



Zoning Text Amendment (ZTA) 17-08 Bed and Breakfast – Historic Buildings



Gregory Russ, Planner Coordinator, FP&P, gregory.russ@montgomeryplanning.org, 301-495-2174



Pam Dunn, Chief, FP&P, pamela.dunn@montgomeryplanning.org, 301-650-5649

Completed: 10/26/17

Description

The ZTA 17-08 would revise the definition and requirements for a bed and breakfast by allowing a bed and breakfast under more permissive standards when the facility is located in a historic building.

Summary

Staff recommends approval of ZTA 17-08, as introduced, to revise the definition and requirements for a bed and breakfast by allowing a bed and breakfast under more permissive standards when the facility is located in a historic building. The ZTA essentially modifies the Bed and Breakfast limited use standards in the Agricultural and Rural Residential zones to allow any detached house or accessory building designated as historic on the Master Plan for Historic Preservation to provide up to 10 guest rooms, serve any meal to overnight guests, and to permit the owner to be off-site but requiring an on-site, owner-authorized manager. All other limited use standards continue to apply.

Background/Analysis

A Bed and Breakfast is defined as a detached house that is owner-occupied with no more than 5 guest rooms for rent and customarily serves breakfasts to guests with specific standards. The ZTA modifies this definition by removing the “owner-occupied” and “5 guest-room maximum” standards and relocates them to the Use Standards section for a Bed and Breakfast. ZTA 17-08 also modifies the Bed and Breakfast limited use standards in the Agricultural and Rural Residential zones to allow any detached house or accessory building designated as historic on the Master Plan for Historic Preservation to provide up to 10 guest rooms, serve any meal to overnight guests, and to permit the owner to be off-site but requiring an on-site, owner-authorized manager.

Bed and Breakfast Standards

Currently, there are minimum lot size requirements for a Bed and Breakfast (In the Agricultural, Rural Residential, and Residential zones, the minimum lot area is the greater of 9,000 square feet or the minimum lot area for a detached house building type in the zone. In these same zones, on a lot of less than 2 acres, a maximum of 3 bedrooms may be designated as guest rooms for which compensation is charged). Also, a Bed and Breakfast is prohibited in a dwelling unit that also provides guest rooms for roomers, or in a Farm Tenant Dwelling, or on a site that includes an Accessory Apartment. Breakfast is the only meal that may be served and only to overnight guests and a guest can only remain in a Bed and Breakfast for a maximum of 14 days in any one visit. Further, in the Agricultural and Rural Residential zones, a Bed and Breakfast may be allowed in an accessory building designated as historic on the Master Plan for Historic Preservation.

A Bed and Breakfast is allowed in the AR, R, RC, RNC, RE-2, RE-2C, RE-I, R-200, CRN, CRT, GR, and NR zones as a limited use. It is also currently allowed as a conditional use in the R-90 and R-60 zones. ZTA 17-08 provides more flexible limited use standards only for historic structures located in the AR and Rural Residential zones, where the lot sizes are typically larger. Staff has no objection to ZTA 17-08 and believes that the modifications to the use standards and definition for a Bed and Breakfast will have minimal impact on surrounding properties in the larger lot zones. Also, the relaxation of Bed and Breakfast use standards for historic properties is consistent with other locations in the Zoning Ordinance where use and development standards have been granted more flexibility in order to preserve historic resources. Below are some Zoning Ordinance examples of existing flexibility in the use and development standards for historic properties:

- Where a Charitable, Philanthropic Institution is allowed as a conditional use, and the property is designated as an historic resource, the Hearing Examiner may waive many of the specific conditional use standards.
- Where a Cultural Institution is allowed as a limited use, it must satisfy a number of standards including a requirement for site plan approval, unless designated as resources in the Master Plan for Historic Preservation.
- In the Agricultural and Rural Residential zones, a Bed and Breakfast may be allowed in an accessory building designated as historic on the Master Plan for Historic Preservation.
- An Office is allowed as a conditional use in the R-90 zone only if it is designated as historic in the Master Plan for Historic Preservation
- Surface Parking for Commercial Uses in an Historic District means the parking of motor vehicles on land zoned Agricultural, Rural Residential, or Residential in a master plan-designated historic district, where the parking must abut land zoned Commercial/Residential or Employment in the same master plan-designated historic district.
- In the Residential Detached zones, the minimum lot width at the front building line and setback requirements for a principal building or an accessory building or structure may be reduced if the lot is located in an historic district designated on the Master Plan for Historic Preservation

