

Submitted July 14, 2021

Approved July 14, 2021

**MINUTES OF THE ROCKVILLE PLANNING COMMISSION  
MEETING NO. 10-2021  
Wednesday, May 26, 2021**

The City of Rockville Planning Commission convened in regular session  
via WebEx at 7:00 p.m.  
Wednesday, May 26, 2021

**PRESENT**

Suzan Pitman - Chair

Charles Littlefield	Andrea Nunez
Sarah Miller	Sam Pearson
Charles Littlefield	John Tyner II

**Present:** Nicholas Dumais, Assistant City Attorney  
Jim Wasilak, Chief of Zoning  
John Foreman, Development Services Manager  
Andrea Gilles, Comprehensive Planning Manager  
Sachin Kalbag, Principal Planner

Chair Pitman opened the meeting at 7:00 p.m., noting that the meeting is being conducted virtually by WebEx due to the coronavirus pandemic. Rockville City Hall is closed until further notice to reduce the spread of the virus, based on guidance from the Center for Disease Control (CDC) and state and local officials.

**I. RECOMMENDATION TO MAYOR AND COUNCIL**

**A. Recommendation to the Mayor and Council on Zoning Text Amendment TXT2021-00260, to Modify the Requirements for Project Plans, Roadway Classifications in Mixed Use Zones, Minor and Major Site Plan Amendments, Development Approval Abandonment, the Definition of Demolition, and the Addition of Research and Development Use and Associated Parking Standard; Mayor and Council of Rockville, Applicant**

Mr. Wasilak briefly recalled for the Commission the proposed text amendment, which recommends several changes to the development review process for projects within the City in order to provide further transparency and flexibility of development while ensuring that all City requirements are still met. Mr. Wasilak continued that this item would be an opportunity for the Commission further discuss this amendment, which staff previously introduced in a briefing at the Commission's meeting on May 12. He added that the subject text amendment was purposed to assist in streamlining the development review process in accordance with the City's established FAST initiative.

Mr. Wasilak began by reviewing each component of the subject amendment, including the concurrent review of Annexation Petitions and Project Plan applications. He explained that this

measure would give the Mayor and Council the authority to approve both the annexation of a property and its corresponding development plan. This would be a change from current regulations in which the Mayor and Council approves the annexation and the Planning Commission approves the subsequent development on the property via a site plan application. This facilitates the concurrent review of annexation and site plan approval by requiring a site plan to follow the procedures of a project plan which is normally approved by the Mayor and Council. Commissioner Goodman asked if this change in process would remove the Planning Commission from review of such projects. Mr. Wasilak responded that the Planning Commission would still review and make a recommendation to the Mayor and Council on an annexation and a project plan, but he noted that this change would add the Mayor and Council approval of a Project Plan to any site plan process that may be required.

Commissioner Tyner commented that while this proposed change would allow for a quicker review process of the two different applications, there could also be less time for an applicant to receive public input and make changes accordingly to a development proposal if it would be processed concurrently with an annexation application.

Upon inquiry from Commissioner Nunez, Mr. Wasilak expanded on the notion that the proposed change to allow in concurrent reviews was thought to be useful in rare occasions such as the current review of annexation and development of the King Buick property. He recalled that within the last 10 years, there were three occasions where annexation and development applications have been processed in relatively similar time periods to meet contractual obligations with property ownership.

Commissioner Goodman commented that the proposed change seems to be a change in policy to consider annexation and site development in the same process, whereas previously each process was distinct and considered separately. Mr. Wasilak responded that there will continue to be a separate process for annexation and development plan of a site. He added that the proposed change gives the Mayor and Council more information on what the future of a property could be once annexed, and thus aids in their decision-making capabilities.

Commissioner Miller indicated that she was conflicted about this particular aspect of concurrent review. While generally in support of streamlining the review process, she noted that the importance in the past of considering annexation petitions independently of development plans now seems to limit the opportunity of the community to weigh in on the total impact of annexation and development of a property with concurrent review.

