



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB
Item #20
9/06/02

DATE: September 6, 2002
TO: Montgomery County Planning Board
VIA: Joe Davis, Chief, Development Review *JRO*
FROM: Greg Russ, Zoning Coordinator *GR*
REVIEW TYPE: Zoning Text Amendment
PURPOSE: To establish standards for home occupation parking in the R-60 and R-90 zones.

TEXT AMENDMENT: No. 02-20
REVIEW BASIS: Advisory to the County Council sitting as the District Council, Chapter 59 of the Zoning Ordinance
INTRODUCED BY: Councilmember Denis
INTRODUCED DATE: July 16, 2002

PLANNING BOARD REVIEW: September 12, 2002
PUBLIC HEARING: September 17, 2002; 1:30pm

STAFF RECOMMENDATION: APPROVAL with modifications

PURPOSE OF THE TEXT AMENDMENT

To establish standards for home occupation parking in the R-60 and R-90 zones. Specifically, these standards include:

- defining the term "Home occupation residential parking area";
- limiting on-site parking for a no-impact home occupation to not more than one motor vehicle;
- limiting on-site parking for a registered home occupation to not more than 2 motor vehicles;
- requiring a registered home occupation to have an on-site home occupation residential parking area;
- establishing home occupation residential parking area setback standards; requiring an existing registered home occupation to comply with new parking standards, under certain circumstances; and

- providing alternative compliance measures for a registered home occupation that began less than 3 years before (ZTA Effective Date).

BACKGROUND

ZTA 02-20 was introduced to establish on-site parking, water run-off, and enforcement standards for home occupations in the R-60 and R-90 zones. Under the ZTA, on-site parking in connection with a no-impact home occupation would be limited to one motor vehicle and on-site parking in connection with a registered home occupation would be limited to two motor vehicles. A home occupation residential parking area process is proposed which is much less burdensome and simpler to administer and enforce than the building permit requirement for construction of an impervious surface proposed in connection with the previous impervious surface legislation. Standards for controlling the placement of on-site parking are proposed. Existing parking areas that exceed proposed limits would be grandfathered and compliance with proposed parking standards would be required under certain circumstances.

ZTA 02-20 is a follow-up to earlier work that had been done to limit the area of a residential lot in the R-60 and R-90 zones that may be covered by impervious surface (ZTA 01-06). The issues raised in connection with ZTA 01-06 were discussed at a PHED Committee meeting held July 9, 2001. The Committee agreed that there are legitimate concerns regarding the ZTA and requested staff to organize a working group for the purpose of developing a consensus proposal. The working group consisted of citizen, building industry, and government representatives, excluding Parking and Planning technical staff. There was a general consensus reached over the course of the working group meetings that the effect of the impervious surface ZTA should be limited to properties in the R-60 and R-90 zones used for home occupations.

ANALYSIS

The proposed new definition of a home occupation residential parking area and development standards are discussed below.

Defining the term "Home occupation residential parking area"

The proposed term "home occupation residential parking area" is defined as follows:

Home occupation residential parking area: *Any portion of a lot or parcel in an R-60 or R-90 zone on which is conducted a registered home occupation:*

- (1) where the natural surface has been altered by gravel, stone, brick, concrete, asphalt, paving stone, mulch, or any other material that facilitates the parking of a motor vehicle; and*
- (2) which is readily accessible for the parking of a motor vehicle.*

A fully enclosed garage, or a carport is not a home occupation residential parking area.

As stated above, the text amendment proposes that a new definition be provided to address home occupation residential parking for registered home occupations in R-60 and R-90 zones since these uses are permitted to employ one nonresident employee, are allowed up to 20 visits per week and permit a limited amount of sales of goods. Staff has no objection with establishing a definition for residential parking for a registered home occupation. Staff believes that the term “paving stone” should be eliminated from the definition since the term “stone” is already included as a more “all inclusive” parking surface material. Also, staff believes that mulch should not be considered as a material that facilitates the parking of a motor vehicle.

