

MEMORANDUM

November 29, 2012

TO: Planning, Housing, and Economic Development Committee
FROM: Jeff Zyontz, ^{JZ}Legislative Attorney
SUBJECT: Zoning Text Amendment 12-17, Country Inn Zone – Standards

Zoning Text Amendment (ZTA) 12-17, sponsored by Councilmember Floreen, was introduced on October 23, 2012.

The Country Inn zone is a floating zone that is applied by application of the owner through the local map amendment process. The zone currently has a minimum lot size of 2 acres. A master plan or sector plan may recommend the Country Inn zone. On at least one occasion, an approved plan recommended an area for the Country Inn zone that was less than 2 acres. ZTA 12-17 would allow the Country Inn zone to be applied to a site smaller than 2 acres when the zone is recommended for a smaller area by a master plan or sector plan. ZTA 12-17 would also make the text of the zone more concise, precise, and decisive.

On November 27, 2012, the Council held a public hearing on ZTA 12-17. The Planning Board and Planning staff recommended approval of ZTA 12-17 as introduced. The representative of a landowner of a parcel that was recommended for Country Inn zoning on a land area smaller than 2 acres also testified in favor of the ZTA.

Issue

Should the Council correct an error in a Master Plan recommendation by a Zoning Text Amendment?

The recommendation to specifically allow an application for Country Inn zoning was either done without knowledge that:

- the zone requires a parcel of at least 2 acres, or
- the parcel recommended for rezoning was less than 2 acres.

The only way to allow the Master Plan's recommendation to be accomplished is to amend the Zoning Ordinance.

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Zoning Text Amendment No.: 12-17
Concerning: Country Inn Zone –
Standards
Draft No. & Date: 1 – 10/18/12
Introduced: October 23, 2012
Public Hearing: November 27, 2012
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 Floreen

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- amend the minimum lot area required for the Country Inn zone; and
- generally amend the provisions for the Country Inn zone

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

DIVISION 59-C-4. “Commercial Zones.”

Section 59-C-4.39. “Country inn zone-Purpose and development standards.”

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.*

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:

Sec. 1. DIVISION 59-C-4 is amended as follows:

DIVISION 59-C-4. COMMERCIAL ZONES.

* * *

Sec. 59-C-4.39. Country [inn] Inn zone-Purpose and development standards.

59-C-4.390. Purpose.

[This zone is intended to be used for the purpose of permitting] The purpose of this zone is to permit country inns at appropriate rural locations. It is primarily intended that country inns be located in existing [structures] buildings, but [this does not preclude such uses being] country inns located in new [structures] buildings, where appropriate, are not prohibited. [Since this zone permits commercial uses in a rural location, approval] The Council's approval of this zone [shall] must be based [upon] on certain restrictions that are not imposed upon other uses in rural areas [nor upon] or on restaurants and inns in commercial areas; these restrictions are used to protect the rural character of the surrounding area. Construction and development of a country inn zoned site must ensure that the proposed uses [permitted in this zone] will be compatible with [and will not adversely affect] the rural character of the surrounding area. In addition, it is the purpose of this zone to preserve [and maintain] significant trees. Development [shall be in conformance with] must be consistent with the purpose of this zone and satisfy a development plan submitted [in accordance with the provisions of division] under Division 59-D-1 [and approved as being consistent with the purposes of this section]. The use of this [category at any location] zone is not an indication that the surrounding area is: (1) other than rural, [that its character is] (2) altered in its character by the granting of this [zoning category] zone or the presence of the country inn, or [that any other] (3) appropriate for a change in zoning [is appropriate because of this change].

59-C-4.391. Minimum area of lot.

28 [No country inn shall be developed on a lot smaller than 2 acres in size] The
29 minimum lot size for a country inn is 2 acres, or a lesser area if a master plan or
30 sector plan recommends a lesser area.

31 * * *

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

34

35 This is a correct copy of Council action.

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38 _____
Linda M. Lauer, Clerk of the Council



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

OFFICE OF THE CHAIR

MONTGOMERY COUNTY PLANNING BOARD

The Maryland-National Capital Park and Planning Commission

November 19, 2012

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. 12-17

BOARD RECOMMENDATION

The Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission reviewed Zoning Text Amendment No. 12-17 at our regular meeting on November 15, 2012. By a vote of 5:0, the Planning Board recommends approval of the text amendment as introduced to allow the Country Inn zone to apply to a site smaller than the minimum lot size of 2 acres when the zone is recommended for a smaller area by a master plan or sector plan.

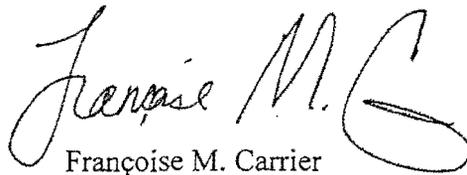
The Country Inn zone is a floating zone requested by the property owner through the local map amendment process. The zone is intended to be used for the purpose of permitting country inns at appropriate rural locations. It is primarily intended that country inns be located in existing structures, but this does not preclude such uses being located in new structures where appropriate. The zone has a minimum lot size of 2 acres. A master plan or sector plan may recommend the zone but a plan recommendation is not a prerequisite for a zoning reclassification request. It is the Board's understanding that on at least one occasion an approved master plan recommended an area for the Country Inn zone that was less than 2 acres. ZTA 12-17 would address the conflict between the master plan recommendation and the Zoning Ordinance minimum lot size requirement by allowing the implementation of the master plan recommendation for such properties that are smaller than 2 acres. The Planning Board believes that the ZTA could be implemented with minimal impact to other properties since all other development standards would still apply. Also, the rezoning process, which

The Honorable Roger Berliner
November 19, 2012
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includes approval of a development plan, along with the required approval of a site plan, further ensures that a project is compatible in layout and design with adjacent properties.

