

M-NCPPC



MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

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**MCPB
Item #1
12/02/04**

DATE: November 24, 2004
TO: Montgomery County Planning Board
VIA: Carlton Gilbert, Zoning Supervisor, Development Review *CG*
FROM: Greg Russ, Zoning Coordinator *GR*
REVIEW TYPE: Zoning Text Amendment
PURPOSE: To permit 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.

TEXT AMENDMENT: No. 04-21
REVIEW BASIS: Advisory to the County Council sitting as the District Council, Chapter 59 of the Zoning Ordinance
INTRODUCED BY: Councilmember Knapp
INTRODUCED DATE: October 19, 2004

PLANNING BOARD REVIEW: December 2, 2004
PUBLIC HEARING: November 23, 2004; 1:30 p.m.

STAFF RECOMMENDATION: APPROVAL

PURPOSE OF THE TEXT AMENDMENT

To permit 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.

BACKGROUND/ANALYSIS

This text amendment was precipitated by a realization that no mechanism exists for eliminating the Country Inn (CI) Zone, outside of a Master Plan recommendation. The realization emerged from a special exception proposal that would include a Country Inn site. The 2.5 acre property located in Laytonsville was rezoned by the previous property owner from RDT to Country Inn (floating zone) through the Development Plan process with the intent of using the existing historic structure as a Country Inn. The Inn was never implemented (in part because the property cannot support the septic for the use and it is not permitted to be in the adjacent RDT zone property for a commercial use in the CI

zone per Md. case law). Since the current owner cannot use the historic house for an Inn (septic issues), he wants to instead rezone it back to RDT and keep the historic structure as part of another use for the site. The reason for this zoning text amendment is that there is no existing process set up for a property owner to return a floating zone property back to the underlying Euclidean zone. The corrective map amendment process is too narrow (to correct technical errors or inaccurate depictions of zoning boundary lines on an adopted map that are known as the result of mapping, surveying, or other technical information), the sectional map amendment process can only be initiated by MNCPPC (and we generally don't do these for a single property owner), and the change/mistake application (which the property owner filed) has only been used for Euclidean zones and it is not clear that it could be used for the CI floating zone.

In accordance with the text amendment, a request for a remedial map amendment could only apply under the following criteria:

- (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.

Staff believes that the proposed process for remedial map amendment for a Country Inn Zone is necessary and could be established with minimal impact to surrounding properties since the application of such could not occur without establishment of circumstances unique to the property and an assurance that the reversion to the previous is consistent with land use and zoning recommendations of the master or functional plan. Staff believes that this proposed process is unique to the Country Inn Zone because of its limited scope of uses that are permitted, with most being permitted only as accessory uses to the country inn use. Therefore, no substantive options for other uses are available in a Country Inn Zone if it is determined that, for unique circumstances, a country inn could not be located on that property. In staff's opinion, the only other floating zone that could claim this uniqueness would be the H-M Zone.

Master and Sector Plan Conformance

The Community-Based Planning Division reports that the proposed text amendment would not affect the goals and objectives of any master and sector plans.

RECOMMENDATION

Staff recommends that Zoning Text Amendment No. 04-21 be approved as submitted
The proposed Zoning Text Amendment is included as Attachment 1.

Attachments:

1. Zoning Text Amendment No. 04-21

ATTACHMENT 1

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:
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**

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"

<p>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.</p>
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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:

Section 1. Division 59-C-4 is amended as follows:

DIVISION 59-C-4. COMMERCIAL ZONES.

* * *

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.

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

34 (d) **District Council Public Hearing.** The District Council must conduct a
35 public hearing on a remedial map amendment and cause to be published
36 once in at least two newspapers of general circulation in the county, at least
37 30 days before the date of the hearing, a notice stating the application
38 number, date, time, and place of the public hearing and a statement
39 generally describing the area included in the application, and the place
40 where copies of the application may be examined.

41 (e) **District Council Action.**

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

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

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

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

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65 This is a correct copy of Council action.

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70 Mary A. Edgar, CMC

71 Clerk of the Council