



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

**MCPB  
Item #18  
7/11/02**

**DATE:** July 2, 2002  
**TO:** Montgomery County Planning Board  
**VIA:** Michael Ma, Zoning Supervisor  
**FROM:** Greg Russ, Zoning Coordinator  
**REVIEW TYPE:** Zoning Text Amendment  
**PURPOSE:** To allow antique shop, medical clinic and general office as special exception uses in the RE-2 zone, under certain circumstances

**TEXT AMENDMENT:** No. 02-14  
**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 18, 2002

**PLANNING BOARD REVIEW:** July 11, 2002  
**PUBLIC HEARING:** July 23, 2002; 1:30pm

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**STAFF RECOMMENDATION:** DENIAL

**PURPOSE OF THE TEXT AMENDMENT**

To allow antique shop, medical clinic and general office as special exception uses in the RE-2 zone, under certain circumstances

**BACKGROUND**

The Zoning Text Amendment pertains to the Reiver Property located in the northeast quadrant of the intersection of Travilah and Glen Roads. The Potomac Master Plan, approved on March 5, 2002, states that appropriate special exception uses could be allowed on the property.

**ANALYSIS**

**Adopted 2002 Potomac Master Plan**

The Reiver property is the subject of the proposed text amendment. This two-acre site, zoned RE-2, is located in the northeast quadrant of the intersection of Travilah and Glen Roads. The property is surrounded on three sides by the single-family detached houses of the Belvedere, Travilah Park and Greenbriar Estates subdivisions and, according to the Master Plan, retains a single-family detached residential character. A small commercial convenience center is located diagonally across the intersection from the site. The owner (Mr. Reiver) requested O-M zoning, with a schematic development plan, arguing the need for small office in the area and that the proximity of the existing structure to the Glen and Travilah rights-of-way limits its use for residential purposes.

The Master Plan stated that this site is not appropriate for office uses and such changes would constitute an undesirable precedent in the RE-2 Zone. As such, the Plan recommended that the RE-2 zone be retained, but allow appropriate special exception uses.

#### Adding Land Uses to the RE-2 Zone

The text amendment proposes to add medical clinics and general office uses to the RE-2 zone on a limited basis (10,000 square feet maximum) and only if the site is a corner lot identified for special exception use in an approved and adopted master plan. This amendment concerns staff for several reasons. The Potomac Master Plan states that appropriate special exceptions uses could be permitted on the Reiver site and that office uses are not appropriate. Phase I of the Comprehensive Zoning Ordinance Review addressed the issue of including additional uses in the one-family residential zones. The review concluded that medical clinics or offices uses would be inappropriate in the RE-2 zone considering the more rural nature of the zone, including, but not limited to, the roadway system and the character of the area. As such, staff believes that adding medical clinic and general office uses to the RE-2 Zone, even if limited to the one site, would be inappropriate.

#### Modification of Special Exception Standards and Requirements for Antique Shops

The text amendment proposes modifications to the special exception standards for antique shops to allow the expansion of an existing building or the construction of a new building in the RE-2 Zone on property identified as appropriate for special exception use in an approved and adopted master plan. This language is intended to limit the expansion opportunities to the Reiver property. Staff has several concerns with the proposed text amendment. Phase I of the Comprehensive Zoning Ordinance Review addressed antique shops located in the one-family residential zones and concluded that they should be located in an existing structure at least 5 years old, with the intent of maintaining the original character of the building. The proposed text amendment alters the original intent. Additionally, the proposed text amendment would allow an expansion of an existing building to conform to the established setback measurements of the existing building, even if the existing setback measurements do not conform to zoning ordinance requirements. Staff believes that expansion of an antique shop, if approved, should adhere to the setback requirements in place at that time. In any case, staff believes that the original intent of the Phase I Zoning Ordinance review of antique shops would be diminished with the proposed text amendment. As such, staff believes that the proposal should be denied

## **RECOMMENDATION**

The staff recommends denial of the proposed text amendment to allow antique shop, medical clinic and general office as special exception uses in the RE-2 zone, under certain circumstances. Staff believes that the original intent of the Phase I Zoning Ordinance review of antique shops would be diminished with the proposed text amendment. Staff further believes that adding medical clinic and general office uses to the RE-2 Zone would be inappropriate, considering the more rural nature of the zone, and would be inconsistent with Potomac Master Plan language that discourages office uses in the RE-2 Zone.

