AGENDA

Agenda item times are estimates only. Items may be considered at times other than those indicated.

Any person who requires assistance in order to attend a city meeting should call the ADA Coordinator at 240-314-8108.

Virtual Speakers

Virtual Speakers should follow the instructions in the Agenda Center at www.rockvillemd.gov/AgendaCenter as written on page 1 of the Agenda Packet.

In-Person Attendance

Community members attending in-person who wish to speak during Community Forum or a Public Hearing should sign up using the form at the entrance to the Mayor and Council Chamber. In-person speakers will be called upon in the order they are signed in and will speak following virtual speakers.

Viewing Mayor and Council Meetings

The Mayor and Council are conducting hybrid meetings. The meetings can be viewed on Rockville 11, Comcast, and Verizon cable channel 11, and livestreamed at www.rockvillemd.gov/rockville11, and available a day after each meeting at www.rockvillemd.gov/videoondemand.

Participating in Community Forum & Public Hearings:

If you wish to submit comments in writing for Community Forum or Public Hearings:

- Please email the comments to mayorandcouncil@rockvillemd.gov no later than 10:00 am on the date of the meeting.
- All written comments will be acknowledged by the Mayor and Council at the meeting and added to the agenda for public viewing on the website.

If you wish to participate virtually in Community Forum or Public Hearings during the live Mayor and Council meeting:

1. Send your Name, Phone number, the Community Forum or Public Hearing Topic and Expected Method of Joining the Meeting (computer or phone) to mayorandcouncil@rockvillemd.gov no later than 10:00 am on the day of the meeting.
2. On the day of the meeting, you will receive a confirmation email with further details, and two Webex invitations: 1) Optional Webex Orientation Question and Answer Session and 2) Mayor & Council Meeting Invitation.
3. Plan to join the meeting no later than 6:40 pm (approximately 20 minutes before the actual meeting start time).
4. Read for [https://www.rockvillemd.gov/DocumentCenter/View/38725/Public-Meetings-on-Webex](https://www.rockvillemd.gov/DocumentCenter/View/38725/Public-Meetings-on-Webex) meeting tips and instructions on joining a Webex meeting (either by computer or phone).
5. If joining by computer, **Conduct a WebEx test**: [https://www.webex.com/test-meeting.html](https://www.webex.com/test-meeting.html) prior to signing up to join the meeting to ensure your equipment will work as expected.
6. Participate (by phone or computer) in the optional Webex Orientation Question and Answer Session at 4 pm the day of the meeting, for an overview of the Webex tool, or to ask general process questions.

**Participating in Mayor and Council Drop-In**

The next scheduled Drop-In session will be held by phone on Monday, May 9 from 5:30-6:30 pm with Mayor Newton and Councilmember Pierzhala. Please sign up by 10 am on the day of the meeting using the form at: [https://www.rockvillemd.gov/formcenter/city-clerk-11/sign-up-for-dropin-meetings-227](https://www.rockvillemd.gov/formcenter/city-clerk-11/sign-up-for-dropin-meetings-227)

6:00 PM 1. **Convene in Open Session** to vote on motion to go into closed session pursuant to Section 3-305(b)(7) of the General Provisions Article of the Annotated Code of Maryland to consult with counsel to obtain legal advice regarding the Federal Highway’s 4(f) Evaluation process and de minimis impact determination for the I-495 & I-270 Managed Lanes Study.

2. **Closed Session**

7:00 PM 3. **Reconvene into Open Session**

4. **Pledge of Allegiance**

5. **Agenda Review**

7:05 PM 6. **Proclamation**
A. Proclamation Recognizing ALS Awareness Month (Mayor Newton)

B. Proclamation Declaring May 2022, as National Building Safety Month (CM Ashton)

C. Proclamation Recognizing May 2022, as Lyme Disease Awareness Month (CM Myles)

D. Proclamation Declaring Yom HaShoah Day in Rockville (CM Feinberg)

7:15 PM  7. Recognition

A. Certificate of Recognition for the 55th Anniversary of Community Reach of Montgomery County (CM Pierzchala)

7:20 PM  8. Community Forum

Any member of the community may address the Mayor and Council for 3 minutes during Community Forum. Unless otherwise indicated, Community Forum is included on the agenda for every regular Mayor and Council meeting, generally between 7:00 and 7:30 p.m. Call the City Clerk/Director of Council Operation's Office at 240-314-8280 to sign up to speak in advance, or email the City Clerk’s Office at cityclerk@rockvillemd.gov by no later than 10:00 a.m. on the day of the meeting.

7:40 PM  9. Consent

A. Award of IFB #02-22, Streetlight Maintenance, to Lighting Maintenance, Inc. in the Amount Not to Exceed $120,000 Per Fiscal Year, with the Option to Renew for Four Additional One-Year Terms

B. Award of NCPA Contract #05-36 for the Purchase of Smart Parking Meters

C. Authorize the City Manager to Award a Rider Contract Via Sourcewell Contract #052417-VTL for an Asphalt Paver, to Valley Supply and Equipment Co, Inc., of Hagerstown, MD in the Amount of $141,155

D. Award a Rider Contract for Diesel Fuel
7:45 PM  10. Public Hearing - MAP2022-00123 406 Great Falls Road Historic Designation

8:15 PM  11. FY 2023 Budget and ARPA Worksession

9:45 PM  12. Adoption of Paid Parental Leave Policy

9:55 PM  13. Adoption of Reduction in Force and Furlough Policy

10:05 PM  14. Adoption of Changes to Work-Related Injury Paid Leave Benefits

10:15 PM  15. Old/New Business

10:30 PM  16. Adjournment

The Mayor and Council Rules and Procedures and Operating Guidelines establish procedures and practices for Mayor and Council meetings, including public hearing procedures. They are available at: http://www.rockvillemd.gov/mcguidelines.
Subject
Proclamation Recognizing ALS Awareness Month

Recommendation
Staff recommends Mayor and Council read and approve the proclamation.

Discussion
Amyotrophic Lateral Sclerosis (ALS), more commonly referred to as Lou Gehrig’s disease, is a progressive, fatal neuromuscular disorder that occurs when motor nerve cells cease to function and die. What makes ALS unique compared to most other diseases is that there is no known cause, cure, or means of prevention.

While in most cases a person’s mind remains sharp and alert, voluntary muscle control becomes completely lost, often resulting in paralysis. People with ALS essentially become trapped inside their own bodies—aware of the world around them but unable to respond to it. As people with ALS lose the ability to walk, move their arms, talk, and even breathe, the disease requires them to rely on caregivers, usually their families, to provide the care and assistance that is needed to perform normal daily living activities. In many cases, particularly in the latter stages of the disease, people with ALS have a need for continuous care, 24 hours a day, seven days a week.

The average life expectancy for people with ALS is two to five years from the date of diagnosis. It is critical to the struggle to defeat this terrible disease that the people and leaders of our community be educated and aware of the disease, as well as the issues confronting those who are affected by it. In fact, a paper entitled “ALS in the Military, Unexpected Consequences of Military Service” outlines those military veterans are at approximately twice the risk of developing ALS than those that have not served in the military. It is only through increased advocacy that elected officials, medical researchers, and health care professionals will give ALS patients the attention and support that they need and deserve.

More information on ALS can be found at the link below:
**Mayor and Council History**
This is the fourth time this item has been brought before the Mayor and Council.

**Attachments**
Attachment 6.A.a: Proclamation Declaring May 2022 ALS Awareness Month (PDF)
WHEREAS, Amyotrophic Lateral Sclerosis or ALS, better known as Lou Gehrig’s disease, is a fatal neurodegenerative disease characterized by degeneration of cell bodies of the lower motor neurons in the gray matter of the anterior horns of the spinal cord; and

WHEREAS, the initial symptom of ALS is weakness of the skeletal muscles, especially those of the extremities; and

WHEREAS, as ALS progresses the patient experiences difficulty in swallowing, talking, and breathing; and eventually causes muscle atrophy rendering the patient a functional quadriplegic; and

WHEREAS, ALS does not affect a patient’s mental capacity, so that the patient remains alert and aware of his or her loss of motor functions and the inevitable outcome of continued deterioration and death; and

WHEREAS, on average, patients diagnosed with ALS only survive two to five years from the time of diagnosis; and

WHEREAS, ALS has no known cause, means of prevention, or cure; and

WHEREAS, research indicates that military veterans are approximately twice as likely to develop ALS as those who have not served in the military; and

WHEREAS, Amyotrophic Lateral Sclerosis Awareness Month increases the public’s awareness of ALS patients' circumstances and acknowledges the terrible impact this disease has not only on the patient but on his or her family and the community, and recognizes the research being done to eradicate this horrible disease.

NOW, THEREFORE, the Mayor and Council of Rockville do hereby declare the month of May 2022 as Amyotrophic Lateral Sclerosis (ALS) Awareness Month in Rockville and call upon the people of Rockville to join their fellow citizens in the community and across the region to recognize and participate in this special observance.
Subject
Proclamation Declaring May 2022 as National Building Safety Month

Recommendation
Staff recommends that Mayor and Council approve and present the National Building Safety Month Proclamation to Rabbiah Sabbakhan, Chief of Inspection Services, on behalf of the Department of Community Planning and Development Services, who oversees the permitting and inspection operations for safety-critical code compliance review and inspection on construction projects, code enforcement for property maintenance as well as emergency response on damage to existing buildings and structures.

Discussion
The City of Rockville is proud to be among the many safety-oriented jurisdictions throughout the country in officially recognizing May as Building Safety Month. This is an excellent opportunity to pay tribute to the many design professionals and contractors who design and build with a consciousness of user life safety and sustainability, as well as to our local government code professionals in the Inspections Services Division (ISD), and Code Enforcement with the Department of Community Planning and Development Services, whose primary task is to see that safety and code compliance is properly ensured.

Those permitting code professionals include permit technicians and plans examiners, who screen, review, and approve over 5,000 building permit applications and construction plans annually to ensure that designs are safe and code-compliant for permit issuance. They also include the City’s building and fire inspectors, who, after permits have been issued, check construction at various stages of work to make certain that the building’s structural elements, accessibility, means of egress, fire protection, electrical, plumbing, and mechanical systems are installed in accordance with adopted codes, and are in compliance and conformance with approved plans and submittal documents. Collectively, they conduct over 12,000 code compliance permit inspections each year.

Equally important are the Code Enforcement inspectors and officials who are responsible for making sure that all our existing buildings and structures, e.g., houses, restaurants, churches, apartments, hotels, schools, City & County facilities, and structures remain just as safe and well-
maintained today as they were years ago when they were newly constructed, through proactive enforcement of our adopted property maintenance codes.

Building Safety Month continues to serve as critical outreach and a visible means of highlighting and reinforcing the importance of safety, and protection of buildings and the people who use them during design, under construction, and during occupancy.

The International Code Council’s (ICC) theme for National Building Safety Month 2022 is "Building Codes in Action" Each week focuses on a specific topic area.

Week 1 - May 1-8: "Energy and Innovation"
Week 2 - May 9-15: "Building Safety Careers"
Week 3 - May 16-22: "Disaster Preparedness"
Week 4 - May 23-31: "Water Safety"

Staff teams will be engaging in various community outreach activities throughout the month to raise awareness of these issues as well as Radon Awareness for homeowners.

**Mayor and Council History**
A Proclamation has been issued for National Building Safety Month in the City of Rockville over the past several years.

**Attachments**
Attachment 6.B.a: Building Safety Month 2022 Poster (PDF)
Attachment 6.B.b: Proclamation Declaring May 2022 National Building Safety Month (PDF)
Safety for All: BUILDING CODES IN ACTION

**Week 1:**
May 1–8
Energy and Innovation

**Week 2:**
May 9–15
Building Safety Careers

**Week 3:**
May 16–22
Disaster Preparedness

**Week 4:**
May 23–31
Water Safety

Attachment 6.B.a: Building Safety Month 2022 Poster (4101 : Proclamation Declaring May 2022 as...
WHEREAS, the City of Rockville is committed to recognizing that our growth and strength depend on the safety and economic value of the homes, buildings, and infrastructure that serve our citizens, both in everyday life and in times of disaster, and;

WHEREAS, our confidence in the resilience of these buildings that make up our community is achieved through the devotion of vigilant guardians—building and fire prevention code officials, architects, engineers, builders, tradespeople, plumbers, gasfitters, electricians, insulators, green raters, and others in the construction industry—who work year-round to ensure the safe, resilient construction of buildings, and;

WHEREAS, these guardians are dedicated members of the International Code Council, a nonprofit that brings together local, state, and federal officials who are experts in the built environment to create and implement the highest-quality codes to protect us in the buildings where we live, learn, work, play, and;

WHEREAS, “Safety for All: Building Codes in Action,” the theme for National Building Safety Month 2022, encourages us all to raise awareness about planning for safe and sustainable construction; career opportunities in building safety; understanding disaster mitigation, energy conservation; and creating a safe and abundant water supply to all of our benefit, and;

WHEREAS, each year, in observance of Building Safety Month, people all over the world are asked to consider the commitment to improve building safety, resilience, and economic investment at home and in the community, and to acknowledge the essential service provided to all of us by local and state building departments, fire prevention bureaus and federal agencies in protecting lives and property.

NOW, THEREFORE, the Mayor and Council of Rockville do hereby proclaim May 2022 as National Building Safety Month in the City of Rockville. We encourage everyone to join us and participate in this year’s Building Safety Month awareness activities.

April 25, 2022
Subject
Proclamation Recognizing May 2022 as Lyme Disease Awareness Month

Recommendation
Staff recommends Mayor and Council read and approve the proclamation.

Discussion
Lyme disease is a bacterial infection primarily transmitted by Ixodes ticks, also known as deer ticks, and on the West Coast, black-legged ticks. These tiny arachnids are typically found in wooded and grassy areas. Although people may think of Lyme as an East Coast disease, it is found throughout the United States, as well as in more than sixty other countries.
The Centers for Disease Control and Prevention estimate that 476,000 people are diagnosed with Lyme disease in the US every year. However, because diagnosing Lyme can be difficult, many people who have Lyme may be misdiagnosed with other conditions. Many experts believe the true number of cases is much higher.
Lyme disease affects people of all ages. The CDC notes that it is most common in children, older adults, and others such as firefighters and park rangers who spend time in outdoor activities and have higher exposure to ticks.
LymeDisease.org has developed a Lyme disease symptom checklist to help you document your exposure to Lyme disease and common symptoms for your healthcare provider. You will receive a report that you can print out and take with you to your next doctor’s appointment.

Mayor and Council History
This is the third time Mayor and Council have issued this proclamation.

Public Notification and Engagement
Additional efforts by the Department of Health and Human Services to address Lyme disease include:

- Presentations in the community.
- Distribution of literature on Lyme disease prevention.
- Counseling of individual patients on prevention.
- Surveillance on positive lab slips to identify true cases.
- Referrals to physicians for diagnosis and treatment.
- Education of community physicians on Lyme disease diagnosis and treatment.
- Montgomery County promotes personal protection from ticks and awareness of the symptoms of the illness as the best defense against Lyme disease.

General information is available at: The Montgomery County Department of Health and Human Services
www.montgomerycountymd.gov/lymedisease or by calling 240-777-1755

- The Centers for Disease Control – www.cdc.gov
- The Lyme Disease Foundation - www.lyme.org;

24-hour information line at 800-886-5963 The National Capital Lyme and Tick-Borne Disease Association (703.821.8833) offers local support groups.

The American Lyme Disease Foundation, www.aldf.com provides information on a product to help reduce the number of ticks in an area called the fourposter feeder.

Additional information from the CDC reports that Lyme disease was the most reported vector borne illness in the United States in 2012; it was the 7th most common Nationally Notifiable disease. However, this disease does not occur nationwide and is concentrated heavily in the northeast and upper Midwest. In 2015, 95% of confirmed Lyme disease cases were reported from 14 states: Connecticut, Delaware, Maine, Maryland, Massachusetts, Minnesota, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and Wisconsin.

**Attachments**

Attachment 6.C.a: Proclamation Declaring May 2022 Lyme Disease Awareness Month (PDF)
WHEREAS, Lyme disease is the fastest-growing vector-borne disease in the United States caused by the bacterium Borrelia burgdorferi, and is transmitted by the common black-legged tick found in nearly one-half of all U.S. counties;

WHEREAS, ticks that carry Lyme disease can also carry at least 15 other pathogens, many of them transmitted within minutes of being bitten, with one painless tick bite frequently resulting in multiple infections including bacteria, parasites, and viruses;

WHEREAS, the risk of contracting Lyme disease can be year-round, the nymphal ticks, which are the size of a poppy seed, are most active in the Spring. Tick bites are nearly painless, with fewer than 50% of patients with Lyme disease able to recall a tick bite and fewer than 50% reporting a "bulls-eye" rash;

WHEREAS, Lyme disease infects more than 300,000 people annually in the United States, yet testing for Lyme disease remains only 50% accurate, with the average patient going two or more years before getting a proper diagnosis;

WHEREAS, Lyme disease is an underreported illness, therefore the actual number of people with Lyme disease in Maryland is likely 10 times the reported number of cases, and;

WHEREAS, Lyme disease is a complex, multi-system illness that if caught early can be easily treated with antibiotics, but if left untreated can invade the nervous system, heart, and multiple organs of the body causing years of pain, suffering, severe disability, and even death;

WHEREAS, Children are at the highest risk for contracting Lyme disease, it is the responsibility of every community to educate the public about the signs, symptoms, treatment, and how to prevent Lyme disease.

NOW, THEREFORE, the Mayor and Council of Rockville, do hereby proclaim May 2022, as Lyme Disease Awareness Month and urge everyone to become aware of the steps that can be taken to reduce the risk of tick-borne illnesses.

April 25, 2022
Subject
Proclamation Declaring Yom HaShoah Day in Rockville

Recommendation
Staff recommends Mayor and Council read and approve the proclamation

Discussion
On Yom HaShoah, we solemnly remember the six million Jews and the millions of others murdered by the Nazis during the Holocaust.

On this day, we honor the memory of the millions of individuals – the mothers and daughters, fathers and sons, friends, and neighbors – who lost their lives during a time of unparalleled depravity and inhumanity. We reaffirm our ongoing responsibility as citizens and a nation to live out the admonition “Never forget. Never again.” And we commit ourselves to preserving the memories of those who lived the horrors of the Shoah (from the Hebrew word meaning whirlwind) so that their experiences are not forgotten by our generation or by our children or grandchildren. We also honor those who survived the Holocaust, many of them spared from death because of the righteous individuals who risked their lives to save Jews and other victims from Nazi persecution.

