TO: Planning Commission

FROM: Jim Wasilak, AICP, Chief of Planning

PLANNER: Deane Mellander, Zoning Administrator

DATE: September 17, 2010

SUBJECT: Zoning Text Amendment TXT2010-00228

RECOMMENDATION: Denial of the proposed text amendment.

REQUEST: The applicant, William A. Pumphrey, proposes to amend the text in Section 25.08.05 of Article 8 of the Zoning Ordinance to allow for the expansion of parking in connection with a nonconforming use (funeral home; see Attachment 1). The applicant owns the funeral home at the corner of West Montgomery Avenue and Williams Street.

RELEVANT ISSUES:
- Expansions of nonconforming uses are generally discouraged.
- The parking lot expansion may have an adverse impact on the adjoining residential properties.

PREVIOUS RELATED ACTIONS: The current R-90 Zone on the property was confirmed by the Mayor and Council as part of the most recent comprehensive zoning. The funeral home has been a nonconforming use since zoning was initially enacted in 1932.


The parking requirement breakdown is as follows:

The parking requirement breakdown is as follows: under the current zoning requirements, the use requires 57 spaces per 2,500 square feet. The downtown standards for short-term parking spaces within 100 feet of a payphone or payphone operator, the downtown standard for short-term parking spaces within 100 feet of a payphone or payphone operator, and therefore the nonconforming use by expanding the off-street parking onto the adjoining lot.

Parking: The intent of the text amendment is to facilitate the continuation of the nonconforming use by expanding the off-street parking onto the adjoining lot.

The condition limits commencements only to those funeral homes that are currently allowed as a conditional use in all of the mixed-use zones. The condition limits commencements only to those funeral homes that are currently allowed as a conditional use in all of the mixed-use zones.

The condition limits commencements only to those funeral homes that are currently allowed as a conditional use in all of the mixed-use zones. The condition limits commencements only to those funeral homes that are currently allowed as a conditional use in all of the mixed-use zones.

In 1992 (when the date in the proposed text amendment), the use has been allowed in a residential zone since zoning was established. Article 16 and the Landuse Scenarios and Landuse Manual

A nonconforming use is a use that was legal when established, but is no longer allowed as a result of subsequent zoning actions. In the case of the funeral home, allowed as a result of subsequent zoning actions. In the case of the funeral home, the use has been allowed in a residential zone since zoning was established. Article 16 and the Landuse Scenarios and Landuse Manual.

The text amendment proposed by the applicant would add a new subsection C. to Section 2.08.05, Nonconforming Use, that would read as follows:

ANALYSIS: The text amendment proposed by the applicant would add a new subsection C. to Section 2.08.05, Nonconforming Use, that would read as follows:

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TX12010-002228
In addition, allowing parking for an adjoining lot violates the provisions of Section 27.16.4.4, which requires all off-street parking to be located on the same property. City of Portland, 2.17.16.4.4.

City in 1932 should be sufficient limits.

applicable to the R-90 zone and assuming that the property had to be in the
unit development zones (R-60, R-75, R-90, R-150, R-200, and R-400) limiting the
proposed by the applicant would cover a nonconforming use in any of the single
applicability only to nonconforming uses in the R-90 zone that were in existence
amendment. The staff then recommends that the language be revised to limit the

If the Planning Commission decides to recommend approval of the text

Stark recommending: The staff recommends that the proposed text

property.

amendment expands the commercial use, i.e., the parking lot onto another residential
nonconforming uses to ultimately cease to exist. In this case, it effectively
nonconforming use in a residential zone, the intent of the code is for
amendment will be denied. The proposed will have the effect of perpetuating a

The text has been altered to address this issue.

The text has been altered to address this issue.

The following changes to the neighborhood about overflow

The vacant lot at 404 W. Montgomery once had a house on it built on the

nonconformity.

nonconformity.

Standards of the ordinance, it does reduce the degree of development standards
suitable spaces plus two in the existing garage. While this does not meet the
the text amendment. Amendment (2) proposes a total of 48 spaces on the two lots
space provided by the applicant (not binding for purposes of

A preliminary plan provided by the applicant per employee

Employees - 6 @ 1 space per employee = 6 spaces
Business vehicles - 2 = 2 spaces
Assembly area - 2.19 sq ft @ 1 space / 30 sq ft = 44 spaces

Total Parking Required = 42 spaces

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Shell Report

TX1725010-002228
CONCLUSION: The staff recommends denial of the proposed text amendment. The staff position is that the proposed text amendment is contrary to the intent of the General Plan and the Comprehensive Plan and is also contrary to the intent of the General Plan and the Comprehensive Plan. The text amendment is contrary to the intent of the General Plan and the Comprehensive Plan. The text amendment is contrary to the intent of the General Plan and the Comprehensive Plan. The text amendment is contrary to the intent of the General Plan and the Comprehensive Plan.

PUBLIC RESPONSE: We have received a letter in opposition to the proposed text amendment. The letter states that the proposed text amendment is contrary to the intent of the General Plan and the Comprehensive Plan. The letter states that the proposed text amendment is contrary to the intent of the General Plan and the Comprehensive Plan. The letter states that the proposed text amendment is contrary to the intent of the General Plan and the Comprehensive Plan. The letter states that the proposed text amendment is contrary to the intent of the General Plan and the Comprehensive Plan.

