



Committee: PHED
Committee Review: Completed
Staff: Livhu Ndou, Legislative Attorney
Purpose: Final action – vote expected
Keywords: #CharityKitchen,
#CharitablePhilanthropicInstitutions

AGENDA ITEM #3C
September 21, 2021
Worksession/Action

SUBJECT

Zoning Text Amendment (ZTA) 21-03, Charitable, Philanthropic Institution – Kitchens

Lead Sponsor: Councilmember Friedson

Co-Sponsors: Councilmember Navarro, Council President Hucker, and Councilmembers Glass, Katz, Albornoz, Reimer, Rice, and Jawando

EXPECTED ATTENDEES

None

COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

The PHED Committee unanimously (3-0) recommends approval of this ZTA with amendments.

DESCRIPTION/ISSUE

ZTA 21-03 will allow charitable and philanthropic institutions to have kitchens under certain circumstances.

SUMMARY OF KEY DISCUSSION POINTS

- Charitable, Philanthropic Institutions may provide shelter in an existing detached house or townhouse for people who are supporting a family member at a medical institution.
- ZTA 21-03 will allow those institutions to prepare food on the premises.
- The food may be distributed for off-site consumption but must be provided without payment.

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Worksession/Action

MEMORANDUM

September 16, 2021

TO: County Council

FROM: Livhu Ndou, Legislative Attorney

SUBJECT: Zoning Text Amendment (ZTA) 21-03, Charitable, Philanthropic Institution – Kitchens

PURPOSE: Worksession/Action

Zoning Text Amendment (ZTA) 21-03, Charitable, Philanthropic Institution – Kitchens, lead sponsor Councilmember Friedson, co-sponsor Councilmember Navarro, was introduced on June 15, 2021. Council President Hucker and Councilmembers Glass, Katz, Albornoz, Reimer, Rice, and Jawando were added as co-sponsors after introduction.

Background

In 2015, the Council passed ZTA 15-08, Charitable Institutions – Residential Support. ZTA 15-08 allowed a charitable institution to provide shelter in an existing detached house or townhouse for people who are supporting a family member at a medical institution.¹ As an expansion of that use, ZTA 21-03 would allow food to be prepared on the premises and distributed for off-site consumption, but without payment.

Public Hearing

A public hearing was held on July 20, 2021. There were five public speakers, all in support. Testimony came from individuals including the Executive Director of Bikur Cholim, the Co-Chair of Food for Montgomery, and the Director of Maryland Government and Community Relations for the Jewish Community Relations Council. They testified that ZTA 21-03 will help with food security issues and help provide healthy meals that are conscious of the dietary and health needs of both patients and caregivers. There was testimony on the great work that Bikur Cholim already does. There was also testimony on the healing power of food, both as a point of connection and a way to help patients and caregivers focus on treatment, as well as reduce financial stress.

¹ The text of ZTA 15-08, Charitable Institutions – Residential Support can be found here: https://www.montgomerycountymd.gov/COUNCIL/Resources/Files/zta/2015/20150728_18-05.pdf.

Planning Board Recommendation

The Planning Board reviewed ZTA 21-03 at its regular meeting on July 15, 2021. The Planning Board unanimously recommended approval of this amendment. However, the Planning Board agreed with Planning Staff that the scope of the ZTA should be limited. Specifically, Planning Staff raised concerns that there was no limit on how much or how frequently food distribution may take place, which could have negative impacts on traffic and noise in residential neighborhoods. Therefore, the Planning Board recommended an amendment to limit the ability to prepare food on premises to “properties that front on and have direct access to a public road with a master-planned right-of-way of 120 feet or greater.” The intent of this amendment is to mitigate the increase in vehicle or delivery trips. In addition, the Planning Board recommended removing the phrase “and may be distributed” as it relates to off-site consumption so that charitable and philanthropic institutions that do not have the requisite right-of-way can still prepare food for on-site consumption.

- d. For properties that front on and have direct access to a public road with a master-planned right-of-way of 120 feet or greater, [[Food]] food may be prepared on the premises [[and may be distributed]] for off-site consumption but must be provided without payment.