Yom HaShoah was established in Israel in 1959. It falls on the 27th day in the Jewish month of Nissan, a date chosen because it is the anniversary of the Warsaw Ghetto uprising. Yom HaShoah is officially known as Yom Hazikaron L'shoah U'l'gevurah (Holocaust and Heroism Remembrance Day). Yom HaShoah ceremonies include the lighting of candles for Holocaust victims and listening to the stories of survivors. Religious ceremonies include prayers such as Kaddish for the dead and the El Moleh Rahamin, a memorial prayer.

In Israel, Yom HaShoah is one of the most solemn days of the year. It begins at sunset on the 27th of Nissan and ends, like all traditional Jewish special days, the following evening. During Yom HaShoah, memorial events are held throughout the country with national ceremonies being held at Yad Vashem in Jerusalem. Yad Vashem is the Jewish people’s memorial to those murdered in the Holocaust. Sirens sound across Israel at 10:00 a.m. and a moment of silence is observed. Ceremonies and services are held at schools, military bases, various Holocaust
commemorative and educational institutions across Israel, and other public institutions and community organizations.

**Mayor and Council History**
The Mayor and Council proclaim this proclamation annually.

**Attachments**
Attachment 6.D.a: Proclamation Declaring April 27-28, 2022 Yom HaShoah Day of Remembrance (PDF)

[Signature]
City Clerk/Director of Council Operations 4/20/2022
WHEREAS, Yom HaShoah also known as Holocaust Martyrs' and Heroes' Remembrance Day is a day set aside for Jews to remember the Holocaust and is Israel's official commemoration for the six million Jews killed during the Holocaust; and

WHEREAS, the name comes from the Hebrew word 'shoah' which means 'whirlwind'; and

WHEREAS, the Holocaust was the state-sponsored, systematic persecution and annihilation of European Jewry by Nazi Germany and its collaborators between 1933 and 1945 during which six million were murdered, including 1.5 million children; and

WHEREAS, Roma, Sinti, people with disabilities and Poles were also targeted for destruction or decimation for racial, ethnic, or national reasons; and millions more, including homosexuals, Jehovah's Witnesses, Soviet prisoners of war, and political dissidents, also suffered grievous oppression and death under Nazi tyranny; and

WHEREAS, the history of the Holocaust offers an opportunity to reflect on the moral responsibilities of individuals, societies, and governments; and

WHEREAS, we the people of the City of Rockville should always remember the terrible events of the Holocaust and remain vigilant against hatred, persecution, tyranny; and

WHEREAS, we the people of the City of Rockville should actively rededicate ourselves to the principles of individual freedom in a just society; and

WHEREAS, pursuant to an Act of Congress (Public Law 96-388, October 7, 1980), the United States Holocaust Memorial Council designates the Day of Remembrance of the Victims of the Holocaust to be April 28, 2022, including the Day of Remembrance known as Yom HaShoah; and

WHEREAS, this year marks the 33rd anniversary of the global Shoah memorial initiative "Unto Every Person There Is A Name". We are liable to lose sight of the fact that each life that was brutally ended belonged to an individual, a human being endowed with feelings, thoughts, ideas, and dreams whose entire world was destroyed, and whose future was erased;

NOW, THEREFORE, be it resolved that the Mayor and Council of the City of Rockville do hereby proclaim sundown on April 27, 2022, through nightfall on April 28, 2022, as Yom HaShoah Day of Remembrance and urge all citizens to remember the victims of the Holocaust and reflect on the need for respect of all people.

April 25, 2022
Subject
Certificate of Recognition for the 55th Anniversary of Community Reach of Montgomery County

Recommendation
Staff recommends Mayor and Council read and approve the Certificate of Recognition.

Discussion
Community Reach of Montgomery County (formerly Community Ministries of Rockville) celebrates 50 years of service to the people of Montgomery County. Community Ministries of Rockville was established in 1967 to serve those in need in and around Rockville, Maryland. As stated on the Community Reach of Montgomery County website, the following support is offered:

- Healthcare at the Mansfield Kaseman Health Clinic. MKHC was founded to increase access to primary healthcare for the uninsured and underinsured adults of Montgomery County.
- Housing at Jefferson and Rockland Houses. These houses provide permanent, supportive housing and case management services for men and women.
- Financial Emergency Assistance at the Rockville Emergency Assistance Program (REAP). This program aims to provide emergency assistance to individuals and families who are living in Rockville and facing a financial crisis and referrals to other safety net services for Montgomery County residents.
- Immigrant education at the Language Outreach Program (LOP). This program offers conversations in English as a Second Language class for non-English speakers struggling with language and cultural barriers as well as Citizenship Test Preparedness classes.
- Elder Care at Senior Reach Program. This program provides a wide range of services to low to mid-low-income elderly City of Rockville residents that allow them to age in place.

CRMC has a dedicated set of volunteers, supporters, and partners to help it meet its mission, goals, and objectives to provide care and to improve the quality of life for those in need, that we all deserve.
Mayor and Council History

This is a special recognition by the Mayor and Council of the 55th Anniversary of Community Reach of Montgomery County.

Attachments

Attachment 7.A.a: Certificate of Recognition for the 50th Anniversary of Community Reach of Montgomery County (PDF)

[Signature]
[City Clerk/Director of Council Operations]  4/20/2022
The Mayor & Council - Rockville

Congratulate

COMMUNITY REACH
OF
MONTGOMERY COUNTY
(Formerly Community Ministries of Rockville)

On the Occasion of your 55th Anniversary
and your REACH & CONNECT Virtual ANNUAL GALA on April 30, 2022

For over fifty years, Community Reach has made its mission to:

“Improve the quality of life for the most vulnerable Montgomery County residents by providing them with basic health and human services and advocating on their behalf, with the goal of helping them achieve and maintain self-sufficiency.”

We recognize and thank you for your many contributions to the Rockville community, and wish you much success as you continue to enrich the lives of our residents.

Bridget Donnell Newton
Mayor

Montgomery Councilmember
Beryl L. Friedman
Councilmember

David Hanes, Councilmember
Mark R. Rees, Councilmember

April 25, 2022
Subject
Award of IFB #02-22, Streetlight Maintenance, to Lighting Maintenance, Inc. in the Amount Not to Exceed $120,000 Per Fiscal Year, with the Option to Renew for Four Additional One-Year Terms

Recommendation
Staff recommends that the Mayor and Council award IFB #02-22, Streetlight Maintenance, to Lighting Maintenance, Inc. of Linthicum, Maryland in the amount not to exceed $120,000 per fiscal year with the option to renew for four (4) additional one-year terms.

Discussion
IFB #02-22 establishes contractor services for streetlight maintenance, which includes both emergency and non-emergency response for City-owned streetlights. Typical services under this contract include removing and replacing streetlight knockdowns, replacing faulty or damaged materials, restoring existing streetlight components, painting poles and fixtures, providing general preventive maintenance, and installing new lighting systems.

The award of this contract is for the remainder of fiscal year 2022 and four (4) additional one-year terms. The services are intended to both supplement and augment the routine streetlight services provided by City staff.

In years past, this contract has been regularly utilized by other divisions of Public Works besides the Traffic and Transportation Division, and by other departments when needs arise. Therefore, the annual amounts for the award seek to account for that flexibility in the future as well.

Since the beginning of FY 2022, the City has continued to utilize temporary extensions of the previous Streetlight Maintenance contract, IFB #32-16, with Lighting Maintenance, Inc. Leading up to the anticipated end of IFB #32-16, the City bid IFB #20-21, but the Mayor and Council ultimately rejected the bids at the June 14, 2021, meeting upon the recommendation of staff. This recommendation was made due to the low bidder being deemed non-responsive, and the second low bidder having pricing deemed not reasonable and not in the best interest of the
City. The current IFB #02-22 was advertised as the next step due to the rejection of previous bids from IFB #20-21.

**Mayor and Council History**
This is the first time this item has been brought before the Mayor and Council.

**Procurement**
Staff prepared and publicly advertised IFB #02-22 in accordance with Rockville City Code Section 17-61. IFB #02-22 was posted on the city website and electronically provided to 1,300 prospective bidders via the State of Maryland e-Marketplace Advantage (eMMA) system. Of the 1,300 prospective bidders using the system’s reporting capabilities, 68 were Disadvantaged Business Enterprises (DBE), 121 were Minority Business Enterprises (MBE), and 33 were Veteran Small Business Enterprises (VSBE).

IFB #02-22 was issued on January 7, 2022, and the bid opening occurred on January 25, 2022. Only one response was received, as noted in the table below.

<table>
<thead>
<tr>
<th>Vendor</th>
<th>Location</th>
<th>MFD-V Status</th>
<th>Amount of Bid</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lighting Maintenance, Inc.</td>
<td>Linthicum, MD</td>
<td>Non-DBE/MBE/VSBE</td>
<td>$210,800.00</td>
</tr>
</tbody>
</table>

This IFB is structured to establish unit prices for possible work contemplated in any given year. It is not designed to serve as an exact annual contract amount. The lone bid submitted was more than double the City’s cost estimate. Consequently, City staff negotiated with the bidder who agreed to reduce the total bid amount to $203,058.00, which was a decrease of 3.7% of the original bid. The bidder has indicated that there is a lot of volatility currently in the market, especially related to materials which affect a range of items from simple wire, all the way up to more substantial fixture and pole assemblies. Given the nature of the economy right now, and the lack of widespread competitive interest in this bid, staff believes it best to award this contract now and monitor market conditions to see if these types of services could be bid again in the future, possibly yielding more advantageous pricing.

Historically, the number of bidders on these types of contracts is limited, presumably due to the lack of companies that meet the City’s performance and experience requirements. Receiving only one bid could be cause for concern, however, Lighting Maintenance, Inc. has been awarded several other contracts for the City of Rockville for maintenance of streetlights and traffic signals, including the Streetlight Maintenance predecessor contract, IFB #32-16. They also serve as the on-call streetlight contractor for many adjacent jurisdictions, including Montgomery County, Gaithersburg, and Maryland State Highway Administration. In past experiences with the City, Lighting Maintenance has performed very well.
Lighting Maintenance, Inc. is a Non-DBE/MBE/VSBE vendor.

**Fiscal Impact**
The City’s Traffic and Transportation Division is the primary user of this contract, and budgets $80,000 per year from operating account 110-850-0403-0421 for streetlight maintenance services. It is possible that due to the increased pricing of the bid, this budget line item will need to increase in the future. Staff will monitor this need and adjust future budgets as needed.

As mentioned before, it has been commonplace for other divisions of Public Works, and other departments to use this contract for certain lighting needs, and staff has structured the not-to-exceed award amount to reflect this. Other user departments would use their budgets to pay for services rendered.

**Next Steps**
Upon Mayor and Council approval, the Procurement Department shall issue a contract to Lighting Maintenance, Inc.

Rob DiSpirito, City Manager
4/20/2022
Subject
Award of NCPA Contract #05-36 for the Purchase of Smart Parking Meters.

Recommendation
Staff recommends that the Mayor and Council award NCPA Contract #05-36 for the purchase and installation of 300 Smart Parking Meters to IPS Group, Inc. of San Diego, CA, for the upgrade of parking meters in and around the Town Center area of Rockville and various high usage areas within the City in the amount of $158,139.56.

Discussion
The Rockville City Police Department’s Parking Enforcement Unit handles many parking related duties including maintaining the City’s parking meters. The parking meters currently utilized are the MacKay Guardian Series purchased from MacKay Meters in 2003. There has been a significant increase in the number of meters failing causing substantial fiscal impacts in maintenance and personnel costs to perform the needed repairs. Due to the age of the current MacKay Meters, which are being phased out, the needed replacement parts for repairs are difficult to find and purchase. Since the purchase of our current meters nineteen (19) years ago, parking meter technology has greatly improved, making the City’s current meters antiquated.

The National Cooperative Purchasing Alliance (NCPA) Contract #05-36 provides for the procurement of 300 IPS Group M5 Smart Parking Meters as well as additional equipment for use in support of the Smart Parking Meters including battery packs, charging devices and coin validator kits. The IPS Group M5 Smart Parking Meter is a compact product and can retrofit into our existing meter housings, which will allow for a quick and seamless transition. They have the capability to accept several different payment options including credit/debit cards, mobile app payments, as well as accepting denominations of coins other than just quarters.

The scope of the contract provides for IPS Group technicians to remove the current parking meter heads and install 300 Smart Parking Meters, in and around the Town Center and other high usage parking areas within the City. This approach will ensure a quality control inspection for the complete and satisfactory installation of all Smart Parking Meters.

The IPS Group has vast experience in the parking enforcement industry. In 2007 they were the first to introduce the Smart Meter and they have continued to be innovators in the field of parking enforcement. The IPS Group has a large footprint of M5 Smart Meter usage in the DMV.
area to include Montgomery County, Prince Georges County, Hyattsville, and Baltimore County. The decision to choose IPS Group as a vendor for the Smart Parking Meter Project will enhance overall efficiency, bring Rockville current with technology and practices of neighboring jurisdictions and lastly provide several additional conveniences/options to both the citizens and visitors to our City.

**Mayor and Council History**
This project was approved by Mayor & Council for inclusion in the FY22 budget.

**Procurement**
The National Cooperative Purchasing Alliance (NCPA) is a national government purchasing cooperative with more than 90,000 agencies nationwide from both the public and nonprofit sectors. NCPA is utilized in all 50 states and the cooperative program is available to many agency types from School Districts (including K-12, Charter schools, and Private K-12), Higher Education (including Universities, Community Colleges, Private Colleges, and Technical/Vocational Schools), Cities, Counties, Local Government, State Agencies, Healthcare Organizations, Church/Religious and Nonprofit Corporations.

National cooperatives, like NCPA, ensure all public agencies are receiving products and services of the highest quality at the lowest prices. NCPA works with a lead public agency, who competitively solicits master contracts. Contracts are based on quality, performance and most importantly pricing.

In accordance with Section 17-71 of the Rockville City Code, Cooperative Procurement; (b) The City may contract with any contractor who offers goods, services, insurance, or construction on the same terms as provided other state or local governments or agencies thereof who have arrived at those terms through a competitive procurement procedure similar to the procedure used by the City.

In accordance with Section 17-39 of the Rockville City Code, Awarding Authority, (a) All contracts involving more than one hundred thousand dollars ($100,000.00) shall be awarded by the Council.

IPS Group, is a non-Minority, Female, Disabled, or Veteran (non-MFD-V) business.

**Fiscal Impact**
Sufficient funding is available in the Police Department FY22 Parking Fund budget.

**Next Steps**
Upon Mayor and Council approval, the Procurement Division will issue contracts, secure insurance and issue a Purchase Order to IPS Group, Inc.
Subject
Authorize the City Manager to Award a Rider Contract Via Sourcewell Contract #052417-VTL for an Asphalt Paver, to Valley Supply and Equipment Co, Inc., of Hagerstown, MD in the Amount of $141,155

Recommendation
Staff recommends the Mayor and Council authorize the City Manager to award a contract to Valley Supply and Equipment Company, Inc. of Hagerstown, Maryland via Sourcewell rider Contract #052417-VTL for an Asphalt Paver in the amount of $141,155.

Discussion
The purchase of a Lee Boy 7000c Asphalt Paver will allow the Department of Public Works Operation Maintenance Streets Division to safely and efficiently repair and maintain City streets by producing high-quality permanent pavement patches. Currently, staff performs pavement patches by hand. The paver will increase safety, efficiency, productivity, and increases the number of patches City crews can repair and decreases the amount that must be repaired by a Contractor. The increase in efficiency allows City staff to quickly open roadways to traffic. The City does not currently own an Asphalt Paver. Large patches that cannot be conducted by hand are repaired by a Contractor. Operations Maintenance staff have repeatedly identified this piece of equipment as a critical need to improve their work.

The purchase of one (1) Lee Boy 7000c Asphalt Paver will enhance our level of service and will be used by the Operations Maintenance Division in the repair and maintenance of the City’s streets.

Mayor and Council History
This is the first time this item has been brought before the Mayor and Council.
Procurement

Sourcewell (formerly known as NJPA-National Joint Powers Alliance) is a national cooperative with more than 50,000 member agencies throughout the United States. Sourcewell has over 40 years of service helping government, education and nonprofit agencies operate more efficiently, seeking quality products and services for the best possible price. National cooperatives, like Sourcewell, with its competitively-solicited contract process, are considered to be fair and reasonable contracting vehicles, providing government agencies with quality goods and services at an equitable cost.

The City has been a member of Sourcewell since approximately 2010 and has previously utilized Sourcewell contracts for various products and services.

In accordance with Section 17-71(b) of the Rockville City Code, Cooperative Procurement, the City may contract with any contractor who offers goods, services, insurance, or construction on the same terms as provided to other state or local governments or agencies thereof, who have arrived at those terms through a competitive procurement procedure similar to the procedures used by the City.

Valley Supply and Equipment Company Inc. is a non-Minority, Female, Disabled or Veteran (non-MFD-V) business.

Fiscal Impact

A transfer from the City Manager general fund contingency has been completed and there is sufficient funding available in the FY 2022 Operating Budget for this equipment.

Next Steps

Upon Mayor and Council approval, the Procurement Division will issue a purchase order to Valley Supply and Equipment Company
Subject
Award a Rider Contract for Diesel Fuel.

Recommendation
Staff recommends the Mayor and Council award a rider contract to Mansfield Oil Company of Gainesville, Georgia via OMNIA Partners cooperative rider contract #55315 through December 31, 2022 in the amount not to exceed $250,000 per year with the option to renew for two (2) additional one (1) year periods.

Discussion
On December 7, 2021, the Metropolitan Washington Council of Governments (MWCOG) informed its members that James River Solutions (JRS) effectively and unilaterally cancelled its contract to supply diesel fuel to the Washington Metropolitan Transit Authority (WMATA) to include all member jurisdictions riding the contract, which included the City.

In the interim, MWCOG decided to conduct their own reverse auction solicitation for its members, which the City was unable to participate in as this process is not similar in nature to those processes permitted by City Code (COR 17-71(a)). JRS agreed to the City riding another one of their contracts with Prince William County Public Schools (PWCPS) in Virginia, after which City Manager approval was obtained for a Master Agreement riding this contract for an amount not to exceed $99,000.00 through April 30, 2022.

The City’s estimated annual diesel fuel usage by fund, in gallons, is as follows:

<table>
<thead>
<tr>
<th>ESTIMATED USAGE</th>
<th>GENERAL-110</th>
<th>WATER-210</th>
<th>SEWER-220</th>
<th>REFUSE-230</th>
<th>PARK-320</th>
<th>SWM-330</th>
<th>TOTAL</th>
</tr>
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<td>FY23</td>
<td>21,184</td>
<td>5,925</td>
<td>5,494</td>
<td>50,734</td>
<td>0</td>
<td>2,852</td>
<td>86,188</td>
</tr>
</tbody>
</table>

Mayor and Council History
This is the first time this item has been brought before the Mayor and Council.

