

Submitted July 24, 2023

Approved July 26, 2023

**MINUTES OF THE ROCKVILLE PLANNING COMMISSION
MEETING NO. 09-2023
Wednesday, June 14, 2023**

The City of Rockville Planning Commission convened in regular session at City Hall and virtually via WebEx at 7:00 p.m.
Wednesday, June 14, 2023

PRESENT

Suzan Pitman	Sam Pearson
Eric Fulton	John Tyner II
Shayan Salahuddin	Jaime Espinosa

Present: Nicholas Dumais, Senior Assistant City Attorney
Jim Wasilak, Chief of Zoning
John Foreman, Development Services Manager
Shaun Ryan, Development Review Supervisor
Jane Lyons-Raeder, Principal Planner
Chris Davis, Senior Planner

Commissioner Pitman opened the meeting at 7:00 p.m., welcoming new Commissioners Salahuddin and Espinosa. She noted that Andrea Nuñez had resigned from the Commission and expressed her thanks for Ms. Nuñez's service to the Commission. Commissioner Pitman called for a motion to elect a new chair. Commissioner Tyner moved to nominate Commissioner Fulton to fill the unexpired chair's term until the end of 2023. Commissioner Pearson seconded the motion. The motion passed unanimously 6-0.

I. REVIEW AND ACTION

A. Mandatory Referral Application STP2023-00458, to Establish a Worker's Training Center Within a Portion of the Existing Office Building and Install Solar Carport Structures Within the Existing Parking Lot and Solar Arrays on the Rooftop, at 14645 Rothgeb Drive in the I-L (Light Industrial) Zone; CASA, Inc., Applicant

Mr. Davis presented the application, noting that the subject mandatory referral was for the purpose of reviewing a public construction project within the city in accordance with state law. He detailed that the Planning Commission must find that the proposal's location, character, and extent are consistent with the Comprehensive Plan. Mr. Davis further explained the proposed improvements, noting that the additional workers training center and installation of solar infrastructure was consistent with multiple goals and policies of the Comprehensive Plan. He concluded that the project did meet the necessary findings and further recommended that the application be approved subject to the conditions in the staff report.

Commissioner Tyner made a motion to approve Mandatory Referral application STP2023-00458, to establish a workers training center within a portion of the existing office building and install solar carport structures within the existing parking lot and solar array on the rooftop at 14645 Rothgeb Drive in the I-L (Light Industrial) zone, subject to the findings and conditions contained in the staff report. Commissioner Pitman seconded the motion. The motion was approved unanimously 6-0.

II. RECOMMENDATION TO MAYOR AND COUNCIL

A. Recommendation to the Mayor and Council on Zoning Text Amendment TXT2019-00255, to Allow Accessory Dwelling Units (ADUs) as Conditional Uses in Single Dwelling Unit Zones; Mayor and Council of Rockville, Applicants

Ms. Lyons-Raeder presented the subject zoning text amendment. She detailed the background and history of the subject application, noting that ADUs were previously included in discussions related to accessory apartments, but were separated from that item and brought forward via the subject text amendment, which was authorized by the Mayor and Council on January 23, 2023. She further detailed the contents of the proposed text amendment, noting that should the new ordinance be adopted, it would allow ADUs as a conditional use in all residential detached zones.

Ms. Lyons-Reader further detailed several discussion points and staff recommendations associated with parking requirements for ADUs, including consistency with the parking recommendations for accessory apartments, expected car ownership generation rates from ADUs, the costs of ADU construction due to off-street parking requirements and stormwater management. She concluded the presentation noting that staff was seeking discussion and feedback as well as a recommendation to the Mayor and Council on the subject text amendment.

Commissioner Espinosa inquired about the proposed recommendation to strike the language requiring off-street parking spaces for ADUs. He noted that the draft ordinance already includes provisions that allow the Chief of Zoning to waive the requirement of off-street parking spaces for ADUs and further inquired as to why such provision was not sufficient. Ms. Lyons-Raeder responded that as drafted, the process for Chief of Zoning to review such waiver request and requiring additional approvals in the process to obtain approval of an ADU could make property owner less interested in deciding to construct an ADU.

