

Clerk's Note: On page 4, line 39, the section number is corrected to be "Sec. 3."

CORRECTED

Ordinance No.: 18-22

Zoning Text Amendment No.: 16-14

Concerning: Special Exception -
Amendments

Draft No. & Date: 2-12/7/16

Introduced: August 2, 2016

Public Hearing: September 20, 2016

Adopted: January 24, 2017

Effective: February 13, 2017

**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: Council President Floreen

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- clarify that a special exception approved under the prior zoning code may be expanded under the procedures and substantive provisions of the prior zoning code

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

DIVISION 1.4.	"Defined Terms"
Section 1.4.2.	"Specific Terms and Phrases Defined"
DIVISION 7.7.	"Exemptions and Nonconformities"
Section 59.7.7.1.	"Exemptions"

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 No. 16-14 was introduced on August 2, 2016 to clarify that a special exception approved under the prior zoning code may be expanded under the procedures and substantive provisions of the prior zoning code without regard to the size of the expansion. Councilmember Floreen is the lead sponsor of ZTA 16-09.

In its report to the Council, the Montgomery County Planning Board recommended amendments to require that major expansions be governed by the new code. In addition, the Planning Board recommended allowing the Hearing Examiner to have initial jurisdiction over major expansions of conditional uses.

The Council conducted a public hearing on September 20, 2016. The sole speaker was the Planning Board representative.

The Council referred the matter to the Planning, Housing, and Economic Development Committee.

On December 12, 2016, the Planning, Housing, and Economic Development Committee recommended approval of ZTA 16-14 with amendments:

- 1) deleting the phrase “and does not satisfy Subsection b” in lines 17 and 18 of the ZTA as introduced;
- 2) adding the phrase “on or before” prior to “October 29, 2014” to allow for all possible situations;
- 3) clarify Section 7.7.1.B.3 by adding a new Subsection c:
Without regard to the limitations of this section, a special exception approved under the code in effect on or before October 29, 2014 may be expanded under the applicable standards and procedures of the code in effect on October 29, 2014.

In the Committee’s opinion, ZTA 16-14 as amended would codify the Board of Appeals’ understanding of the code.

The District Council reviewed Zoning Text Amendment No. 16-14 on January 24, 2017. 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. 16-17 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:

Sec. 1. Division 59-1.4 is amended as follows:

DIVISION 1.4. Defined Terms

Section 1.4.2. Specific Terms and Phrases Defined

* * *

Conditional Use: A use that must meet the conditional use standards in Division 3.2 through Division 3.7 and requires approval by the Hearing Examiner, under the findings in Section 7.3.1. [A] In zoning codes effective before October 30, 2014, a conditional use [is] was referred to as a special exception.

* * *

Sec. 2. Division 59-7.7 is amended as follows:

DIVISION 7.7. Exemptions and Nonconformities

Section 7.7.1. Exemptions

* * *

B. Application Approved or Filed for Approval before October 30, 2014

* * *

3. Amendment of an Approved Plan or Modification of an Application Pending before October 30, 2014

* * *

c. Without regard to the limitations of this section, a special exception approved under the code in effect on or before October 29, 2014 may be expanded under the applicable standards and procedures of the code in effect on October 29, 2014.

C. Expansion of Floor Area

* * *

4. Expansion above Section 7.7.1.C.2

If any expansion exceeds Section 7.7.1.C.2 [[and does not satisfy Subsection b]], then the entire expansion must satisfy the applicable standards and procedures for the current zoning. After October 30, 2039, any amendment to a previously approved application must satisfy the applicable standards and procedures for the current zoning to the extent of (a) any expansion, and (b) any other portion of an approved development associated with the expansion.

5. Without regard to the limitations of Section 7.7.1.C, a special exception approved under the code in effect on or before October 29, 2014 may be expanded under the applicable standards and procedures of the code in effect on October 29, 2014.

* * *

Sec. 3. Effective date. This ordinance becomes effective 20 days after the date of Council adoption.

This is a correct copy of Council action.



Linda M. Lauer, Clerk of the Council