



MONTGOMERY COUNTY DEPARTMENT OF PARK & PLANNING

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

8787 Georgia Avenue
Silver Spring, Maryland 20910-3760

MCPB
Item #3
7/17/03

DATE: July 11, 2003
TO: Montgomery County Planning Board
VIA: Joseph R. Davis, Chief, Development Review *JRD*
FROM: Greg Russ, Zoning Coordinator *GR*
REVIEW TYPE: Zoning Text Amendment
PURPOSE: To amend the Zoning Ordinance to allow no-impact and registered home occupations as permitted uses in all CBD Zones and in the I-1 and I-4 Zones within Central Business Districts and to allow major home occupation by special exception in all CBD Zones and in the I-1 and I-4 Zones within Central Business Districts.

TEXT AMENDMENT: No. 03-16
REVIEW BASIS: Advisory to the County Council sitting as the District Council, Chapter 59 of the Zoning Ordinance
INTRODUCED BY: Councilmember Silverman
INTRODUCED DATE: June 17, 2003

PLANNING BOARD REVIEW: July 17, 2003
PUBLIC HEARING: September 9, 2003; 1:30pm (Originally scheduled for July 22, 2003; 1:30pm)

STAFF RECOMMENDATION: APPROVAL

PURPOSE OF THE TEXT AMENDMENT

To amend the Zoning Ordinance to allow no-impact and registered home occupations as permitted uses in all CBD Zones and in the I-1 and I-4 Zones within Central Business Districts and to allow major home occupation by special exception in all CBD Zones and in the I-1 and I-4 Zones within Central Business Districts.

BACKGROUND

The Maryland State Legislature, the Arts and Humanities Council of Montgomery County, the Silver Spring Regional Center, and the Bethesda Urban Partnership requested that the Department of Park and Planning initiate zoning text amendments to assist in the

implementation of the recent legislation for Arts and Entertainment Districts in Montgomery County. The Department of Park and Planning has been working with the staff of the Montgomery County Executive, Prince George's County, and other jurisdictions in Maryland, as well as elsewhere, to establish the necessary text amendments. Staff has also been working to improve the designation process for future Arts and Entertainment Districts in Montgomery County.

The primary purpose of this project, including several zoning text amendments, is to implement the intent of the recently enacted State legislation. This Maryland State legislation created the potential for Arts and Entertainment Districts. Portions of the Bethesda and Silver Spring Central Business Districts have already been designated by the State of Maryland as Arts and Entertainment Districts. Qualifying artists and companies that support the arts in these designated districts are eligible for income tax deductions, financial assistance, exemptions from the Admissions and Amusement Tax, and property owners whose properties are renovated for arts-related uses are eligible for property tax credits. The subject text amendment represents only one of the land use proposals necessary to implement the enacted arts and entertainment legislation. A brief discussion of the additional strategies is included in this staff report.

ANALYSIS

The proposed text amendment language is as follows:

| | I-1 | I-2 | I-3 | I-4 | R&D | LSC |
|-------------------------------------|-----------|-----|-----|-----------|-----|-----|
| (e) Services. | | | | | | |
| * * * | | | | | | |
| <u>Home occupation, major*</u> | <u>SE</u> | | | <u>SE</u> | | |
| <u>Home occupation, registered*</u> | <u>P</u> | | | <u>P</u> | | |
| <u>Home occupation, no impact*</u> | <u>P</u> | | | <u>P</u> | | |
| * * * | | | | | | |

* Permitted only if located within a central business district.

| | CBD-0.5 | | CBD-R1 | | CBD-1 | | CBD-2 | | CBD-3 | | CBD-R2 | |
|---|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|------------|-----------|-----------|
| | S | O | S | O | S | O | S | O | S | O | S | O |
| (e) Services. | | | | | | | | | | | | |
| * * * | | | | | | | | | | | | |
| <u>Home occupation, major</u> | <u>SE</u> | <u>SE</u> | <u>SE</u> | <u>SE</u> | <u>SE</u> | <u>SE</u> | <u>SE</u> | <u>SE</u> | <u>SE</u> | <u>SSE</u> | <u>SE</u> | <u>SE</u> |
| <u>Home occupation, registered²⁴</u> | <u>P</u> | <u>P</u> | <u>P</u> | <u>P</u> | <u>P</u> | <u>P</u> | <u>P</u> | <u>P</u> | <u>P</u> | <u>P</u> | <u>P</u> | <u>P</u> |

| | | | | | | | | | | | | | |
|---|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|-------------------|-------------------|
| Home occupation, no impact ²⁴ | <u>P</u> | <u>P</u> | <u>P</u> | <u>P</u> | <u>P</u> | <u>P</u> | <u>P</u> | <u>P</u> | <u>P</u> | <u>P</u> | <u>P</u> | <u>P</u> | <u>P</u> |
| * * * | | | | | | | | | | | | p ^[24] | p ^[24] |

24 [Townhouses only.] Parking must be provided in connection with [a] no impact and registered home occupations [in the CBD-R2 zone must not use] in addition to parking that serves [townhouse] dwelling units.