**Procurement**

Given the ongoing economic challenges related to stabilizing delivery and pricing for this type of commodity, staff recommends transitioning away from a regional solution to a national cooperative.

The City of Fort Worth, Texas issued RFP CFW01-19-0000037 on August 21, 2019, to establish a national cooperative contract for Motor and Aviation Fuels and Related Services.

The City of Fort Worth, Texas as the Principal Procurement Agency (or “PPA”), with OMNIA Partners has made the resultant contract (also known as the “Master Agreement” in materials distributed by OMNIA Partners) from this solicitation available to other public agencies nationally, including state and local governmental entities, public and private primary, secondary and higher education entities, nonprofit entities, and agencies for the public benefit (“Public Agencies”), through OMNIA Partners’ cooperative purchasing program.

On January 1, 2020, the City of Fort Worth, Texas awarded contract #55315 to Mansfield Oil Company of Gainesville, Georgia for the purchase of diesel fuel for (1) one year with the option to extend the contract for four additional one-year periods. The contract expires on December 31, 2024.

Mansfield Oil Company Of Gainesville, Georgia is Non-DBE, Non-MBE and Non-VSBE.

In accordance with Section 17-71 of the Rockville City Code, Cooperative Procurement; (b) The City may contract with any contractor who offers goods, services, insurance, or construction on the same terms as provided other state or local governments or agencies thereof who have arrived at those terms through a competitive procurement procedure similar to the procedure used by the City.

In accordance with Section 17-39 of the Rockville City Code, Awarding Authority, (a) All contracts involving more than one hundred thousand dollars ($100,000) shall be awarded by the Mayor and Council.

**Fiscal Impact**

The not to exceed amount of $250,000 per year is recommended to allow for contractual and supply agility should the market for this commodity fail to stabilize in the short-term, where expenditure is contingent upon appropriation and availability of funds. Budget capacity is available in FY 2022 to accommodate fuel costs for the remainder of the fiscal year. The proposed FY 2023 budget includes just over $185,000 across all funds in the Fleet Services Division for the purchase of diesel fuel. Diesel fuel is charged to each appropriate fund at the
time of delivery and is based on the actual fuel usage within each fund during the time period between deliveries.

**Next Steps**

Upon Mayor and Council approval, the Procurement Division will finalize a rider contract and establish a Master Agreement with Mansfield Oil.

[Signature]

Rob DiSpirito, City Manager  
4/20/2022
Subject
MAP2022-00123 406 Great Falls Road Historic Designation - Public Hearing

Recommendation
Staff recommends that the Mayor and Council hold a public hearing and receive written public testimony on MAP Amendment MAP2021-00123.

DISCUSSION
PUBLIC HEARING
On April 25, 2022, the Mayor and Council will hold a public hearing on MAP Amendment 2022-00123 to potentially place a historic district overlay zone on the property at 406 Great Fall Road thereby changing the zone (on the Zoning Map) from RD-90 to RD-90 HD. The application is provided as Attachment A.

The Rockville Historic District Commission (HDC) is the applicant, by virtue of its recommendation for historic designation. As with any proposed change to zoning, the Mayor and Council is required to hold a public hearing. After the public hearing, the Mayor and Council will have the opportunity to review the testimony and make its determination as to whether to approve or deny the proposed amendment to the Zoning Map. The follow-up discussion by the Mayor and Council is currently scheduled for May 16, 2022.

Staff recommends that the Mayor and Council hold open the record for written testimony through close of business (5:00pm) on Friday, April 29, 2022, which would allow all written testimony to be included in the packet for the May 16th meeting.

BACKGROUND
Nomination for Local Historic Designation
On June 8, 2021, Peerless Rockville Historic Preservation, Ltd. (Peerless Rockville) submitted a nomination application for 406 Great Falls Road to receive local historic designation by the City of Rockville. Peerless Rockville is not the owner of the property, though they did (as required by the City) inform the owner of the nomination. The owner of 406 Great Falls has testified against historic designation.
Peerless Rockville is entitled to submit this nomination under 25.14.01.d. of the City of Rockville Zoning Ordinance, which covers designation of properties and lists entities that may initiate the process. It qualifies under category (v) of those entitled to file an application nominating a property, as indicated below.

1. **Initiation of process.** The process of evaluating a property for possible historic designation due to its historic, archaeological, or architectural significance begins upon the occurrence of any of the following items in subsection (a) below. If the nomination application is filed by a person other than the property owner, the person making the nomination must provide notice of the nomination by first class mail to the property owner at the time of application. A copy of the notice must also be provided to the Historic District Commission.

   (a) The filing of an application nominating the property for historic designation by one (1) or more of the following:

   (i) The property owner;
   (ii) The Historic District Commission;
   (iii) The Mayor and Council;
   (iv) The Planning Commission; or
   (v) Any other person;

A nomination triggers the following steps:

- **Review by the Historic District Commission (HDC)** – The HDC conducts an Evaluation of Significance, using criteria adopted by the Mayor and Council and consistent with the US Secretary of Interior Standards. The HDC may recommend that the Mayor and Council designate the property by implementing a zoning change (technically a Map Amendment) to apply the HD zone to the existing zone (e.g., RD-90 would become RD-90 HD). This recommendation requires review by the Planning Commission and the Mayor and Council. If the HDC finds that the property does not meet any of the criteria, it would vote not to recommend designation, and the process would stop at that point.

- **Review by the Planning Commission** – If the HDC recommends designation, the Planning Commission reviews the case to determine whether historic designation of the property in question would be consistent with both the Comprehensive Plan and the stated purpose (in the Zoning Ordinance) of the historic district zone. The Planning Commission has no decision authority, but instead forwards its findings to the Mayor and Council.

- **Review by the Mayor and Council** – The Mayor and Council makes the final decision, as it does with all zoning decisions, as to whether to designate the nominated and recommended property as locally historic, thereby placing it in the historic zone.
406 Great Falls Road has been recommended for designation by the HDC. The Planning Commission has conducted its reviews and found that designation would be consistent with the Comprehensive Plan and the purpose of the historic district zone. As a result, the next steps are with the Mayor and Council – a public hearing and then review and decision.

A provision of the City code that is relevant has to do with restrictions on what may be done with a property after it has been nominated for historic designation. The code specifically states the following:

*Restrictions on property during interim historic review period.* No exterior change may be made to any property identified in the historic building catalog, as revised, that is the subject of an application for nomination, historic evaluation, or a demolition permit under this section 25.14.01 until the designation process is complete, unless the property owner first obtains a certificate of approval from the Historic District Commission in accordance with the provisions of section 25.07.13. The restriction of this subsection will not apply for more than two hundred ten (210) days from the date of the filing of the application that initiated the historic designation review period.

As a result of this provision, any property owner who seeks to carry out exterior changes or a demolition to the building has an option to obtain a certificate of approval from the HDC so he/she could continue to build the project. January 4, 2022 was 210 days past the nomination date of June 8, 2021 due to staff delays mentioned below. With 406 Great Falls Road, the deadline is only a factor if the owner applies for a building permit. To do exterior modifications, a building permit application needs to be submitted that includes complete building/architecture drawings for renovation of the existing building and/or a demolition permit. Because Maryland is a late vesting state, historic designation can occur prior to the building permit being issued. Applications for renovations or demolitions can take several months. Staff believes the current schedule for a Mayor and Council decision on 406 Great Falls Road would provide sufficient time to approve the designation prior to any building permit being issued for the property.

The application for Evaluation of Significance for 406 Great Falls Road was delayed in being processed. Our Historic Preservation planner was off work for an extended period, soon after the nominations were submitted, followed in August by the departure of the Comprehensive Planning Manager. With 406 Great Falls, no permit applications for alterations had been submitted; and, to date, none has been. Were the owner to submit such an application now, the applicant would be treated fairly and in accordance with all code provisions, but the process for approval would almost certainly take longer than the Mayor and Council currently intends to spend on its evaluation and decision. If the Mayor and Council do vote to designate the property, all exterior changes would need approval by the HDC.

**HDC Evaluation of Significance – December 16, 2021**

The Evaluation of Significance for potential historic designation of 406 Great Falls Road was held at the December 16, 2021 HDC meeting. Staff presented research and recommended
findings that the property met two of HDC’s adopted criteria, which can be found in the Rockville Historic Resources Management Plan and are included in Attachment B. These criteria are used to guide such evaluations of significance. To be found eligible for historic designation, a resource must meet one or more of the four criteria for Historic Significance, or of the five criteria for Architectural, Design, and Landscape Significance.

One of the property owners, Joel Martinez, and representatives of the owners provided testimony to the HDC in opposition to historic designation. In addition to Mr. Martinez, speakers included the owner’s attorney, Jody Kline; Kathryn M. Kuranda, architectural historian at R. Christopher Goodwin and Associates, inc.; and Craig Moloney, architect at CEM Design. All three expressed reasons why the property no longer had architectural integrity and did not warrant historic designation. Ms. Kuranda and Mr. Kline also submitted written testimony. Mr. Moloney previously served on the HDC, including in 2007 when the property was previously reviewed. In 2007, Mr. Moloney recused himself from considering the case because he had been working with the property owner of that time.

Nancy Pickard of Peerless Rockville Historic Preservation, Ltd., also provided testimony, reading a statement into the record that discussed the reasons for the nomination for historic designation of the property. Peerless Rockville believes that the property has very strong architectural integrity not only in the building itself, but also for the land, and that the lot played an integral part in the city’s development. Ms. Pickard stated that Peerless Rockville also believes that the property meets a designation criteria in addition to those mentioned by staff. Specifically, Ms. Pickard stated that it meets Historic Significance a) Represents the development, heritage, or cultural characteristics of the city. Ms. Pickard also provided the rationale behind that addition.

Four community members gave testimony in support of historic designation via WebEx. Staff read into the record a list of fourteen submissions of written testimony received from community members. Thirteen were in support, and one was against, historic designation.

All written testimony is provided in Attachment B. The oral testimony may be viewed online through the City of Rockville’s Web site.

After discussion, the HDC determined that 406 Great Falls Road met the following two criteria for Architectural, Design, and Landscape Significance:

a) Embodies distinctive characteristics of a type, period, or method of construction.

e) Represents a significant architectural, design, or landscape entity in the city.

It therefore recommended, by a vote of 2-0-1 (indicating two affirmatives and one abstention), historic designation of the property.
The HDC accordingly authorized the filing of a Sectional Map Amendment to place the property in the Historic District (HD) overlay zone, which was submitted on December 21, 2021. Attachment A provides a summary of the HDC decision and recommendation, which is a requirement for submitting a proposed Map Amendment.

**Planning Commission Review**

The Zoning Ordinance provides an opportunity for the Planning Commission to make a recommendation to the Mayor and Council, prior to the decision whether to historically designate a property. The Planning Commission reviews such recommendations for historic designation based on whether doing so would be in conformance with the Comprehensive Plan and would meet the intent of the Historic District overlay zone.

At its January 21, 2022 meeting, the Planning Commission reviewed the HDC’s recommendation, including all of the material that had been submitted to the HDC. One of the owners, Ingrid Chua, spoke against historic designation of the property, as did a new attorney for the owners, Erin E. Girard of Miles and Stockbridge; Kathryn M. Kuranda; and Craig Moloney. Ms. Girard also submitted written testimony.

Nancy Pickard of Peerless Rockville Historic Preservation, Ltd., read a statement into the record that provided reasons for their having nominated the property, similar to those provided for the December 16, 2021 HDC Evaluation of Significance.

Three members of the community, Noreen Bryan, Margaret Magner, and Larry Giammo provided public testimony in favor of historic designation of the property.

The Planning Commission found 4-0 that the proposed Sectional Map Amendment MAP2022-00123, to change the zoning of 406 Great Falls Road from R-90 to R-90 HD, would be consistent with the Comprehensive Plan and with the purpose of the historic designation zone within the Zoning Ordinance (See Attachment C, which is a memorandum representing the Planning Commission’s Recommendation letter).

**Mayor and Council Review**

In January, staff requested that the public hearing for 406 Great Falls Road be placed on a future Mayor and Council agenda. Due to many other pressing items, the Mayor and Council scheduled this item for the April 4th meeting. This was done at its January 25th meeting. The April 4th public hearing, as communicated in a previous email, was postponed due to the required deadline for sending first-class mail notifications not being met. The Mayor and Council’s public hearing is now scheduled for April 25, 2022, which will be followed by a decision in May whether to designate the property as historic.
THE PROPERTY – 406 GREAT FALLS ROAD

Lot Description
The subject property is located on the east side of Great Falls Road, between Monument Street and Dale Drive. The property is a 68,358-square-foot single lot that has zoning of R-90, Single Family Dwelling, Residential. It is parcel 629 of the Rockville Heights Subdivision. A 1,302-square-foot single-family dwelling is located on the property. The house faces northwest toward Great Falls Road and is deeply set back on the lot with mature trees shading the house on its south and east elevations. The property includes an open yard along Monument Street and has a long curving driveway from Great Falls Road, which provides access to a detached two-car garage at the rear of the property. 406 Great Falls Road includes the small unbuildable portions of lots 6, 7, 8, and 9, along with the larger buildable portions of record Lots 1 and 2. If the property is designated, the designation will include both record lots, and any alterations on the lots will require Certificates of Approval from the HDC.

Building Description
This brick one-and-one-half-story Tudor Revival house was constructed c. 1945. It features a steeply pitched side-gabled roof, intersected by a steeply pitched gable front roof, both of which are common in this style. The roof is covered with asphalt shingle, and the foundation is brick. There is a mixture of original wood double-hung windows, and vinyl replacement windows. The windows are set in brick openings with lintels and brick sills. The first story of the center bay consists of three double-hung vinyl replacement windows separated by wood mullions. There are cantilevered brick brackets below the windows, which support a wood shelf. The front-gabled projecting entry is accessed by two brick steps with a fieldstone landing outlined by brick. Small arched windows flank the stepped-brick arch entrance and the wood front door. Above the door, on the second story, is an original double-hung wood window. The second story has an aluminum-sided shed-roof dormer, which contains a large three-part vinyl replacement window consisting of sliders flanking a stationary window. The north end of the façade includes an enclosed first-story side porch, with aluminum windows and aluminum siding that matches the siding in the second-story dormer.

The aluminum-sided two-car detached garage at the rear of the property has aluminum doors, and a single window in the front-facing gable. The steeply pitched gabled roof is clad in asphalt shingles.

The house utilizes the Sears, Roebuck and Co. Catalogue Belmont design. The Belmont, which was introduced in 1931-32, was the brick counterpart to the Lynnhurst, which was introduced in 1930. There are a few versions of the Sears kit houses in Rockville, including the Sears Belmont at 11 Wall Street (c.1933), and the Sears Lynnhurst at 149 South Adams Street (c.1931). Both Rockville examples also have side porches. The subject house at 406 Great Falls Road is listed in the Rockville Historic Buildings Catalogue as a good example of a Tudor Revival House. The house at 11 Wall Street was designated historic in 1974, and the house at 149 South Adams Street was designated historic in 2007.
**Site History**
The subject property at 406 Great Falls Road is located in the Rockville Heights subdivision, which was platted in 1890 with large lots, parks, and picturesque roads, similar to garden suburbs being built nationwide. Many of the platted lots remained vacant until well into the twentieth century. Development increased in the 1930s, and this area was annexed into the City of Rockville in 1937, with subsequent annexations of the remaining portions of Rockville Heights in 1939 and 1941. The subject house, and the house at 408 Great Falls Road, were constructed on multiple lots within Rockville Heights, contributing to the “estate” character of the properties and the neighborhood. The surrounding neighborhood currently features housing development that spans many decades.

Although located within the boundaries of the Rockville Heights subdivision, parcels 629 and 667, which correspond respectively to 406 and the adjoining 408 Great Falls Road, are modifications of the lots originally platted for this subdivision in 1890. The properties that make up 406 and 408 Great Falls Road were owned by a single owner at one time. The land was purchased by James Brawner Nicholson and his wife Mary Trail Nicholson in separate transactions in 1912 and in 1913. In 1941, a deeded property line, roughly parallel to Monument Street, was drawn that divided the property into two deeded lots. The deeds correspond to three lots identified on a "Revised Map of Rockville Heights" that does not appear to have been legally recorded. Although the Rockville Heights lots platted in 1890 are still there, the parcels that have been created for the two properties do not relate to these lots. The line divided Lots 6, 7, 8 and 9 between the two properties. 406 Great Falls Road included the smaller unbuildable portions of these lots and the larger buildable portions of record Lots 1 and 2.

There were not many houses in the immediate vicinity that pre-date the houses at 406 and 408 Great Falls Road. Immediately to the west and across Monument Avenue, 500 Great Falls Road, was built c. 1917; and 402 Great Falls to the immediate east of 406 was built c. 1931. Portions of Rockville Heights were later re-subdivided, and cul-de-sacs were added off Monument Street and adjacent Dale Drive.

**Ownership History**
James Nicholson married Mary Trail in 1906. The houses at 406 and 408 Great Falls Road were built for their sons, William and James Jr., around the time of their marriages. The subject house at 406 Great Falls Road was built for William and Amelia, and 408 Great Falls Road was built for James Jr. and Elizabeth by local builder Brawner Harding. According to the Maryland State Department of Assessments and Taxation (SDAT), 406 Great Falls Road was built in 1945. However, according to the MHT Maryland Inventory of Historic Properties (MIHP) form, 406 Great Falls Road was built c.1935. William and Amelia F. Nicholson acquired the land by deed from their widowed mother in October 1941, as did his brother James Jr., and his wife, Elizabeth. Both houses were apparently constructed before the land was deeded to each brother.
Richard Theodore Culp, brother-in-law to the Nicholson brothers, became the trustee of the estate of William T. Nicholson after he died in 2001. In July 2001, representing the estate of William Nicholson, Culp conveyed 466 square feet (0.011 acre) of the subject property to the Maryland State Highway Administration for improvements to Great Falls Road in conjunction with the Rose Hill residential development on the north side of Great Falls Road. Culp sold 406 Great Falls Road to Scott W. Rogers and James J. Wolohan in September 2003. In September 2005, Scott Rogers sold his half of ownership of the land to James Wolohan and his wife Stacy. James Wolohan became sole owner of the property in September 2007 and remained such until Libra Investments purchased it in February 2014. Libra Investments submitted, then withdrew, an application to demolish the house in 2020. The current owners, Joel Martinez and Ingrid Chua, purchased the house in January 2021, with the stated intent of enlarging it for their family home.

MAYOR AND COUNCIL ROLE

The role of the Mayor and Council is to reach a final decision as to whether to approve MAP Amendment 2022-00123 to change the zoning for 406 Great Falls Road from RD-90 to RD-90 HD, which would place the property in the historic district.

