



Committee: PHED
Staff: Livhu Ndou, Legislative Attorney
Purpose: Final action – vote expected
Keywords: #BusShelter, #SignOrdinance, #Advertising

AGENDA ITEM #4C
July 27, 2021
Action

SUBJECT

ZTA 21-01, Sign Ordinance – Bus Shelter Advertising

Lead sponsor: Council President at the request of the County Executive

EXPECTED ATTENDEES

Casey Anderson, Chair, Planning Board
Jason Sartori, Chief, Countywide Planning and Policy, Planning Department
Benjamin Berbert, Planner Coordinator, Countywide Planning and Policy, Planning Department
Dale Tibbitts, Special Assistant to the County Executive
Sam Oji, Chief, Enhanced Mobility and Customer Relations, Division of Transit Services, Department of Transportation (DOT)
Victor Salazar, Division Chief, Zoning, Well & Septic and Code Compliance, Department of Permitting Services (DPS)
Mark Beall, Zoning Manager, Division of Zoning, Well & Septic and Code Compliance, Department of Permitting Services (DPS)

COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

The Planning, Housing, and Economic Development (PHED) Committee unanimously recommended approval of ZTA 21-01 with amendment.

DESCRIPTION/ISSUE

ZTA 21-01 would exempt from the sign ordinance bus shelter advertising that is licensed by the County.

SUMMARY OF KEY DISCUSSION POINTS

- Currently, a bus shelter sign under an approved franchise agreement does not require a permit.
- Until 2019, the County was a party to a franchise agreement with a private firm that provided bus shelter advertising as well as bus shelter maintenance in exchange for a share of the advertising revenue.
- This franchise agreement has since lapsed and the County Executive finds it would be in the best interest of the County to enter into a licensing arrangement with a vendor for the advertising space while the County contracts out the maintenance under a separate agreement.
- ZTA 21-01 would allow a bus shelter sign under a licensing agreement with the County to be exempt from the required permit.

This report contains:

Council Staff memorandum
ZTA 21-01
Planning Board recommendation
Planning Staff memorandum
County Executive request for introduction

Pages

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Action

MEMORANDUM

July 22, 2021

TO: Planning, Housing, and Economic Development (PHED) Committee
FROM: Livhu Ndou, Legislative Attorney
SUBJECT: ZTA 21-01, Sign Ordinance – Bus Shelter Advertising
PURPOSE: Action

Introduction

Zoning Text Amendment (ZTA) 21-01, lead sponsor Council President at the request of the County Executive, was introduced on March 2, 2021. ZTA 21-01 would exempt bus shelter advertising that is licensed by the County from the sign ordinance.

Background

Until 2019, Montgomery County was party to a franchise agreement with a private firm that provided bus shelter advertising as well as bus shelter maintenance in exchange for a share of the advertising revenue. That franchise agreement has lapsed, and the County is now pursuing a new franchise agreement.¹ According to the County Executive, who requested this ZTA, conditions today have changed from conditions twenty years ago when the first franchise agreement was signed. The County Executive believes it would be beneficial for the County to enter into a licensing arrangement with a vendor for the advertising space on bus shelters and have the maintenance contracted out under a separate agreement.

The section of the Zoning Ordinance that this ZTA would amend is Section 6.7.3. “Exempt Signs”. Under the current Zoning Ordinance, a bus shelter sign with an approved franchise agreement does

¹ A “Request for Qualifications” was sent out by MCDOT on May 19, 2020 to solicit submittals from entities that can provide new advertising and bus shelter maintenance services for Montgomery County, pursuant to a franchise agreement approved by the County Council. That request can be found here: <https://www.montgomerycountymd.gov/DOT-Transit/Resources/Files/Advertising%20and%20Shelter%20Maintenance%20RFQ%20-%20DOT%20051920.pdf>.

not require a permit. ZTA 21-01 would allow a bus shelter sign under a licensing agreement to also be exempt from a permit.

Public Hearing

A public hearing was held on April 6, 2021. There were no speakers at the public hearing.

Planning Board and Planning Staff Recommendation

The Planning Board unanimously supported ZTA 21-01. The Planning Board did recommend amendments to the text and structure of section 6.7.3.B for clarity and consistency. The change is to the format; it breaks the section into two parts, as seen below:

- B. A sign does not require a permit when it is legally affixed to a bus shelter or transit center information kiosk and is either:
 - 1. under an approved franchise agreement[,] or a license agreement with the County[[,]]; or
 - 2. located in a public parking structure and not visible beyond the property line[[, does not require a permit]].

Issues

Council Staff found no potential issues with ZTA 21-01.