Attachment 1 depicts the proposed text amendment as submitted.

GR

### **Attachments**

- 1. Proposed Text Amendment 02-14**

Zoning Text Amendment No: 02-14  
Concerning: Special exception uses –  
RE-2 zone  
Draft No. & Date: 1 – 6/18/02  
Introduced: June 18, 2002  
Public Hearing: July 23, 2002; 1:30 PM  
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**

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By: Councilmember Silverman

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

- allowing antique shop, medical clinic, and general office as special exception uses in the RE-2 zone, under certain circumstances.

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

DIVISION 59-C-1           “RESIDENTIAL ZONES, ONE-FAMILY”  
59-C-1.31                 “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-1 is amended as follows:**

2   **DIVISION 59-C-1. RESIDENTIAL ZONES, ONE-FAMILY.**

3   \* \* \*

4   **59-C-1.31. Land uses.**

	RE-2	RE-2C	RE-1	R-200	R-150	R-90	R-60	R-40	R-4 plex	RM 200
<b>(c) Commercial.</b>										
Antique shop.	SE		SE	SE						SE
* * *										
<b>(d) Services.</b>										
* * *										
Clinic, medical or dental, for no more than 4 medical practitioners.	SE*			SE	SE	SE	SE			
* * *										
Offices, general	SE*									

5

6   \*If the site is a corner property identified as appropriate for special exception use  
 7   in an approved and adopted master plan and the building is not larger than 10,000  
 8   total square feet. Any existing building or expansion of an existing building on the  
 9   site may conform to the established setback measurements of the existing building.

10

11           **Sec. 2. Division 59-G-2 is amended as follows:**

12   **DIVISION 59-G-2. SPECIAL EXCEPTIONS—STANDARDS AND**  
 13   **REQUIREMENTS.**

14   \* \* \*

15   **59-G-2.04. Antique shop.**

16   An antique shop may be allowed in an existing building, [or part of an existing  
 17   building] in an expansion of an existing building, or in a new building in the RE-2  
 18   zone on property identified as appropriate for special exception use in an approved  
 19   and adopted master plan. [if the Board finds:] If the antique shop is in an existing  
 20   building or in an expansion of an existing building:

21           (a) The original character of the building must be [is] maintained.

22 (b) The [structure] original building must be [is] 5 or more years old; and

23 (c) The property must adjoin[s] land in the RDT Zone, if it is located in  
24 the R-200 and RMH-200 zones.

25 Any existing building or expansion of an existing building on the site may conform  
26 to the established setback measurements of the existing building.

27

28 **59-G-2.14. Clinic.**

29 A special exception may be approved for a medical or dental clinic in which no  
30 more than 4 medical practitioners are present at any one time, subject to the  
31 following standards: [stated in paragraphs (a) through (e), below.]

32

33 (a) Development standards as specified in the applicable zone and in Section  
34 59-G-1.23 except:

35 (1) Minimum frontage: 100 feet

36 (2) Minimum setback from an adjoining lot: 40 feet

37

38 (b) The property must front on and have direct access to a public roadway  
39 having more than one through travel lane in each direction of travel; except  
40 that access to a corner lot may be from an adjoining street, constructed to  
41 primary standards, if the Board finds the access to be appropriate and not  
42 detrimental to existing uses on that primary street. In the RE-2 zone,  
43 frontage and access to a corner lot may be along a road recommended or  
44 designated as a rustic road.

45

46 (c) [Office] Sufficient office space suitable for the practice of the profession is  
47 unavailable at the time of special exception application in either the nearest

48 [commercial zone] commercially zoned lot or the nearest medical clinic  
49 office building constructed according to a special exception grant.

50 \* \* \*

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

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54 This is a correct copy of Council action.

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59 Mary A. Edgar, CMC

60 Clerk of the Council