[Lines 19-23]

Discussion

ZTA 21-03 would allow Charitable, Philanthropic Institutions that provide shelter for people who are supporting a family member at a medical institution to prepare high-quality, culturally appropriate meals for both patients and their caregivers.

Council Staff notes that this use fits the definition of a “food service facility” under Chapter 15 of the County Code, which is:

Food Service Facility - Any enterprise that prepares, serves, or sells food or drink for human consumption, on or off the premises, *with or without charge*. A food service facility includes the following types of facilities:

1. a restaurant, coffee shop, cafeteria, short order cafe, luncheonette, tavern, sandwich stand, soda fountain, retail market, or retail bakery outlet; or
2. *a food operation in an industry, institution, hospital, club, school, camp, church, catering kitchen, commissary, or a similar place in which food or drink is prepared for sale or for service on or off the premises.*

A food service facility does not include:

1. a kitchen in a private home where food is prepared at no charge for residents or guests in the home, for guests at a private social gathering or for members of a nonprofit organization, but not served to the public; or
2. a facility that is owned or operated by and inspected by the Federal government.

(emphasis added)

Food service facilities are subject to various additional regulations, both in County and State law, including food safety and inspections. ZTA 21-03 would not exempt these institutions from those regulations. The Department of Health and Human Services (DHHS) has been made aware of this ZTA and recommends that applicants new to food service regulations contact DHHS and speak to an Environmental Health Specialist for help navigating these regulations.

PHED Committee

The PHED Committee held a worksession on July 28, 2021. The PHED Committee unanimously recommended approval of this ZTA with the Planning Board amendment.

This packet contains:

ZTA 21-03

© 1-4

Planning Board Recommendation

© 5

Planning Staff Memorandum

© 6-7

Zoning Text Amendment No.: 21-03
Concerning: Charitable, Philanthropic
Institution – Kitchens
Draft No. & Date: 4 – 9/16/2021
Introduced: June 15, 2021
Public Hearing: July 20, 2021
Adopted: September 21, 2021
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**

Lead Sponsor: Councilmember Friedson
Co-Sponsors: Councilmember Navarro, Council President Hucker, and Councilmembers Glass,
Katz, Albornoz, Reimer, Rice, and Jawando

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- allow charitable and philanthropic institutions to have kitchens under certain circumstances

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

Division 3.4. “Civic and Institutional Uses”
Section 3.4.2. “Charitable, Philanthropic Institution”

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 text that 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.*

OPINION

Zoning Text Amendment (ZTA) 21-03, lead sponsor Councilmember Friedson, co-sponsors Councilmember Navarro, Council President Hucker, and Councilmembers Glass, Katz, Alborno, Reimer, Rice, and Jawando, was introduced on June 15, 2021.

In 2015, the Council passed ZTA 15-08, Charitable Institutions – Residential Support. ZTA 15-08 allowed a charitable institution to provide shelter in an existing detached house or townhouse for people who are supporting a family member at a medical institution. As an expansion of that use, ZTA 21-03 would allow food to be prepared on the premises and distributed for off-site consumption, but without payment.

In its report to the Council, the Montgomery County Planning Board and Planning Staff recommended approval of ZTA 21-03. The Planning Board recommended an amendment limiting the scope of this ZTA by requiring direct access to a public road with a master-planned right-of-way of 120 feet or greater in order to distribute food.

The Council's public hearing was conducted on July 20, 2021. There were five speakers, all in support, including the Executive Director of Bikur Cholim, the Co-Chair of Food for Montgomery, and the Director of Maryland Government and Community Relations for the Jewish Community Relations Council.

The Council referred the text amendment to the Planning, Housing, and Economic Development (PHED) Committee for review and recommendation. The PHED Committee held a worksession on July 28, 2021. The PHED Committee unanimously (3-0) recommended approval with the amendments proposed by the Planning Board.

The Council agreed with the recommendation of the Committee. For these reasons, and because to approve this amendment will assist in the coordinated, comprehensive, adjusted, and systematic development of the Maryland-Washington Regional District located in Montgomery County, Zoning Text Amendment No. 21-02 will be approved as amended.

