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.
[S]ingle 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.
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:
Sec. 1. DIVISION 59-7.7 is amended as follows:

Section 7.7.1. Exemptions

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D. Residential Lots and Parcels

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11. [Density Transfer and ]Historic Resources

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

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

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

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

   [iii] Office;

   [iv] Retail/Service Establishment;

   [v] Eating and Drinking Establishment;

   [vi] Rural Antique Shop; and

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

b. Any use listed in section 7.7.1.D.11.a above must be closed to the public between 11:00 p.m. and 6:00 a.m.
[[b]]g. [[Site plan approval is required under Section 7.3.4, except for those uses requiring Conditional Use.]][Any other use allowed in the underlying zone not listed in section 7.7.1.D.11.a above is allowed, subject to the provisions of Section 7.3.1 where applicable.]

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

i. any modifications to buildings, structures, or the land must protect the intent of the historic resource and be consistent with Chapter 24A of the County Code; and

ii. any operational characteristics must not encroach upon or destroy the historical, archaeological, or architectural character or value of the site.

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

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Sec. 2. Effective date. This ordinance becomes effective 20 days after the date of Council adoption.
This is a correct copy of Council action.

Judy Rupp
Clerk of the Council