



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

MCPB
Item # 7
1/14/10

DATE: January 5, 2010
TO: Montgomery County Planning Board
VIA: Rose Krasnow, Chief, Development Review
Ralph Wilson, Zoning Supervisor, Development Review
FROM: Greg Russ, Zoning Coordinator
REVIEW TYPE: Zoning Text Amendment
PURPOSE: To amend the dissemination requirements for reports and recommendations from the Hearing Examiner

TEXT AMENDMENT: No. 09-14
REVIEW BASIS: Advisory to the County Council sitting as the District Council, Chapter 59 of the Zoning Ordinance
INTRODUCED BY: Councilmember Knapp
INTRODUCED DATE: December 8, 2009

PLANNING BOARD REVIEW: January 14, 2010
PUBLIC HEARING: January 19, 2010; 1:30 PM

STAFF RECOMMENDATION: APPROVAL to amend the dissemination requirements for reports and recommendations from the Hearing Examiner to help defray administrative costs while continuing to provide adequate information to interested parties.

BACKGROUND/ANALYSIS

ZTA 09-14 was sponsored by Councilmember Knapp at the request of the Hearing Examiner. Currently, when the Hearing Examiner transmits a report and recommendation to the County Council or the Board of Appeals (based on whether the case is a local map amendment or a special exception request) copies must be mailed to the petitioner, the Planning Board, and to all persons and associations that appeared and testified in person or by counsel at the hearing.

ZTA 09-14 would repeal the current process in favor of a less costly process requiring only that written notice be given of the issuance of the Hearing Examiner report and recommendation. The written notification would describe the special exception or local map amendment request, state whether the Hearing Examiner recommended approval or denial, provide instructions to locate a readable and printable copy of the report on the County's web site, and identify the right to request oral argument before the Board of

Appeals. The proposal is intended to strike a balance between reasonable notice requirements and administrative costs.

The Hearing Examiner's office will be required to copy and mail full reports and recommendations only at the request of a person or entity entitled to notice of the report's issuance who states in writing that they do not have access to email and/or the internet. Staff believes that the proposed text amendment provides adequate measures to address information dissemination while also reducing administrative costs.

RECOMMENDATION

For the reasons stated above, staff recommends approval of ZTA 09-14 to amend the dissemination requirements for reports and recommendations from the Hearing Examiner.

Attachment 1 depicts the proposed text amendment as introduced.

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Attachments

1. Proposed Text Amendment 09-14

ATTACHMENT 1

Zoning Text Amendment No: 09-14
Concerning: Hearing Examiner - Report
Dissemination
Draft No. & Date: 1 - 12/01/09
Introduced: 12/08/09
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 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