

Ordinance No.: 19-34
Zoning Text Amendment No.: 22-06
Concerning: Exemptions – Historic
Resources – Allowed
Uses
Draft No. & Date: 2 – 09/14/2022
Introduced: June 14, 2022
Public Hearing: July 26, 2022
Adopted: September 20, 2022
Effective: October 10, 2022

**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: Councilmember Rice
Co-Sponsors: Councilmembers Navarro, Katz, and Friedson

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- allow certain uses on certain historic properties; and
- generally amend the provisions for historic resources.

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

Division 7.7. “Exemptions and Nonconformities”
Section 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 (ZTA) 22-06, Exemptions – Historic Resources – Allowed Uses, lead sponsor Councilmember Rice, co-sponsors Councilmembers Navarro, Katz, and Friedson, was introduced on June 14, 2022. ZTA 22-04 will allow certain uses on residentially zoned properties that are designated as a historic site or resource on the Master Plan for Historic Preservation and have frontage along an arterial or higher classified road.

The Office of Legislative Oversight (OLO) submitted a Racial Equity and Social Justice (RESJ) Impact Statement on July 1, 2022. OLO found that ZTA 22-06 could sustain or marginally widen racial and social inequities in the County because researchers have found that historic preservation “favors certain historical narratives and assets over others and largely serves high-income and White communities,” and that “historically African American neighborhoods are underrepresented in historic designation programs.” However, OLO anticipates a negligible impact of this ZTA on racial equity and social justice as there are a limited number of properties eligible for the additional commercial uses allowed by this ZTA and fewer that will utilize this change in the Zoning Ordinance to extend their commercial uses.

The Planning Board reviewed ZTA 22-06 at its meeting on July 14, 2022. The Planning Board recommended approval of ZTA 22-06 with two amendments: 1) changing the term “historic resource” to “individual historic site”; and 2) allowing all the enumerated uses to go through site plan review.

A public hearing was held on July 26, 2022. Three speakers testified in support of ZTA 22-06.

The PHED Committee held a worksession on September 12, 2022. The PHED Committee recommended approval of ZTA 22-06 with two amendments: 1) changing the term “historic resource” to “individual historic site”; and 2) allowing all the enumerated uses to go through site plan review but limiting the hours of operation to 6:00 a.m. to 11:00 p.m.

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. 22-06 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 59-7.7 is amended as follows:**

2 **Section 7.7.1. Exemptions**

3 * * *

4 **D. Residential Lots and Parcels**

5 * * *

6 **11. [Density Transfer and]Historic Resources**

7 [Where a lot containing a site, structure, or area of historic significance
8 in a Residential zone is protected from development through a density
9 transfer]On a residentially zoned property that is designated as a
10 historic site or resource on the Master Plan for Historic Preservation
11 and either has a density transfer easement or density transfer deed, or
12 has frontage along an arterial or higher classified roadway, the
13 following provisions apply:

14 a. The following uses are allowed with site plan approval under
15 Section 7.3.4.:

16 [[i. Any use allowed in the underlying zone, subject to the
17 provisions of Section 7.3.1 where applicable;]]

18 [[ii]]i. Clinic (up to 4 Medical Practitioners);

19 [[iii]]ii. Office;

20 [[iv]]iii. Retail/Service Establishment;

21 [[v]]iv. Eating and Drinking Establishment;

22 [v][[vi]]v. Rural Antique Shop; and

23 [vi][[vii]]vi. Drive-Thru as an accessory use to any other
24 allowed principal use.

25 b. Any use listed in section 7.7.1.D.11.a above must be closed to
26 the public between 11:00 p.m. and 6:00 a.m.

27 ~~[[b]]~~c. ~~[[Site plan approval is required under Section 7.3.4, except for~~
28 those uses requiring Conditional Use.]]Any other use allowed
29 in the underlying zone not listed in section 7.7.1.D.11.a above
30 is allowed, subject to the provisions of Section 7.3.1 where
31 applicable.

32 ~~[[c]]~~d. The Planning Board and the Historic Preservation Commission
33 must make the following findings:

- 34 i. any modifications to buildings, structures, or the land
35 must protect the intent of the historic resource and be
36 consistent with Chapter 24A of the County Code; and
- 37 ii. any operational characteristics must not encroach upon or
38 destroy the historical, archaeological, or architectural
39 character or value of the site.

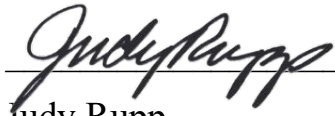
40 ~~[[d]]~~e. The project must be recommended for approval by the Historic
41 Preservation Commission prior to approval of the Site Plan by
42 the Planning Board.

43 * * *

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

46

This is a correct copy of Council action.

A handwritten signature in cursive script, reading "Judy Rupp", is positioned above a horizontal line.

Judy Rupp
Clerk of the Council