This ZTA is technical in nature. No substantive changes are being made to the type, size, location, height, construction, or content of signs. This ZTA is consistent with the “Signs” section of the Zoning Ordinance since other County-endorsed signage on bus shelters and on transit center information kiosks are already exempt under this section of the Zoning Ordinance. ZTA 21-01 does have the support of the Montgomery County Department of Transportation (MCDOT). Of note, MCDOT’s website states that: “For bus stop shelters, NO advertising is currently available for bus shelters. The County will not be advertising in the shelters until a new Franchisee is in place.”

PHED Committee

The Planning, Housing, and Economic Development (PHED) Committee had a worksession for this ZTA on June 23, 2021. The PHED Committee unanimously recommended approval of ZTA 21-01 with the amendment proposed by the Planning Board.

This packet contains:

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Zoning Text Amendment No.: 21-01
Concerning: Sign Ordinance – Bus
Shelter Advertising
Draft No. & Date: 2 – 6/16/2021
Introduced: March 2, 2021
Public Hearing: April 6, 2021
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**

Sponsor: Council President at the request of the County Executive

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- Exempt from the sign ordinance bus shelter advertising installed under a license with the County

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

Division 6.7. “Signs”
Section 6.7.3. “Exempt Signs”

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) 21-01, lead sponsor Council President Hucker at the request of the County Executive, was introduced on March 2, 2021.

Until 2019, Montgomery County was party to a franchise agreement that provided both bus shelter advertising and bus shelter maintenance. That franchise agreement has lapsed, and the County is now pursuing a new franchise agreement. The County Executive believes it would be beneficial for the County to enter into a licensing arrangement with a vendor for the advertising space on bus shelters and have the maintenance contracted out under a separate agreement.

Under the current Zoning Ordinance, a bus shelter sign with an approved franchise agreement does not require a permit. ZTA 21-01 would allow a bus shelter sign under a licensing agreement to also be exempt from a permit.

In its report to the Council, the Montgomery County Planning Board and Planning Staff recommended approval of ZTA 21-01. The Planning Board recommended a minor formatting amendment.

The Council's public hearing was conducted on April 6, 2021. There were no speakers.

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 June 23, 2021. The PHED Committee unanimously recommended approval of ZTA 21-01 with the amendment 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. 21-01 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 6.7 is amended as follows:**

2 **Division 6.7. Signs**

3 * * *

4 **Section 6.7.3. Exempt Signs**

5 The following signs are exempt from Division 6.7:

6 A. A sign on private property does not require a permit when the area of the
7 sign is 2 square feet or less, and:

- 8 1. the sign is on private property customarily associated with residential
9 living or decoration.
- 10 2. the sign is part of a mailbox or newspaper tube and satisfies
11 government regulations.
- 12 3. the sign is a warning to the public about trespass, danger, or safety
13 considerations.

14 B. A sign does not require a permit when it is legally affixed to a bus shelter or
15 transit center information kiosk and is either:

- 16 1. under an approved franchise agreement[,] or a license agreement with
17 the County[[.]]; or
- 18 2. located in a public parking structure and not visible beyond the
19 property line[[, does not require a permit]].

20 * * *

21 **Sec. ~~[[3]]2~~. Effective date.** This ordinance becomes effective immediately
22 upon Council adoption.

23

24 This is a correct copy of Council action.

25

26

27 Selena Mendy Singleton, Esq.

28 Clerk of the Council



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

OFFICE OF THE CHAIR

March 26, 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. 21-01

BOARD RECOMMENDATION

The Montgomery County Planning Board of The Maryland–National Capital Park and Planning Commission reviewed Zoning Text Amendment No. 21-01 (ZTA 21-01) at its regular meeting on March 25, 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 types of signs exempt from Division 6.7. The changed text is technical in nature and does not appear to have any tangible impact to the intent of the exemptions already allowed.

Specifically, ZTA 21-01 amends Section 6.7.3 Exempt Signs, subsection B which exempts signs on bus shelters or transit center information kiosks under a franchise agreement with the County. In the letter the Montgomery County Department of Transportation attached to the ZTA’s introduction it states this amendment is necessary because the county is now engaging in license agreements rather than franchise agreements for the maintenance of the signs on these exempt structures. The text change is necessary to remain compliant with otherwise existing practices. The Planning Board takes no issue with this necessary change and offers its full support.