Key input to consider will include:

- The Historic District Commission’s recommendation that the property meets two criteria for historic designation.
- The Planning Commission’s submission that designation would be in conformance with the Comprehensive Plan and would meet the intent of the historic zone.
- Testimony received from the public, which includes the property owner and its representatives, and the original nominator (Peerless Rockville).
- Staff analysis.

PUBLIC NOTIFICATION AND ENGAGEMENT

The City Clerk / Director of Council Operations has met all noticing requirements for this public hearing. First-class mail notifications were sent as stipulated in the City Code more than 15 days in advance of the public hearing, and advertisements were placed in the Washington Post on March 24th and March 31st. A staff error in sending the first-class mail notifications delayed this public hearing from the previously-scheduled April 4th date. Staff has also notified the many interested parties by email of the public hearing, including neighborhood associations, the property owner and representatives, Peerless Rockville, and those who testified during the HDC and/or Planning Commission reviews.

The HDC held their Evaluation of Significance on December 16, 2021. Noticing requirements of Section 25.05.03 of the Zoning Ordinance were met for that meeting, though a staff error in notification postponed this review from the planned November meeting. The posting of the
required sign on the property occurred two weeks prior to the December HDC Meeting, and postcard notices were also sent out two weeks prior to the meeting. Staff also reached out and spoke directly with the President of the West End Citizens Association (WECA) to inform him of the upcoming HDC Evaluation of Significance for this property.

All noticing requirements from Section 25.05.03 of the Zoning Ordinance were met as required for the January 12, 2022 Planning Commission meeting.

**BOARDS AND COMMISSIONS REVIEW**
Reviews by the Historic District Commission and the Planning Commission are discussed above.

**Mayor and Council History**
This is the first time the Mayor and Council has considered this application.

**Next Steps**
At their May 16, 2022 meeting, Mayor and Council will hold Discussion, Instructions, and possible approval/disapproval of the proposed Sectional Map Amendment MAP2022-00123 to change the zone from R-90 to R-90 HD (Historic District).

**Attachments**
Attachment 10.a: MAP Amendment 2022-00123 Application w Summary- 406 Great Falls Road 12-21-21(PDF)
Attachment 10.b: Staff Report for 12-16-21 HDC EoS 406 Great Falls (PDF)
Attachment 10.c: 406 Great Falls Road PC Report and Addendum (PDF)

Rob DiSpirito, City Manager 4/20/2022
City of Rockville
Department of Community Planning and Development Services

111 Maryland Avenue, Rockville, Maryland 20850
Phone: 240-314-8200 • Fax: 240-314-8210 • E-mail: Cpd@rockvillemd.gov • Web site: www.rockvillemd.gov

Application Information:
Type of Amendment:  ✔ Sectional Map Amendment  □ Local Amendment  □ Comprehensive Map Amendment

Please Print Clearly or Type

Property Address information  406 Great Falls Road

Project Description  The Historic District Commission (HDC) recommends that the property be designated as a local historic district.

Applicant Information:
Please supply Name, Address, Phone Number and E-mail Address

Applicant  Historic District Commission, City of Rockville, 111 Maryland Avenue, Rockville, MD 20580, c/o Sheila Bashiri, Historic Preservation Planner, history@rockvillemd.gov

Property Owner(s)  Joel Martinez and Ingrid L. Chua, 103 Luckett Street, Rockville, MD 20850, 240-401-6501 joelmartinez@yahoo.com

Engineer  Architect-Craig Moloney, CEM Design 520 Anderson Ave, Rockville, MD 20850 301-294-0682 craig@cemdesign.com

Attorney  Jody S. Kline, Miller, Miller, and Canby, 203-B Monroe Street, Rockville MD 20850 301-762-5212 JSKline@mmcanby.com

STAFF USE ONLY
Application Acceptance:

Application # ________________ OR Date Received ________________
Date Accepted ________________ Deemed Complete: Yes □ No □
Staff Contact ________________ Date of Checklist Review ________________

Attachment 10.a: MAP Amendment 2022-00123 Application w Summary - 406 Great Falls Road 12-21-21 (3977 : Public Hearing - MAP2022-00123,
Size 1.57 acres (68,358 SF) (SQUARE FEET IF LESS THAN ONE ACRE, OR ACRES IF ONE ACRE OR MORE)

From the __________________________ Zone to the __________________________ Zone
(PRESENT CLASSIFICATION) (REQUESTED CLASSIFICATION)
or the __________________________________ Zone.
(ALTERNATE REQUESTED CLASSIFICATION)

Application is hereby made with the Rockville Mayor and Council of Rockville for approval of the reclassification of property located in Rockville, Maryland and known as:

LOT(s) ______________ BLOCK _______________ SUBDIVISION __________________________ if boundaries conform to lot boundaries with a subdivision for which a plat is recorded among the Land Records of Montgomery County. If not, attach a description by metes and bounds, courses and distances and plat reference.

Also furnish the following information from the tax bill for the land(s) to be zoned:

<table>
<thead>
<tr>
<th>District</th>
<th>Subdivision</th>
<th>Name Code*</th>
<th>Lot</th>
<th>Block</th>
<th>Acre/Ft</th>
<th>Subdivision or Tract Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>04</td>
<td>0503</td>
<td>00205100</td>
<td>P629</td>
<td></td>
<td>1.57 acres</td>
<td>Rockville Heights Heights</td>
</tr>
</tbody>
</table>

*The account number as recorded on the tax docket (Mont. Co.) Assessment Office

Previous Approvals: (If Any)

<table>
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<th>Application Number</th>
<th>Date</th>
<th>Action Taken</th>
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<tbody>
<tr>
<td></td>
<td></td>
<td></td>
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<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

A letter of authorization from the owner must be submitted if this application is going to be filed by anyone other than the owner. I hereby certify that I have the authority to make this application, that the application is complete and correct and I have read and understand all procedures for filing this application.

By _________________________________________________________
(Signature of Applicant)

Subscribed and sworn before this ______ day of ________________________, 20____

My Commission Expires _________________________
Notary Public
The Following Documents Are Furnished As Part Of The Application:

✔ A Complete Application

✔ Filing Fee (to include sign fee)

✔ A concise statement of the facts and circumstances upon which the Applicant relies to justify the reason(s) for this reclassification (example: change in character of the neighborhood, mistake in the original zoning, other reasons).

☐ An identification plat prepared by a civil engineer or surveyor certified by him to be correct, showing metes and bounds, courses and distances the land proposed to be reclassified, or if the boundaries conform to lot boundaries within a subdivision for which a plat is recorded in the Land Records of Montgomery County, then a copy of such a plat, the land proposed to be reclassified appearing in a color distinctive from that of other land shown on the plat.

☐ A vicinity map shall be furnished by the petitioner covering the area within 1,000 feet of the boundaries of the land covered by this application showing the existing zoning classification of such land as it appears on the official zoning map in the office of the Mayor and Council at the scale of 1 inch equals 200 feet.

☐ The scale of the identification plat shall be noted thereon and shall be not less than 100 feet to the inch if the land proposed to be reclassified is of an area ten acres or less and not less than 200 feet to the inch of an area more than ten (10) acres. A north direction arrow shall appear on such a plat and map.

Comments on Submittal: (For Staff Use Only)

__________________________________________________________________________________________________
__________________________________________________________________________________________________
__________________________________________________________________________________________________
406 Great Falls Road: SECTIONAL MAP AMENDMENT - A concise statement of the facts and circumstances upon which the Applicant relies to justify the reason(s) for this reclassification.

On December 16, 2021, the Historic District Commission (HDC) conducted an Evaluation of Significance for this property, after the property was nominated for historic designation by Peerless Rockville. An evaluation of historic significance is based on the adopted HDC criteria in the Historic Resources Management Plan (1986), Appendix A, Definition and Criteria for Historic Resources in the City of Rockville. The criterion is used to assist in evaluating the significance of nominated properties. To be found eligible for historic designation, a resource must meet one or more of the four criteria for Historic Significance, or of the five criteria for Architectural, Design, and Landscape Significance.

The Historic District Commission found that 406 Great Falls Road meets two of the Architectural, Design, and Landscape Significance criteria (a. and e.) for historic designation.

Architectural, Design, and Landscape Significance

a. Embodies distinctive characteristics of a type, period, or method of construction.

The house at 406 Great Falls Road is listed in the Rockville Historic Buildings Catalogue as a good example of a Tudor Revival House. It embodies many of the distinctive characteristics found in the Tudor Revival style, which includes the steeply pitched side-gabled roof intersected by a steeply pitched front gable roof, the brick first-story walls with the wood clad (replaced with aluminum siding) dormer, the massive chimney with the decorative brick crown and chimney pots, the rounded arch doorway with decorative brick detailing, and the original multi-lite windows. Its Sears Belmont design is not as common as other house designs in the City of Rockville.

e. Represents an established visual feature of the neighborhood or City because of its physical characteristics or landscape components.

The house is an established visual feature of the neighborhood and the City because of its distinctive Tudor Revival styling and its siting on the massive lot. The property’s prominent location is a familiar and distinctive visual feature along Great Falls Road, resulting from a combination of topography, the deep expansive front yard, and the
house which sits significantly above street level. The property constitutes what was once one of the gateways to the town of Rockville.

Based on these findings, the HDC voted 2-0-1 to recommend historic designation.
Historic District Commission Staff Report: 
Evaluation of Significance (for Designation) 
HDC2021-01033, 406 Great Falls Road

MEETING DATE: 12/16/2021
REPORT DATE: 12/9/2021
FROM: Sheila Bashiri,
Preservation Planner
240.314.8236
sbashiri@rockvillemd.gov

APPLICATION DESCRIPTION: Evaluation of Historic Significance 
(Designation Proposed)

APPLICANT: Peerless Rockville Historic Preservation, LTD.
P.O. Box 4262 Rockville, MD 20849

FILING DATE: 6/8/2021

RECOMMENDATION: Staff finds that the property at 406 Great Falls Road could be interpreted to meet the Historic District Commission’s (HDC’s) Architectural, Design, and Landscape Significance Criteria a) and e) for historic designation. However, the HDC evaluated the same property in 2007 and voted not to recommend historic designation. Since that time, almost no external changes have occurred. Therefore, staff recommends that the HDC consider not recommending historic designation of the property.
SITE DESCRIPTION

<table>
<thead>
<tr>
<th>Location:</th>
<th>406 Great Falls Road</th>
</tr>
</thead>
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<tr>
<td>Applicant:</td>
<td>Peerless Rockville Historic Preservation, Ltd</td>
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<tr>
<td>Owner:</td>
<td>Joel Martinez and Ingrid Chua</td>
</tr>
<tr>
<td>Land Use Designation:</td>
<td>Detached Residential</td>
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<td>R-90 Single Family Residential</td>
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<tr>
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<td>Single Unit Detached Dwelling Residential</td>
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<tr>
<td>Parcel Area:</td>
<td>68,358 SF</td>
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<tr>
<td>Subdivision:</td>
<td>Rockville Heights Subdivision, P629</td>
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<tr>
<td>Building Floor Area:</td>
<td>1,302 sf</td>
</tr>
<tr>
<td>Dwelling Units:</td>
<td>1</td>
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</tbody>
</table>

Aerial View of Property
INITIATION OF THE PROCESS
In accordance with 25.14.04.d, of the City of Rockville, MD Zoning Ordinance, Designation of Properties, 1. Initiation of Process, the HDC will evaluate a property for historic significance upon the filing of an application (v) “by any other person.” (See page 15 of this report) On June 8, 2021, Peerless Rockville submitted a Nomination of Property for Local Historic Designation Application for 406 Great Falls Road. Additionally, the Zoning Ordinance states: “If the nomination application is filed by a person other than the property owner, the person making the nomination must provide notice of the nomination by first class mail to the property owner at the time of application. A copy of the notice must also be provided to the Historic District Commission.” Peerless Rockville sent notification via a certified letter, to the owners of the property, Joel Martinez and Ingrid Chua, on June 9, 2021.

An aerial map of the property is Attachment A. The zoning map for the property is Attachment B. The nomination by Peerless Rockville is Attachment C. It includes their statement regarding historic significance and a copy of the receipt that provides evidence of Peerless Rockville having sent the certified letter to the property owner.

BACKGROUND INCLUDING THE 2007 EVALUATION OF SIGNIFICANCE
This property was previously reviewed for Evaluation of Significance at the May 17, 2007 HDC meeting (See attached report and minutes). The HDC determined that the property should not be designated because, as recommended in the staff report, it “Lacks architectural integrity,” it “Lacks association with the 1890 Rockville Heights Subdivision,” and it “Lacks association with people who made significant contribution to the City.” The staff report also found that the property meets Architectural and Design Significance criteria E, “Represents an established or familiar visual feature of the neighborhood, community or county due to its singular physical characteristic or landscape.” The staff report stated, “The deep front setback and the property’s prominent location along Great Falls Road is a familiar visual feature.” The staff made an overall recommendation not to recommend designation, and the HDC voted 3-1-1 not to recommend designation.

The 2007 staff report also included a discussion of Historical and Cultural Significance criteria C., which is whether a property “Exemplifies the cultural, economic, social, political or historic heritage of the County and its communities.” The report states that: “The subject property, and adjoining 408 Great Falls Road, were purchased in two transactions approximately one-quarter century after Rockville Heights was platted with the intention of building one house on the total three acres. However, the land remained vacant, the land was divided again, and the two houses were not built for another quarter century. Construction of the houses was associated with the needs of the family rather than with cultural, economic, social, or political trends of the community. The house at 406 Great Falls Road is not identified as a historic resource related to Historic Context #7 in the Historic Resources Management Plan and it is not included in the Historic Buildings Catalogue.” Staff was, at the time, working with the 1987 Historic Buildings Catalogue. In the 2011 update to that catalogue, 406 Great Falls Road has been added and is cited as a good example of Tudor Revival Style. Being in that catalogue does not, however, constitute formal designation as historic.

In 2020, an application for an Evaluation of Significance was submitted by the former owner of 406 Great Falls Road in the context of a development project, for which review was planned at the November 19, 2020 HDC Meeting. When the staff report was released and the applicant learned that staff assessed that the property merited consideration for historic designation, the property owner withdrew the application prior to the meeting and the Evaluation did not occur. The 2020 staff report did not consider the HDC’s 2007
decision not to recommend designation because that the 2020 Historic Preservation staff was not aware of the prior review.

On December 2, 2021, Jody Kline of the Law Office of Miller, Miller & Canby, representing the current property owners, sent a letter to Rockville’s City Manager, Robert DiSpirito, claiming that “In summary, the Nomination of Property for Local Historic Designation for 406 Great Falls Road should be dismissed and further processing of the Nomination be discontinued....” The core reason stated is that “The subject property has previously been evaluated for historic designation and the Historic District Commission reached a conclusion that the property did not warrant designation as a single site historic district. The HDC’s May 17, 2007 decision is a binding precedent under the principles of stare decisis, and fairness, the Nomination should be dismissed.” HDC members were copied on this letter, but it is provided here as Attachment D. The letter also includes the Minutes from the May 17, 2007 meeting.

Staff has discussed the claim made by Mr. Kline, on behalf of his clients, and consulted with counsel. The determination made is that the 2007 HDC decision is not binding and that the current case may move forward for the Evaluation of Significance. However, the HDC may take the letter into account in its deliberations.

**SITE ANALYSIS**

**Lot Description**

The subject property is located on the east side of Great Falls Road, between Monument Street and Dale Drive. The property is a 68,358-square-foot single lot that has zoning of R-90, Single Family Dwelling, Residential, and is parcel 629 of the Rockville Heights Subdivision. A 1,302-square-foot single-family dwelling is located on the property. The house faces northwest toward Great Falls Road and is deeply set on the lot. There are mature trees shading the house on its south and east elevations. The property
includes an open yard along Monument Street and has a long curving driveway in front of the house. The driveway is accessed from Great Falls Road and provides access to a detached two-car garage at the rear of the property. The lot features additional mature trees and shrubs and foundation plantings on all sides of the house except the front.

Building Description

This brick one-and-one-half-story Tudor Revival house was constructed c. 1945. It features a steeply pitched side-gabled roof, intersected by a steeply pitched gable front roof, both of which are common in this style. The roof is covered with asphalt shingle, and the foundation is brick. There is a mixture of original wood double-hung windows, some with storm windows, and vinyl replacement windows. The windows are set in brick openings with lintels and brick sills.

Front (West) Elevation

The front (west) façade includes an enclosed first-story side porch on the north end, with aluminum windows and aluminum siding that matches the siding in the second-story dormer. The first story of the center bay consists of three double-hung vinyl replacement windows separated by wood mullions. There are cantilevered brick brackets below the windows which support a wood shelf. The second story has an aluminum-sided shed-roof dormer, which contains a large three-part vinyl replacement window consisting of sliders flanking a stationary window. The front-gabled projecting entry on the right is accessed by two brick steps with a fieldstone landing outlined by brick. Small six-lite windows flank the brick-stepped arch entrance and the wood front door with two small arched windows. Above the door, on the second story, is an original six-over-six double-hung wood window.
North Side Elevation
On the north-side elevation of the enclosed porch, a metal screened door is flanked by a pair of windows on each side. An original six-over-six double-hung wood window is set in the peak of the front-facing gable over the enclosed porch. A matching window is also located in the peak of the brick gable of the house. Between the house and the north end side porch, there is a brick chimney with corbelled top on the exterior wall. Double-hung replacement windows are located on the east end of the first and second stories of the north elevation.

South Side Elevation
The original nine-lite wood side entrance door is centered on the south elevation of the house. Original six-over-six double-hung wood windows are located on the east and west end of the first story, and another is set in the peak of the front-facing gable. The second story of the south elevation has two double-hung vinyl replacement windows.
Rear (West) Elevation
The first story of the rear elevation has a shed-roofed enclosed porch clad with aluminum siding. The four-lite jalousie windows on each elevation are opened and closed by an interior hand-crank. The rear porch door is aluminum. There is an original six-over-six double-hung wood window to the left of the rear porch and two double-hung vinyl windows to the right. There is a six-lite wood porch door. The second story has a slanted shed-roof dormer that is similar to the design of the front elevation front dormer. It is clad with aluminum siding and contains three original six-over-six double-hung wood windows.
The aluminum-sided two-car detached garage contains aluminum doors. The steeply pitched front-gabled roof is clad in asphalt shingles. There is a single four-lite window above the garage doors.

