

ZTA 22-06 – EXEMPTIONS – HISTORIC RESOURCES – ALLOWED USES

Description

ZTA 22-06 would allow certain non-residential uses on residentially zoned properties that are designated as a historic site or resource on the Master Plan for Historic Preservation that have frontage along an arterial or higher classified roadway.

ZTA 22-06

COMPLETED: 7-7-2022

MCPB

Item No. 09

7-14-2022

2425 Reedie Drive

Floor 14

Wheaton, MD 20902



Benjamin Berbert, Planner III, Countywide Planning and Policy
Benjamin.Berbert@montgomeryplanning.org, 301-495-4644

Jason Sartori, Chief, Countywide Planning and Policy
Jason.Sartori@montgomeryplanning.org, 301-495-2172



Summary

- This ZTA would modify Section 7.7.1.D.11 to expand the properties eligible for limited non-residential uses to include any property designated as a historic site or resource by the Master Plan for Historic Preservation that has frontage on an arterial or higher classified roadway.
- Eating and Drinking Establishments would be added to the list of allowed non-residential uses.
- Approval by the Historic Planning Commission and the Planning Board would be required.
- A Council Public Hearing is scheduled for July 26, 2022.

LEAD SPONSORS

Councilmember Rice

Co-Sponsored by Councilmembers
Navarro, Katz, and Friedson

INTRODUCTION DATE:

June 14, 2022

REVIEW BASIS:

Chapter 59

SECTION ONE

BACKGROUND

Rationale for ZTA 22-06

ZTA 22-06 was introduced on June 14, 2022 by Councilmember Rice, and cosponsored by Councilmembers Navarro, Katz, and Friedson. The ZTA is scheduled for a Council Public Hearing on Tuesday, July 26, 2022. This ZTA is intended to allow certain non-residential uses on residentially zoned properties that contain a designated historic resource or site from the Master Plan for Historic Preservation, that also have frontage along an arterial or higher classification of roadway. Often, historic properties that may have once been built as a house are no longer suitable for residential uses by today's standards, but could be used by commercial users. This ZTA would provide opportunity to adaptively reuse historic properties to ensure they are maintained. Limiting these provisions to arterial or higher classified roadways is intended to minimize the disruption this ZTA may have on residential communities because of the more intense uses allowed.

SECTION TWO

ANALYSIS

ZTA 22-06 as introduced

ZTA 22-06 builds upon the Density Transfer section added to the code through ZTA 21-06, enacted by Ordinance 19-25 in the fall of 2021. ZTA 21-06 established an exemption for certain residential lots if they were protected through a density transfer easement, allowing certain non-residential uses with site plan approval. ZTA 22-06 expands the eligible properties to include any historic resource designated by the Master Plan for Historic Preservation if the site has frontage on an arterial or higher classified roadway. This ZTA also adds one additional commercial use – Eating and Drinking Establishment – to the list of allowed uses.

Analysis of ZTA 22-06

This ZTA finds a creative solution to the issue of what to do with small residential historic properties along highways that have limited utility as a residential dwelling. The county has 454 master plan identified historic sites. That number reduces to 96 sites that would be impacted by this ZTA when you filter out properties without frontage on arterial or higher roadways or not on residentially zoned land (RE-2 to R-10 zoning). These properties face unique challenges making them less conducive for residential use including the high volumes of traffic on the roadways, and the often smaller size of these historic buildings. As currently written, the ZTA would also impact an additional 376 properties meeting the criteria within master planned historic districts.

This ZTA would provide additional economic opportunities to this subset of historic properties by permitting a limited number of commercial uses that are generally less intrusive, including small professional or medical offices, or specialty retail or restaurant uses that can be accommodated by the constraints of these sites. Having these resources occupied, maintained and protected is the primary end goal of the historic preservation program and these new non-residential uses help provide a mechanism for that.

The ZTA would ensure adequate protection to both the historic resource, and the adjacent residential areas with both Historic Preservation Commission (HPC) and Planning Board approval. Both the Board and HPC would have to make findings that any site modifications must protect the intent of the historic resource, and that any operational characteristics of the non-residential use must not encroach upon or destroy the character or value of the site. The site plan process also provides the opportunity to ensure characteristics of the site such as access, on-site circulation, and lighting are not impactful to adjacent residential uses. In addition, HPC would need to issue a Historic Area Work Permit for any approved modifications to the site or the historic resource offering an additional level of protection. In many instances, adding non-residential uses on these properties also provides for local serving neighborhood retail and service opportunities absent from these communities today.

Planning staff did identify a potential point of confusion in the ZTA as written. The ZTA identifies a list of allowed uses in subsection a., including stating that any use allowed by the underlying zone is still allowed, following any Conditional Use provisions, if applicable. The ZTA then says site plan is required except for the uses requiring Conditional Use. This is clear, however there are a few uses listed under subsection a. that in some residential zones are currently allowed as conditional use such as Clinic (up to 4 Medical Practitioners), or Rural Antique Shop, and in other zones are not currently permitted or are permitted as a limited use. The result is that some of the listed uses, in some of the zones will follow the conditional use process while other uses (or the same use in other zones) would follow the site plan process and include the two new findings required of the Board/HPC. Planning staff believe it is more appropriate to have all the uses listed in subsection a. follow one process for these historic sites, and suggest it should be the site plan process to enable the HPC to make the two findings under subsection c.