Limiting on-site parking for a no-impact home occupation

A proposed additional standard for a no-impact home occupation is as follows:

- * * *
- (b) *A no-impact home occupation must comply with the following standards:*
- (10) *In the R-60 and R-90 zones:*
- (A) *Not more than one motor vehicle of a patron, client, or any other non-resident using, visiting, or associated with a no-impact home occupation may be parked at the same time on a lot or parcel where a home occupations is conducted.*

Staff believes that this concept limiting on-site parking for a no-impact home occupation to not more than one motor vehicle is acceptable since a no-impact home occupation does not permit non-resident employees, allows a maximum of five visits per week and allows no sale of goods on the premises.

Proposed new standards for a registered home occupation in a residential or agricultural zone are as follows:

Limiting on-site parking for a registered home occupation

The proposed language is as follows:

- (9) *In the R-60 and R-90 zones:*
- (A) *Not more than two motor vehicles of any non-resident employee, patron, client, or any other non-resident person associated with a registered home occupation may be parked at the same time on a lot or parcel where a registered home occupation is conducted.*
- (B) *A registered home occupation must have a home occupation residential parking area on the lot or parcel on which the registered home occupation is conducted that is no greater than that which will accommodate two parked motor vehicles, except that:*
- (i) *a driveway 12 feet or less in width that provides access for a motor vehicle to a public or private right-of-way, to a*

- garage, carport or a home occupation residential parking area for one car; or,
- (ii) a driveway 20 feet or less in width that provides direct access for a motor vehicle to a garage, carport or home occupation residential parking area for more than one car, is deemed to accommodate no more than two parked motor vehicles, regardless of the size of the driveway.

Staff has no objection with the proposed standard to limit, to two, the number of parking spaces associated with a home occupation residential parking area and to limit the number of patrons associated with a registered home occupation to two at any one time. Staff believes that providing a maximum dimension per parking space would minimize the construction of impervious surface. Staff suggests that a maximum dimension of 8.5'x 18' per vehicle would be appropriate, consistent with the current requirement for a perpendicular parking space. Staff, further believes that the language depicting the driveway exception is confusing and needs to be clarified. The intent of the language is to limit the number of vehicles associated with a home occupation that can be parked on a driveway to no more than two.

Drainage Impacts of the home occupation residential parking area

Proposed standard 9(C) reads as follows:

- (C) Before issuing a Certificate of Registration pursuant to Section 59-A-3.4, the Department must find that the drainage of any home occupation residential parking area will not damage any nearby property or public street.

Staff has no objection with the intent of this standard but believes that enforcement of this requirement could be an issue. Additionally, staff feels that some type of minor drainage area study would be required in order to identify and remedy any potential water run-off issues.

Parking Compliance Requirement for New and Existing Registered Home Occupations

Proposed standards 9(D), (E) and (F) are as follows:

- (D) No home occupation residential parking area, regardless of when created, may be established, maintained or used for parking of any motor vehicle on a parcel or lot on which a registered home occupation is conducted pursuant to registration certificate issued after (effective date of ZTA), except in accordance with the requirements of this section.
- (E) For a registered home occupation for which a registration certificate had been issued before (effective date of ZTA), a

home occupation residential parking area that accommodates more than two parked motor vehicles may continue to be used and maintained, provided that such area has been used for parking for a registered home occupation for not less than three years prior to (effective date of ZTA).

(F) A registered home occupation for which a registration certificate was issued before (effective date of ZTA), must bring all home occupation residential parking areas into compliance with the requirements of this section, if any home occupation residential parking area is constructed or increased after (effective date of ZTA).

Staff believes that Subparagraphs D and F could be combined to more clearly identify the intent of this requirement to require any home occupation residential parking area established or expanded after the effective date of this text amendment to adhere to the new requirements. Staff suggests the following language for the combined Subparagraphs D and F:

“Any home occupation residential parking area constructed or expanded after (the effective date of the ZTA) must comply with the requirements of this section.”

The reference in Subparagraph E to allow existing home occupation residential parking areas that accommodate more than two vehicles to continue only if they have been used as parking for a registered home occupation for at least three years was proposed to reduce the possibility of individuals attempting to circumvent the new legislation by paving their entire front yard prior to applying for a registered home occupation. Staff has no objection with this concept. The three-year minimum time-frame was agreed upon by the working group.

