

CITY OF ROCKVILLE PLANNING DIVISION
STAFF REPORT
November 30, 2006

SUBJECT: MAP2006-00097

Applicant: Mayor and Council
City of Rockville

Owner: Davor Kapelina
6801 Newbold Drive
Bethesda, MD 20817-2224

Date Filed: November 15, 2006

Location: 702 Maple Avenue



REQUEST:

To rezone Lot 30 (formerly lots 9, 10), Block 4, Rockville Park from R-60 to R-60 HD.

PREVIOUS RELATED ACTIONS:

- Mayor and Council – Authorized filing Map Amendment on November 13, 2006.
- Historic District Commission – Recommended local historic designation of property on September 21, 2006. The project was brought to the HDC for consideration of the historic significance of the property, as mandated by the City’s *Environmental Guidelines*.
- Final Record Plat PLT2006-00465, Davor Kapelina – for consolidation of Lots 9 & 10, Block 4, of Rockville Park into a single record lot of 10,870 square feet; approved by the Planning Commission on September 13, 2006.

RELEVANT ISSUES

Historic designation in the City of Rockville is applied through the legislative procedure of a Sectional Map Amendment, filed on behalf of the Mayor and Council. MAP2006-00097 proposes rezoning the subject property from R-60 to R-60 HD. The underlying zoning would not change. Only the Mayor and Council may submit a Sectional Map Amendment for historic district designation. If approved by the Mayor and Council, exterior alterations proposed by the property owner would need review and approval by the Historic District Commission.

The Planning Commission is asked to review the Map Amendment application for a recommendation to the Mayor and Council, which is formally presented to the Mayor and Council at a Public Hearing (scheduled for January 8, 2007). The Planning Commission evaluates the application for conformity to the adopted Master Plan, as well as their consideration of other planning criteria.

The application has come to the City through the owner’s application for a demolition permit (filed August 1, 2006). Although inherent in the application for a demolition permit is the

opposition to historic designation, the owner has not disputed the Historic District Commission's recommendation concerning the historic significance of the property. The owner maintains that the renovation of the structure is not economically feasible and would cause undue financial hardship if pressed to maintain the structure. The Historic District Commission has a defined process to consider an economic hardship plea in reviewing a demolition permit, which is stipulated in the State's planning enabling legislation (Article 66B) once a property has been designated. The Mayor and Council have held, therefore, that the Historic District Commission is best suited to consider economic hardship applications when they concern historically significant properties.

Compatibility with Mayor and Council "Vision" and applicable Master Plans

- The proposed rezoning is consistent with The Mayor and Council's *Vision of Rockville in 2020 and Associated Priorities for 2006-2008*. This states:

"Successful cities possess a strong sense of place. Rockville's sense of place is the product of a unique eclectic community tapestry integrating tradition, continuity and renewal...Rockville is distinguished by its historical, cultural, and architectural heritage. ...Neighborhoods are the heart and the soul of our city. Rockville has more than 70 distinct neighborhoods. From its historic 19th century neighborhoods, through its various 20th century suburban subdivisions and multi-unit residences, and continuing through its early 21st century redeveloped mixed use neighborhoods, run the common threads of community identity, adaptability, and diversity..."

- The proposed rezoning is consistent with the City's *Comprehensive Master Plan*, adopted in 2002. This states:

"Identify the historic resources of the City as visual and physical reminders of the themes and periods in the City's development; Preserve, protect, and maintain the physical and environmental integrity of an increased number of historic resources in Rockville..." and,

"Rockville's Historic Preservation Program should support heritage tourism and contribute to the City's economic development goals by promoting Rockville as an interesting and attractive place to live, work, and visit." (8-15)

The history and authority of historic district zoning is summarized (8-2), and several areas are mentioned "that may be eligible for future designation as historic districts (8-11). This includes the Baltimore Road historic area (8-12). "Baltimore Road and portions of Reading and Grandin Avenues have a distinctive flavor that set off the immediate area from later adjacent residential development."

- The *East Rockville Neighborhood Plan* addresses compatible new construction as a way to preserve existing neighborhood character. It does not address proposed demolitions of historic structures.

The *Neighborhood Plan* recognizes that the community character of East Rockville is directly related to its historic development over time and the large numbers of older homes (some with historic significance) that remain in the neighborhood. At the same time, the *Plan* does not recommend designation of a historic district, but does encourage individual property owners to pursue historic designation if they choose.

The *Neighborhood Plan* seeks to preserve the existing building patterns and lot configurations (30) and states that “it is anticipated that residents and builders will look to this Plan for guidance before designing new construction in anticipation of enhancing the community ... and maintain and enhance neighborhood character. Rather than achieve these ends through regulatory measures, this chapter focuses on educating residents about choices available for sustaining features that contribute to neighborhood identity.”

