

County of Hanover

Board Meeting: April 23, 2014

Subject: Request for Authorization to Advertise: Ordinance Amendment 14-04, Health Spas in OS, Office Service Districts

Summary of Agenda Item: The staff seeking an amendment to the OS, Office Service Zoning District to correct a conflict within the district regulations. Specifically, Section 26-138 – Permitted Uses lists any use in the B-1, Neighborhood Business District as permitted. One of the uses within the B-1 District is Personal Service Establishment, the definition of which, among other uses, specifically references health spas.

The OS District also lists health spa among the uses requiring a Conditional Use Permit (Section 26-140). As such, the district regulations are in conflict. Staff has prepared an ordinance amendment eliminating health spa as a use requiring a Conditional Use Permit within the OS District. Such an amendment, if adopted, would clearly allow health spas as permitted uses within the OS District, which is consistent with the provisions of Section 126 -138 as it relates to permitted B-1 uses. The draft amendment was reviewed by the Community Development Committee on February 17, 2014. The Committee supported the requested ordinance authorization.

County Administrator's Recommended Board Motion: Motion to advertise for Public Hearing - Ordinance Amendment 14-04, Health Spas in OS, Office Service Districts

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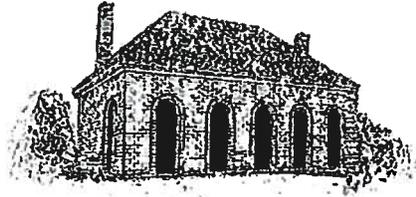
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MEMORANDUM

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TO: Community Development Committee

FROM: David P. Maloney, AICP
Director of Planning

SUBJECT: Proposed Ordinance Amendment to the OS, Office Service District

DATE: February 12, 2014

The staff is recommending an amendment to the OS, Office Service Zoning District to correct a conflict within the district regulations. Specifically, Section 26-138 – Permitted Uses lists any use in the B-1, Neighborhood Business District as permitted. One of the uses within the B-1 District is Personal Service Establishment, the definition of which, among other uses, specifically references health spas.

The OS District also lists health spa among the uses requiring a Conditional Use Permit (Section 26-140). As such, the district regulations are in conflict. Staff is requesting an Ordinance Amendment eliminating health spa as a use requiring a Conditional Use Permit within the OS District. Such an amendment, if adopted, would clearly allow health spas as permitted uses within the OS District, which is consistent with the provisions of Section 126 -138 as it relates to permitted B-1 uses.

Should you have any questions or comments, please contact me.

DPM/sm/s:david-cdc folder

Nursing home, convalescent home and rest home: An establishment used as a dwelling place by the aged, infirm, chronically ill, or incurably afflicted persons, in which not less than three (3) persons live or are kept or provided for on the premises for compensation, excluding clinics and hospitals and similar institutions devoted to the diagnosis, treatment or care of the sick or injured. An "assisted living facility" shall not be considered to be a "nursing home, convalescent home and rest home."

Outdoor music or entertainment festival: A gathering of individuals out-of-doors and not within an enclosed structure:

1. For the purpose of listening to or participating in entertainment which consists primarily of amplified musical renditions conducted out-of-doors and not within an enclosed structure, and
2. For which a charge is imposed for admission to the activity.

The term "outdoor music or entertainment festival" shall not include any such gathering conducted within the confines of a family theme or recreation park, wherein nonmusical entertainment is provided on a regular basis, or within a county-owned park.

Parking area, off-street. The total area on site with an all-weather surface usable for the access, storage, circulation, and display of vehicles, whether or not required by the provisions of this ordinance. For the purpose of landscaping requirements, area on site used for the storage of vehicles either used in the business or awaiting sale or lease, when properly screened in accordance with the standards specified in section 26-263, and area located under canopies or other roof extensions or within required buffers shall not be included as parking area.

Parking space, off-street: An all-weather surface area, not located in a street or alley, permanently reserved for the temporary storage of one vehicle, and connected with a street or alley by a surfaced driveway which, for all nonresidential uses, affords ingress and egress for an automobile without requiring another vehicle to be moved.

Party wall: A separating barrier wall common to two (2) or more adjacent dwellings consisting of a common wall designed, used, or adapted for joint service.

Passive recreation areas: Areas or features within a zoning district that are located and designed to provide inactive recreational opportunities to the residents of the district and their guests. Passive recreation areas include, but are not limited to, the following:

1. Greenspaces and natural areas;
2. Landscape features such as gazebos, fountains or gardens; and
3. Water features, including lakes and ponds, not improved for uses such as swimming, boating or fishing.

Pedestrian path: A walkway provided for pedestrian circulation within and among developments. The term "pedestrian path" shall also include sidewalks.