- In the CR zone, a designated historic resource that does not occupy more than 10% of the gross floor area is excluded from the FAR calculation.
- **Historic Resource Protection:** Up to 20 points for the preservation or enhancement of, or payment towards preservation or enhancement of, a historic resource or a contributing element within an historic district designated in the Master Plan for Historic Preservation.
- Land that is located in a Residential Detached zone must not be used for driveway or vehicular access to any land that is not in a Residential Detached zone, except in a Historic District.
- The parking ratios of Division 6.2 do not apply to any structure on the National Register of Historic Places.
- A building designated as a historic resource in the Master Plan for Historic Preservation and located on publicly-owned property is exempt from the use and development standards of Chapter 59.
- Any nonconforming use that has ceased operations for at least 6 consecutive months may be reestablished if the use is located in a historic structure or on a historic site identified in the Master Plan for Historic Preservation; and consistent with the historic use of the property as documented in the Locational Atlas of Historic Sites, the Master Plan for Historic Preservation, or the land records.
- The Planning Board may waive Section 8.3.2.D.2 for a site located within or in close proximity to a historic district if it finds that reduced setbacks or increased building height would facilitate the preservation, reuse, or redevelopment of a designated historic district;

As stated above, staff recommends approval of ZTA 17-08, as introduced, to revise the definition and requirements for a bed and breakfast by allowing a bed and breakfast under more permissive standards when the facility is located in a historic building. Staff believes that the modifications to the use standards and the definition for a Bed and Breakfast will have minimal impact on neighboring properties in the larger lot zones.

Attachments

1. ZTA No. 17-08 as introduced

ATTACHMENT 1

Zoning Text Amendment No.: 17-08
Concerning: Bed and Breakfast –
Historic Buildings
Draft No. & Date: 1 – 9/27/17
Introduced: October 10, 2017
Public Hearing:
Adopted:
Effective:
Ordinance No.:

**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 Floreen, Leventhal, and Riemer

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- revise the definition and requirements for a bed and breakfast;
- allow a bed and breakfast under more permissive standards when the facility is located in a historic building; and
- generally amend the provisions for a bed and breakfast

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

Division 3.5. “Commercial Uses”
Section 3.5.6. “Lodging”

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.*

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 3.5.6. Lodging

A. Defined, In General

Lodging means a building used for the short-term overnight accommodation of paying guests.

B. Bed and Breakfast

1. Defined

Bed and Breakfast means a detached house [that is owner-occupied with no more than 5 guest] with rooms for rent and where breakfast is customarily [serves breakfasts] served to guests.

2. Use Standards

- a. Where a Bed and Breakfast is allowed as a limited use, it must satisfy the following standards:
 - i. A Bed and Breakfast is prohibited in a dwelling unit that also provides guest rooms for roomers, or in a Farm Tenant Dwelling, or on a site that includes an Accessory Apartment.
 - ii. The display of a sign must include the official house number.
 - iii. Breakfast is the only meal that may be served and only to overnight guests, except as provided in Subsection 59.3.5.6.B.2.a.x.
 - iv. A guest must only remain in a Bed and Breakfast for a maximum of 14 days in any one visit.
 - v. A record of all overnight visitors must be maintained.

- 28 vi. The Bed and Breakfast must be registered with DPS.
- 29 vii. In the Agricultural, Rural Residential, and Residential
- 30 zones, the minimum lot area is the greater of 9,000
- 31 square feet or the minimum lot area for a detached house
- 32 building type in the zone.
- 33 viii. In the Agricultural, Rural Residential, and Residential
- 34 zones, on a lot of less than 2 acres, a maximum of 3
- 35 bedrooms may be designated as guest rooms for which
- 36 compensation is charged.
- 37 ix. Except as provided in Subsection 59.3.5.6.B.2.a.x, a Bed
- 38 and Breakfast must be in an owner-occupied house with
- 39 no more than 5 guest rooms.
- 40 x. In the Agricultural and Rural Residential zones, a Bed
- 41 and Breakfast [may be allowed in an accessory building]
- 42 located in any detached house or accessory building
- 43 designated as historic on the Master Plan for Historic
- 44 Preservation:
- 45 (a) may have no more than 10 guest rooms on any
- 46 site;
- 47 (b) may serve overnight guests any meal; and
- 48 (c) must be occupied by either an owner or an owner-
- 49 authorized manager.
- 50 [x]xi. Parking must be located behind the front building line.
- 51 [xi]xii. In the AR zone, this use may be prohibited if not
- 52 accessory to Farming under Section 3.1.5, Transferable
- 53 Development Rights.

54 * * *

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

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58 This is a correct copy of Council action.

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61 Linda M. Lauer, Clerk of the Council