Therefore, as a point of clarity, Planning staff is recommending changes to the ZTA making this distinction clearer. The changes can be seen in Attachment B, but in summary would amend subsection a. to clearly state the following uses are allowed with site plan approval under Section 7.3.4. The changes would then remove subsection i. stating other uses allowed by the underlying zone are allowed subject to Section 7.3.1 where applicable. Subsection b. which currently says site plan is required except for those uses requiring conditional use would be replaced with any other use allowed in the underlying zone not listed in 7.7.1.D.11.a above is allowed, subject to the provisions of Section 7.3.1 where applicable. This combination of edits would clearly permit all six non-residential

uses from subsection a. as a site plan, and would then allow other uses allowed by the respective zone to continue, subject to whatever process they are currently allowed under.

Planning staff is also concerned that as written, this ZTA would make the additional commercial uses available to not just individual historic sites, but all properties with frontage on arterial or higher roadways within all historic districts (including non-contributing resources and many currently actively used for residential purposes). Section 24A-2 of County Code defines “historic resource” as follows:

A district, site, building, structure or object, including its appurtenances and environmental setting, which is significant in national, state or local history, architecture, archeology or culture. This includes, but is not limited to, all properties on the “Locational Atlas and Index of Historic Sites in Montgomery County.”

Also, identifying all historic resources includes properties identified on the Locational Atlas, which includes properties that may have historic significance but have not been designated to the Master Plan for Historic Preservation by the County Council. Therefore, Planning staff is recommending modifying the provision identifying eligible properties to retitle subsection 11. as “Historic Sites” rather than “Historic Resources,” and to modify the criteria to state “On a residentially zoned property that is designated as a an individual historic site or resource on the Master Plan for Historic Preservation...” This clarifies which specific properties are eligible, and no longer includes districts, or other sites on the Locational Atlas that are not designated on the Master Plan for Historic Preservation.

ZTA 22-06 will be presented to the Historic Preservation Commission (HPC) at its meeting on July 13 for its formal review. The HPC’s recommendations will be shared with the Planning Board at the hearing for this item. Historic Preservation staff are supportive of this ZTA for the reasons listed above and expect a favorable recommendation from the HPC.

SECTION THREE

CONCLUSION

Planning staff supports the concept for ZTA 22-06 and recommends the Planning Board transmit comments in support of the ZTA with the modified language discussed above to the District Council. The code changes provide an opportunity for adaptive reuse and economic development to some of our designated historic sites in a way that has minimal impacts to surrounding communities and helps ensure the maintenance and protection of our historic resources.

Attachment A – ZTA 22-06 introduction packet

Attachment B – ZTA 22-06 with suggested modifications



Committee: PHED

Committee Review: At a future date

Staff: Livhu Ndou, Legislative Attorney

Purpose: To introduce agenda item – no vote expected

Keywords: #HistoricResources #AdaptiveReuse

AGENDA ITEM #14E

June 14, 2022

Introduction

SUBJECT

Zoning Text Amendment (ZTA) 22-06, Exemptions – Historic Resources – Allowed Uses

Lead Sponsor: Councilmember Rice

Co-Sponsors: Councilmembers Navarro, Katz, and Friedson

EXPECTED ATTENDEES

None

COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

N/A

DESCRIPTION/ISSUE

ZTA 22-06 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.

SUMMARY OF KEY DISCUSSION POINTS

- On January 18, 2022, this Council passed ZTA 21-06, which allowed certain uses on properties limited in development by a density transfer.¹ ZTA 22-06 will expand on ZTA 21-06 by allowing those uses on historic sites or resources that have an arterial or higher roadway.
- ZTA 22-06 will also add Eating and Drinking Establishments to the list of allowed uses.
- Site plan approval as well as approval by the Historic Preservation Commission will still be required.
- A public hearing is tentatively scheduled for July 26, 2022.

This report contains:

ZTA 22-06

© 1

Map of Effected Properties

© 5

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¹ The Staff Report for ZTA 21-06 can be found here:

https://www.montgomerycountymd.gov/council/Resources/Files/agenda/col/2022/20220118/20220118_13C.pdf

Ordinance No.:
Zoning Text Amendment No.: 22-06
Concerning: Exemptions – Historic
Resources – Allowed
Uses
Draft No. & Date: 1 – 5/25/2022
Introduced: June 14, 2022
Public Hearing:
Adopted:
Effective:

**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.
[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

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

* * *

D. Residential Lots and Parcels

* * *

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 residentially 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:

- 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;
- ~~[v]~~vi. Rural Antique Shop; and
- ~~[vi]~~vii. Drive-Thru as an accessory use to any other allowed principal use.