Home Occupation Residential Area Setback Requirements

Subparagraph (G) proposes the following standard:

(G) Except for a driveway covered in subparagraph (B)(i) or (ii), or as otherwise provided in this section, each home occupation residential parking area must be set back from a lot line no less than:

| | <u>R-90</u> | <u>R-60</u> |
|--------------------|----------------|----------------|
| <u>(1) Front*</u> | <u>30 feet</u> | <u>25 feet</u> |
| <u>(2) Side**</u> | <u>16 feet</u> | <u>16 feet</u> |
| <u>(3) Rear***</u> | <u>25 feet</u> | <u>20 feet</u> |

Staff has no objection to the proposed home occupation residential parking area setbacks since they are either the same as or more stringent than the minimum yard requirements for a main building in these zones. It should be noted that the proposal includes a mechanism to reduce the setbacks up to 50% if various screening techniques (solid wood fencing, masonry walls, berms and/or evergreen landscaping) are used to effectively screen the parking area from view from adjoining or confronting property. Staff believes that the proposed setback reduction mechanisms could provide opportunities for establishing home occupation residential parking areas while also maintaining the residential character within the smaller lot subdivisions located in the R-90 and R-60 zones.

Master and Sector Plan Conformance

The Community-Based Planning Division reports that the proposed text amendment would not affect the goals and objectives of any master and sectors plans.

RECOMMENDATION

Staff supports the concept of the proposed text amendment to establish standards for home occupation parking in the R-60 and R-90 zones. Staff does believe that several clarifications should be made to the proposed definition of a home occupation residential parking area, along with a simplification of the compliance requirement, a clarification on the driveway exemption, a provision for parking space dimensions and a square footage allowance for a vehicle turnaround for those properties that access streets with more than one through travel lane for each direction of travel.

Staff's recommendations are included as Attachment 1. 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 (staff's changes). [[Double boldface brackets]] indicate text that is deleted from the text amendment by amendment (staff's changes).

GR

Attachments

1. Proposed Text Amendment 02-20

Zoning Text Amendment No: 02-20
Concerning: Off-street Parking – Home
Occupation R-90 and R-60
Draft No. & Date: 1 – 7/16/02
Introduced: July 16, 2002
Public Hearing: 9/17/02; 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**

By: Councilmember Denis

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

- defining the term “Home occupation residential parking area”;
- limiting on-site parking for a no-impact home occupation to not more than one motor vehicle;
- limiting on-site parking for a registered home occupation to not more than 2 motor vehicles;
- requiring a registered home occupation to have an on-site home occupation residential parking area;
- establishing home occupation residential parking area setback standards;
- requiring an existing registered home occupation to comply with new parking standards, under certain circumstances; and
- providing alternative compliance measures for a registered home occupation that began less than 3 years before (ZTA Effective Date).

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

DIVISION 59-A-2.1 “DEFINITIONS AND INTERPRETATION”
DIVISION 59-A-6 “USES PERMITTED IN MORE THAN ONE CLASS OF ZONE”
Section 59-A-6.1 “A no-impact home occupation, registered home occupation, or home health practitioner’s office”

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 A-2 is amended as follows:**

2 **DIVISION A-2. DEFINITIONS AND INTERPRETATION.**

3 **59-A-2.1. Definitions.**

4 * * *

5 **Home occupation residential parking area:** Any portion of a lot or parcel in an
6 R-60 or R-90 zone on which is conducted a registered home occupation:

7 (1) where the natural surface has been altered by gravel, stone, brick,
8 concrete, asphalt, [[paving stone, mulch,]] or any other material that
9 facilitates the parking of a motor vehicle; and

10 (2) which is readily accessible for the parking of a motor vehicle.

11
12 A fully enclosed garage, or a carport is not a home occupation residential parking
13 area.

14
15 **Sec. 2. Division A-6 is amended as follows:**

16 **DIVISION 59-A-6. USES PERMITTED IN MORE THAN ONE CLASS OF**
17 **ZONE.**

18 * * *

19 **59-A-6.1. A no impact home occupation, registered home occupation, or home**
20 **health practitioner's office.**

21 * * *

22 (b) A no-impact home occupation must comply with the following
23 standards:

24 * * *

25 (10) In the R-60 and R-90 zones:

26 (A) Not more than one motor vehicle of a patron, client, or
27 any other non-resident using, visiting, or associated with

28 a no-impact home occupation may be parked at the same
29 time on a lot or parcel where a home occupation[[s]] is
30 conducted.