In addition, the City is currently investigating the benefits of joining the state’s Heritage Area, which promotes Heritage Tourism to destinations having a sense of place that is distinct and authentic. Rockville’s historic building stock reflects its heritage, and the buildings and their surroundings act as exhibits that tell different facets of the story. A single c. 1890’s frame house in a mid-20th century neighborhood can tell the story of how the community grew. The historic house does not have to be a museum to enhance heritage tourism. When a historic house in Rockville is lost, Rockville’s ability to develop heritage tourism is diminished.

BACKGROUND AND PROCESS

The subject property, Lot 30, Block 4 of Rockville Park, contains 10,870 sf. Most recently, the Planning Commission approved a re-subdivision of Lots 9 and 10 to combine them into Lot 30 to reduce the impacts of setbacks on the buildable area of the property. Historic preservation staff supported this, as it would also give the owner additional flexibility for rehabilitation of the site, with additions and/or outbuildings.

Historic designation is a legislative process authorized and conducted by the Mayor and Council, with input from Commissions (Planning, Historic District) and the public (owner, others). In general, the Mayor and Council hope to consider proposed designations from supportive property owners. However, this is not always the case and this does not apply for this property. The owner purchased the property in 2002 and proceeded with plans to rehabilitate the property for resale. The rehabilitation did not proceed according to schedule. After then investigating rehabilitation with three different builders, and hearing from each one that demolition and new construction would be their recommendation, the owner applied for a demolition permit.

City policy set out in the *Environmental Guidelines* calls for a preliminary staff-level review of proposed demolitions for buildings over 50 years in age. Historic preservation staff had already begun research into the historic significance of this particular property as part of the survey efforts scheduled in the CPDS work program. Therefore, staff was able to respond quickly and inform the owner that this property was, in staff’s opinion, historically significant to the City. The normal procedure is to present the research to the Historic District Commission for their recommendation, and present this to the Mayor and Council for consideration. The Mayor and Council authorized filing of the Map Amendment on November 13, 2006.

The owner agrees that the property has historic significance, and notes that he fully intended to rehabilitate the property when he purchased it as an investment in 2002. He did, however, provide materials to show that, for his purposes, this project could not provide a reasonable financial return and would therefore constitute “financial hardship.” He presented this information for the first time to the Historic District Commission during their public hearing. While it is not typical to provide substantial new information for consideration in a public meeting, the Historic District Commission accepted the materials but noted that they were charged at that time with the limited task of evaluating the property for historic significance. Should the property be designated under the City’s program, the Historic District Commission has a procedure for consideration of financial hardship, and that would have to be considered at another time.

At the consideration of authorization to file, the owner requested that the Mayor and Council decline to Authorize filing of the Map Amendment on the basis of financial hardship. As his attorney noted, it is not required that the Mayor and Council consider financial hardship in their deliberations, but they may. This same issue most recently came to the Mayor and Council in their deliberations on the proposed historic designation of the Spates Bungalow on Park Street. That property also came into this process through an owner’s application for a demolition permit. Through a legal challenge in court, the Court of Special Appeals held that Article 66B places the responsibility for determining economic and financial hardship on the Historic District Commission and not on the Mayor and Council.

On November 13, 2006, the Mayor and Council authorized filing of the Map Amendment to allow the process to move forward, including an official Public Hearing, and deliberation by the Mayor and Council. This presentation to the Planning Commission is part of this review process.

Proposal

Map Amendment MAP2006-00097 will change the zoning from R-60 to R-60 HD. The underlying zone with all applicable standards will remain unchanged. Proposed alterations at the property, including additions, new construction, and demolition, will be reviewed by the Historic District Commission through the City’s Certificate of Approval permitting process.

STAFF RECOMMENDATION

Staff recommends that the Planning Commission forward their recommendation to the Mayor and Council that the designation of the property complies with the applicable City’s Master Plan and applicable sections of the Zoning Ordinance.

Interestingly, the existing house does not meet the current zoning standards, especially in its siting on the corner location. It does not meet the 25’ front yard setbacks along Reading and Maple Avenues. As with other existing older homes, the house is permitted to remain in its existing location, and can take advantage of the large rear yard to accommodate additions and/or new outbuildings. Rehabilitation of the house can be done by using the state’s Smart Codes, which is designed to promote the rehabilitation of existing older homes while retaining original features and design.

NOTIFICATION

Notices were sent to approximately 560 nearby residents.

Attachments:

1. Mayor & Council Agenda sheet (11/13/06): Authorization to File (circle 1)
2. Property and Vicinity Maps (circle 4)
3. Staff report to HDC 9/21/06 (circle 7)
4. Memo on Criteria of Significance (circle 18)
5. MHT Research Form (circle 22)
6. HDC Public Hearing submittals (circle 29)
7. Letter (11/2/06) from applicant's attorney (circle 45)
8. Letter (11/8/06) from applicant's engineer (KCE Structural Engineers) (circle 48)
9. HDC Review Procedures for Demolition Requests (circle 52)

RDZ/Planshare/Planning Commission Briefbook