The house utilizes the Belmont design, shown in the Sears, Roebuck and Co. Catalogue (image below). Around 1930, Sears started marketing brick-faced versions of their established models. The Belmont, which was introduced in 1931-32, was the brick counterpart to the Lynnhurst, which was introduced in 1930. In Rockville, a house similar to the Sears Belmont is located at 11 Wall Street (c.1933). A version of the Sears Lynnhurst is located at 149 South Adams Street (c.1931). Both Rockville examples also have side porches. The house at 406 Great Falls Road is listed in the Rockville Historic Buildings Catalogue as a good example of a Tudor Revival House. The house at 11 Wall Street was designated historic in 1974, and the house at 149 South Adams Street was designated historic in 2007.
Alterations to the House
The subject house has had some alterations. Several windows on the first and second story of the front façade, and a few other windows on other facades, have been replaced with vinyl windows. The side porch has been enclosed, but the timber framing is intact.

Site History
The subject property at 406 Great Falls Road is located in the Rockville Heights subdivision, which was platted in 1890. Like the West End Park Subdivision (1890), and Reading’s First Addition to Rockville (1888), Rockville Heights was platted with large lots, parks, and picturesque roads, similar to garden suburbs being built nationwide. Building in these subdivisions progressed slowly, with much of the platted lots remaining vacant until well into the twentieth century. Development in this vicinity picked up again in the 1930s. This area was annexed into the City of Rockville in 1937, with subsequent annexations of the remaining portions of Rockville Heights in 1939 and 1941. The subject house, and the house at 408 Great Falls Road, were constructed on multiple lots within Rockville Heights, contributing to the low-density “estate” character of the properties and the neighborhood. The surrounding neighborhood currently features housing development that spans many decades.

Although located within the boundaries of the Rockville Heights subdivision, parcels 629 and 667, which correspond respectively to 406 and the adjoining 408 Great Falls Road, are modifications of the lots originally platted for this subdivision in 1890. The land was purchased by James Brawner Nicholson (1869-1932) and his wife Mary Trail Nicholson (1871-1965) in separate transactions in 1912 and in 1913. The metes and bounds and acreage references in these deeds correspond to three lots identified on a "Revised Map of Rockville Heights" that does not appear to have been legally recorded. These three lots were further modified when they were bisected into two parcels and deeded to members of the next generation of the family in 1941. Although the Rockville Heights lots platted in 1890 are still there, the parcels that have been created for the two properties do not relate to these lots.

James married Mary Trail in 1906. Mary Trail was the daughter of Hezekiah and Elizabeth Trail who owned property along Great Falls Road. The Nicholsons had four children, one of whom died in infancy. The remaining children were James Brawner Jr., William Trail, and Mary Forest Nicholson. James Brawner Nicholson, Jr. (1908-1979) married Elizabeth Williams White in 1936. The couple lived in Washington, D.C. where James Jr. was employed before eventually returning to Rockville. They had no children. William Trail Nicholson (1912-2001) married Amelia Somervell Farmer, daughter of Robert Watt Farmer of Redland, in 1934. William was a real estate salesman and Amelia worked as a nurse. They did not have any children either.

The houses at 406 and 408 Great Falls Road were built for William and James Jr., respectively, around the time of their marriages. The subject house at 406 Great Falls Road was built for William and Amelia, and 408 Great Falls Road was built for James Jr. and Elizabeth, by local builder Brawner Harding. According to the Maryland State Department of Assessments and Taxation (SDAT), 406 Great Falls Road was built in 1945. However, according to the MHT Maryland Inventory of Historic Properties (MIHP) form, 406 Great Falls Road was built c.1935. William and Amelia F. Nicholson acquired the land by deed from their widowed mother in October 1941, as did his brother and his wife. Both houses were apparently constructed before the land was deeded to each brother.

There were not many other houses in the immediate vicinity that pre-date the houses at 406 and 408 Great Falls Road. Immediately to the west and across Monument Avenue, 500 Great Falls Road, was built
c. 1917; and 402 Great Falls to the immediate east of 406 was built c. 1931. Portions of Rockville Heights were later re-subdivided, and cul-de-sacs were added off Monument Street and adjacent Dale Drive.

Richard Theodore Culp, brother-in-law to the Nicholson brothers, became the trustee of the estate of William T. Nicholson after he died in 2001. In July 2001, representing the estate of William Nicholson, Culp conveyed 466 square feet (0.011 acre) of the subject property to the Maryland State Highway Administration for improvements to Great Falls Road in conjunction with the Rose Hill residential development on the north side of Great Falls Road. Culp sold 406 Great Falls Road to Scott W. Rogers and James J. Wolohan in September 2003. In September 2005, Scott Rogers sold his half of ownership of the land to James Wolohan and his wife Stacy. James Wolohan became sole owner of the property in September 2007 and remained such until Libra Investments purchased it in February 2014. Libra Investments submitted, then withdrew, an application to demolish the house in 2020. The current owners, Joel Martinez and Ingrid Chua, purchased the house in January 2021, with the intent of enlarging it for their family home.

Deed Research

403 Great Falls Road
Rockville Heights Subdivision
Parcel 629

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<td>Libra Investments, LLC</td>
<td>Joel G. Martinez and Ingrid L. Chua</td>
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<td>48299/00336</td>
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<td>30909/53</td>
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<td>James J. Wolohan and Stacy L. Wolohan</td>
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<td>10/3/2003</td>
<td>Richard T. Culp</td>
<td>Scott W. Rogers and James J. Wolohan</td>
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<tr>
<td>226/169</td>
<td>2/10/1912</td>
<td>J. Maurie and Nannie C. Dove</td>
<td>James B. and Mary C. Nicholson</td>
</tr>
</tbody>
</table>
STAFF ANALYSIS

The evaluation of historic significance is based on the adopted HDC Criteria per Appendix A, of the Historic Resources Management Plan.

Historic Designation Criteria

The following criteria is used to assist in evaluating the significance of nominated properties. Standing structures and sites, including archaeological sites, must be determined to be significant in one or more of the following criteria to be found eligible for historic designation:

Historic Significance

a) Represents the development, heritage, or cultural characteristics of the City.

No. The property reflects historical development trends and the suburban growth of Rockville Heights Subdivision.
during the mid-20th century, but it does not represent any significant development, heritage, or cultural characteristics.

b) Site of an important event in Rockville's history.
No significant event was found to have taken place in this house or on this property.

c) Identified with a person or group of persons who influenced the City's history.
No. Although William Nicholson and his wife Amelia resided in the house for over sixty years, no evidence was found to indicate they made significant contributions or influenced society in the City of Rockville.

d) Exemplified the cultural, economic, industrial, social, political, archeological, or historical heritage of the City.
No. The subject property and adjoining 408 Great Falls Road, were purchased in two transactions approximately one-quarter century after Rockville Heights was platted with the intention of building one house on the total three acres. However, the land remained vacant, and the land was divided again. The two houses were not built for another quarter century. Construction of the houses was associated with the needs of the family rather than with cultural, economic, social, or political trends of the community.

Architectural, Design, and Landscape Significance

a) Embodies distinctive characteristics of a type, period, or method of construction.
The house at 406 Great Falls Road is listed in the Rockville Historic Buildings Catalogue as a good example of a Tudor Revival House. It embodies many of the distinctive characteristics found in the Tudor Revival style, which includes the steeply pitched side-gabled roof intersected by a steeply pitched front gable roof, the brick first-story walls with the wood clad (replaced with aluminum siding) dormer, the massive chimney with the decorative brick crown and chimney pots, the rounded arch doorway with decorative brick detailing, and the original multi-lite windows. Its Sears Belmont design is not as common as other house designs in the City of Rockville. The City has previously historically designated two other Tudor Revival houses that are somewhat similar to this one – 11 Wall Street in 1974, and 149 S. Adams St. in 2003.

The house massing and its footprint are intact, as is the environmental setting. The 2007 staff report included its analysis that alterations to the property have compromised the integrity of the original structure. The 2007 HDC agreed with that assessment and recommended against designation. Current staff believes that these alterations may be reversible and therefore believes that there could be a basis for recommending designation, though questions whether it is a strong enough basis to reverse the 2007 decision.

b) Represents the work of a master architect, craftsman, or builder.
No. It does not represent the work of a master architect, craftsman, or builder.
c) Possesses a style or elements distinctive to the region or City.

No. The Tudor Revival style is common throughout the area and the U.S.

d) Represents a significant architectural, design, or landscape entity in the City

No. While the house is one of a few examples of its type existing in the City, it doesn’t represent a significant architectural, design, or landscape entity.

e) Represents an established visual feature of the neighborhood or City because of its physical characteristics or landscape components.

Yes. The house is an established visual feature of the neighborhood and the City because of its distinctive Tudor Revival styling and its siting on the massive lot. The property’s prominent location is a familiar and distinctive visual feature along Great Falls Road, resulting from a combination of topography, the deep expansive front yard, and the house which sits significantly above street level. The property constitutes what was once one of the gateways to the town of Rockville. The 2007 staff report agreed with this assessment but did not find that conclusion sufficient to recommend designation, and the 2007 HDC agreed with the staff recommendation at the time.

STAFF RECOMMENDATION

Staff finds that the property at 406 Great Falls Road could be interpreted to meet the Historic District Commission’s (HDC’s) Architectural, Design, and Landscape Significance Criteria a) and e) for historic designation. However, the HDC evaluated the same property in 2007 and voted not to recommend historic designation. Since that time, almost no external changes have occurred. Therefore, staff recommends that the HDC consider not recommending historic designation of the property.

COMMUNITY OUTREACH

The posting of the required sign on the property occurred two weeks prior to the HDC Meeting, and postcard notices were also sent out two weeks prior to the meeting. Staff also reached out and spoke directly with the President of the West End Citizens Association (WECA) to inform him of the upcoming HDC Evaluation of Significance for this property. Two emails were received inquiring about the plans for the property.

THE ZONING ORDINANCE AND RESTRICTIONS ON EXTERIOR CHANGES

An additional factor that the HDC may deem to be relevant stems from a provision in Rockville’s Zoning Ordinance regarding restrictions on property owners during reviews for historic significance. The provision, which is under Article 14 – Special Zones (25.14.01.d.6) states as follows:

6. Restrictions on Property During Interim Historic Review Period – No exterior change may be made to any property identified in the Historic Building Catalog, as revised, that is the subject of an application for nomination, historic evaluation, or a demolition permit under this Section 25.14.01 until the designation process is complete, unless the property owner first obtains a Certificate of Approval from the Historic District Commission in accordance with the provision of
Section 25.07.13. The restriction of this subsection will not apply for more than 210 days from the date of the filing of the application that initiated the historic designation review period.

The provision prohibits any exterior changes to a property under review for historic designation until that review has been completed. The provision also states, in the last sentence, that the prohibition lasts only for a total of 210 days. After that 210-day restriction has passed, exterior changes may be made to the property, even if the historic review process is ongoing.

The nomination by Peerless Rockville was received by the City of Rockville on June 8, 2021. For multiple reasons that are staff’s responsibility, the HDC’s Evaluation of Significance, on December 16, 2021, will be 191 days after receipt of the nomination. If the HDC chooses not to recommend designation, the review will be completed at the time of HDC’s vote and the 210-day restriction will not be a factor. If, instead, the HDC chooses to recommend designation, the review will be completed only after the Planning Commission has conducted its review and the Mayor and Council have made its final determination. Because of noticing and scheduling requirements, there is no possibility that the designation process will be completed before the end of the 210-day restriction. In this case, the property owner would be free to submit an application for building permits after the end of the restriction and the City would be bound to review the applications in a timely manner and no requirements related to historic designation would apply until and unless the Mayor and Council were to designate the property.
APPENDIX A

DEFINITION AND CRITERIA FOR HISTORIC RESOURCES IN THE CITY OF ROCKVILLE

DEFINITION

Historic Resource: Includes architectural, historic, cultural, archaeological, and landscape resources significant to Rockville’s development. Intangible resources such as folklore and oral histories are important, but for this purpose are to be considered supportive resources. Physical resources must retain their integrity, as defined by the Federal Register, September 29, 1983, Department of Interior Archeology and Historic Preservation; Secretary of the Interior's Standards- and Guidelines."

Integrity - the authenticity of a property's historic identity, evidenced by the survival of physical characteristics that existed during the property's historic or prehistoric period.

CRITERIA

Historic Significance

a) Represents the development, heritage, or cultural characteristics of the City; or
b) Is the site of an important event in Rockville’s history; or
c) Is identified with a person or group of persons who influenced the City's history; or
d) Exemplified the cultural, economic, industrial, social, political, archeological, or historical heritage of the City.

Architectural, Design, and Landscape Significance

a) Embodies distinctive characteristics of a type, period, or method of construction; or
b) Represents the work of a master architect, craftsman, or builder; or
c) Possesses a style or elements distinctive to the region or City; or
d) Represents a significant architectural, design, or landscape entity in the City; or
e) Represents an established visual feature of the neighborhood or City because of its physical characteristics or landscape components.
City of Rockville, Maryland Zoning Ordinance

Article 14 – Special Zones

25.14.01 – Historic District Zones

a. Purpose – The Historic District Zone is an overlay zone. The purpose of the zone is to:

1. Safeguard the heritage of the City by preserving sites, structures, or areas which reflect elements of cultural, social, economic, political, archaeological, or architectural history;

2. Stabilize and improve the property values of those sites and structures, and the adjacent neighborhood;

3. Foster civic beauty;

4. Strengthen the local economy; and

5. Promote the preservation and the appreciation of those sites and structures for the education and welfare of the residents of the City.

b. Location

1. Underlying Zoning - The regulations of the Historic District Zones are in addition to the underlying residential or nonresidential zoning regulations.

2. Established Location – The Historic District Zones are depicted on the Zoning Map incorporated into these regulations in Article 2.

3. Future Location – The Mayor and Council may establish, change, layout, and define future Historic District Zones which are of local, state, or national or historical, archaeological, or architectural significance.

c. Historic District Commission – The Historic District Commission is subject to the provisions of Section 25.04.04.

d. Designation of Properties

1. Initiation of Process – The process of evaluating a property for possible historic designation due to its historic, archaeological, or architectural significance begins upon the occurrence of any of the following items in subsection (a) below. If the nomination application is filed by a person other than the property owner, the person making the nomination must provide notice of the nomination by first class mail to the property owner at the time of application. A copy of the notice must also be provided to the Historic District Commission.

(a) The filing of an application nominating the property for historic designation by one (1) or more of the following:
(i) The property owner;
(ii) The Historic District Commission;
(iii) The Mayor and Council;
(iv) The Planning Commission; or
(v) Any other person;

(b) The filing of an application by the property owner requesting the evaluation of the property for eligibility for historic designation; or

(c) The filing of an application for a demolition permit for the property; or

(d) The filing of a Natural Resources Inventory identifying a potentially significant historic resource on the property.

2. Application Review – Upon the filing of an application for nomination, evaluation, or demolition, the Chief of Planning must evaluate the subject property for compliance with the City’s criteria for historic designation, and make a recommendation to the Historic District Commission.

3. Historic District Commission Review and Decision – The Historic District Commission will consider the application at a meeting of the Commission following notice given in accordance with the notice provisions of Section 25.05.03, to determine if the property meets the adopted City of Rockville Historic District Designation Criteria. If the Historic District Commission finds that a site meets the criteria to be eligible for historic designation, it will make a written recommendation that the Mayor and Council rezone the property to the Historic District Zone.

4. Mayor and Council Authorization – Upon receipt of the Historic District Commission’s recommendation, the Mayor and Council may authorize the filing of a sectional map amendment (Section 25.06.01.b.2) to place the property in the Historic District Zone.

5. Completion of Designation Process – The designation process shall be complete upon the occurrence of any of the following:

(a) The determination of the Historic District Commission, that the property does not meet the criteria for historic designation; or

(b) The determination of the Mayor and Council not to authorize the filing of a sectional map amendment for historic rezoning;

(c) The determination of the Mayor and Council to take final action to grant or deny a map amendment for historic rezoning.

6. Restrictions on Property During Interim Historic Review Period – No exterior change may be made to any property identified in the Historic Building Catalog, as revised, that is the subject of an application for nomination, historic evaluation, or a demolition permit under this Section 25.14.01 until the designation process is complete, unless the property owner first obtains a Certificate of Approval from the Historic District Commission in accordance with the provision of
Section 25.07.13. The restriction of this subsection will not apply for more than 210 days from the date of the filing of the application that initiated the historic designation review period.

25.07.13 – Certificate of Approval in Historic Districts

a. **Requirement** – A Certificate of Approval issued by the Historic District Commission is required prior to any actions affecting a site or exterior of a building or structure in a Historic District Zone consistent with the provisions of Article 66B of the Maryland Code for Historic Area Zoning.

b. **Exceptions** – A Certificate of Approval is not required for exterior paint colors, routine maintenance, normal gardening and landscaping, or driveway repairs. Routine maintenance is defined as repair or replacement of building and site features with features of the same design and same material.

Montgomery County Historic Preservation Tax Credit Program

The City of Rockville participates in Montgomery County’s Property Tax Credit program for historic resources designated by the City. Work related to maintenance that has been approved by the HDC, or ordinary maintenance work that does not require HDC review are eligible expenses.

**Local (County) 25% Property Tax Credit**

Montgomery County provides a property tax credit equal to 25% of qualified costs expended on exterior maintenance of properties designated historic by the Mayor and Council of Rockville. Owners of qualifying properties must spend a minimum of $1,000 in a calendar year. The tax credit is then applied against the following year’s property taxes. Properties listed *only* in the National Register are not eligible for this County tax credit, but would be eligible for the State or Federal tax credit programs described below.

**State 20% Income Tax Credit**

Maryland’s Sustainable Communities Tax Credit Program provides Maryland income tax credits equal to 20% of qualified costs expended in the interior and exterior rehabilitation of certified historic structures. Commercial (income-producing) properties may receive an additional 5% tax credit if the rehabilitation results in LEED (environmental) Gold certification. Income-producing structures that are neither designated nor eligible for designation, may qualify for a 10% state income tax credit if certain requirements are met. Please note that State tax credit projects must be pre-approved by the Maryland Historic Trust to be eligible. Costs for projects that are considered to be primarily remodeling (i.e., replacement of kitchens and bathrooms that are in good repair and that are replaced only for aesthetic reasons) do not qualify. Qualifying properties include those listed in the National Register of Historic Places, or those locally designated properties that the Maryland Historical Trust deems eligible for listing in the National Register. This program is administered by the Maryland Historical Trust. Applications are available at [http://mht.maryland.gov/taxcredits.html](http://mht.maryland.gov/taxcredits.html), and on the City’s Web site.