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 Silver Spring, Maryland, on Thursday, November 15, 2012.



Françoise M. Carrier
Chair

FC:GR/am

Zoning Text Amendment (ZTA) No. 12-17, Country Inn Zone – Standards

 Gregory Russ, Planner Coordinator, Functional Planning & Policy Division, gregory.russ@montgomeryplanning.org, 301-495-2174

 Mary Dolan, Chief, Functional Planning & Policy Division, mary.dolan@montgomeryplanning.org 301-495-4552

Completed: 11/8/12

Description

ZTA 12-17 would allow the Country Inn zone to apply to a site smaller than the minimum lot size of 2 acres when the zone is recommended for a smaller area by a master plan or sector plan. The ZTA also makes plain language clarifications to the Country Inn zone section of the Zoning Ordinance.

This change is proposed to enable smaller properties in this zone to develop consistent with the intent of a master plan or sector plan.

Summary/Analysis

Staff recommends approval of ZTA 12-17 as introduced to allow the Country Inn zone to apply to a site smaller than the minimum lot size requirement of 2 acres when the zone is recommended for a smaller area by a master plan or sector plan.

The Country Inn zone is a floating zone requested by the property owner through the local map amendment process. The zone is intended to be used for the purpose of permitting country inns at appropriate rural locations. It is primarily intended that country inns be located in existing structures, but this does not preclude such uses being located in new structures where appropriate. The zone has a minimum lot size of 2 acres. A master plan or sector plan may recommend the zone but is not required to do so for its application. It is staff's understanding that on at least one occasion an approved plan recommended an area for the Country Inn zone that was less than 2 acres. ZTA 12-17 would allow the implementation of the master plan recommendation for such properties. Staff believes that the ZTA could be implemented with minimal impact to other properties since all other development standards would still apply including: building coverage, green area, setbacks, building height and parking facility design. Also, the rezoning process, which includes approval of a development plan, along with the required approval of a site plan, further ensures that a project is compatible in layout and design with adjacent properties.

GR/MD/am

ATTACHMENTS

1. ZTA 12-17 as introduced

MILES & STOCKBRIDGE P.C.

Stephen J. Orens
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sorens@milesstockbridge.com

November 27, 2012

VIA HAND DELIVERY

The Honorable Roger Berliner, President
The Honorable Phil Andrews
The Honorable Marc Elrich
The Honorable Valerie Ervin
The Honorable Nancy Floreen
The Honorable George Leventhal
The Honorable Nancy Navarro
The Honorable Craig Rice
The Honorable Hans Riemer

Re: Zoning Text Amendment 12-17 – Country Inn Zone (Agenda Item 12)

Dear President Berliner and Councilmembers:

We write in support of Zoning Text Amendment 12-17 and express our appreciation to Councilmember Floreen for introducing it and to Mr. Zyontz for its drafting. Zoning Text Amendment 12-17 synchronizes the minimum area requirements of the Country Inn Zone with the land use and zoning recommendations of the Potomac Subregion Master Plan.

One of the site specific land use and zoning recommendations contained in the Potomac Subregion Master Plan recommends that an “L” shaped parcel of land fronting on both Seneca Road and Darnestown Road (State Route 28) be commercially developed in accordance with the Rural Village Center Overlay Zone. This particular property is classified in the RE-2 zone, as recommended by the Master Plan but is just slightly less than two acres in size.

Because regulations governing development in the Rural Village Center Overlay Zone require that commercial development be allowed only when the underlying zoning is commercial, the Potomac Subregion Master Plan includes a recommendation that this property be rezoned to the Country Inn Zone by a Local Map Amendment.

The current Zoning Ordinance regulations limit the implementation of the Country Inn Zone to properties that are at least two acres in size. Zoning Text Amendment 12-17 proposes to eliminate that acreage requirement when land that is less than two acres in size is recommended for the Country Inn Zone by an approved and adopted master plan.

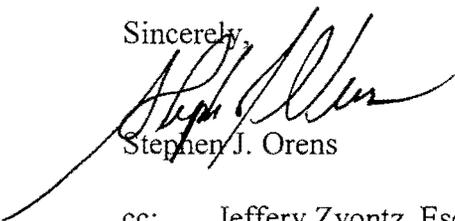
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Approval of Zoning Text Amendment 12-17 will coordinate the Zoning Ordinance minimum tract size requirements with Master Plan recommendations so that properties recommended for commercial use in an overlay zone can be developed as recommended. This Zoning Text Amendment will facilitate implementation of the Potomac Subregion Master Plan recommendation for the implementation of the Country Inn Zone as the base zone allowing commercial development adjacent to existing commercially zoned property in accordance with the Master Plan recommended Rural Village Center Overlay Zone.

I intended to speak to this Zoning Text Amendment at today's hearing but other commitments precludes my doing so. I look forward to working with the PHED Committee as this proposal proceeds. Thank you for this opportunity to express our support for this Zoning Text Amendment. Please include my comments in the Council's hearing record.

Sincerely,


Stephen J. Orens

cc: Jeffery Zyontz, Esquire