Clerk of the Council