Personal service establishment: An establishment primarily engaged in the provision of individual services generally related to personal needs, including barber shops, beauty shops, nail salons, tanning salons, establishments providing physical therapy or therapeutic massage, ~~health spas~~, tattoo parlors, and body piercing establishments.

Pet shop or animal grooming establishment: A place of business where

1. Companion animals are bought, sold, exchanged, or offered for sale or exchange to the general public, or
2. For a fee, dogs and cats are bathed, clipped, or combed or brushed for the purpose of enhancing their aesthetic value or health.

B-1 Permitted Uses

22. Funeral homes and funeral services, including accessory crematories.
23. Furniture rental.
24. Furniture stores.
25. Gift and novelty stores.
26. Hardware stores.
27. Health equipment rental.
28. Health supplement stores.
29. Hobby, toy and game stores.
30. Home appliance rental.
31. Home furnishing stores.
32. Home hardware rental (small).
33. Hospitals.
34. Ice distribution stations, automatic, or other drive-in automatic vending machine stations. Groups of vending machines shall be contained in a building.
35. Laundromats.
36. Lawn and garden equipment and supply stores.
37. Musical instrument and supplies stores.
38. Nurseries for growing plants, trees, or shrubs.
39. Office supplies and stationery stores.
40. Offices, business, governmental, medical or professional.
41. Packaging and mailing services.
42. Paint and wallpaper stores.
43. Party equipment rental.
44. Personal service establishment.
45. Pet shop or animal grooming establishment.
46. The permanent placement or removal of clean earth fill, including all related excavation and filling activities, provided:
 - (a) If the placement or removal is done in connection with the development of a property and the clean earth fill is being relocated on the same property, such placement or removal shall be permitted when it is done in furtherance of an approved site plan or construction plan.
 - (b) If the placement or removal is done in connection with the development of another property and the clean earth fill is either being transported to or from the property, such placement or removal shall be permitted when the source and destination of the clean earth fill are properly permitted with the applicable state and local regulatory authorities.

DIVISION 11. OS, Office/Service District

Section 26-136. Purpose of the district.

The purpose of this district is to provide for the development of attractive and efficient mixed use development, including a variety of office, retail, service, and limited industrial uses within a planned environment with unified development standards which are in addition to other standards and requirements contained within this article. Regulations specified within this district are intended to insure uniform standards throughout the district, the minimum lot size within the project, landscaping, signage, architectural treatment, and building height in order to provide for the appropriate use of the land, the compatibility of the development with adjoining uses, and the protection of the health, safety, and welfare of the citizens of the county.

Section 26-137. Covenants required.

The developer shall submit draft restrictive covenants as part of the rezoning application. The required covenants shall apply to each tract within the project, shall run with the land, and shall be recorded prior to site plan or subdivision approval throughout the district. The covenants shall contain, at a minimum, the following provisions:

1. The covenants shall establish an organization or other legal entity for the perpetual ownership and maintenance of all common areas and facilities within the project.
2. The covenants shall establish an architectural control committee which shall be empowered to review and approve all proposed buildings and other structures, including signs, within the project to assure conformity with the architectural treatment specified in the rezoning application and approved by the Board.
3. The covenants may be amended subsequent to the rezoning, but changes shall be submitted to the Planning Department. All required elements specified herein shall be retained.

Section 26-138. Permitted uses.

A building or land shall be used only for the following purposes:

1. Commercial uses:
 - a. Any use permitted in the B-1 Neighborhood Business District.
 - b. Business and professional schools and trade or vocational schools, but not involving combustion engines, heavy duty trucks, heavy equipment, construction machinery, or similar vehicles or equipment.
 - c. Data processing center, internet service providers (ISPs), search portals and related services.
 - d. Hotel, motel, or motor lodge.
 - e. Motion picture and sound recording industries.
2. Limited industrial uses:
 - a. The manufacturing, compounding, processing, packaging or treatment of the following:
 - (1) Cosmetics.
 - (2) Electrical appliances and machinery and hardware products.
 - (3) Electronic and computer products.
 - (4) Medical equipment and supplies.

OS, Conditional Uses

Section 26-139. Permitted accessory uses.

