



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
Office of the Chairman, Montgomery County Planning Board

MONTGOMERY COUNTY PLANNING BOARD

The Maryland-National Capital Park and Planning Commission

September 16, 2003

TO: County Council for Montgomery County, Maryland, sitting as the District Council for the Maryland-Washington Regional District in Montgomery County, Maryland

FROM: Montgomery County Planning Board

SUBJECT: Planning Board Recommendation for Zoning Ordinance Text amendment No. 03-23

BOARD RECOMMENDATION

The Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission reviewed Zoning Ordinance Text Amendment No. 03-23, at its regular meeting of Thursday, September 11, 2003. By a vote of 5-0, the Planning Board recommends that the text amendment be denied for the reasons set forth in the technical staff report, dated, September 5, 2003, which is hereby approved and incorporated into this Board Recommendation. The Planning Board strongly supports the arts and the concept of an arts incubator. However, the Board believes that this legislation is an inappropriate means to this end. The Board members have two major concerns with the proposal.

First, it would be bad precedent to encourage a non-conforming use to expand, even to obtain arts space. Long standing County policy is that non-conforming uses are inconsistent with the vision for an area and should be phased-out. Allowing additional investment in a non-conforming use would make it even less likely that the use would be replaced by something more appropriate, as recommended in the applicable master or sector plan and as allowed by the applicable zoning.

Second, we believe that a self-storage warehouse like the Extra Space warehouse on Newell Street is not the highest and best use of valuable CBD property. Development activity in South Silver Spring indicates that the market would support something more appropriate at this location, such as a residential use. From a public policy perspective, the existing warehouse is no longer an appropriate use at this location and the public should not encourage its expansion.

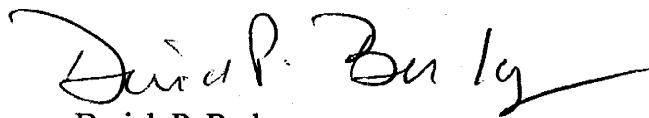
The members of the Planning Board noted that the arts space that would result from the proposed ZTA constitutes no more than the minimum public use space that would already be required under the optional method of development in the CBD zones. The Planning Board also notes that the warehouse space is located in the CBD-1 South Silver Spring Overlay Zone in addition to the CBD-1 Zone. The text amendment does not address the Overlay Zone standards that preclude expansion of the storage use. Furthermore, the Board's regulatory powers could not assure that the architecture of an expanded warehouse or the expanded storage use would be aesthetically compatible with the surrounding residential neighborhood.

The Planning Board concludes that the subject text amendment is not appropriate because it is in direct conflict with the recommendations of the Silver Spring CBD Sector Plan and contradicts long established policy for non-conforming uses. In addition, we note that the legislation does not propose additional public use space or amenities beyond the normal 20 percent minimum public use space standard required for any optional method project. We also note that storage buildings within urban areas involve substantial compatibility issues that go beyond the Planning Board's authority to address as part of site plan review, such as the architecture of a storage building, a use not normally allowed in the Zone. We are very uncomfortable with this proposal knowing that more scrutiny should be required, as part of site plan review, in order to adequately address the compatibility concerns that this project will generate.

The attached technical staff report also elaborates on the problems and issues associated with ZTA 03-23.

CERTIFICATION

This is to certify that the attached report is a true and correct copy of the technical staff report and the foregoing is the recommendation adopted by the Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission, on a motion by Commissioner Wellington, seconded by Vice-Chair Perdue with Commissioners Robinson, Wellington, Bryant, Vice-Chair Perdue and Chairman Berlage voting in favor of the motion, at its regular meeting held in Silver Spring, Maryland on Thursday, September 11, 2003.



Derick P. Berlage
Chairman

Attachment: Staff report

DB: jrd:gk

(Excerpts from Zoning Ordinance)

59-C-18.204. Density of development.

Development in the overlay zone may proceed under one of the following options:

- (a) Underlying zone standards. Except as regulated by this overlay zone, development may proceed under the standards of the underlying CBD Zone, in accordance with the provisions of Sec. 59-C-6.23.

* * *

- (f) Any building for which a valid building permit was issued before approval of the Ripley/South Silver Spring Overlay Zone Sectional Map Amendment, is a conforming building and may be altered, repaired or reconstructed under the standards of the zone in effect at the time the building was constructed, except:
 - (1) If the building exceeds the standards of the underlying zone, any alteration, repair, or reconstruction of the building must not increase the gross floor area or the height of the building above that which existed as of the date of application of the Ripley/South Silver Spring Overlay Zone; or
 - (2) If the building does not exceed the standards of the underlying zone, any alteration, repair, or reconstruction of the building must conform to the standards of the underlying zone, except as may be further regulated by the Ripley/South Silver Spring Overlay Zone.