



HISTORIC PRESERVATION COMMISSION

Marc Elrich
County Executive

Robert K. Sutton
Chair

October 19, 2021

Council President Tom Hucker
Council Office Building
100 Maryland Avenue - Room 217
Rockville, MD 20850

RE: ZTA 21-06 Exemptions - Density Transfer and Historic Resources

Dear Council President Hucker and Members of the Council:

I am writing in my capacity as the Chair of the Historic Preservation Commission (HPC) in support of a Zoning Text Amendment that is being brought to the Council on November 2nd for consideration. The HPC heard a presentation from Planning Department staff on this item at our October 13th public hearing where the Commission moved to send this letter of support for the ZTA. ZTA 21-06 adds a new exemption to Section 7.7.1.D establishing a process for approving certain specified non-residential uses on historic sites protected through a density transfer.

According to the presentation by Planning Staff, this ZTA impacts one historic site known as the Locust Grove /Samuel Wade Magruder House. This property took advantage of a density transfer in the 1970s and was the subject of several text amendments allowing for a bank to adaptively reuse the historic house for its offices and bank branch. When the Zoning Ordinance was rewritten in 2014, the old provision allowing for limited commercial uses in certain historic properties was inadvertently left out; this ZTA would bring those uses back. The ZTA also creates an expanded role for the HPC so that we must approve any new project for the site and must find that the new use is compatible with Chapter 24A: Historic Resources Preservation.

The HPC believes that this ZTA will promote the protection and adaptive reuse of historic properties and we recommend it be adopted. Thank you for your consideration.

Sincerely,

Robert K. Sutton, Chair
Historic Preservation Commission

Cc: Members, Historic Preservation Commission
Casey Anderson, Planning Board Chair
Members of the Planning Board

From: [Hummel, Phillip A.](#)
To: [MCE-Chair](#)
Cc: [Berbert, Benjamin](#); [Larry Goodwin](#); [Sears, Barbara A.](#)
Subject: ZTA 21-06 - Letter to Include in Record
Date: Wednesday, October 27, 2021 12:07:09 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[Ltr to Planning Bd re ZTA 21-06.pdf](#)

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Dear Chairman Anderson,

On behalf of 1788 Holdings, we wish to submit the attached letter into the record for ZTA 21-06 (Exemptions, Density Transfer and Historic Resources). ZTA 21-06 is scheduled for hearing on October 28, 2021, as Item 12.

Thank you for your attention to this matter. If you have any questions, please feel free to contact me.

Best,
Phil

Phillip A. Hummel

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October 27, 2021

Mr. Casey Anderson, Chair
And Montgomery County Planning Board Commissioners
Maryland-National Capital Park
and Planning Commission
2425 Reedie Drive
Wheaton, MD 20902

Re: ZTA 21-06 Exemptions, Density Transfer and Historic Resources

Dear Chair Anderson and Planning Board Commissioners:

Our firm represents 1788 Holdings (“1788”), which is the owner of 7340 Westlake Terrace in Bethesda (the “Property”). 1788 fully supports ZTA 21-06 (the “ZTA”) and agrees with Planning Staff’s recommendation to transmit comments to the County Council in support of the ZTA. 1788 believes the ZTA will reinstate a provision inadvertently omitted from the current version of the Zoning Ordinance regarding sites containing a historic resource where there has been a density transfer off-site, allow a suitable range of uses on-site to support the adaptive reuse of such properties, and ensure appropriate oversight by the Historic Preservation Commission (“HPC”) and the Planning Board when reviewing development proposals at these locations.

By way of background, 1788’s Property contains a designated historic resource commonly known as Locust Grove/Magruder House, as well as a non-historic drive-thru bank teller building and drive-thru constructed in the 1970s. The Magruder House and the bank teller building/drive-thru are approximately 200 feet apart. As noted by Planning Staff, the prior owner used a provision last codified at Section 59-A-6.21 of the prior version of the Zoning Ordinance (the “Old Zoning Ordinance”) regarding density transfer for historic sites. This allowed the establishment of a bank use that continued on the Property until approximately 2015. The owner at that time, Capital One, closed the branch and eventually sold the Property. 1788 purchased the Property from Capital One in 2018 as one asset in a portfolio that included several bank branch sites no longer needed by Capital One. Since that time, 1788 has aggressively marketed the Property for a new tenant, including a bank.

These efforts have not been successful as potential bank tenants are not interested in using the Property due to the obsolescence of the existing improvements and unsuitability of the site layout for today’s banking industry needs. After these unsuccessful attempts to re-tenant the

existing structure for a bank, 1788 then designed a new and modern bank building in the location of the non-historic bank teller building. Once again, the efforts to find a bank willing to establish a branch at the Property were unsuccessful. Although the Property is well maintained by 1788, it remains unoccupied.

1788 agrees with Planning Staff's analysis the ZTA appropriately amends the Zoning Ordinance by adding the inadvertently omitted provision from the Old Zoning Ordinance to permit a limited number of commercial uses on sites where there has been a previous density transfer, requiring site plan approval (except for conditional uses), and requiring both the HPC and the Planning Board to make certain findings regarding the proper preservation of the site. Planning Staff correctly notes that the ZTA would support the adaptive reuse of the Property and make it economically productive.

1788 also concurs with Planning Staff's comments on the Racial Equity and Social Justice Zoning Text Amendment Statement ("RESJ") prepared by the County's Office of Legislative Oversight ("OLO"). As noted by Planning Staff, the RESJ analysis identifies general concerns raised by critics of historic preservation without specifically demonstrating how the ZTA under review (with its very limited scope) would have the alleged impact of widening racial and social inequities. Instead, as stated by the Planning Staff, the adaptive reuse of the Magruder House allowed by the ZTA would support its maintenance, thereby increasing public awareness of a historic resource with an important connection to the African American experience in Montgomery County. The site, now vacant, would be activated and offer a greater public prominence. Furthermore, 1788 appreciates Planning Staff's inclusion of an October 19, 2021 letter from the HPC, wherein the HPC concludes the ZTA "will promote the protection and adaptive reuse of historic properties and [] recommend it be adopted."

Although not directly relevant to the ZTA, 1788 does respectfully disagree with Planning Staff's finding that the grandfathered status of the Property has been "removed" due to vacancy. There have been diligent, continuous, and uninterrupted efforts to market the Property for re-tenanting, as well as constant maintenance, improvement, and upkeep of the Property since the departure of Capital One. As such, we believe the Property's grandfathered status remains in effect. Grandfathering, however, does not satisfy the need for the ZTA.

Mr. Casey Anderson, Chair
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In summary, 1788 fully supports the ZTA, as well as Planning Staff's recommendations to transmit comments to the County Council in support of the ZTA. Thank you for your consideration.

Very truly yours,

MILES & STOCKBRIDGE P.C.

Barbara A. Sears / kdm

Barbara A. Sears

Phillip A. Hummel / kdm

Phillip A. Hummel

cc: Larry Goodwin, 1788 Holdings