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 59-3 is amended as follows:**

2 **Division 3.4. Civic and Institutional Uses**

3 * * *

4 **Section 3.4.2. Charitable, Philanthropic Institution**

5 * * *

6 **B. Use Standards**

7 1. Where a Charitable, Philanthropic Institution is allowed as a limited
8 use, it must satisfy the following standards:

9 a. The Charitable, Philanthropic Institution must be primarily for
10 the provision of support and hospitality services for persons
11 who are present as a result of treatment or care being provided
12 to a member of their household by a federal treatment facility or
13 a Hospital.

14 b. Services may be provided daily, during any hours, to persons
15 who are not permanent residents of the premises but are present
16 as a result of treatment or care being provided to a member of
17 their household by a federal treatment facility or a Hospital.

18 c. The support and hospitality services are provided without
19 payment.

20 d. For properties that front on and have direct access to a public
21 road with a master-planned right-of-way of 120 feet or greater,
22 [[Food]] food may be prepared on the premises [[and may be
23 distributed]] for off-site consumption but must be provided
24 without payment.

25 [d]e. The Charitable, Philanthropic Institution must use an existing
26 detached house and must retain the appearance of a detached
27 house.

[e]f. The maximum number of guests that may reside on the property at one time is 8, excluding:

- i. resident staff; or
- ii. children younger than 2 months of age, when present with a parent or legal guardian.

[f]g. A maximum of 2 resident staff may live on-site.

[g]h. One parking space is required for each resident staff member. A minimum of 0.25 parking spaces is required for each guest bed.

* * *

Sec. 2. Effective date. This ordinance becomes effective 20 days after the date of Council adoption.

This is a correct copy of Council action.

Selena M. Singleton, Esq.
Clerk of the Council

July 20, 2021

TO: The 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: Zoning Text Amendment No. 21-03

BOARD RECOMMENDATION

The Montgomery County Planning Board of The Maryland–National Capital Park and Planning Commission reviewed Zoning Text Amendment No. 21-03 at its regular meeting on July 15, 2021. By a vote of 4:0 (Commissioner Verma absent), the Planning Board recommends approval of the ZTA with the following comments. The Board is supportive of the ZTA to amend the limited use standards of Charitable, Philanthropic Institutions to allow for on-site food preparation for off-site free distribution, with minor modifications to where the use may occur.

Specifically, ZTA 21-03 amends Section 3.4.2.B Use Standards, subsection 1 which specifies the limited use standards. A new subsection d. is inserted which would allow the food preparation for off-site distribution without payment. The Planning Board agreed with Planning Staff concerns about not being able to limit the scope of the food distribution and the potential for increased site generated vehicle trips and offers the following revised language for subsection d.

For properties that front on and have direct access to a public road with a master-planned right-of-way of 120 feet or greater, food may be prepared on the premises [[and may be distributed]] for off-site consumption but must be provided without payment.

The proposed amendment would limit institutions that can prepare food for off-site distribution to those that front on a road with a master-planned right-of-way of 120 feet or greater. The large roadway is a mitigating factor for any potential increase in vehicle or delivery trips associated with the food distribution, that may not be compatible within a residential neighborhood.

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, at its regular meeting held in Wheaton, Maryland, on Thursday, July 15, 2021.



Casey Anderson
Chair

CA:BB:aj



Zoning Text Amendment (ZTA) No. 21-03, Charitable, Philanthropic Institutions - Kitchens

BB

Benjamin Berbert, Planner Coordinator, CP&P, Benjamin.berbert@montgomeryplanning.org, 301-495-4644

JS

Jason Sartori, Chief, CP&P, jason.sartori@montgomeryplanning.org, 301-495-2172

Completed: 7/8/21

Description

ZTA 21-03 would amend the use standards for a Charitable, Philanthropic Institution under Section 3.4.2.B of the Zoning Ordinance, to allow on-site food preparation that may be distributed for off-site consumption, if the food is provided for without payment.