1. For those B-1 Neighborhood Business District uses permitted above, any permitted accessory use that is permitted under the B-1 Neighborhood Business District regulations is allowed.
2. The location of office or construction trailers for a period not to exceed one (1) year.
3. Residence, when located within a permitted principal structure, for a person employed on the premises as a resident manager, caretaker, or security guard. There shall be only one (1) such residence per structure.
4. Parking garages, accessory to permitted uses.
5. Telecommunications arrays, located on an existing structure, provided the following requirements are met:
 - a. The existing structure shall be in compliance with all currently applicable regulations.
 - b. The height of the existing structure shall not be increased by more than ten (10) percent or ten (10) feet, whichever is less; provided, for properties located within the Hanover County Airspace Map area, no such increase may be permitted if the increase in height creates a hazard for the Hanover County Airport for existing, future or planned airspaces. In determining whether a proposed structure or addition to an existing structure creates such a hazard, the Director may consult with the Federal Aviation Administration and the Virginia Department of Aviation.
 - c. The arrays shall not cause any interference with, or adverse impact on, the county's communications system.
 - d. Any equipment cabinets or structures placed on the ground to serve the array(s) shall be screened in accordance with section 26-263, unless visually obstructed by existing vegetation or other structures on site.
 - e. The arrays shall not be permitted if lighting, beacons, or other safety devices are required by the Federal Communications Commission, the Federal Aviation Administration, or any other governing agency..

Section 26-140. Conditional uses.

The following uses may be permitted as conditional uses:

1. Any B-2 or B-3 use not already specifically allowed in this district.
2. Any project wherein the total floor area for limited industrial uses exceeds fifty (50) percent of the project's gross floor area.
3. Auditorium or lecture hall.
4. Fitness center.
5. Golf course (not miniature golf).
6. Health spa.
7. Heliport or helistop.
8. Limited industrial uses which exceed the floor area limitations set forth in section 26-141, below.
9. Public or governmental buildings and uses, including libraries, fire stations (volunteer or otherwise), parks, parkways, and playgrounds.

ORDINANCE 14-04

AN ORDINANCE TO AMEND THE HANOVER COUNTY CODE, ZONING ORDINANCE, SECTION 26-140 TO REMOVE "HEALTH SPA" FROM THE LIST OF CONDITIONAL USES IN THE OS OFFICE/SERVICE DISTRICT AS THAT USE IS ALREADY ALLOWED AS A PERMITTED USE WITHIN THE DISTRICT.

WHEREAS in 2012 the Hanover County Board of Supervisors adopted Ordinance 11-12, which was the result of a comprehensive review of the business district regulations set forth in the Hanover County Zoning Ordinance; and

WHEREAS in 2013 the Board adopted Ordinance 12-08, which reviewed and revised the Zoning Ordinance to provide greater clarity to the public as to the zoning regulations in effect in Hanover County; and

WHEREAS as part of the changes made by Ordinance 11-12 "personal service establishments," as defined in the Zoning Ordinance and which includes health spas, were listed as a permitted use in the B-1 District and, by reference, also a permitted use in the OS Office/Service District; and

WHEREAS the Board's intent was to have health spas as a permitted use in the O/S District and the inclusion of "health spas" in the list of conditional uses in the O/S District when Ordinance 12-08 was adopted was a clerical oversight; and

WHEREAS the Board has determined that "health spas" should be removed from the list of conditional uses in the OS District to prevent any confusion and to provide greater clarity to the public as the regulations set forth in the Zoning Ordinance; and

WHEREAS the Board of Supervisors finds that the public necessity, convenience, general welfare and good zoning practice require that the Zoning Ordinance be amended to provide for such regulations;

NOW, THEREFORE, BE IT ORDAINED by the Board of Supervisors of Hanover County:

1. That the Hanover County Code, Zoning Ordinance, Section 26-140, regarding conditional uses in the OS Office/Service District, shall be amended to read in its entirety as follows:

Section 26-140. Conditional uses.

The following uses may be permitted as conditional uses:

1. Any B-2 or B-3 use not already specifically allowed in this district.
2. Any project wherein the total floor area for limited industrial uses exceeds fifty (50) percent of the project's gross floor area.

3. Auditorium or lecture hall.
 4. Fitness center.
 5. Golf course (not miniature golf).
 6. ~~Health spa.~~
 7. ~~Heliport or helistop.~~
 87. Limited industrial uses which exceed the floor area limitations set forth in section 26-141, below.
 98. Public or governmental buildings and uses, including libraries, fire stations (volunteer or otherwise), parks, parkways, and playgrounds.
 109. Public utilities or public service buildings; generating, purification, or treatment plants; pumping or regulator stations, substations; and power transmission lines not otherwise allowed as a permitted use.
 110. Recreation facility, indoor.
 121. Recreation facility, outdoor.
 1312. Research and development in the physical, engineering and life sciences (including testing of combustion engines as accessory to principal use).
 1413. Sports and recreational instruction (indoor).
 1514. Telecommunications towers and related facilities that exceed one hundred forty (140) feet in height and temporary telecommunications towers and related facilities of any height, in accordance with the standards of sections 26-282 through 26-292.
2. This ordinance shall be effective on the date of adoption.