Commissioner Pearson indicated that while he understood the concerns of the other Commissioners, he was in support for the concurrent review component of the text amendment.

Chair Pitman shared the concerns of other Commissioners of potentially losing opportunities for the public to offer input on applications if the proposed concurrent review procedure was implemented. She added that Rockville is distinctive in the way in which it incorporates public comments into its development decisions and noted that final outcomes tend to be greater when there is an inclusive public review process. Mr. Wasilak responded that the current King Buick

project has highlighted the opportunity to provide a more streamlined review, but also expressed that the proposed change for concurrent review does not eliminate or modify any of the public input measures already established in the City's regulations for annexation and project plan applications. While such applications are proposed to be allowed for concurrent review, he added that each application would have its own public review and input component. Commissioner Miller indicated that as long as the public input components were not changed, she had no objections to approval authority being transferred to the Mayor and Council for concurrent reviews.

Commissioner Nunez asked if there was another option to provide an exception to allow a streamlined process. Mr. Wasilak and Mr. Dumais added that the subject text amendment is the appropriate avenue to implement the proposed change. Mr. Dumais highlighted that such concurrent review is not currently prohibited by the City's regulations. He added that the intent of the proposed text amendment was to purposefully indicate that concurrent reviews are allowed and prescribe a process for which a concurrent review would follow and provide for the highest scrutiny that the regulations allow.

Commissioner Littlefield indicated his support for the proposed concurrent review but indicated his concern of streamlined review being provided applications of particular applicants or developers. Mr. Wasilak responded that while being generated by the current King Buick project, the proposed concurrent review is seen to be a warranted procedural change for future projects that potentially could also be annexed and developed.

Mr. Wasilak summarized the next component of the text amendment to allow abandonment of an approved development plan. He explained that this proposed change was to provide flexibility in responding to market demands and noted that such change was critical when there are viable buildings which exist on redevelopment sites. Commissioner Tyner suggested that if abandonment would be approved by staff, the Planning Commission and the Mayor and Council should be notified of any abandonment of a development plan which it previously reviewed. Mr. Wasilak indicated that staff would work to include this measure in the amendment. Mr. Dumais offered this component to allow abandonment of a previously approved development clearly provides guidance to staff of how such process should be conducted.

Commissioner Littlefield inquired on why a property owner would initiate an abandonment rather than just not proceeding forward with the development. Mr. Wasilak responded that it may be initiated if the existing development on the site is found to be more valuable than that which was approved via a development plan, and thus to ensure its continued use, would initiate abandonment. Commissioner Tyner commented that in previous cases, because of financial considerations, prospective changes in ownership could not proceed until abandonment of a plan occurred, and so the proposed amendment could aid in the further use of properties when transferred from different parties. Commissioner Goodman inquired why the amendment should not be focused to change in ownership. Mr. Wasilak and Mr. Dumais responded that the intent of the abandonment option was to provide flexibility to changing conditions including a change in ownership or modifying the future use of the property to something other than an approved plan envisioned, even if ownership has not changed. Mr. Dumais added that this option allows for

property owners to revert back to the previous approval if they desire. Upon questioning from Commissioner Pearson, Mr. Wasilak responded that if certain changes were desired by a developer once construction began pursuant to an approved plan, that developer would need to seek approval a site plan amendment, with review by the Planning Commission. Upon questioning by Chair Pitman, the Commissioners indicated their support for this abandonment component.

Mr. Wasilak continued on with the approval of an alternate site plan component within the text amendment. He explained that alternate approval for property which has an approved project plan would allow for timely response by property owners to changing development conditions. He added that once an alternate site plan was approved that did not comply with the project plan, the developer would be required to have the project plan modified within 18 months to incorporate the alternate site plan approval.

Commissioner Tyner inquired if this component would allow developers to circumvent conditions of previous approvals without going through a public review process. Mr. Wasilak responded that the alternate site plan process intended to include the same public input and comment procedures as any other site plan application. Commissioner Littlefield questioned what the full benefits of this component may be to a developer if an alternate site plan has to go through Planning Commission review. Mr. Wasilak responded that this change would allow slight change in the site approval order where a site plan could be approved prior to a project plan to facilitate a streamlined review process. Commissioner Littlefield expressed that he would need more time to understand this component.