Summary

Staff recommends the Board transmit comments supporting ZTA 21-03 as introduced. The zoning text amendment (ZTA) was introduced by Councilmember Friedson and initially co-sponsored by Councilmember Navarro, but has since been co-sponsored by the entire Council. The Council Public Hearing is scheduled for July 20, 2021.

Background/Analysis

The Code section 59.3.4.2 was substantially amended in 2015 by ZTA 15-08 and approved by Ordinance 18-05 (Attachment A). This approval added to the definition of Charitable, Philanthropic Institution *housing and support services for persons who are present as a result of treatment or care being provided to a member of their household by a federal treatment facility or a hospital*. Further, a new series of limited use standards were established and the use was allowed as a limited use in the R-90 and R-60 zones. The limited use standards clarified the intent of providing provisions and support for family members of those receiving local medical care, if the service is rendered without payment and the facility retained the appearance of a detached house. ZTA 21-03 as introduced adds a new use standard to the Charitable, Philanthropic Institution use in 59.4.2.B.1.d that would state *Food may be prepared on the premises and may be distributed for off-site consumption but must be provided without payment*.

Rationale for ZTA Introduction

The intent of the ZTA is not directly discussed in the Council introduction packet for ZTA 21-03 (Attachment B), but during the introduction on June 15, 2021 it was stated that the intent is to help families in need have access to high quality culturally appropriate meals if that is requested.

ZTA 21-03 as introduced

ZTA 21-03 makes only one modification to the Zoning Ordinance, under Section 5.3.4.2, Charitable, Philanthropic Institution, specifically Section B use standards. The amendment is as follows:

Section 3.4.2. Charitable, Philanthropic Institution

* * *

B. Use Standards

1. Where a Charitable, Philanthropic Institution is allowed as a limited use, it must satisfy the following standards:

* * *

- c. The support and hospitality services are provided without payment.
- d. Food may be prepared on the premises and may be distributed for off-site consumption but must be provided without payment.
- [d]e. The Charitable, Philanthropic Institution must use an existing detached house and must retain the appearance of a detached house.
- [e]f. The maximum number of guests that may reside on the property at one time is 8, excluding:
 - i. resident staff; or
 - ii. children younger than 2 months of age, when present with a parent or legal guardian.
- [f]g. A maximum of 2 resident staff may live on-site.
- [g]h. One parking space is required for each resident staff member. A minimum of 0.25 parking spaces is required for each guest bed.

The intent of the ZTA is to allow the charitable facilities that currently offer the lodging and support services to long term visitors whose family is seeking local medical treatment, to now offer food support as well. During the ZTA introduction on June 15, it was stated the intent of the meal service was to allow for culturally appropriate meals to be prepared for consumption by those lodging at the facility and their family at the hospital as necessary. One potentially impacted charitable institution also wants the ability to prepare food for other charitable groups such as food pantries. Upon review of the proposed ZTA, Staff did hear some concern that as written, there is no clear limit on how much or how frequently food distribution may take place which could cause compatibility concerns with any uses located in a residential neighborhood. To resolve this concern, Staff suggests a minor edit to Section 3.4.2.B.1.d: For properties that front on and have direct access to a public road with a master-planned right-of-way of 120 feet or greater, food may be prepared on the premises [[and may be distributed]] for off-site consumption but must be provided without payment. Adding the 120-foot wide right-of-way requirement ensures that any added vehicle or delivery trips associated with the food distribution operations are not creating increased traffic or noise to residential streets. By removing 'and may be distributed' from the language it leaves open the option for charitable facilities not along major roads to still prepare food for on-site consumption.

Conclusion

Staff supports ZTA 21-03 to allow Charitable, Philanthropic Institutions to expand their existing lodging and support services to families of individuals receiving long term medical care to also provide food assistance, with the location stipulation as proposed above. This is a reasonable and logical expansion of the mission for these facilities and should have minimal to no impacts to any existing or future surrounding residents.

Attachments

- A. ZTA 15-08/Bill 18-05
- B. ZTA No. 21-03 – introduction packet.