**Federal 20% Income Tax Credit**

The Federal Historic Preservation Tax Incentives program offers Federal income tax credits for 20% of approved costs, for the rehabilitation of income-producing properties that are listed in the National Register. The applications are reviewed by the Maryland Historical Trust and by the National Park Service.
ZONING MAP

Attachment B

Attachment 10.b: Staff Report for 12-16-21 HDC EoS 406 Great Falls  (3977 : Public Hearing - MAP2022-00123, 406 Great Falls Road Historic
June 9, 2021

Joel and Ingrid Martinez  
103 Luckett Street  
Rockville, MD 20850

Dear Mr. and Mrs. Martinez,

You are receiving this letter because your property, 406 Great Falls Road, has been nominated for evaluation of historic designation in the City of Rockville by Peerless Rockville Historic Preservation, a nonprofit, community-based organization founded in 1974 to preserve buildings, objects, and information important to Rockville’s heritage.

Historic designation is a recognition of the importance of a property’s structure or landscape to the Rockville community and can provide financial benefits to the owner. Designation also places a higher standard on the maintenance, alteration, or removal of structures.

There are many different aspects of historical significance, including association with significant historical people or events, or architectural style. Your property is listed in the City of Rockville’s Historic Building Catalogue for Tudor Revival architecture.

You will be contacted by the City of Rockville as the Historic Designation review process begins. For more information about Historic Designation, please visit the City of Rockville website: https://www.rockvillemd.gov/624/Historic-Designation

Sincerely,

Nancy Pickard  
Executive Director

PO Box 4262 Rockville, MD 20849  
301-762-0096  
info@peerlessrockville.org
Nomination of Property for Local Historic Designation

Property Address: 406 Great Falls Road

Your Name: Peerless Rockville Historic Preservation, Ltd.

Are you the property owner? Yes ___ No X ___

If you are not the owner, please list the name and mailing address of the owner(s):

Joel Martinez and Ingrid Martinez, 103 Luckett St, Rockville, MD 20850

If you are not the owner, please explain your relationship to the property:
Peerless Rockville is a non-profit historic preservation organization founded in 1974 to protect buildings important to Rockville's Heritage.

Your mailing address if different from above:
PO Box 4262 Rockville, MD 20849

Daytime telephone number: 301-762-0096 Home telephone: 443-538-5805

Property Type: Single-family residence X Commercial Building _________

Year Built (if known): c. 1935-1945

Architect/Builder (if known):

Do you have information on the history of the property that you would be willing to share with the City’s Historic Preservation staff for research purposes?

Yes X No _________

If you are the property owner, do you authorize City staff to inspect and photograph the exterior of the property? Yes _________ No _________

I hereby nominate the property at 406 Great Falls Road to be evaluated for local historic designation based on the City of Rockville's criteria of historical, cultural, architectural and/or design significance. I have been provided with information on the responsibilities and benefits of owning historically designated property.

Signature Nancy O. Richard Date 05/27/2021

Please return this completed form to: Historic Preservation Office, Department of Community Planning and Development Services, 111 Maryland Avenue, Rockville, Maryland 20850-2364, or Fax to: 240-314-8210. Questions? Call 240-314-8230.
DESIGNATION STATEMENT FROM PEERLESS ROCKVILLE

Peerless Rockville submitted a request for evaluation of significance to the Rockville Historic District Commission for 406 Great Falls Road based on its architectural significance, period of construction, setting and landscape, and prominence. This property is listed in the City of Rockville’s Historic Building Catalogue as an example of Tudor Revival architecture, of which it is an excellent example with strong integrity. This property is believed to be constructed as a kit home, notably a Sears Belmont design. Kit homes themselves represent a distinct period of development that is well-documented a protected through the US. Further, it is notable that this is a known kit home at all. Identifying kit homes is difficult as it is challenging to do from the street, and kit homes are a poorly documented but important part of Rockville’s architectural history. We assert that this property meets the City of Rockville’s Architectural, Design, and Landscape Significance Criteria of the adopted HDC criteria for historic designation.

Specifically, 406 Great Falls meets criteria a) of Architectural, Design, and Landscape Significance as it embodies distinctive characteristics of a type, period, or method of construction. It embodies the Tudor Revival architectural style, with intact massing, footprint, and environmental setting. Elements of Tudor Style include: Steeply pitched roof, side gables with facades dominated by prominent, steeply pitched cross gables, tall narrow windows, brick clad with contrasting wooden cladding on the second story, and rounded arched doorways. The house retains historic integrity, and its various small alterations are reversible.

It also meets Criteria e) of Architectural, Design, and Landscape Significance as it represents an established visual feature of the neighborhood or City because of its physical characteristics or landscape components. It is a prominent and distinctive visual feature along Great Falls Road. The house sits significantly above street level for an established and striking visual landscape of its siting. Great Falls Road was one of the early gateways in to Rockville and the house has been present for around 80 years.

Tudor revival architecture was uncommon before World War I, and exploded in popularity in the 1920s and 1930s. This period of building and development is reflective of individual taste and economics, preceding the Mid-Century subdivisions built en mass by developers.
Peerless Rockville Historic Preservation, Ltd.
Statement to Rockville, MD Historic District Commission
111 Maryland Ave
Rockville, MD 20850

Re: Evaluation of Historic Significance for 406 Great Falls Road, Rockville, MD (HDC2021-01033)

Greetings, Chairperson Neal Powell and Commissioners,

On behalf of the Board of Directors and members of Peerless Rockville Historic Preservation, Ltd, I submit these written comments supporting our nomination for a request for evaluation of historic significance for the residential property at 406 Great Falls Road. Peerless Rockville made the careful decision to nominate this property for evaluation according to the City of Rockville’s established criteria, as we find this distinctive Tudor Revival residence, with its surrounding lawn, mature trees and landscaping, merits such recognition and protection. **We strongly assert this property meets the City of Rockville’s adopted criteria for Historic Designation based on meeting the standards of Historical Significance, Criterion A and Architectural, Design, and Landscape Significance Criteria A & E as detailed in Appendix A of the City’s Historic Resources Management Plan. And furthermore, the property exhibits strong integrity and identity as evidenced by its surviving physical characteristics.**

Prior to a review of the special characteristics and defining features present at 406 Great Falls Road, we would like to address the past review and evaluation of this property and the letter received by the City from Miller, Miller and Canby, requesting withdraw of this nomination. It is true that this property has a fairly long history of review and that in 2007, a previous Commission decided against historic designation. However, as often happens when no significant or timely action was taken in response to those findings, the current Commission must look at this property anew, and decide if it meets today’s standards for historic and architectural designation. Peerless Rockville concurs with City’s legal recognition that previous decisions are non-binding and thanks the staff and legal team for proceeding with tonight’s evaluation. Making a decision based on the 2007 review discounts the passage of time that has only increased the threats to early examples of the City’s architecture. The Commission relying on old judgements could be also be a dangerous precedent - historians and the public have learned the value of critical re-examination of historical facts through the lens of our time.
The City of Rockville has found this application has merit and should go forward— with the Commissioners examining all available information. Your evaluation of 406 Great Falls Road should occur based SOLELY on the adopted HDC criteria for historic designation. Accordingly, Peerless Rockville would like to call your attention to the November 2020 staff report prepared for this Commission and point out that when this property appeared on the agenda in 2020, the staff report recommended designation based on architectural, design and landscape significance. Specifically citing its merits under Criteria A & E. We note no apparent changes to the structure, style, materials or setting in the interim months.

“Finding that the property at 406 Great Falls Road meets Architectural, Design, and Landscape Significance Criteria a) and e) of the adopted HDC criteria for historic designation, staff recommends historic designation” Page 1, November 2020 Staff report to HDC

Peerless Rockville is surprised and confused by the December 2021 staff report, which hesitates to give a clear recommendation despite the Department’s strong and clear recommendation from just one year ago. Peerless Rockville does not share this hesitancy...we support the November 2020 findings and find this property meets or exceeds the stated requirements for architectural, design, and landscape significance, and exemplifies the cultural, economic, social, or historical heritage of the city.

Criteria for Evaluation

The evaluation of historic significance is based on the adopted HDC Criteria per Appendix A, of the Historic Resources Management Plan. The HDC is the first evaluation, followed by a recommendation by Rockville’s Planning Commission, and a decision by the Mayor and Council.

Architectural, Design, and Landscape Significance

A) Embodies distinctive characteristics of a type, period, or method of construction

406 Great Falls Road embodies a type of architecture, Tudor Revival, as well as type of structure, a catalog kit house.

This property is listed in the City of Rockville’s Historic Building Catalogue as an illustration of Tudor Revival architecture, of which it is an excellent example with strong integrity.

406 Great Falls Road embodies the Tudor Revival architectural style, with intact design, asymmetrical massing, detailed architectural features, building elements, and materials. This structure possesses many of the identified and defining elements of Tudor Style including its steeply-pitched side-gabled roof, facade dominated by prominent, steeply-pitched cross gable, tall narrow windows, brick clad with contrasting wooden cladding on the second story, the use of dormers, multi-pane windows and embellished arched doorways. Additionally, Tudor Revival homes often also feature prominent and highly decorated chimneys, with multiple flues, this too can be seen on our example with the multi-flued and corbelled chimney, though more diminutive in scale than well-known examples. The structure retains strong historic integrity, of both style and materials and its various small alterations are reversible.
Virginia & Lee McAlester’s Field Guide to American Houses, notes that Tudor style architecture was uncommon before World War I and exploded in popularity in the 1920s and 1930s. This period of building and development is reflective of individual taste and economics, of the time and preceded the later the Mid-Century homes in large-scale subdivisions platted, laid out, and constructed en masse by developers and independent builders. When Rockville’s Historic Resources Management Plan was written in 1986, many of these 1930s and 1940s era properties were not yet 50 years old.

This house is also believed to be a catalog “kit” home, notably a Sears Belmont design. Kit homes themselves represent a distinct period of development that is well-documented and protected through the United States. The significance of kit homes is addressed on the Sears Archive website (http://www.searsarchives.com/homes/history.htm) "Between 1908 and 1940, Modern Homes made an indelible mark on the history of American housing. A remarkable degree of variety marks the three-plus decades of house design by Sears. A skilled but mostly anonymous group of architects designed 447 different houses.". The modifications which are mentioned as detrimental to the integrity of the home are actually part of the designers’ intention. People could alter the floorplan to suit their needs, creating a custom home for a fraction of what it would cost to hire an architect. "Each of the designs, though, could be modified in numerous ways, including reversing floor plans, building with brick instead of wood siding, and many other options" This is a means by which the homes each have distinct character as opposed to being "cookie cutter homes" which will later characterize the suburbs. Further, it is notable that this is a known kit home as identifying kit homes is difficult as it is challenging to do from the street. While these buildings are poorly documented, they are important to Rockville’s architectural history.

E) Represents an established visual feature of the neighborhood or City because of its physical characteristics or landscape components.

406 Great Falls Rd represents an established visual feature of the neighborhood or City because of its physical characteristics or landscape components.

The subject property is a prominent and distinctive visual feature along Great Falls Road. The house is sited significantly above street level for an established and striking visual landscape. Great Falls Road was an early gateway into Rockville and the house has been occupied this site with its neighboring property 408 for nearly 80 years. The large expanse of open space surrounding these homes conveys a stately and serene atmosphere, in excess of the size of the structure. Homes along Great Falls Road convey a period of American and Rockville building when residential designs were specifically chosen by the landowners and reflect the economic and stylistic taste of their owners in a manner far less common at mid-century or today.
Historic Significance

A) Represents the development, heritage, or cultural characteristics of the City.

406 Great Falls Road represents the development of Rockville as it expanded beyond the City Center

The subject property is a remnant of the large and elaborate Rockville Heights subdivision, built on originally platted lots in the 1930s. This home is a historic marker of the Rockville Heights subdivision, before it was re-subdivided in the late 20th century and developed with split levels and ranch style homes. Rockville Heights was platted with generous lots and picturesque roads, in the fashion of the late 19th century garden suburbs. In the interwar period, development was slow. Many of the platted lots remained vacant until well into the 20th century, and this house is integral to explaining the long development history of this western part of the City of Rockville.

Integrity

Integrity is the ability of a property to convey its significance. As defined by Rockville, Integrity is the authenticity of a property’s historic identity, evidenced by the survival of physical characteristics that existed during the property’s historic or prehistoric period. According to the National Register of Historic Places, there are seven aspects of integrity, in which this property scores extremely high

- Location - the place where the historic property was constructed
  - 406 Great Falls is in the structure’s original location from the mid-1930s.

- Design - the combination of elements that create the form, plan, space, structure, and style of a property.
  - 406 Great Falls is extremely identifiable as Tudor Style architecture. Additionally, it is very close to the design of a Sears Belmont kit home. Kit homes were not always built identically to the kit design.
  -

- Setting - the physical environment of a historic property.
  - The house lot maintains the dimensions and siting of the original building setting, with a striking visual landscape from all viewing angles.

- Materials - the physical elements from a particular period of time and in a particular pattern or configuration.
  - Most of the materials are original, or so little changed such that they could be restored to original or historically appropriate materials.

- Workmanship - the physical evidence of craftsmanship
  - Workmanship in this house is largely original, construction has been attributed to Brawner Harding a local builder
• Feeling - a property’s expression of the aesthetic or historic sense of a particular period of time.
  o The Tudor Revival style of this home grew out of an innovative arts and design movement that celebrated craftsmanship and fostered a resurgence of rural and folk styles. This home clearly evokes medieval English cottage homes that would have been found in pastoral county settings

• Association - the direct link between an important historic event or person and a historic property.
  o Not Applicable at this site.

In conclusion, the property at 406 Great Falls Road meets the adopted Rockville HDC Criteria per Appendix A for Historic Significance Criterion A, Representing the development, heritage, or cultural characteristics of the City and also Architectural, Design, and Landscape Significance Criterion A, Embodying distinctive characteristics of a type, period, or method of construction as a Tudor Revival Kit House and Criterion E, Representing an established visual feature of the neighborhood or City because of its physical characteristics and landscape components that have stood the test of time on Great Falls Road for 80 years. The property has remarkable integrity, and we look forward to it remaining part of the City’s protected historic resources.

At this time, I have to note the staff report acknowledges that the 210 day restriction on exterior changes to the building following a historic designation nomination will end 19 days after this review, due to unforeseen delaying circumstances with the process. We ask that following the decision, the HDC request immediate action on this building by the Planning Commission and the Mayor and Council to protect this historic resource.

Nancy Pickard
Executive Director
December 2, 2021

Mr. Robert DiSpirito  
City Manager  
Rockville City Hall  
111 Maryland Avenue  
Rockville, MD  20850

Re:  406 Great Falls Road,  
Application by Peerless Rockville Historic Preservation, Ltd.  
for Local Historic Designation  
Application No. HDC 2021-01033

Dear Mr. DiSpirito,

Mr. Joel Martinez and his wife, Ingrid Chua, the owners of improved property located at 406 Great Falls Road, request that the City immediately dismiss and terminate further processing of a Nomination of Property for Local Historic Designation filed for their property by Peerless Rockville Historic Preservation, Ltd. The basis for this request is set forth in the following analysis.

I. THE SUBJECT PROPERTY HAS PREVIOUSLY BEEN CONSIDERED BY THE HISTORIC DISTRICT COMMISSION FOR DESIGNATION AS A HISTORIC DISTRICT AND WAS DETERMINED BY THE HDC TO BE INELIGIBLE FOR SUCH DESIGNATION.

In the Spring, 2007, James Wolohan applied to the City for permission to make “substantial alterations” to the existing residential structure located at 406 Great Falls Road. The application triggered an Historic District Commission review of the proposal for evaluation of the historical, architectural or cultural significance of the structure so that the HDC could recommend to the Mayor and City Council if the structure should or should not be designated historic. (No HDC case number was assigned to the HDC review).

The Minutes of the May 17, 2007 meeting of the Historic District Commission are attached as Exhibit A. The Minutes report the Staff’s negative recommendation on the issue of historical, architectural or cultural significance to be:
“Staff is recommending against historic designation on the basis of loss of integrity and lack of significance to the City. While associated with the well-known local families, Trail and Robinson, this property is associated with later generations, two brothers specifically, who built the homes in the 1940s and are not noted specifically for their public contributions.

The building is the English Cottage style and there are other representative examples in the City with higher level of integrity. While the changes such as removing all of the windows on the front can be changed with new windows of greater compatibility, integrity can’t be restored.”

Based on a review of the facts of the case, the Historic District Commission voted 3-1-1 “... to not recommend 406 Great Falls Road to the Mayor and Council for single site historic designation.”

This decision by the HDC in May, 2007 is relevant to the current pending Application No. HDC 2021-10133 because it is a binding precedent due to the basis for the HDC’s decision. That is, the Commission did not determine that the scope of the proposed construction activities was inappropriate for the site; the Commission instead made a threshold determination that the house and property had no historical, architectural or cultural significance due to its lack of cultural importance to the City and because physical changes to the house had altered its features so as to no longer be worthy of designation for its architectural importance.

In summary, in 2007 the Historic District Commission reviewed the historical, architectural and cultural significance of the structure at 406 Great Falls Road and concluded that the building should not be recommended for single site historic designation. That decision is inalterable due to the basis of the decision being grounded in a lack of “significance” and “integrity” of the structure in 2007 which continues through today. Those two issues have been “adjudicated” by the HDC and there are no changes in circumstances since 2007 that would warrant a different conclusion by the current.

It is conceivable that a current event, or new factor, could arise that would justify a reconsideration of the Historic District Commission’s 2007 decision. But that is not the case presented here. The existing house remains in its altered form and does not represent a) the work of a master architect, craftsman or builder; b) does not represent an architectural style distinctive to the region or city; and c) does not represent a significant architectural design in the City. Indeed, if anything, the existing structure has a further diminished significance due to its “aging” over the past 14 years. And it remains true, as stated in the May 17, 2007 Minutes that “... there are other representative examples in the City [of the English Cottage style] with higher level of integrity.”
Mr. Robert DiSpirito  
December 2, 2021  
Page 3

In summary, nothing has occurred in the past 14 years that alters the conclusion of the Historic District Commission in 2007 that the structure located at 406 Great Falls Road did not have the “significance” or the “integrity” to justify its designation as a single site historic district. 

Because the present nomination of 406 Great Falls Road cannot, as a matter of law, overcome the findings and conclusions of the Historic District Commission of May 7, 2007, Application No. HDC 2021-01033 should be summarily and immediately dismissed. To do so will release the City Planning Staff from devoting any further time to the preparation of a staff report and will relieve the Historic District Commission of devoting any time or attention to an application that has already been ruled upon. A decision on this request for dismissal on or before December 9, 2021 will ensure that staff and the HDC do not have to perform any evaluation work on an invalid application.

III. THE RECORD FOR PENDING HISTORIC DESIGNATION  
APPLICATION NO. HDC 2021-01033 CONTAINS NO JUSTIFICATION FOR DESIGNATION.