Mr. Wasilak moved onto the reuse and redevelopment for non-residential development within commercial corridors component. He added that upon consideration of minor improvements to a site which would have minimal impact to surrounding properties, the review process for such projects could be reviewed and approved administratively by staff rather than proceeding through an onerous Planning Commission review, if the proposal met certain conditions including being distanced from residential developments. Commissioner Littlefield questioned if this proposed component could be implemented through the establishment of an economic development zone, which could be applied for by a developer and be granted for particular properties. Mr. Wasilak indicated that such an idea for an economic development zone could be considered and implemented as a “floating” zone which is applied to a property when requested by an applicant and approved by the City. He added that this floating zone may not assist in streamlining the development review process though. Mr. Dumais added that Maryland Law dictates that Zoning must be applied in accordance with a jurisdiction’s comprehensive plan and as such, a rationale from the City’s comprehensive plan would have to be provided for the provision of such a floating zone. Thus, amending the Zoning Ordinance through the subject text amendment rather than establishing a new zone may be a more straightforward approach.

Commissioner Tyner questioned about the meaning of minor improvements that would trigger a site to proceed through a minor site revision under the proposed amendment. Mr. Wasilak responded that such a distinction would be established by the number of peak hour trips generated through the expansion of an existing use rather than a percentage or square-footage of a

building expansion. He explained that an expansion generating less than 30 peak hour trips would be able to take advantage of this minor amendment process if they met the 300-foot distance from residential properties minimum separation.

Mr. Wasilak continued onto the next amendment component regarding changes to minor site plan amendments in general where certain common site changes could be approved through the permitting process and not require a site plan amendment in or to provide timely improvements to properties while also providing review for compliance with City requirements. He explained that this change would be provided for changes in parking lot layout, rearrangement of site amenities, and minor site feature adjustments. He added that making such improvements go through a minor site amendment process can be onerous and potentially disincentivize property owners from improving their properties. The Commissioners indicated their support for this component.

Mr. Wasilak explained the next component of the addition of Research and Development Use and associated parking to the City's Zoning Ordinance. He detailed that such a use would be located in certain zones and a reduction of 1.5 spaces per 1,000 square feet be provided in order to facilitate growing demand for bio-tech and life-science uses in and around the City. He added that this new use and its associated regulations was duplicated from Montgomery County's ordinance, which had vetted this use and determined its optimum requirements during the County's comprehensive zoning ordinance update.

The Commissioners indicated their support for this use. Commissioner Littlefield inquired if further analysis should be given to making the Research and Development use conditional in the MXC and MXT Zones. Mr. Wasilak indicated that there may be some possibility to a conditional use in certain mixed use zones and further elaborated that conditional uses have been implemented previously such as self-storage uses. Chair Pitman also supported the notion of this Research and Development use being conditional, and recommended that it be incorporated into the Commission's recommendation to the Mayor and Council.

Mr. Wasilak moved on to the next aspect of the text amendment which was a proposal to remove from the Zoning Ordinance the requirement to connect developments with an arterial or major roadway. Instead, such connections would be reviewed in accordance with the City's Transportation standards instead of making it a requirement. The Commissioners indicated their support for this item.

The last aspect of the text amendment presented by Mr. Wasilak was a modification to the definition of Demolition. He explained that the proposal would modify the definition to mean the complete razing or removal of more than 50 percent of the floor area of a building, or substantial reconstruction that removes more than 50 percent of the building floor area. He added that this change would eliminate the potential for demolition of all but a small portion of a building not requiring historic review. He also added that this proposed change would also complement building code requirements that would require renovations to bring a structure into compliance with the current code. In comparison to other jurisdictions such as Frederick, Mr. Wasilak explained that the proposed definition was not as onerous on property owners and builders. Commissioner Tyner inquired if this proposed definition had been considered by the HDC. Mr.

