

Submitted July 25, 2022

Approved July 27, 2022

**MINUTES OF THE ROCKVILLE PLANNING COMMISSION
MEETING NO. 10-2022
Wednesday, June 15, 2022**

The City of Rockville Planning Commission convened in regular session at City Hall and virtually via WebEx at 7:00 p.m.
Wednesday, June 15, 2022

PRESENT

Suzan Pitman - Chair

Andrea Nuñez Sam Pearson
John Tyner, II

Present: Nicholas Dumais, Senior Assistant City Attorney
Jim Wasilak, Chief of Zoning
Sachin Kalbag, Principal Planner
Nelson Ortiz, Principal Planner
Faramarz Mokhtari, Senior Transportation Planner

Chair Pitman opened the meeting at 7:00 p.m., noting that the meeting was being conducted in-person in City Hall and virtually via WebEx.

I. RECOMMENDATION TO THE BOARD OF APPEALS

A. Recommendation to Board of Appeals: Special Exception Application (SPX2022-00402) – to Allow an Accessory Apartment Use at the Property Located at 1117 Highwood Road; Joshua Schroeder, Applicant

Mr. Ortiz presented the subject application, noting that the proposed 450 square foot accessory apartment request was before the Planning Commission for its review and recommendation on whether the subject request was in compliance with the Comprehensive Plan and the necessary provisions of the Zoning Ordinance. Mr. Ortiz continued that the applicant was seeking to re-establish an accessory apartment within their single-family residential dwelling, previously approved under the previous owner by special exception. He added that such previous approval expired with the change of ownership of the property. Mr. Ortiz indicated that the applicant proposed to improve the unit with all the necessary safety and sanitary facilities as required by the Ordinance. He added that public outreach on the subject request yielded one communication of support and one communication of opposition. He concluded with the staff recommendation that the request was compatible with the Comprehensive Plan and Zoning Ordinance, and further recommended approval of the subject special exception with two conditions specified in the staff report.

Upon inquiry from Chair Pitman, the Commissioners indicated that they had no further questions

on the subject request.

The applicant, Joshua Schroeder of 1117 Highwood Road, provided testimony, indicating that the proposed accessory apartment was envisioned for use by perhaps a student or military couple who could take advantage of the space and allow for the maximum use of the property. Mr. Schroeder further indicated his concurrence on staff's recommendations.

Upon inquiry by Chair Pitman, no one from the public indicated a desire to speak on the subject application.

Commissioner Tyner moved. Seconded by Commissioner Nunez, to recommend approval to the Board of Appeals of Special Exception application SPX2022-00402, to allow an accessory apartment use of the property located at 1117 Highwood Road, subject to the findings and conditions contained in the staff report. The motion carried unanimously 4-0.

II. REVIEW AND ACTION

A. Level 2 Site Plan Application STP2022-00434, for the Construction of a 30,000 Square Foot Grocery Store and Approximately 191 Affordable Multi-Family Housing Units in the Mixed-Use Transit District (MXTD) at 15931 Frederick Road; Lidl US Operation, LLC, Applicant

Mr. Kalbag presented the subject application, noting that the project site is located prominently at the "front gateway" of the city along MD 355, nestled between both the adjacent Shady Grove Metro station and the King Farm community, making it a key location for implementation of enhanced urban design elements to create a defined anchor point for the neighborhood. He added that comments received on the project by the public were generally supportive of the proposed grocery store and affordable housing. He further detailed the site design and planned improvements including proposed store-front glazing, café seating, landscaped road frontage, and a grand staircase for pedestrians at the corner of MD 355 and Metro Access Road. He continued that the proposed eight-story affordable multi-family housing building will serve a variety of income levels and will incorporate two levels of structured parking. Mr. Kalbag also detailed staff's support for waivers requested by the applicant to reduce the required parking amounts and to screen electrical transformer equipment rather than providing such equipment underground because of conditions unique to the site and project.

Mr. Kalbag explained a number of revised conditions from the staff report which he explained were made to provide further flexibility in implementation by the applicant. Such items included the necessity of streetlights along the Metro Access Road. He detailed that staff had amended Condition #27 in the staff report to allow the applicant to bond rather than fully construct pedestrian improvements prior to the issuance of a building permit. He also explained that similarly Condition #28 in the staff report was recommended to be changed to permit the street lighting along Metro Access Road be approved by the necessary agencies and bonded prior to building permit issuance and fully installed prior to occupancy permit issuance rather than requiring full installation by the building permit issuance. Revision of Condition #30 was also

detailed to revise the timing of the required bicycle parking installation based on the commercial and residential components. Revision of Condition # 31 included requiring payment of the city's Transportation Improvement Fee prior occupancy permits for the project's commercial and residential components rather than at the time of building permits.