PUBLIC OUTREACH: The applicant has sent a notice (Attachment 3) to notify the public about the proposed text amendment. The notice has been posted on the City’s web site. The applicant has also been notified of the notice. The notice has been disseminated via the neighborhood listserve. The text amendment is contrary to the intent of the General Plan and the Comprehensive Plan. The text amendment is contrary to the intent of the General Plan and the Comprehensive Plan. The text amendment is contrary to the intent of the General Plan and the Comprehensive Plan.

MASTER PLAN RECOMMENDATION: The master plan for this area is Attachment 4.

LIGHTING MANUAL

With the requirements of Article 16 and the Landscaping, Screening, and nonconforming uses may be altered, expanded or enlarged in accordance with the zone within the City since prior to August 3, 1982, off-street parking for the zone is the R-90 Zone. The R-90 Zone was confirmed by the most recent recommendation for the area. The R-90 Zone was confirmed by the most recent recommendation for the area. The R-90 Zone was confirmed by the most recent recommendation for the area.

Where a nonconforming use has been in continual existence in the R-90 Zone, it is recommended that the Planning Commission make a decision to continue the nonconforming use. The Planning Commission may consider the nonconforming use as an exception to the zone regulations. The Planning Commission may consider the nonconforming use as an exception to the zone regulations. The Planning Commission may consider the nonconforming use as an exception to the zone regulations.
1. Text Amendment Application
2. Preliminary Site Plan
3. Notice mailed by the applicant
4. Letter of July 26, 2010 from Stanley Abrams

Attachments:

of the Pumprey's site, this would require consolidation of the two lots.
only permit off-site parking in compliance with Section 25.16.04.4. In the case
that the language be revised to limit the applicability only to the R-90 Zone, and
use. If the commission considers supporting the proposal, the staff recommends
operate indefinitely. Approval would effectively perpetuate and expand this
the ordinance to generally discourage nonconforming uses and not allow them to

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5-1
TX12010-002228
Comments on Submittal (For Staff Use Only)

[Signature]
[Name]

My Commission Expires

[Date]

[Signature]
[Name]

Subscribed and sworn before this day of

[Date]

[Name]

BY: [Title]

[Signature]

Additional Of-Street Parking - Where a nonconforming use in a single dwelling unit

Termination

FROM: Which reads as follows  b. Termination

Page 4 of Article 6

Ordinance of Rockville, Maryland

Application is hereby made with the Rockville Mayor and Council for Approval of a Change in the Text of the Zoning and Planning

Date
Article 16 and the Landscape, Screening and Lighting Manual
the lot and/or an adjacent lot in accordance with the requirements of
parking for the nonconforming use may be altered, expanded or enlarged on
been in continual existence on a lot since prior to August 3, 1972, off-street
where a nonconforming use in a Single Dwelling Unit Residential Zone has

***
be. Termination

** *
Sec. 25.08.05 - Nonconforming Uses

Sec. 25.08.05 - Nonconforming Uses

Sec. 25.10.10 - Nonconformities

* * *
Article 10 - Single Dwelling Unit Residential Zones

indicates text not affected by the proposed text amendment
Underline indicates material proposed to be added.
[breaks] indicates material proposed to be deleted

NOTE:

expansion of off-street parking for certain non-conforming uses.
December 13, 2008, and with an effective date of March 16, 2009, to allow alteration of
known as the "Zoning Ordinance of the City of Rockville," which was adopted on
The applicant proposes to amend Chapter 25 of the Rockville City Code, otherwise

APPLICATION TO THE ZONING ORDNANCE
Monday, November 22, 2010
- Discussion and Instruction by Mayor and Council

Monday, September 22, 2010
- Review and Recommendation by the Planning Commission

The tentative schedule for review and action on TX2010-00228 is as follows:

You may review the language of this text amendment at the City’s website at:

http://www.rockville md.gov/zoning/index.htm

Please be advised that a Zoning Ordinance text amendment application (TX2010-00228) has been filed with the City of Rockville by Pumpery Funeral Home.

To Interested Parties:

TEXT AMENDMENT TX2010-00228
ZONING ORDINANCE
NOTICE OF FILING OF
Dear Mr. McElderry:

William A. Pumphrey, Applicant

RE: Zone Text Amendment 2010-00228

Rockville, MD 20850

111 Maryland Avenue

Rockville, City Hall

Mr. Dean McElderry, Zoning Administrator

July 27, 2010

July 26, 2010

ATTORNEYS AT LAW

ABRAMS & WEST, P.C.

Attachment 4
Commission, please keep me notified of all hearing dates on this Text Amendment. Preparing your recommendations to the Mayor and City Council and City Planning Department will take these views into consideration when no public bench or protection.

As previously stated, this Text Amendment is an example of bad public policy with little or impractical benefits. Loss of trees and vegetation and other adverse environmental impacts.

This Text Amendment also encourages the implementation and expansion of character that is lost.

amount of landscaping, screening and lighting controls can restore the neighborhood community plans and improve property values. "

contrasts, contribute to which help further the success of the success of zoning. They limit the effectiveness of land use such non-conforming use pose a formidable threat to the

§ 2.12.200 (1982),

As noted by the Maryland Court of Appeals in County Council of Prince George's County v. E.L. Gardner, Inc., 293 Md. 279, 443 A.2d 114, 118 (1982).