The proposed text recommends permitting No-Impact and Registered Home Occupations by right in the all CBD zones, and I-1 and I-4 zones within the CBD (Major Home Occupations would be allowed by special exception). This would replace the narrow existing provision in the Zoning Ordinance.

The approved Arts and Entertainment Districts in the Bethesda and Silver Spring Central Business Districts encompass a variety of zones (e.g., the CBD base zones and overlay zones, I-1 and I-4, C-2, C-4, C-O, C-T, R-10, R-60 and R-60/TDR). The treatment of Home Occupations (No-Impact, Registered and Major) in the Zoning Ordinance is inconsistent. For example, No-impact Home Occupations are permitted only in the CBD-R2 Zone and then only in townhouses.

The proposed text amendments will allow artists to use existing provisions for No-impact and Registered Home Occupations with a minimum of regulation while providing more consistency with other areas of the Zoning Ordinance. Reducing the amount of regulations for artists is a goal of the legislation to create Arts and Entertainment Districts. Major Home Occupations are to be regulated by special exception, consistent with current practices throughout the Zoning Ordinance.

The following table summarizes the existing provisions for home occupations. The proposed text amendments use the existing provisions for home occupations to improve the opportunities for artists to live and work in Central Business Districts.

TABLE OF EXISTING PROVISIONS FOR HOME OCCUPATIONS

Source: Montgomery County Zoning Ordinance

| | No-Impact Home Occupations | Registered Home Occupations | Major Home Occupations |
|--|----------------------------|---|---|
| Maximum space available for non-residential uses | 33% | 33% | 33% or 1500 SF |
| Maximum visits including deliveries | 5 per week | 20 per week, 5 per day | By appointment |
| On-site sale of goods | Prohibited | On-site sale for off-site delivery (up to | On-site sale for off-site delivery (up to |

| | | | |
|--------------------------------|------|---------------------|---------------------|
| | | 5 visits per month) | 5 visits per month) |
| Non-resident employees allowed | None | One | Two* |

Note: * May include more employees for a health care practitioner.

ADDITIONAL IMPLEMENTATION STRATEGIES

As previously noted, the proposed zoning text amendment is only one of several land use proposals necessary to implement the intent of the enacted arts and entertainment legislation. Subsequent to state designation of portions of two central business districts within Montgomery County as arts and entertainment districts, the County Council’s Zoning Screening Committee met on 7/8/02 to discuss art and entertainment land use issues generally and on 3/14/03 to discuss the Planning Board’s proposed zoning text amendments for the central business districts. The Zoning Screening Committee generally supported the proposed zoning text amendments. However, the Committee felt that further work was necessary and that such work may require the joint effort of several agencies.

In particular, the Zoning Screening Committee felt that artist live/work space, which is both a new land use and new building type (live/work space involves more intensive nonresidential use within a dwelling unit than is permitted as a home occupation.), required a comprehensive and coordinated package of zoning, building, and fire code amendments, and noted that building and fire codes needed to be amended both on a state and local level. Both the Montgomery County Department of Fire and Rescue Service and Department of Permitting Services stressed the need for these amendments.

Other issues raised by the Zoning Screening Committee included the need to distinguish between high and low-intensity artist studios, the percentage of floor area in a artist live/work space that should be devoted to work space, and the proper way to restrict artist live/work spaces in residential environments.

Council staff has been exploring ways to establish a work program to address outstanding issues prior to introduction of any subsequent land use strategies to implement the arts and entertainment legislation. Council and zoning staff anticipate that work program and other broad-ranging arts and entertainment land use issues will be discussed when the Planning, Housing, and Economic Development Committee meets to discuss the current zoning text amendment.

RECOMMENDATION

The staff recommends approval of the proposed text amendment to amend the Zoning Ordinance to allow no-impact and registered home occupations as permitted uses in all CBD Zones and in the I-1 and I-4 Zones within Central Business Districts and to allow major home occupation by

special exception in all CBD Zones and in the I-1 and I-4 Zones within Central Business Districts.

Attachment 1 depicts the proposed text amendment as submitted.