Mr. Kalbag concluded the presentation with staff's findings that the project met the necessary city requirements and further recommended approval of the subject application, subject to the conditions contained in the staff report, including the revisions mentioned. He also recommended approval of the aforementioned requested waivers.

Francoise Carrier, legal counsel for the applicant, provided testimony on the application, noting the uniqueness of having a 100 percent affordable housing project incorporated into a development proposal and the rapid growth of Lidl grocery stores which provide a low-cost grocery option for customers. She added that combining the Lidl grocer with the affordable housing component along with adjacency to the Metro, would make the subject project a "once-in-a generation affordable housing opportunity" and a beneficial addition to the city.

Todd Travis of Foundation Housing further provided testimony on the project's affordable housing component. Mr. Travis noted that Foundation Housing, a national non-profit affordable housing provider headquartered locally in Montgomery County, has committed to providing decent, safe and well managed affordable housing to underserved Americans. He noted the success of the organization with established properties throughout the United States. He added that the subject project was of specific importance in that it provided a unique opportunity to provide an affordable housing product in immediate proximity to a transit station; a situation not commonly observed. He added that in partnership with the Lidl grocer, Foundation Housing had worked to maximize the number of units proposed given the economic constraints of providing a fully affordable housing project. The applicant further shared a video with the Commission which showcased the developer's affordable projects in other locations around the country. Mr. Travis concluded with highlighting the importance of providing affordable housing options to local residents and having such a project near the company's headquarters to further meet the non-profit's philanthropic goals of providing quality affordable housing to address the region's housing needs.

Ms. Carrier further presented the applicant's alternatives to a number of conditions offered by staff in its report. Specifically, Ms. Carrier commented on staff's Condition #28 to require bonding and installation of the streetlights along the Metro Access Road. She added that upgrades made to the project had significantly increased the cost to the project's builders and to offset such cost the builders would have to reduce the amenities offered. She added that the existing multi-family building located immediately across Metro Access Road was not required to install streetlights and added that requiring the applicant, a low-cost grocer and affordable housing provider, to install such would be an unfair imposition. She concluded that given the objectives of local jurisdictions to provide affordable housing, the subject project and its associated costs should be considered and supported.

Commissioner Pearson inquired on the types of amenities which the developer had to reduce in order to offset the project's costs. Mr. Travis responded that various changes in economic conditions had imposed additional costs on the project including rising interest rates and a rise in construction pricing of approximately 28% since the fall of 2021. He added that currently no amenities had been reduced from the affordable housing project and would include a fitness center, a community center and courtyard gathering spaces. However, he added that the requirements of additional infrastructure installation would have to be offset with the reduction of the projects aforementioned amenities. Upon further inquiry from Commissioner Pearson, Mr. Travis responded that the high cost amenities such as the business center and courtyard and playground areas would be most endangered from additional costs.

Commissioner Nuñez inquired as to why the multi-family project confronting the subject site was not required to install streetlights. Mr. Wasilak responded that such project was implemented under different conditions, in which the building was required to be set back significantly from the right-of-way of Metro Access Road via a "no-build" easement, and thus such project did not progress to the stage of installing streetlights. Upon further questioning from Commissioner Nuñez, Ms. Carrier responded that adequate streetlighting would be provided to pedestrians via lighting attached to the buildings. She added that imposing additional costs on the applicant to install streetlights would not be appropriate given that WMATA only required the lighting conduit. Chair Pitman inquired on the cost of the lights in which Patrick LaVay, the applicant's engineer, responded that cost could figure around \$250,000 for installation of the lights.

Commissioner Tyner commented on the importance of the project to the city and the imperative to provide all of the necessary improvements to the project upfront rather than having to install elements at a later time once the project is operative and in service to city residents. He further complemented the project's elements including the provision of residential units for families. He inquired on the details of how the applicant would look to install the streetlights. Mr. LaVay, responded that the applicant had engaged with WMATA to obtain their support for streetlight conduits as well as achieving support for the access to the property from Metro Access Road, a right-of-way owned by WMATA. Mr. Travis added that upon WMATA requiring it, the access to the multi-family building was changed which added an additional cost to the project.

Mr. Mohktari commented that installation of the streetlights would further the city's equity goals to provide safe access for pedestrians. He also added that upon staff's evaluation, the cost to install the streetlights would be significantly less than the \$250,000 figure offered by the project's engineer, and was estimated by staff to be approximately \$50,000. He added that if not provided by the applicant, the city would have to assume the cost burden to install the street lights.

