

Ordinance No.: 15-42
Zoning Text Amendment No.: 04-21
Concerning: Country Inn Zone
Draft No. & Date: 1 – 10/12/04
Introduced: October 19, 2004
Public Hearing: 11/23/04; 1:30 p.m.
Adopted: December 14, 2004
Effective: January 3, 2005

**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 Knapp

AN AMENDMENT to the Montgomery County Zoning Ordinance for the purpose of:

- permitting a land owner of property in the Country Inn zone to return the property to the previous Euclidean zoning classification through a remedial map amendment process.

By amending the following sections of the Montgomery County Zoning Ordinance:

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. <u>Underlining</u> indicates text that is added to existing laws by the original text amendment. [Single boldface brackets] indicate text that is deleted from existing law by the original text amendment. <u>Double underlining</u> 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.
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OPINION

Zoning Text Amendment (ZTA) No. 04-21 was introduced on October 19, 2004 to allow any land owner of property in the Country Inn Zone to return the property to the previous Euclidean zone classification through a remedial map amendment process. The ZTA is intended to address situations where an existing structure on property classified in the Country Inn zone cannot be developed consistent with the purposes of the zone or meet the development requirements for the use of the property.

The Montgomery County Planning Board in its report to the Council recommended that ZTA 04-21 be approved.

The County Council held a public hearing on November 23, 2004 to receive testimony concerning the proposed text amendment. The text amendment was referred to the Planning, Housing, and Economic Development Committee for review and recommendation.

The Planning, Housing, and Economic Development Committee held a worksession on December 6, 2004 to review the amendment. After careful consideration of the issues involved, the Committee recommended that ZTA 04-21 be approved as introduced. The remedial map amendment process is similar to the corrective map amendment process in Division 59-H-10, except that a corrective map amendment may be filed only by the Planning Board. An application for a remedial map amendment may be filed by the property owner of land in the Country Inn zone. The two reclassification processes are otherwise essentially the same. Approval of a corrective map amendment does not require proof of change in the character of the neighborhood or mistake in the last comprehensive zoning. Similarly the remedial map amendment process would not require a change or mistake finding for property to be reclassified to the previous zone classification. The Committee agreed with Council staff, that the remedial map amendment process is an appropriate mechanism for reclassifying property in the Country Inn zone that cannot otherwise be developed. The remedial rezoning process is unique to the Country Inn zone because of the Country Inn zone's limited scope of allowed uses, which are essentially limited to a Country Inn.

The District Council reviewed Zoning Text Amendment No. 04-21 at a worksession held on December 14, 2004, and agreed with the recommendations of the Planning, Housing, and Economic Development 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. 04-21 will be approved as introduced.

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.

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59-C-4.39 Country Inn zone-purpose and development standards.

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Sec. 59-C-4.399.1. Remedial Map Amendment.

(a) **Purpose.** The purpose of a remedial map amendment is to allow a property owner to request the District Council to reclassify a property in the Country Inn zone to the zone for the property established by the last comprehensive rezoning, if the following criteria apply:

(1) Due to circumstances that are unique to the property and that are not self-created, the property owner cannot use the property to develop a country inn;

(2) The zoning classification established by the last comprehensive rezoning is consistent with the general plan for physical development of the District, including land use and zoning recommendations contained in any master or functional plan; and,

(3) The property meets the development standards of the zoning classification established for the property in the last comprehensive rezoning.

(b) **Contents of Application.** An applicant for a remedial map amendment must include:

(1) A description of the parcel of property proposed for adjustment.

(2) A map depicting the existing zoning for the property and the proposed zoning adjustment, and;

(3) A statement describing the rationale in support of the zoning adjustment.

(c) **Planning Board recommendation.** The Planning Board must prepare and submit a report and recommendation to the District Council concerning a remedial map amendment application. The report and recommendation must describe the nature of the proposed zoning reclassification, any known information in support of the reclassification, and a summary of the grounds for the reclassification.

(d) **District Council Public Hearing.** The District Council must conduct a public hearing on a remedial map amendment and cause to be published once in at least two newspapers of general circulation in the county, at least 30 days before the date of the hearing, a notice stating the application number, date, time, and place of the public hearing and a statement generally describing the area included in the application, and the place where copies of the application may be examined.

(e) **District Council Action.**

(1) An application for a remedial map amendment must be decided by the District Council, based upon the evidence of record, in open session, within 60 days of the public hearing, unless such time has been extended by the District Council. The District Council is not required to find a change in the character of the neighborhood, or a mistake in the last comprehensive zoning, in order to grant a remedial map amendment.

(2) The District Council may approve a remedial map amendment with respect to property included in the application if it finds that the remedial map amendment application complies with Section (a) 1-3. A remedial map amendment does not alter the prior comprehensive zoning as the basis for determining change in the character of the neighborhood.

(3) Action by the District Council must be by resolution securing the affirmative vote of 5 members of the District Council. A copy of the resolution and opinion setting forth the District Council findings and conclusions must be mailed to all parties of record and to the Planning Board. A resolution that does not receive the minimum number of votes is denied.

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

This is a correct copy of Council action.

Mary A. Edgar, CMC
Clerk of the Council