Responding to an inquiry from Chair Fulton, Ms. Lyons-Raeder clarified that the off-street parking requirement for ADUs in Montgomery County is one (1) parking space unless located within one (1) mile of a Metro rail, Purple Line, or MARC station, whereby there is no parking space requirements for such sites. Commissioner Tyner expressed concerns about staff's proposed changes to not require any off-street parking spaces for ADUs. He further inquired that if such changes were incorporated, would the reviews of ADU applications include an evaluation of the availability of on-street parking to potentially serve the ADU. Ms. Lyons-Raeder responded that as currently written, the ordinance would not take into account such evaluations of on-street parking but indicated that it could be included in the Commission's recommendation if it so chose.

Commissioner Pitman commented that while not currently allowed, ADUs have been constructed and currently do exist in neighborhoods around city. As a result, she opined that she did not think many cars would be added to the street of existing neighborhoods due to the city permitting and adopting regulations for ADUs. Commissioner Pearson expressed concurrence with Commissioner Pitman's comments. Commissioner Pitman also expressed that improvements are needed in regards to code enforcement and how accessory units are inspected to improve compliance. She also expressed support for education of the city staff for the various codes and processes associated with permitting and enforcement in the city.

Commissioner Espinosa inquired if staff ever considered ADUs being required to have one (1) off-street parking space rather than two (2) as originally proposed in the text amendment. Ms. Raeder and Mr. Wasilak responded that the two (2) off-street parking spaces required for the single-family dwelling would be sufficient also for the ADUs and would lessen the overall impact for parking. Commissioner Salahuddin also inquired if a middle ground was considered between requiring two (2) off-street parking spaces and zero (0) parking spaces. Ms. Lyons-Raeder responded that based off research from other jurisdictions, not including parking requirements for ADUs has emerged as a best practice for facilitating the construction of ADUs. Ms. Lyons-Raeder also indicated that short-term rentals, while not currently allowed, are also being considered as part of separate legislation, upon inquiry from Commissioner Salahuddin.

Chair Fulton then welcomed public testimony on the proposed text amendment. Ajay Khetarpal, Vice President of the West End Citizens Association (WECA), offered testimony to the Commission. He indicated that WECA conducted a community wide survey of the proposed revisions for the text amendment noted on the city's website, but did not include further revisions introduced at this evenings meeting. He indicated that 185 responses were received and noted that such responses do not represent the entire West End community. Mr. Khetarpal further summarized the results of the survey responses noting that responses were roughly evenly distributed in thirds for those who were in favor to allow ADUs, those in favor to allow ADUs with conditions, and those in favor to not allow ADUs. Further, a majority of the respondents favor a limit on the floor area of ADUs, among other observed responses. Mr. Khetarpal further thanked the Commission for its consideration of WECA's presented data.

Paul Scott, a resident of King Farm, also provided testimony before the Commission. Mr. Scott expressed that ADUs will impact neighborhoods throughout the city and urged the Commission to consider the issue of housing affordability when providing its recommendation to the Mayor and Council.

Vincent Russo, President of the Twinbrook Community Association, also offered testimony and expressed the Association's support of permitting ADUs as a conditional use rather than through a special exception process. He added that ADUs allow for flexibility in housing options and the ability for citizens to age-in-place, provide additional income and provide accommodations for family with special needs. He also expressed that the staff report effectively demonstrated that minimal parking requirements would not adversely impact properties looking to establish ADUs or their neighbors.

Marissa Valeri, a resident of Twinbrook, noted that she was the former president of the Twinbrook Community Association when ADUs were first introduced and considered in the city. She indicated her support of the comments offered by Mr. Russo, and added that ADUs would impact each neighborhood in different ways. She indicated her support for the proposed name change for ADUs and overall recommendations presented by staff and expressed the importance for the consideration of stormwater management when considering the increase of impervious surface connected to construction of an ADU.

Wendy Lee, Twinbrook resident and property owner, also provided testimony to the Commission. She expressed concerns with ADUs becoming boardinghouses and shared her experience with neighbors who appeared to have established an unlawful boardinghouse and/or accessory apartment. She further testified that there were code enforcement issues which she has on the adjacent dwelling which had remained since making a complaint with the city. She further noted that the city does not have processes or procedures in place to ensure that property owners are held accountable to city requirements and further encouraged the Commission to include such necessary processes and procedures in consideration of allowing ADUs in the city.

