

Zoning Text Amendment No.: 12-05  
Concerning: Commercial/Residential  
Zones - Grandfathering  
Draft No. & Date: 2 – 2/15/12  
Introduced: February 28, 2012  
Public Hearing:  
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**

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By: The Planning, Housing, and Economic Development Committee

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**AN AMENDMENT** to the Montgomery County Zoning Ordinance to:

- apply the grandfathering provisions of CR zones to CRT and CRN zones; and
- revise the grandfathering provision for projects with a previously approved special exception.

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

DIVISION 59-C-15 “COMMERCIAL/RESIDENTIAL ZONES”  
Section 59-C-15.9 “Existing Approvals”

**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 that text 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-15 is amended as follows:**

DIVISION 59-C-15. COMMERCIAL/RESIDENTIAL ZONES.

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**59-C-15.9. Existing Approvals.**

- (a) One or more lawfully existing buildings, structures, or uses that predate the application of the CRT, CRN, or CR zone to the land are conforming structures or uses and may be continued, renovated, repaired, or reconstructed to the same size and configuration, or enlarged up to a total of 10 percent above the total existing floor areas of all buildings and structures on site or 30,000 square feet, whichever is less, and such development does not require a site plan. Any enlargement of a building structure or use may be further limited by Subsection (e). Expansions in excess of the limitations in this Subsection will require compliance with the full provisions of this Division. Uses located in a building or structure deemed conforming under the provisions of this Subsection may be converted to any permitted non-residential or residential use(s) up to the density limits for the land use established by the CRT, CRN, or CR zone.
- (b) A project that received an approved development plan under Division 59-D-1 or schematic development plan under Division 59-H-2 before the application of the CRT, CRN, or CR [zones] zone to the land may proceed under the binding elements of the development plan and will thereafter be treated as a lawfully existing building, and may be renovated or reconstructed under Subsection (a) above. Such development plans or schematic development plans may be amended as allowed under Division 59-D-1 or 59-H-2 under the provisions of the previous zone; however, any incremental increase in the total floor area beyond that allowed by Subsection (a) above or any incremental increase in building height greater

28 than 15 feet requires, with respect to the incremental increase only, full  
29 compliance with the provisions of this Division. Any failure to fully comply  
30 with the binding elements of the development plan will require full  
31 compliance with the provisions of this Division.

32 (c) At the option of the owner, any portion of a project subject to an approved  
33 development plan or schematic development plan described in Subsection  
34 (b) above may be developed under this Division. The remainder of that  
35 project continues to be subject to the approved development plan or  
36 schematic development plan under Subsections (a) and (b).

37 (d) A project which has had a preliminary or site plan approved before the  
38 application of the CRT, CRN, or CR zone to the property may be built or  
39 altered at any time, subject to either the full provisions of the previous zone  
40 or this Division, at the option of the owner. If built under the previous  
41 approval, it will then be treated as a conforming building, structure, or use  
42 and may be renovated, continued, repaired, or reconstructed under  
43 Subsection (a) above. If built with an incremental increase over the previous  
44 approval, only that incremental increase must comply with this Division.

45 (e) A project that [has] had a special exception approved before application of  
46 the CRT, CRN, or CR zone to the site may:

47 (1) continue as a lawfully existing use and a lawful structure as long as it  
48 fully complies with the terms and conditions of its approval[. Any];  
49 any failure to fully comply with the terms and conditions of the  
50 special exception approval will require full compliance with the  
51 provisions of this Division[.];

52 (2) [If a special exception holder chooses to] operate under this Division  
53 instead of under the special exception, [written notice must be  
54 provided to the Board of Appeals that the special exception has been

55           abandoned] by the approval of a sketch plan, preliminary plan, or site  
56           plan; any plan approved by the Planning Board under this Division  
57           must consider the terms and conditions of the approved special  
58           exception.

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

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63           This is a correct copy of Council action.

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66           Linda M. Lauer, Clerk of the Council