Attached as Exhibit B is a copy of the Nomination of Property for Local Historic Designation submitted by Peerless Rockville Historic Preservation, Ltd. The Nomination is devoid of any justification for historic designation of the property located at 406 Great Falls Road. The application form states that the applicant does have information “about the history of the property” that it is willing to share with City Staff. But, to the best of the property owner’s knowledge, as of the date of this letter, no such information has been provided to the City. Certainly, when an applicant seeking historic designation for a property is not the owner of the land, that party should have the burden of proof to convincingly demonstrate why a property should be designated and the absence of such evidence complicates the Staff’s review of the application and the property owner’s ability to prepare for a hearing before the HDC.

In the absence of any persuasive arguments for designation offered by the nominator, Peerless Rockville, preservation planning Staff will have to rely on its own research on this site. That research was conducted as part of the 2007 HDC final decision against nomination. However, in October, 2020, in response to some plans for redevelopment of 406 Great Falls Road expressed by a previous owner of the property (i.e., Libra Investments, LLC), Peerless Rockville filed an application for Evaluation of Significance (for Demolition) for the subject property which was designated Application No. HDC 2021-01003. A staff report was prepared and was published on November 11, 2020. That Staff Report recommended historic designation of 406 Great Falls Road but the application was never presented to the Rockville Historic District Commission because the then owner – Libra Investments, LLC – elected not to proceed with its redevelopment plans and the nomination became moot.

What is interesting about the 2020 Staff Report in Case No. HDC 2021-01003 is that the Staff recommended designation of 406 Great Falls Road as an historic district based on a finding that the property “... meets Architectural, Design and Landscape Significance Criteria (a) and (e) of the adopted HDC criteria for historic designation...” In other words, preservation planning staff in 2020, reached a conclusion totally contrary to the opinion of planning staff
Mr. Robert DiSpirito  
December 2, 2021  
Page 4

expressed in its 2007 evaluation of 406 Great Falls Road and conflicted with the express finding and decision of the Rockville Historic District Commission when it reviewed the site on May 17, 2007 and conclusively determined that the site no longer had architectural integrity nor local significance.

It is possible that the Staff is unfamiliar with the 2007 proceedings and the actions by the preservation Staff and the HDC because the 2020 Staff Report on nomination HDC 2021-01003 is devoid of any reference to the 2007 Evaluation for Significance. To avoid another mistaken nomination to designate 406 Great Falls Road as an historic district, it is imperative that immediate action to dismiss the current nomination must be taken. Such action will avoid another instance of a previous decision of the Historic District Commission being unacknowledged nor adhered to.

As has been stated earlier in this letter, inherent historic features such as “integrity” and “significance”, when lost, cannot be restored. For that reason, both as a matter of law and a matter of practicality, preservation staff and the HDC cannot today make a finding that 406 Great Falls Road meets the Architectural, Design and Landscape Significance Criteria (a) and (e) of the adopted HDC criteria for historic designation. For that reason, Application No. HDC 2021-01033 should be dismissed because there must be some reliance that can be placed on an HDC decision. A property owner should not be forced to defend an earlier decision of the HDC based on historical, architectural or cultural significance simply because there is a change in preservation staff or in the composition of the HDC.

IV. THE DELAY IN ACTION ON THE NOMINATION OF PROPERTY FOR LOCAL DESIGNATION HAS BEEN HARMFUL TO THE PROPERTY OWNER.

Exhibit B also notes that the Nomination for Designation was received by the City on June 8, 2021. Under current scheduling, this matter will be reviewed by the HDC on December 16, 2021, five and on-half months after receipt. Because the property owner cannot prepare a building permit application until the nomination application has been disposed of, the property owners have been substantially harmed by this extraordinarily long review process for a nomination request that should not have been accepted in the first place. Prompt dismissal of the pending designation request will allow the property owner to move forward with plans for the property.

V. CONCLUSION.

In summary, the Nomination of Property for Local Historic Designation for 406 Great Falls Road should be dismissed and further processing of the Nomination be discontinued for the following reasons:

1. The subject property has previously been evaluated for historic designation and the Historic District Commission reached a conclusion that the property did not warrant designation as a single site historic district. The HDC’s May 17, 2007 decision is a binding
precedent and under the principles of *stare decisis*, and fairness, the Nomination should be dismissed.

2. There is no evidence proffered by the nominator to support the designation application or to explain why the 2007 HDC decision is no longer valid and binding. There is no evidence available explaining why disregard of the HDC’s 2007 decision should be considered.

3. The property owner should not be expected to wait any longer for review of this spurious application.

Thank you for your consideration and prompt attention on this request.

Sincerely yours,

MILLER, MILLER & CANBY

Jody S. Kline

JSK:sda
Attachments
cc: Anita Neal Powell
    Laurie Kawa
    Mercy Shenge
    Mayor and City Council
    Ricky W. Barker
    David Levy
    Sheila Bashiri
    Cynthia Walters, Esq.
    Joel Martinez / Ingrid Chua
    Kate Kuranda
    Casey Cirner, Esq.
    Peerless Rockville Historic Preservation, Ltd.
City of Rockville

Historic District Commission
Minutes
Meeting No. 5-2007
Thursday, May 17, 2007
Rockville City Hall

PRESENT

Con Hitchcock, Chairman
Anita Neil Powell Max van Balgooy
Craig Moloney Janet Hunt-McCool

Staff present: Cindy Kebba, Jeff Winstel and Robin Ziek, Preservation Planners

I. WORKSESSION (7 - 7:30 p.m.): This included an agenda review and update.

The business meeting was convened at 7:35 p.m. Chairman Hitchcock opened the meeting and introduced the Commissioners and staff. He noted that the worksession was limited to agenda review and discussion of administrative issues with staff.

II. COMMITTEE / ORGANIZATION REPORTS

A. Peerless Rockville - Suzanne Fisher presented the report for Peerless Rockville. They have been celebrating Historic Preservation Month in May with many events: welcoming over 100 people to the annual Homes and Hospitality Tour (May 12th), with homes west of 1-270; the Annual Preservation Awards (May 14th) presented before the Mayor and Council; co-sponsoring with the Unitarian Church of Rockville "Stories from the Underground Railroad" on May 30th at 7:30 pm; Peerless Rockville's Annual Meeting will be held in the conference room at the new Rockville Library on June 7th; and Heritage Days in Montgomery County on June 23rd with "Rockville Rocks" - Peerless will be at the Baptist Cemetery (sun) or Red Brick Courthouse (rain).

For more information on projects and activities call Peerless Rockville @ 301-762-0096 or see: www.peerlessrockville.org.

B. Lincoln Park Historical Foundation - No report. For LPHF information see: www.aapc-md.org, call 301-251-2747, or send email to Lincolnparkhist@aol.com.

C. Comments – Historic District Commissioners/ Staff: Staff Jeff Winstel noted that the City is hosting a conference on Mansionization presented by the Maryland Association of Historic District Commissions on July 14th In City Hall from 9 a.m. - 4 p.m. This conference is open to the public. This will examine the use of Stock Plan Houses within a historic environmental setting and also look at traditional zoning tools that may help control against oversized houses as well as Form-Based zoning codes.

Staff Cindy Kebba noted that there will be an HDC site visit to Chestnut Lodge on May 24th at 6 pm. This will be a public meeting, but is scheduled to provide the HDC an opportunity to see the interior of the Little Lodge, which was the subject of a Courtesy Review on 4/19/07.

Commissioner van Balgooy noted that he had received a letter in support of retaining the "Pink Bank" at 255 N. Washington Street. The HDC had no application for historic designation before them for consideration, and made no recommendations about this. He noted that we are demolishing our Recent Past buildings (1930 – 1970) one at a time! He noted also sustainability issues were involved with throwing resources into landfill. He asked staff about the
pending demolition permit, and staff Ziek noted it may be demolished at the end of the summer.

III. CERTIFICATES OF APPROVAL

Two of the Certificates of Approval were approved on the Consent Agenda, as per the recommendations in the staff reports.

**MOTION:** Commissioner van Balgooy made a motion to approve (A) HDC2007-00387 at 12 Forest Avenue for rear additions to house (built 1989); and to approve (C) HDC2007-00389A at 1350 Baltimore Road (Rockville Cemetery) for the installation of two posts and a chain barrier as per the staff reports.

Commissioner McCool seconded the motion.

**VOTE:** 5-0

B. HDC2007-00362A

Applicant: Catherine McAlpine Eig
Address: 315 Baltimore Road
Request: Amendment to approved Certificate of Approval for addition; and request for demolition of existing garage

Staff Ziek summarized the staff report noting that the applicant first appeared before the HDC to discuss the feasibility of Owner Nomination of the site for Historic District re-zoning (2005). At that time, she stated her intention to subdivide the corner property (3 lots fronting Baltimore Road) into two new building lots. This would require the demolition of the existing 1960s garage structure, at a minimum, as an accessory building cannot be on its own lot; and it can't be in front of the primary dwelling. In addition, the applicant noted her intention to apply for historic tax credits with the State and County.

Throughout the designation process, the HDC made no objections to the proposed garage demolition or the proposed re-subdivision and the applicant has proceeded with both the Historic District re-zoning, and with the proposed re-subdivision.

After the site was designated as a Historic District, the HDC reviewed various proposals for rehabilitation of the house, with large rear and side additions. When the HDC approved the proposed project (July 20, 2006), the applicant proceeded with the State tax credit application. The State initially rejected the application as not meeting State standards. After much effort and several meetings, the applicant revised the project to the point where the State is now committed to approve the project for the 20% historic preservation tax credits. The applicant is therefore bringing this revised project back to the HDC for their review and approval.

The project has been reduced in size and scale. Design details have been simplified, and the rear porch reads more clearly as an enclosed porch, matching the proposed screened porch on the north elevation in design details.

Commissioner Moloney noted some inconsistencies in the drawings: the applicant, Ms. Eig, clarified that the elevations were correct by showing small windows in the proposed new bays on the north and south elevations. These will be shown in the revised plan drawings. Commissioner Moloney also noted the windows on the south elevation could be better proportioned (taller, narrower) to better match that of the original windows. He also noted that the bedroom in the basement would need an egress window.

Commissioner McCool asked why the applicant proposed reducing the lot size at the same time as enlarging the house? Ms. Eig noted that they have a full side yard on the west side, which will serve as their “back yard.” She also noted that they wouldn't have time to take care of a big lot, and this is similar to infill on Grandin/Baltimore/Reading. She said they were dedicated to the preservation of their community, and they would not be building the largest house in the area. Commissioner McCool reiterated a relationship between the house size and the lot size.

Commissioner van Balgooy noted the State's disagreement with HDC approval on the proposed new siding. Ms. Eig noted the State still has to agree on the proposed new chimney.

Commissioner Moloney suggested the HDC write a letter to the State noting their continued support for the use of wood German siding that matches the original siding to play down the new work by blending in the old and new; perhaps use a different foundation material; and to suggest re-design of the windows to a proportion that better matches the original windows. Staff will draft this letter for HDC consideration and signature.

The HDC agreed to consider this application as a Courtesy Review for the most part, with the exception of a vote on the proposed demolition of the garage.

**MOTION:** Commissioner van Balgooy made a motion to approve the proposed demolition of the 1960s garage. Commissioner Powell seconded the motion.

**VOTE:** 5-0

IV. EVALUATIONS FOR HISTORICAL, ARCHITECTURAL OR CULTURAL SIGNIFICANCE

A. Applicant: Jim Wolohan
Address: 406 Great Falls Road
Request: Evaluate for significance (for demolition inquiry)

Staff Kebba presented a summary of the staff report, noting that the applicant is considering “Substantial Alteration” of
such a scale, that it actually constitutes "Demolition" of the existing house. Staff is recommending against historic designation on the basis of loss of integrity and lack of significance to the City. While associated with the well-known local families, Trail and Nicholson, this property is associated with later generations, two brothers specifically, who built the houses in the 1940s and are not noted specifically for their public contributions.

The building is the English Cottage style, and there are other representative examples in the City with higher level of integrity. While the changes such as removing all the windows on the front can be changed with new windows of greater compatibility, "integrity" can't be restored.

The applicant, Mr. Wolohan, spoke about his prior plans to subdivide the property and build several new homes. That plan has been withdrawn due to complications with the city's APFO ( Adequate Public Facilities Ordinance). He plans to build one larger home in the location of the existing house. He doesn't like the existing architecture and does not want to build an addition.

Other speakers: Claire Whittaker (205 Evans Street) noted that she didn't receive adequate notice, having only received her postcard the day before the meeting. She also noted that staff had changed their position from 2 years ago and that confused her. She asked the HDC to defer their decision.

Kavita Dawson (9 Dale Drive) noted that she was an adjacent property owner, and asked why staff had changed positions? What will happen at the site if it's not designated?

Bridget Newton (10 Dale Drive) noted that she has worked with Mr. Wolohan on an addition to a house. She feels the subject house is too small for a reasonable addition. She said she had received her postcard in a timely manner.

Staff Kebeda reviewed this property two years ago and noted that, at that time, she was looking at a small historic district with both 406 and 408 Great Falls Road together. A single-site historic district has to stand alone, and as such, the alterations of character-defining features (windows, siding, porch enclosures) is especially significant. She also noted that the original subdivision had been replatted.

**MOTION:** Commissioner van Balgooy made a motion to not recommend 406 Great Falls Road to the Mayor and Council for single site historic designation, but asked the applicant to look at ways to re-use the house/building materials. Commissioner Powell seconded the motion.

**VOTE:** 3-1-1 (Commissioner McCool voted against; Commissioner Moloney abstained)

Staff Winstel mentioned Habitat for Humanity for possible salvage of materials. Mr. Wolohan said he is prepared to donate everything, including the almost new heat pump.

**B. Applicant:** Peerless Rockville (Nominate); State of Maryland, GSA (Property owner)

**Address:** 99 Maryland Avenue (former Rockville Library)

**Request:** Evaluate for significance

Staff Winstel summarized the staff report, in favor of the proposed nomination of the former Rockville Library as a single-site historic district in the City. He noted that, while the building is less than 50 years old, National Register Bulletin IX notes that International Style architecture is a category under which the National Register has been able to evaluate and list properties during the last 20 years, indicating that sufficient time has passed for the objective evaluation of the importance of the architectural style.

The Rockville Public Library was completed in 1971 and was designed by noted Bethesda Architect, Stanley Arthur. Common features of the International Style that are evidenced by the library include the continuous bands of windows and brick that wrap around the corners, the emphatic horizontality of the building, and the use of cantilevered spaces supported by seemingly disproportionate pilasters. In addition, the manipulation of these architectural features on the irregular shaped, sloping lot emphasize the building's volume over its weight and mass, a defining element of the International Style.

In addition, the building is culturally significant as the first permanent library building in the City of Rockville. The building is a reflection of Rockville's transition from a pre WWII small town to a desirable suburban family community for Washington DC's well-educated and professional work force. The first library in Rockville was organized in 1869 and consisted of 150 books in the law offices of Anderson and Bouic. In 1916, a small lending library was created and staffed by volunteers at the Woman's Club. In 1921, the Rockville Library Association adopted articles of incorporation and formed a membership-based organization. The library's collection grew and in 1937 the library moved to the Rockville Academy and hired the first paid librarian. Free use of the library for all of Rockville's citizens was not granted until 1949.

Terry Lachin from Peerless Rockville made a brief presentation, noting that this building has been included in their Recent Past Survey, which is an on-going project from the past several years. She noted too that this is the only County library in the International Style.

Joan Zenzen, President of Peerless Rockville, spoke in favor of the nomination. She noted that their Board has been following this very closely and is pleased to support the nomination for its architectural significance as well as for the important role it has played in the community over the past decades.

[As the time was already past 10 pm, Commissioner van Balgooy made a motion to extend the meeting past 10 pm. Commissioner Powell seconded this, and the vote was unanimous.]

Chairman Hitchcock noted that the proposed designation was significant, and that the HDC would prefer to keep the
record open until the meeting on June 21st to provide citizens with more opportunity to comment.

V. DISCUSSION/ UPDATES

A. Montgomery County Heritage Festival ("Rockville Rocks"), June 23, 2007 at Town Center Plaza

B. Governor’s Consulting Committee (GCC) meeting at Glenview Mansion on May 22, 2007, to consider the nomination of Glenview to the National Register of Historic Places, as well as to serve as host for the state’s GCC, a committee appointed by the Governor to advise the MHT on National Register nominations. Staff Winstel will be attending.

C. Montgomery County Tax Credit Application Summary for 2007: Staff Kebba noted that there were 10 applications, totaling $82,191 in all. 10% of that will be credited back to the applicants as part of this historic preservation tax credit program.

D. Maryland’s Annual Preservation & Revitalization Conference May 31 & June 1, Washington College, Chestertown, Maryland. Staff Winstel has taken care of HDC and staff registration. The public is invited.


VI. MINUTES: Meeting No. 4-07, April 19, 2007

MOTION: Commissioner Moloney made a motion to approve the minutes of April 19, 2007 as written. Commissioner McCool seconded the motion.

VOTE: 5-0

VII. ADJOURN

The HDC adjourned its regular meeting at 10:25 pm.
Nomination of Property for Local Historic Designation

Property Address: 406 Great Falls Road

Your Name: Peerless Rockville Historic Preservation, Ltd.

Are you the property owner? Yes ______ No X ______

If you are not the owner, please list the name and mailing address of the owner(s):
Joel Martinez and Ingrid Martinez, 103 Lucket St, Rockville, MD 20850

If you are not the owner, please explain your relationship to the property: Peerless Rockville is a non-profit historic preservation organization founded in 1974 to protect buildings important to Rockville's Heritage

Your mailing address if different from above:
PO Box 4202 Rockville, MD 20849

Daytime telephone number: 301-762-0096 Home telephone: 443-538-5805

Property Type: Single-family residence X Commercial Building ______

Year Built (if known): c. 1935-1945

Architect/Builder (if known):

Do you have information on the history of the property that you would be willing to share with the City's Historic Preservation staff for research purposes?
Yes X ______ No ______

If you are the property owner, do you authorize City staff to inspect and photograph the exterior of the property? Yes ______ No ______

I hereby nominate the property at 406 Great Falls Road to be evaluated for local historic designation based on the City of Rockville's criteria of historical, cultural, architectural and/or design significance. I have been provided with information on the responsibilities and benefits of owning historically designated property.

Signature: Nancy C. Vielast  Date: 05/27/2021

Please return this completed form to: Historic Preservation Office, Department of Community Planning and Development Services, 111 Maryland Avenue, Rockville, Maryland 20850-2364, or Fax to: 240-314-8210. Questions? Call 240-314-8230.