Wasilak indicated that it had not been presented to the HDC but staff would look into sharing the proposed change with the HDC.

Mr. Wasilak then presented the specific text of the proposed amendment for the Commissioners' review. Chair Pitman requested that the language regarding amendments to approved development be revised. Specifically, she requested in the proposed section referencing minor amendments for commercial development, which includes the language of, "otherwise change the essential character and impact of the development," be revised. Chair Pitman stated that such language is subjective and should be clarified through revision. Commissioner Littlefield inquired if the language could be revised to reference conditions of an approval. Mr. Dumais responded that through past experience, referencing conditions in the amendment could substantially reduce what could be approved in the proposed amendment. Mr. Wasilak recommended that language from other areas of the code could be referenced for this section to provide more clarity while also allowing for flexibility to interpret various cases. The Commissioners agreed that the retention of the language referencing, "a comprehensive change to more than twenty (20) percent of the project area," would be suitable.

Mr. Wasilak mentioned that one further modification to the text of the amendment was to include the proposed Research and Development use within the office category of the land use tables within the City's Zoning Ordinance to provide further clarity.

Mr. Wasilak further explained that the discussion and recommendations of the Commission for this text amendment would be prepared by the staff in a memorandum and shared with the Commissioners prior to its forwarding to the Mayor and Council for the scheduled public hearing at its June 21 meeting.

Commissioner Littlefield made the motion to recommend Zoning Text Amendment TXT2021-00260 to the Mayor and Council. Commissioner Nunez seconded the motion. The motion carried 7-0.

## **B. Amendment to Forest Conservation Manual (FCM) – Simplified Natural Resources Inventory/Forest Stand Delineation (NRI/FSD)**

Chair Pitman announced that this amendment would be presented to the Commission at a later date.

## **II. COMMISSION ITEMS**

- A. Staff Liaison Report** – Jim Wasilak reported that the next Planning Commission meeting would be June 9. He indicated that a previously anticipated site plan application for Chase Bank on Hungerford Drive would not be moving forward presently as it was recently recommended for historic designation by the HDC. He added that proposed North/South Stonestreet and Park Road text and map amendments were anticipated to be on the Commission's meeting agenda for June 23. Mr. Wasilak continued that the Commission's annual report would be presented at its next meeting.

- B. Old Business** – Chair Pitman asked if the Commission had any old business. Commissioner Tyner commented that he had attended the recent Mayor and Council meetings and work sessions and that he was questioned on numerous items related to the Commission and its consideration of the comprehensive plan update. He added that staff has done a great job addressing all of the Mayor and Council’s questions. He indicated that he would continue to attend upcoming meetings to represent the Commission and welcomed other Commissioners to attend as well. Chair Pitman encouraged and thanked the Commissioners for attending and participating in these work sessions.
- C. New Business** – Commissioner Goodman inquired if there was any updated information on when the City might reopen given improved Covid conditions. Mr. Wasilak indicated that the City was in the midst of developing protocols regarding reopening potentially in Fall 2021, but he added that no official date had been established for reopening or what conditions of reopening would be.

**D. Minutes Approval**

Chair Pitman asked if there were any changes needed to the minutes of the Commission’s April 14, 2021 meeting. Commissioner Tyner made the motion to approve the minutes, seconded by Commissioner Pearson. The motion carried 7-0.

- E. FYI/Correspondence** – Mr. Wasilak acknowledged a letter that was received from John Becker of the Environment Commission regarding the proposed Forest Conservation Manual amendment which was scheduled but not heard by the Commission at this meeting. He added that due to the letter, the Environment Commission would first review the proposed amendment at its meeting on June 3 and then the amendment would be presented to the Planning Commission.

**III. ADJOURN**

There being no further business to come before the Planning Commission, Commissioner Goodman moved, seconded by Commissioner Littlefield, that the meeting be adjourned at 9:09 p.m. The motion was approved unanimously.

Respectfully Submitted,



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Commission Liaison