Upon request by Ms. Carrier, the Commission reviewed the applicant's proposed alterations to the revised conditions presented by staff. On Conditions #25, #26 and #27, Ms. Carrier explained that the current language as presented by staff would require any other traffic improvements deemed necessary by the operating agencies to be completed by the applicant. She further explained that such wording did not provide a limit to the cost of improvements, thus presenting a situation where the operating agencies could impose improvements so costly that the costs may exceed the impact of the proposed project and leave the applicant significantly burdened by such

costs where the improvements became infeasible to implement. She further recommended that language be added to these conditions so that there be some parity in costs that the applicant has agreed to bond and the amount that may be required by operating agencies to fulfill the city's requirements for improvements. Mr. Dumais responded that technically, Ms. Carrier was correct from a constitutional perspective in that, the Commission as a regulatory body cannot require improvements that are so out of proportion to the impact that this development would have. He opined that it would be highly unlikely that the government agencies would require improvements at such an out-of-proportion scale. He further advised the Commission to inquire of staff why such improvements were being conditioned and how they would fulfill the requirements of a site plan approval.

Mr. Mohktari responded that the language added to staff's revised conditions was done to allow procedural flexibility to the applicant, so that if other governmental agencies required improvements not agreed upon with the city, the applicant would not have to file a site plan amendment in order to implement such improvements. He added that the traffic improvements specified in these conditions are necessary to fulfill requirements of the city's Comprehensive Traffic Review (CTR) and are directly proportional to the impact imposed by this development.

Commissioner Nuñez inquired about the proposed school enrollment and if the student yields were accurate in relation to the residential units proposed. Mr. Wasilak responded that Montgomery County revised their adequate public facilities standards and revised their student generation rates for different areas of the county based on the land use of properties rather than the geographic area in which they are located. He added that the city is obligated to use the student generation rates prescribed by MCPS and the county government and he added that such rates are very accurate in their assessment of providing adequate educational facilities across developments. He continued that the highest unit multifamily development has the lowest student generation rate on a per unit basis. He added that in experience, the student generation rates mirrored reality in the types of students generated from different types of residential development.

Commissioner Pearson inquired about the drastic differences in the estimated cost cited by the applicant and by staff for the proposed streetlights. Mr. LaVay responded that a middle ground between such figures would be installation of the streetlight conduits, which the applicant is supportive of. Commissioner Pearson further communicated his support for the project.

Chair Pitman asked about the proposed after-school program and how it would be implemented. Mr. Travis responded that once financing for the project was secured, the developer would work with a local non-profit organization to provide the after-school program. He added that dedicated space for the program will be included in financing for the program. Chair Pitman also indicated the need for the proposed project and the positive addition that it would be to the city.

The Commission then considered and finalized the revised conditions by staff and the alternatives offered by the applicant for certain conditions. Upon deliberation, the Commissioner supported the original language for Conditions #26-27 as found in the staff report. For Condition #28, the Commission supported the applicant installing only the streetlight conduit and allowing for

installation of the streetlights along Metro Access Road by others. The Commission also supported staff's revised Conditions #30-31 as presented in tonight's meeting.

Commissioner Tyner moved that the Commission approve Level 2 site plan application STP2022-00434, for the construction of a 30,000 square foot grocery store and approximately 191 affordable multi-family housing units in the Mixed-Use Transit District (MXTD) Zone at 15931 Frederick Road, citing the findings and conditions contain in the staff report, Condition #28 as revised by the Commission and staff's revised Conditions #30-31, as presented, along with approval of the waivers for placement of electrical equipment and a reduction in the total parking requirement from 407 to 311 parking spaces. Commissioner Nuñez seconded the motion. The motion passed unanimously 4-0.

III. COMMISSION ITEMS

- A. Staff Liaison Report** – Mr. Wasilak reported that the Commission's next meeting on July 13, 2022 could potentially include review of the annual report as well as a waiver application on Gaither Road and review of the Project Plan for 1800 Chapman Avenue. He also indicated that a plat application was anticipated for the Commission's July 27th meeting. He concluded that no items were anticipated for a meeting in August.
- B. Old Business** – Chair Pitman inquired about any edits the Commission may have to a memorandum highlighting the Commission's discussion and recommendations on future concepts for RedGate Park. The Commission indicated that it was supportive of the memorandum as presented.
- C. New Business** – None.
- D. Minutes Approval**– Chair Pitman asked if there were any changes needed to the minutes of the Commission's May 11, 2022 meeting. Commissioner Tyner made the motion to approve the May 11, 2022 minutes as presented. The motion was seconded by Commissioner Nuñez. The motion carried unanimously 4-0.
- E. FYI/Correspondence** –Mr. Wasilak indicated that there was an appointment pending for a new member to join the Commission, and was to be potentially confirmed by the Mayor and Council at an upcoming meeting. Commissioner Pearson suggested that the Commissioners gather in a non-formal manner at a later date. Chair Pitman indicated that she would have further discussion with Mr. Dumais and Mr. Wasilak on the feasibility of such gatherings.

IV. ADJOURN

There being no further business to come before the Planning Commission, Commissioner Nuñez moved, seconded by Commissioner Pearson, that the meeting be adjourned at 9:20 p.m. The motion was approved unanimously.

Respectfully Submitted,



Commission Liaison