



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

MCPB
Item 10
7/23/09

DATE: July 13, 2009
TO: Montgomery County Planning Board
VIA: Rose Krasnow, Chief, Development Review *RK*
Ralph Wilson, Zoning Supervisor *RW*
Greg Russ, Zoning Coordinator *GR*
FROM: Greg Russ, Zoning Coordinator
REVIEW TYPE: Zoning Text Amendment
PURPOSE: To amend the land uses allowed in the Overlay zone for the
Burtonsville Employment Area of the Fairland Master Plan.

TEXT AMENDMENT: No. 09-05
REVIEW BASIS: Advisory to the County Council sitting as the District
Council, Chapter 59 of the Zoning Ordinance
INTRODUCED BY: Councilmember Navarro
INTRODUCED DATE: June 23, 2009
PLANNING BOARD REVIEW: July 23, 2009
PUBLIC HEARING: July 28, 2009; 1:30pm

SUMMARY RECOMMENDATION: APPROVAL with modifications

The Court has interpreted lines 9-13 of the Burtonsville Overlay Zone as giving a property owner in the overlay zone the right to use any of the land uses allowed in the I-1, I-3 and OM zones, irrespective of whether the use is allowed in the underlying zone. Zoning Text Amendment 09-05 was introduced by Councilmember Navarro to clarify that in enacting the Burtonsville Overlay Zone, it was not the legislative intent of the Council to permit land uses to be interchanged among the various underlying zones. The ZTA is consistent with past actions of the Planning Board and with staff's understanding of the intent of the Burtonsville Overlay Zone. Staff supports ZTA 09-05 with some rewording to avoid any future confusion regarding how the overlay zone is to be administered

ANALYSIS

ZTA 09-05 is consistent with the land use recommendations of the 1997 Fairland Master Plan. An important objective of the master plan is to diversify uses in the US 29/Cherry Hill Road Area and the Burtonsville Industrial Area. For the Burtonsville Industrial Area, the master plan's goal is to develop a diversity of uses to serve and support the businesses, employees, and area residents, with the objective of enabling the Burtonsville Industrial Area to develop as a diversified, but unified employment center. The master

plan also discusses the importance of limiting land uses in the I-1 zone, permitting additional uses in the I-3 zone, and making certain adjustments to the land uses of the base zones consistent with master plan recommendations. ZTA 09-05 is supportive of these master plan objectives.

Based on a careful reading of the master plan, staff believes that the overlay zone was not intended to allow uses not otherwise allowed in the underlying zones, unless the uses are specifically identified in the overlay zone's list of permitted uses. The proposed ZTA will clarify the intent of the master plan by not allowing land uses to be interchanged among the various underlying zones.

RECOMMENDATION

Staff believes the sponsor's intent in introducing ZTA 09-05 is more clearly expressed by eliminating lines 9-13 and lines 62-64 altogether. With these revisions, staff recommends approval of ZTA 09-05.

GR

Attachments

1. Proposed Text Amendment No. 09-01 as modified by staff

ATTACHMENT 1

Zoning Text Amendment No: 09-05
Concerning: Burtonsville Overlay Zone –
Allowed uses
Draft No. & Date: 1- 6/17/09
Introduced:
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 Navarro

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- amend the land uses allowed in the Overlay zone for the Burtonsville Employment Area of the Fairland Master Plan; and
- generally amend the Overlay zone for the Burtonsville Employment Area of the Fairland Master Plan.

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

DIVISION 59-C-18	“Overlay Zones”
Sec. 59-C-18.14.	“Overlay zone for the Burtonsville Employment Area of the Fairland Master Plan”
59-C-18.142	“Regulations”

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:

1 Sec. 1. DIVISION 59 - C-18 is amended as follows:

2
3 Division 59-C-18. Overlay Zones.

4 * * *

5 Sec. 59-C-18.14. Overlay zone for the Burtonsville Employment Area of the
6 Fairland Master Plan.

7 * * *

8 59-C-18.142. Regulations.

9 (a) Land uses. [The following uses are allowed in the Burtonsville employment
10 overlay zone:]

11 (1) [[All permitted or special exception uses [in the I-1, I-3, and O-M
12 zones as shown in Sections 59-C-4.2 and 59-C-5.2 except] in a lot or
13 parcel's underlying zone are allowed; however, the]] The following
14 uses are prohibited in the Burtonsville Employment Area Overlay
15 Zone:

16 Automobile parts, sales and services, including but not limited
17 to tire sales and transmission service

18 Automobile filling stations

19 Automobile repair and services

20 Automobile sales, indoors and outdoors

21 Automobile, truck and trailer rentals, outdoor

22 Bakery

23 Blacksmith shops[,] and machinery shops

24 Bottling plant

25 Building materials and supplies, wholesale and retail

26 Confectionery production

27 Contractor's storage yards

- 28 Dry cleaning plants
- 29 Electroplating and manufacturing of small parts such as coils,
30 condensers, transformers, and crystal holders
- 31 Food production, packaging, packing and canning [of]
- 32 Fuel storage yards
- 33 Ice manufacturing and storage
- 34 Laundry plants
- 35 Lumberyards
- 36 Manufacturing of light sheet metal products
- 37 Manufacturing, compounding, assembling or treatment of
38 articles from the following previously prepared materials:
39 bone, cellophane, plastic, canvas cloth, cork, feathers,
40 felt, fiber, fur, hair, horn, leather textiles, yarns, glass,
41 precious or semi-precious metals or stones, and tobacco
- 42 Manufacturing, compounding, processing or packaging of
43 cosmetics, drugs, perfumes, pharmaceuticals, toiletries
44 and products resulting from biotechnical and biogenetic
45 research and development
- 46 Manufacturing, fabrication, and/or subassembly [or] of aircraft
47 or satellite parts, components, and equipment
- 48 Manufacturing of musical instruments, toys, novelties, and
49 rubber and metal stamps
- 50 Manufacturing of paint not employing a boiling or rendering
51 process
- 52 Manufacturing of pottery and figurines or other products using
53 previously pulverized clay and kilns fired only by
54 electricity or gas

- 55 Paper products manufacturing
- 56 Sawmills
- 57 Stoneworks
- 58 Tinsmith and roofing services
- 59 Wholesale trades limited to sale or rental of products intended
- 60 for industrial or commercial users
- 61 Wood products manufacturing

62 [[In cases where uses are [permitted in one zone but] allowed by
63 special exception [in another zone], the special exception [provision
64 takes precedence] provisions must be satisfied.]]

65 (2) The following retail commercial uses are [permitted] allowed without
66 regard to the underlying zone:

- 67 Antique shops, handicrafts, or art sales.
- 68 Barber or beauty shop.
- 69 Banks.
- 70 Bookstores.
- 71 Drugstore.
- 72 Eating and drinking establishment, excluding a drive-in.
- 73 Express or mailing offices.
- 74 Florist.
- 75 Food and beverage store.
- 76 Newsstand.
- 77 Photographic and art supply stores.
- 78 Shoe repair shops.

79 * * *

80 **Sec.2.Effective Date.** This ordinance takes effect immediately upon the
81 date of Council adoption.

82

83 This is a correct copy of Council action.

84

85

86 Linda M. Lauer, Clerk of the Council