31 * * *

32 (c) A registered home occupation in a residential or agricultural zone, as
33 provided by Section 59-C-1.31, 59-C-1.71, 59-C-2.3 or 59-C-9.3,
34 must comply with the following standards:

35 * * *

36 (8) * * *

37 (9) In the R-60 and R-90 zones:

38 (A) Not more than two motor vehicles of any non-resident
39 employee, patron, client, or any other non-resident
40 person associated with a registered home occupation may
41 be parked at the same time on a lot or parcel where a
42 registered home occupation is conducted.

43 (B) A registered home occupation must have a home
44 occupation residential parking area on the lot or parcel on
45 which the registered home occupation is conducted that
46 is no greater than that which will accommodate two
47 parked motor vehicles, each space with a maximum
48 dimension of 8.5'x18', except that []:

49 (i) a driveway 12 feet or less in width that provides
50 access for a motor vehicle to a public or private
51 right-of-way, to a garage, carport or a home
52 occupation residential parking area for one car;
53 or,]]

54 [[(ii)]] a driveway 20 feet or less in width that provides
55 direct access for a motor vehicle to a garage,
56 carport or home occupation residential parking
57 area for one or more [[than one]] cars, is deemed
58 to accommodate no more than two parked motor
59 vehicles, regardless of the size of the driveway.

60 (C) Before issuing a Certificate of Registration pursuant to
61 Section 59-A-3.4, the Department must find that the
62 drainage of any home occupation residential parking area
63 will not damage any nearby property or public street.

64 [[(D)]] No home occupation residential parking area, regardless
65 of when created, may be established, maintained or used
66 for parking of any motor vehicle on a parcel or lot on
67 which a registered home occupation is conducted
68 pursuant to registration certificate issued after (effective
69 date of ZTA), except in accordance with the requirements
70 of this section.]]

71 [[(E)]] (D) For a registered home occupation for which a
72 registration certificate had been issued before (effective
73 date of ZTA), a home occupation residential parking area
74 that accommodates more than two parked motor vehicles
75 may continue to be used and maintained, provided that
76 such area has been used for parking for a registered home
77 occupation for not less than three years prior to (effective
78 date of ZTA).

79 [[(F)]] (E) [[A registered home occupation for which a
80 registration certificate was issued before (effective date

81 of ZTA), must bring all home occupation residential
 82 parking areas into compliance with the requirements of
 83 this section, if a]Any home occupation residential
 84 parking area that is constructed or [[increased]] expanded
 85 after (effective date of ZTA) must comply with the
 86 requirements of this section.

87 [(G)](F) Except for a driveway covered in subparagraph
 88 (B)(i) or (ii), or as otherwise provided in this section, each
 89 home occupation residential parking area must be set
 90 back from a lot line no less than:

| | <u>R-90</u> | <u>R-60</u> |
|--------------------|----------------|----------------|
| <u>(1) Front*</u> | <u>30 feet</u> | <u>25 feet</u> |
| <u>(2) Side**</u> | <u>16 feet</u> | <u>16 feet</u> |
| <u>(3) Rear***</u> | <u>25 feet</u> | <u>20 feet</u> |

92 [(9)] (10) * * *

93 [(10)] (11) * * *

94 * The setback may be reduced up to 50 percent if a four-foot high solid wood
 95 fence, masonry wall, berm, evergreen landscaping six feet high at a time of
 96 planting, or a combination, effectively screens from view from adjoining or
 97 confronting property, vehicles parked in the home occupation residential parking
 98 area.

99
 100 ** The setback may be reduced up to 50 percent if a six-foot high solid wood
 101 fence, masonry wall, berm, evergreen landscaping six feet high at time of planting.

102 or a combination, effectively screens from view from adjoining or confronting
103 property, vehicles parked in the home occupation residential parking area.

104
105 *** For a corner lot, the side yard adjoining a public right-of-way shall be
106 considered as a front yard and the front yard setbacks apply.

107
108 **Sec. 3. Effective date.** This ordinance becomes effective 20 days after the
109 date of Council adoption.

110
111 This is a correct copy of Council action.

112
113
114
115 _____

116 Mary A. Edgar, CMC
117 Clerk of the Council