

Ordinance No.: 18-32
Zoning Text Amendment No.: 17-04
Concerning: Country Inn – Standards
Draft No. & Date: 4 – 10/17/17
Introduced: June 27, 2017
Public Hearing: September 12, 2017
Adopted: October 31, 2017
Effective: November 20, 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 Sponsors: Councilmembers Elrich and Hucker
Co-sponsors: Council President Berliner and Councilmembers Katz, Rice,
Leventhal, Riemer, Navarro, and Floreen

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- revise the standards for allowing a Country Inn as a conditional use in the R-200 zone; and
- generally amend the standards for a Country Inn

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

Division 3.5. “Commercial Uses”
Section 3.5.3.A. “Country Inn”

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) 17-04, lead sponsors Councilmembers Elrich and Hucker, co-sponsors Council President Berliner and Councilmembers Katz, Rice, Leventhal, Riemer, Navarro and Floreen, was introduced on June 27, 2017.

The Planning Department provided a report to the Council. In the Planning Board's opinion, the existing conditional use process provides adequate standards and requirements; the Board did not recommend the approval of ZTA 17-04. The Board did not think that the R-200 zone warranted specific attention. The Board also expressed the belief that the absence of a grandfathering provision for plans in process was "not good zoning practice." Planning staff questioned the special treatment for the R-200 zone, the lack of consideration for confronting properties in determining a rural area, and the lack of a grandfathering provision.

The Council's public hearing on ZTA 17-04 was held on September 12, 2017. Testimony both supported and opposed approval. Most, if not all, of the people who opposed ZTA 17-04 were advocates in favor of the pending application abutting the Old Angler's Inn on MacArthur Boulevard.

Opponents believed that the current conditional use process provides adequate neighborhood protection. One opponent expressed the belief that the proposed ZTA was an illegal special law. Further, it was argued that the lack of a grandfathering provision for an application in process was unfair.

Proponents of ZTA 17-04 thought that it provides Council guidance on the meaning of a rural area. To some, the ZTA would correct an unintended consequence of leaving an open definition. Some proponents characterized the ZTA as prohibiting a commercial use in a suburban area.

The Council received a significant amount of written comments on ZTA 17-04. The reasons stated by people for either position on the ZTA mirrored the testimony given during the public hearing. Proponents and opponents gathered like-minded residents to support their positions. The Council has received petitions both for and against the approval of ZTA 17-04. 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 October 16, 2017 to review the text amendment. After careful review of the materials of record, the Committee recommended that ZTA 07-04 be approved as amended. The Committee majority believed that the Council should use its authority to establish clearer standards for the approval of Country Inns through the conditional use process. The essential issue for the Committee was whether to retain the pre-existing delegation to the Hearing Examiner to determine what is a rural area or whether the Council should establish some minimum standards for what is a rural area.

The Committee reviewed the Staff report for the worksession and determined that R-200 zoned land was distinguishable from other zones and that, in that zone, the abutting properties were the minimum criteria to establish whether the subject property was in a rural area. The Committee was informed that the criteria in ZTA 17-04 reduced the number of potential properties in the R-200 from 1,900 to 400. The Committee recommended an amendment to exempt a building in

the R-200 zone, designated as a historic resource in the Master Plan for Historic Preservation, from the new criteria in ZTA 17-04.

The District Council reviewed Zoning Text Amendment No. 17-04 at a worksession held on October 31, 2017. The Council agreed with the Committee's recommendation to approve ZTA 17-04 as amended.

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. 17-04 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 59-3.5 is amended as follows:

Division 3.5. Commercial Uses

*** * ***

Section 3.5.3. Eating and Drinking

A. Country Inn

1. Defined

Country Inn means an establishment for dining in a rural area that may include a maximum of 12 overnight guest rooms and the following subordinate uses: rural antique shop; handicrafts or art sales; equestrian-related retail sales and service; and recreational facilities primarily for the use of guests.

2. Use Standards

a. Where a Country Inn is allowed as a limited use, it must satisfy the following standards:

- i. The property on which the use is located must have been in the Country Inn zone and be the subject of an approved development plan or development plan amendment before October 30, 2014, and must satisfy the development plan and any associated binding element

or covenant applicable to the property as of October 29,
2014.

ii. A conditional use application for a Country Inn may be
filed with the Hearing Examiner if this use standard [can
not] cannot be met.

b. Where a Country Inn is not legally existing before October 30,
2014, it may be allowed as a conditional use by the Hearing
Examiner under Section 7.3.1, Conditional Use and the
following standards:

i. The minimum lot area is 2 acres, or a lesser area if a
master plan recommends a lesser area.

ii. The maximum coverage is 10%.

iii. A minimum of 50% of the lot must be open space.

iv. The minimum setback from any street is 50 feet. The
minimum setback from any other lot line is 75 feet.

v. [[In]] Except in a building designated as a historic
resource by the Master Plan for Historic Preservation, in
the R-200 zone, the proposed site must have at least one
property line abutting R, RC, RNC, or AR zoned

39 property and the abutting property zoned R, RC, RNC, or
40 AR must be at least 2 acres in size.

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

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45 This is a correct copy of Council action.

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48 Linda M. Lauer, Clerk of the Council