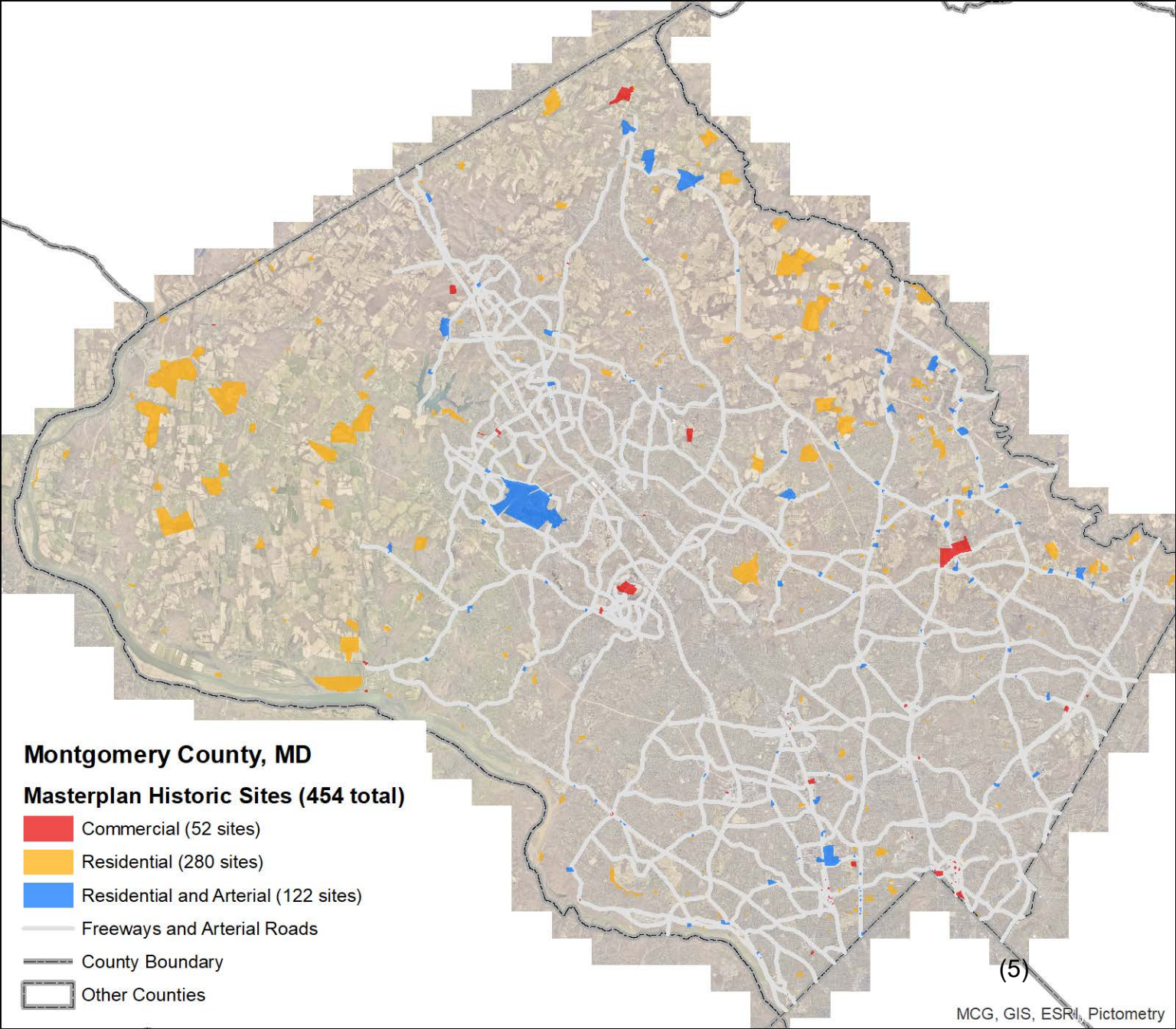
b. Site plan approval is required under Section 7.3.4, except for those uses requiring Conditional Use.

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

* * *

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



Montgomery County, MD

Masterplan Historic Sites (454 total)

- Commercial (52 sites)
- Residential (280 sites)
- Residential and Arterial (122 sites)
- Freeways and Arterial Roads
- County Boundary
- Other Counties

Attachment B

Ordinance No.:
Zoning Text Amendment No.: 22-06
Concerning: Exemptions – Historic
Resources – Allowed
Uses
Draft No. & Date: 1 – 5/25/2022
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**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
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Sec. 1. DIVISION 59-7.7 is amended as follows:

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D. Residential Lots and Parcels

* * *

11. [Density Transfer and]Historic [[Resources]] Sites

[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 residentially zoned property that is designated as [[a]] an individual 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;]]

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

ii[[iii]]. Office;

iii[[iv]]. Retail/Service Establishment;

iv[[v]]. Eating and Drinking Establishment;

[v][[vi]]v. Rural Antique Shop; and

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

b. [[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. 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
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or destroy the historical, archaeological, or architectural
character or value of the site.

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

* * *

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