During its meeting, the Board did discuss adjusting the text and the structure of Section 6.7.3.B for clarity and for consistency with the formatting in other similar sections of code. The Board recommends the following changes which it believes maintains the intent:

Division 6.7. Signs

* * *

Section 6.7.3. Exempt Signs

The following signs are exempt from Division 6.7:

* * *

B. A sign does not require a permit when it is legally affixed to a bus shelter or transit center information kiosk and is either:

1. under an approved franchise agreement[,] or a license agreement with the County[.];

or

The Honorable Tom Hucker

March 26, 2021

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2. located in a public parking structure and not visible beyond the property line[[, does not require a permit]].

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, March 25, 2021.



Casey Anderson
Chair

CA:BB:aj



Zoning Text Amendment (ZTA) No. 21-01, Sign Ordinance – Bus Shelter Advertising

- Benjamin Berbert, Planner Coordinator, CP&P, Benjamin.berbert@montgomeryplanning.org , 301-495-4644
 - Jason Sartori, Chief, CP&P, jason.sartori@montgomeryplanning.org, 301-495-2172
-

Completed: 03/18/21

Description

ZTA 21-01 would amend the list of exempt signs from Division 6.7, to include a sign legally affixed to a bus shelter or transit center information kiosk under a license agreement with the county.

Summary

Staff recommends the Board transmit comments supporting ZTA 21-01 as introduced. The zoning text amendment (ZTA) was introduced by the Council President at the request of the County Executive, with the backing of the Montgomery County Department of Transportation (MCDOT). The Public Hearing date is set for April 6, 2021.

Background/Analysis

Division 6.7 of the Montgomery County Zoning Ordinance regulates the size, location, height and construction of signs within public view. Section 6.7.3, which would be amended by this ZTA, identifies signs that are exempt from the regulations of Division 6.7.

Rationale for ZTA Introduction

This ZTA was introduced at the request of the County Executive in coordination with MCDOT. According to the introduction letter, Montgomery County had a franchise agreement with a private firm that installed and maintained the advertisements on bus shelters and information kiosks. This agreement lapsed and it has been determined that entering into a licensing agreement for future maintenance would be more beneficial to the county. The update proposed by this ZTA is purely technical in nature, since other county endorsed signage on bus shelters and information kiosks are already exempt from Division 6.7 of the Zoning Ordinance.

ZTA 21-01 as introduced

ZTA 21-01 makes only one modification to the Zoning Ordinance, under Division 6.7 Signs, specifically Section 6.7.3 exempt signs. The amendment is as follows:

Division 6.7. Signs

* * *

Section 6.7.3. Exempt Signs

The following signs are exempt from Division 6.7:

* * *

- B. A sign legally affixed to a bus shelter or transit center information kiosk under an approved franchise agreement[,] or a license agreement with the County, or located in a public parking structure and not visible beyond the property line, does not require a permit.

This simple text addition allows either a franchise agreement or a license agreement to be executed between the county and the company that does the installation and maintenance of the signs. There is no change to the type, size, location or content of the signs that would be exempt. Staff supports the changes requested by the county.

Conclusion

Staff supports the requested text change in ZTA 21-01 allowing a license agreement as the contractual method for the installation and maintenance of bus shelter and information kiosk signs because it has no substantive effect on the actual signage. Staff recommends the Planning Board transmit comments in support of the text change as introduced.

Attachments

1. ZTA No. 21-01 – introduction packet.




OFFICE OF THE COUNTY EXECUTIVE

Marc Elrich
County Executive

MEMORANDUM

February 16, 2021

TO: Tom Hucker, President
Montgomery County Council

FROM: Marc Elrich, County Executive 
Office of the County Executive

SUBJECT: Proposed Zoning Text Amendment; Article 59, General Development Requirements
– Exempt Signs

I hereby request that you introduce the attached Zoning Text Amendment. The intent of this proposed amendment is to exempt from the sign ordinance bus shelter advertising that is licensed by the County. This Amendment will add the words “or a license agreement, with the County” to Section 59. 6.7.3.B of the Montgomery County Zoning Ordinance so that it would read as follows:

A sign legally affixed to a bus shelter or transit center information kiosk under an approved franchise agreement, or license agreement, with the County or located in a public parking structure and not visible beyond the property line, does not require a permit.

Until 2019, Montgomery County was a party to a franchise agreement with a private firm that provided bus shelter advertising as well as bus shelter maintenance in exchange for a share of the advertising revenue. This franchise agreement has since lapsed and in the pursuit of a new franchise agreement, it appears that the conditions today compared to twenty years prior when the first franchise agreement was signed have changed and that it would be more beneficial for the County to enter into a licensing arrangement with a vendor for the advertising space on bus shelters while the county contracts out the maintenance under a separate agreement. By amending the Zoning Ordinance as indicated above, the County would be able to enter into such an arrangement without being in violation of the Ordinance.

cc: Marlene Michaelson, Council Executive Director