GR

Attachments

1. Proposed Text Amendment 03-16.

ATTACHMENT 1

Zoning Text Amendment No: 03-16
Concerning: Home occupations - CBD, I-1,
I-4 Zones
Draft No. & Date: 1 – 6/12/03
Introduced: June 17, 2003
Public Hearing: July 22, 2003; 1:30 PM
(Postponed to 9/9/03)
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: District Council at the request of the Planning Board

AN AMENDMENT to the Montgomery County Zoning Ordinance for the purpose of:

- allowing a no-impact and registered home occupation as a permitted use in all CBD zones and in the I-1 and I-4 zones within a Central Business Districts; and
- allowing a major home occupation by special exception in all CBD zones and in the I-1 and I-4 zones within a Central Business Districts.

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

| | |
|-------------------|-----------------------------------|
| DIVISION 59-C-5 | “INDUSTRIAL ZONES” |
| Section 59-C-5.21 | “Allowable uses” |
| DIVISION 59-C-6 | “CENTRAL BUSINESS DISTRICT ZONES” |
| Section 59-C-6.22 | “Land uses” |

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 is amended as follows:**

2 **DIVISION 59-C-5. INDUSTRIAL ZONES.**

3 * * *

4 **59-C-5.2. Land uses.**

5 * * *

6 **59-C-5.21. Allowable uses.**

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

8 - **Permitted Uses.** Uses designated by the letter “P” and uses of a
 9 similar character, are permitted on any lot in the zones indicated,
 10 subject to all applicable regulations.

11 - **Special Exception Uses.** Uses designated by the letters “SE” may be
 12 authorized as special exceptions, in accordance with the provisions of
 13 Article 59-G.
 14

| | I-1 | I-2 | I-3 | I-4 | R&D | LSC |
|-------------------------------------|-----------|-----|-----|-----------|-----|-----|
| (e) Services. | | | | | | |
| * * * | | | | | | |
| <u>Home occupation, major*</u> | <u>SE</u> | | | <u>SE</u> | | |
| <u>Home occupation, registered*</u> | <u>P</u> | | | <u>P</u> | | |
| <u>Home occupation, no impact*</u> | <u>P</u> | | | <u>P</u> | | |
| * * * | | | | | | |

15
 16 * Permitted only if located within a central business district.

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 18 **Sec. 2. Division 59-C-6 is amended as follows:**

19 **DIVISION 59-C-6. CENTRAL BUSINESS DISTRICT ZONES.**

20 * * *

21 **59-C-6.22. Land uses.**

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

23 - **Permitted uses.** The letter “P” in the appropriate column indicates
 24 the zones in which each use is permitted, subject to all applicable

25 regulations under the standard or optional method of development,
 26 indicated by the letters “S” and “O”, respectively.

27 - **Special Exception Uses.** The letters “SE” in the appropriate column
 28 indicate the zones in which each use may be authorized as a special
 29 exception, in accordance with Article 59-G, under the standard or the
 30 optional method of development respectively. Special exception uses
 31 in a development under the optional method are subject to approval by
 32 both the Planning Board and the Board of Appeals.

33

| | CBD-0.5 | | CBD-R1 | | CBD-1 | | CBD-2 | | CBD-3 | | CBD-R2 | |
|--|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|------------|--------------------------|--------------------------|
| | S | O | S | O | S | O | S | O | S | O | S | O |
| (e) Services. | | | | | | | | | | | | |
| * * * | | | | | | | | | | | | |
| <u>Home occupation, major</u> | <u>SE</u> | <u>SE</u> | <u>SE</u> | <u>SE</u> | <u>SE</u> | <u>SE</u> | <u>SE</u> | <u>SE</u> | <u>SE</u> | <u>SSE</u> | <u>SE</u> | <u>SE</u> |
| <u>Home occupation, registered</u> ²⁴ | <u>P</u> | <u>P</u> | <u>P</u> | <u>P</u> | <u>P</u> | <u>P</u> | <u>P</u> | <u>P</u> | <u>P</u> | <u>P</u> | <u>P</u> | <u>P</u> |
| Home occupation, no impact ²⁴ | <u>P</u> | <u>P</u> | <u>P</u> | <u>P</u> | <u>P</u> | <u>P</u> | <u>P</u> | <u>P</u> | <u>P</u> | <u>P</u> | <u>P</u> ^[24] | <u>P</u> ^[24] |
| * * * | | | | | | | | | | | | |

34

35 24 [Townhouses only.] Parking must be provided in connection with [a] no
 36 impact and registered home occupancies [in the CBD-R2 zone must not
 37 use] in addition to parking that serves [townhouse] dwelling units.

38

38 **Sec. 3. Effective date.** This ordinance becomes effective 20 days after the
39 date of Council adoption.

40

41 This is a correct copy of Council action.

42

43

44

45

46 Mary A. Edgar, CMC

47 Clerk of the Council