Upon inquiry from Commissioner Pitman, Mr. Wasilak confirmed that, different from an ADU which is physically separate from a single-family dwelling and where an owner must occupy either the dwelling or ADU, boardinghouses can be single-family dwellings where individual rooms are rented out to tenants, and owners do not necessarily occupy the dwelling. Commissioner Tyner also expressed concerns and opposition about a situation which may be allowed by the ordinance where a property owner would occupy an ADU while a renter could occupy the principal single-family dwelling on a property. He also encouraged the Commission to provide feedback on this issue along with potential occupant capacities for an ADU.

Commissioner Pitman expressed concerns about the required 6-month owner residency associated with an ADU. Mr. Dumais responded that part of the reasoning for such requirement would be the ease of confirming residency by the owner providing income tax fillings from the property. He further explained that modification to Chapter 18 of the city code would prohibit dual rentals on a single property. Both Commissioner Pitman and Chair Fulton expressed the need for effective code enforcement in order to ensure the proposed recommendations for ADUs are administered in a safe and compliant manner.

Commissioner Salahuddin expressed that while ADUs may provide an affordable housing option needed in the city, the provision of an ADU on a property may also make purchase of such properties unaffordable for those who might otherwise be potential purchasers due to the increased values from the additional living space added to the property with an ADU.

Upon consideration and discussion of the staff's recommended changes to the draft ordinance, the Commission deliberated on the issue of compatibility of an ADU with the main dwelling on a property. Commissioner Espinosa expressed support for the original language requiring more specificity. However, Chair Fulton and Commissioner Salahuddin signaled support for staff's proposed revision to provide broader language of compatibility to allow for some flexibility and creativity in design of the ADU.

The Commission also considered staff's recommendation on changes to the parking requirements that would eliminate required parking. Chair Fulton and Commissioner Pitman commented that potentially requiring off-street parking would be to the detriment of providing the opportunity for affordable housing in the city.

In summary, the Commission indicated its support for staff recommendations related to non-compliant units and name simplification. Regarding compatibility and parking requirements, the Commission proceeded with a robust discussion but did not provide a consensus on its recommendation of these issues.

The Commission agreed to further provide its comments on such issues in its follow-up letter to the Mayor and Council, to be prepared by staff and brought back to the Commission for review.

III. APPROVAL

A. Adoption of Revised Rules of Procedure

Mr. Dumais presented the draft revisions to the Commission's Rules of Procedure. He detailed that due to the recent resignation of Commissioner Nuñez, staff could prepare addition procedures for instances when a chair resigns through a portion of their term and how the Commission would proceed in electing a new chair. Chair Fulton commented support for these proposed procedures presented by Mr. Dumais.

Commissioner Tyner commented on the issue of cross examination and providing standards for such rights. Mr. Dumais commented that the standards provided in the draft regarding cross examination allow for the Chair to control cross examinations in an orderly and focused way that he would be comfortable with including.

In consideration of the newly joined Commissioners Salahuddin and Espinosa, the Commission agreed in providing additional time to consider the draft Rules of Procedure and provide a decision at a later meeting.

IV. COMMISSION ITEMS

- A. Staff Liaison Report** – Mr. Wasilak noted that the next Planning Commission meeting would be on June 28th where anticipated items for review would include a Level 2 Site Plan application at 2 Research Place, along with a briefing on the draft Pedestrian Master Plan. Mr. Wasilak also indicated that the contract for the Zoning Ordinance Rewrite was approved by the Mayor and Council at their June 12 meeting and was awarded to Zoneco, a Cincinnati-based company.

Mr. Wasilak also provided updates on previous inquiries from Commissioners related to the Comprehensive Plan and ongoing updates to the Town Center Master Plan.

B. Old Business – Chair Fulton discussed an informal meeting of the Commission to review upcoming items related to the Zoning Ordinance Rewrite and some training opportunities for the Commission.

C. New Business – Commissioner Tyner mentioned for the benefit of the new Commissioners that there is a required state training for Planning Commissioners available on the web and in person at an annual conference of Planning Commissioners.

D. Minutes Approval– None

E. FYI/Correspondence –Mr. Wasilak noted that there was one email received from WECA in relation to their testimony offered to the Commission.

V. ADJOURN

There being no further business to come before the Planning Commission, Commissioner Pitman moved, seconded by Commissioner Tyner, that the meeting be adjourned at 9:25 p.m. The motion was approved unanimously.

Respectfully Submitted,



Commission Liaison