Office use only: Date received 6/8/2021 Assigned to STB
December 10, 2021

Historic District Commission
City of Rockville
Historic Preservation Division
111 Maryland Avenue
Rockville, MD 20850

HistoricDistrict@rockvillemd.gov

Re: 406 Great Falls Road, Rockville, Maryland

Dear Commissioners:

In June 2021, Peerless Rockville Historic Preservation, Ltd. nominated the dwelling located at 406 Great Falls Road in Rockville for evaluation as a single-site historic district. No supporting documentation accompanied the one-page application, which Peerless Rockville submitted without the knowledge of the current owners, Joel Martinez and Ingrid Chua.

R. Christopher Goodwin & Associates, Inc. (RCG&A) was retained by Mr. Martinez to undertake an architectural investigation of the house utilizing the Historic District Commission (HDC) criteria contained in Appendix A of the City of Rockville Historic Resources Management Plan. The current study accesses the historical significance and integrity of the property applying city guidelines and best historic preservation practices. All work was completed by architectural historians whose professional qualifications exceed those established by the Secretary of the Interior in the field and whose professional experience includes previous evaluation projects in the City of Rockville.

The investigation of the property was completed through a progressive program of archival research, site investigation, and data analysis. The results of the investigation are summarized below.

The dwelling located at 406 Great Falls Road is a modified example of the late Tudor Revival architectural style constructed ca. 1935. The property, which has been vacant and maintained since 2003, has been the subject of preservation consideration by the City of Rockville since 2005. This consideration has included

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investigations by staff of the Historic Preservation Division and formal evaluation by the HDC. The property is not currently designated as a single-site historic district nor is it part of a designated multiple-site historic district.

- In **2005**, application for the demolition of the house and garage initiated the process for the Evaluation of Historic Significance pursuant to 25.14.d.1 of the Zoning Ordinance. A Maryland Historical Trust Maryland Inventory of Historic Properties (MIHP) form was prepared by city staff in November of that year in anticipation of review by the HDC. The application was withdrawn and the HDC took no action. The 2005 MIHP form provided a thorough description of the 2005 condition of the house accompanied by photographs. No alterations have been made to the house and garage since 2005.

- On **May 17, 2007**, the HDC formally evaluated the property for significance as a single-site historic district pursuant to a demolition inquiry by Jim Wolohan (HDC Meeting No.5-2007). City staff recommended against designation due to loss of historical integrity. As noted by staff, “integrity” cannot be restored. Following discussion, Commissioner van Balgooy made the motion not to recommend 406 Great Falls Road to the Mayor and Council for single-site designation and the motion was seconded by Commissioner Powell. The motion was passed 3 to 1 with one abstention.

- The **2011** revised *Rockville Historic Building Catalog*, an architectural guide, informal cultural resources inventory, and planning tool, included 406 Great Falls Road. The 2011 *Rockville Historic Building Catalog* includes both historic and non-historic properties. Inclusion in the Catalog does not equate with designation as an historic district by the City of Rockville. As emphasized in the Catalog, “It is important to note that some buildings included in the catalog may not meet Rockville’s criteria for historic designation after further research, while some buildings that are not included may be deemed significant and meet the City’s criteria” (City of Rockville 2011:2).

- In **2020**, an application for the demolition of the house initiated a second Evaluation of Historic Significance of the property by HDC pursuant to 25.14.d.1 of the Zoning Ordinance. The application for a demolition permit was withdrawn and the HDC did not consider the property. The *HDC Staff Report: Evaluation of Significance (for Demolition)* was issued on November 12, 2020 prior
to the withdrawal of the demolition permit. This staff report recommended the designation of the property for its architectural, design, and landscape significance under criterion a) citing its inclusion in the *Rockville Historic Building Catalogue*, and under criterion e) as a familiar and distinctive visual feature along Great Falls Road citing that the “property constitutes what was one of the gateways to the town of Rockville”. While the report noted changes to the property over time; no formal assessment of the integrity of the dwelling was made nor was the 2007 HDC decision referenced.

- In June 2021, Peerless Rockville Historic Preservation, Ltd. nominated the dwelling located at 406 Great Fall Road in Rockville for evaluation as a single-building historic district without new or additional documentation to support its significance and integrity. The *HDC Staff Report: Evaluation of Significance (for Demolition) HDC2021-01033, 406 Great Falls Road*, issued on December 9, 2021 referenced the 2007 HDC action, which had brought to the attention of the city on behalf of the current owners by Attorney Jody S. Kline of the firm Miller, Miller & Canby. The staff found that the property could be interpreted to possess architectural, design, and landscape significance under criterion a) and under criterion e) as a familiar and distinctive visual feature along Great Falls Road. “However, the HDC evaluated the same property in 2007 and voted not to recommend historical designation. Since that time, almost no external changes have occurred. Therefore, staff recommends that the HDC consider not recommending historic designation of the property.”

**Property Overview**

The property under consideration includes a 1.302-square-foot, brick dwelling and a frame, free-standing double-bay garage. The dwelling is a two-and-one-half story, late Tudor Revival-style house constructed ca. 1935 (Figures 1-5).

The house and garage located at 406 Great Falls Road occupy an approximately 68,358 square-foot deed parcel. The current house deed parcel incorporates five parts of lots and a 20’ wide parcel. The original 1.585-acre parcel was designated Lot 1, parts of Lots 2,7,8,9 and a 20’ wide parcel in the Rockville Heights subdivision, which was platted in 1890 and envisioned as a garden suburb incorporating half-acre or smaller house sites and a community park. The house occupies part of Lot 1 of the Rockville Heights subdivision, which is approximately 26,736 square feet. The current property comprises mature trees and lawn with the dwelling and garage occupying a rise setback from Great Falls Road.
The holistic plan for Rockville Heights was never fully realized and houses in the neighborhoods surrounding 406 Great Falls Road date from least four phases of residential development from the late 19th through the 20 centuries. This development is characterized by residential construction of increasingly larger scale on progressively smaller lots (Figures 6-8).

The dwelling at 406 Great Falls Road reflects the design of the Belmont house model sold by Sears, Roebuck and Co. in the early 1930s and advertised as a brick and shingle Tudor Revival house. The Belmont model was the brick adaptation of Sears Lynnhaven, a model designed for frame construction (Figures 9-10). Sears house kits included all building materials, architectural plans, and building specifications packaged for assembly on the buyer’s building site.

Architectural style was achieved in Sears designs through the sophisticated integration of scale, mass, proportion, materials, and construction for modest dwellings, such as that erected at 406 Great Falls Road. Ornamentation was minimized and Sears designs expressed architectural style through the careful manipulation of basic building elements and construction details.

While the dwelling at 406 Great Falls Road reflects the overall footprint and general scale of the Belmont model, changes from the Sears architectural design made during construction combined with modifications over time have impacted the historic integrity of the dwelling and its ability to represent the historic standardized Sears design. The house retains the steeply-pitched side-gabled roof and intersecting steeply-pitched front-gabled entry depicted in the original plan. However, the bell-cast roofs found in the Belmont prototype were altered to straight slopes and the recessed segmental arch entry bay in the original design was modified to a round arch that now reads as flush with the wall plane owing to the installation of a storm door. The eave treatment that served to visually accentuate the mass of the entry block from the main house in the original design also was not executed in the Great Falls Road building resulting in visually flattened façade.

Changes over time have affected the integrity of the original house. The second story shed dormer was enlarged on the façade altering the symmetry and proportion of the element to the corresponding first floor windows found in the original design. This alteration also affected the mass and proportion of the upper level. The dormer now reads as a full story rather than a picturesque window treatment. The side porch, originally open, was enclosed with a series of vinyl window units and aluminum siding. The enclosed porch
visually extends the length of the façade. The majority of the windows have been replaced over time with aluminum and vinyl replacement units. Of the approximately four remaining original wood-sash window units, two are covered with storm windows.

To the rear of the property dwelling is an aluminum sided, two-car detach garage terminating in a steeply-pitched, front-gabled roof clad in asphalt shingles. The outbuilding has two aluminum doors on the façade, which appear to be inoperable. The drive that historically circled the garage is in deteriorated condition.

As noted above, the property parcel was originally part of the Rockville Heights subdivision, which was originally platted in 1890 with large parcel lots, recreational green areas, and picturesque roads evoking the aesthetic of garden suburbs popular across the nation during the late-nineteenth century (McGuckian 2001:136). Dwelling construction in the subdivision progressed slowly and many platted lots were vacant through the mid-twentieth century, although a minor uptick in development occurred during the 1930s. The 406 Great Falls Road dwelling, and neighboring 408 Great Falls Road, were constructed on multiple parts of lots within Rockville Heights (Montgomery County Land Records Liber 857 Folio 117). The area and surrounding developments were annexed into the City of Rockville between 1937 and 1941 (City of Rockville 2020). Much of the undeveloped Rockville Heights subdivision later was re-subdivided with cul-de-sacs accessible from Monument Street and Dale Drive (Historic Aerials).

William Nicholson owned 406 Great Falls Road from the construction of the house until his death in 2001. Richard Culp, Nicholson’s brother-in-law, was trustee of the estate and, in July 2001, conveyed 466 square-feet of the property to the Maryland State Highway Administration (SHWA) for improvements to Great Falls Road in conjunction with the Rose Hill residential subdivision development on the opposing side of the thoroughfare. The dwelling eventually was sold in 2003 to Scott W. Rogers and James J. Wolohan, the latter of whom retained full ownership in September. In February 2014, Libra Investments, purchased the property. Since the death of William Nicholson in 2001, the dwelling largely has remained unoccupied (Montgomery County Land Records Liber 48299 Folio 336; City of Rockville 2020).

Evaluation
The evaluation of historic significance included in the staff report for the December HDC meeting, recommended that the property meets two criteria for designation:

a) Embodies distinctive characteristics of a type, period, or method of construction; and,
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e) Represents an established visual feature of the neighborhood or City because of its physical characteristics or landscape components.

The following discussion focuses on the above criteria.

**Criterion a) Embodies distinctive characteristics of a type, period, or method of construction**

The staff recommendation found, in part, that:

“The house massing and its footprint are intact, as is the environmental setting. The 2007 staff report included its analysis that alterations to the property have compromised the integrity of the original structure. The 2007 HDC agreed with that assessment and recommended against designation. Current staff believes that these alterations may be reversible and therefore believes that there could be a basis for recommending designation, through questions whether it is a strong enough basis to reverse the 2007 decision.”

**Analysis**

The dwelling at 406 Great Falls Road is a modified example of a ca. 1935 Tudor Revival-style “Belmont” house model offered by the Sears, Roebuck, Construction Co., during the 1930s. This design was modified during construction and the dwelling was altered, including the enlargement of the façade dormer, enclosure of the side porch and vinyl window replacement units. These changes substantially altered the original design. The historical integrity of setting, materials, workmanship, association, and feeling have been compromised by changes in design, use of modern incompatible materials, encroaching residential development that differs in scale and density, and design changes to the historic character of Great Falls Road completed in response to higher traffic volumes.

The dwelling at 406 Great Falls Road is one of three Tudor Revival-style Sears, Roebuck, Construction Co., catalog houses identified in the City of Rockville. An example of the Lynnhaven design is located at 149 South Adams Street (ca. 1931) and an intact example of Belmont design is located at 11 Wall Street (ca. 1933). Both properties are locally designated historic districts and are accurate examples of the designs distributed by Sears. In contrast to the dwelling at 406 Great Falls Road, the dwellings at 149 South Adams

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1 The Lynnhaven design is a Tudor Revival-style dwelling, first available in 1930. The Lynnhaven did not include brick cladding material, which differentiated it from the Belmont design option.
and 11 Wall streets more fully represent the catalog house designs and have undergone minimal alterations and changes in materials over time. Further, these two designated historic properties retain their historic setting and are part of fully realized, subdivisions with similar lot sizes, landscape design, building types, and intact streetscapes.

While the dwelling at 406 Great Falls Road retains the overall form of a late Tudor Revival-style house, changes from the original Belmont plan during construction, and modern alterations and materials have compromised the building integrity and its ability to accurately represent the design prototype.

Criterion e)

The staff recommendation found that:

“The house is an established visual feature of the neighborhood and the City because of its distinctive Tudor Revival styling and its siting on the massive lot. The property’s prominent location is a familiar and distinctive feature along Great Falls Road, resulting from a combination of topography, the deep expansive front yard, and the house which sits significantly above street level. The property constitutes what was once one of the gateways to the town of Rockville. The 2007 staff report agreed with this assessment but did not find that conclusion sufficient to recommend designation, and the 2007 HDC agreed with the staff recommendation at the time.”

Analysis

The house parcel, which combined five parts of lots and a parcel, is currently unusual in its 1.585-acre size and in the size and maturity of trees within the property; however, this property is atypical of the historical development pattern in the area, the Rockville Heights Subdivision and lot size alone does not equate with historical significance. The surrounding landscape, originally platted as a garden suburb, has been re-subdivided during the twentieth century and progressively developed between ca. 1950 and ca. 2000. Characteristics of this dynamic streetscape include progressively smaller lots over time and larger scale dwellings with minimal setbacks.

Great Falls Road was one of several thoroughfares that historically provided access to the City of Rockville. Specifically, Great Falls Road provided access to the city from the smaller, nearby towns of Potomac and Great Falls. The parcel at 406 Great Falls Road was outside the City of Rockville limits until the land area was annexed after the house was constructed (City of Rockville, Figure 13). A detail from the 1949 F.H.M
Klinge Atlas of Property in Montgomery County depicts the largely undeveloped, but platted, Rockville Heights and sparse residential development extending along Great Falls Road (Figure 14). Rose Hill and Hilltop Hospital, across Great Falls Road, are depicted as prominent features in the vicinity. Due to the low number of developed residential properties along Great Falls Road and the importance of Rose Hill and Hilltop Hospital buildings, it is not likely the subject property historically served a formal or informal gateway feature marking the city entrance. The current visual prominence of the property largely is the result of its atypical house and lot size in comparison to the more densely developed residential construction dating from ca. 1950 to ca. 2000.

**Summary and Conclusion**

Historical designation of single-site historic districts requires such resources to possess historical significance under the HDC criteria and to possess sufficient integrity to convey the sense of time and place of their significance. While the dwelling at 406 Great Falls Road was historically associated with the Sears Belmont model for modest late Tudor Revival houses (criteria a), alterations from the original plan during construction combined with the incompatible structural changes over time have substantially compromised the architectural integrity of the building and its ability to represent the 1930s Belmont model. The house does not currently possess sufficient integrity of design, materials, or workmanship to qualify as a single-site historic district significant as an example of the Sears Belmont model.

The dwelling at 406 Great Falls Road occupies a large lot with mature trees along an historic entry road to the City of Rockville. The area was annexed into the city between 1937 and 1941. The area in the vicinity of the dwelling has undergone progressive subdivision and residential development over the years characterized by larger houses on progressively smaller lots. In addition to substantially diminished integrity of design, materials and workmanship, development and road improvements in the immediate vicinity of the house have altered its historic integrity of setting and feeling. It can be argued that 406 Great Falls Road has become an established visual feature of the neighborhood due to its unusually large lot size rather than for its historical importance.

Based on an analysis of the historical and architectural data, RCG&A fully concurs with the 2007 staff recommendation and HDC decision against recommending the single-site historic district designation of 406 Great Falls Road to the Mayor and Council due to the property’s loss of historical integrity. No new evidence has been developed since 2007 warranting re-evaluation of the property or the 2007 decision.
I’d like to thank the staff and the Commissioners for your time and consideration. I look forward to your deliberations at the December 16th HDC meeting.

Sincerely,

Kathryn M. Kuranda
Senior Vice President
Bibliography

City of Rockville
2005  Maryland Inventory of Historic Properties Form: 406 Great Falls Road.
2007  Historic District Commission Minutes Meeting No. 5-2007
2011  Rockville Historic Buildings Catalog
2021  “Historic District Commission Staff Report: Evaluation of Significance (for Demolition) HDC2021-01033, 406 Great Falls Road.” December 9, 2021

McGuckian, Eileen S.

Montgomery County Land Records
1941  Liber 857, Folio 117.
2014  Liber 48299, Folio 336.
Figure 1: 406 Great Falls Road Façade (Courtesy Craig Moloney, November 2020)
Figure 2: 406 Great Falls Road South Elevation (Courtesy Craig Moloney, November 2020)
Figure 3: 406 Great Falls Road East Elevation (Courtesy Craig Moloney, November 2020)
Figure 4: 406 Great Falls Road North Elevation (Courtesy Craig Moloney, November 2020)
Figure 5: 406 Great Falls Road Garage (Courtesy Craig Moloney, November 2020)
Figure 6: 406 Great Falls Road Streetscape (September 2021)
Figure 7: 406 and 408 Great Falls Road (September 2021)
Figure 8: Surrounding ca. 2000 subdivision (September 2021)
Figure 9: The Sears, Roebuck, Construction Co., Belmont Design (Courtesy of Sears House Seeker)
Figure 10: The Sears, Roebuck, Construction Co., Lynnhaven Design (Courtesy of Sears House Seeker)
Figure 11: 11 Wall Street, Rockville, Façade – Belmont Design (Courtesy of GoogleMaps)
Figure 12: 149 South Adams Street, Rockville, Façade – Lynnhaven Design (Courtesy of GoogleMaps)
Figure 13: Black circle represents subject property. Light blue boundaries represent 1949 annexation. Image courtesy of City of Rockville GIS.
Figure 14. 1949 F.H.M Klinge Atlas of Property in Montgomery County.
From: Fran Miller <bendara3@yahoo.com>
Sent: Friday, December 10, 2021 5:43 PM
To: History <History@rockvillemd.gov>
Subject: Don't destroy 406 Great Falls Road

The property at 406 Great Falls Road represents a unique time of development, and it meets the City of Rockville's Architecture, Design and Landscape Significance Criteria for historic designation. It is beautiful and should be kept for everyone to enjoy.

It is Historic and we need to treasure it always.

Fran
818 Duke Street
Rockville 20850
301-309-3768
----Original Message-----
From: William Wood <wtwood@woodlawoffices.net>
Sent: Friday, December 10, 2021 7:56 PM
To: History <History@rockvillemd.gov>
Subject: 406 Great Falls Rd historic designation

To the HDC:

I live in Section 3, Chevy Chase, Md. and I have maintained law offices in the City of Rockville for over 45 years.

I experienced over 30 years ago, as a land owner, a historic preservation take over of my commercial property in the City of Frederick. I have lived with this problem ever since which has caused enormous problems and great expense.

The HDC attempted, many years ago, to assert jurisdiction over my home in Chevy Chase. I successfully fought the HDC with the support of my neighbors after experiencing the stark reality of being a designated property in Frederick and the zealousness by those who apply and enforce the rules.

In my experience, historic preservationists have lost complete contact with the reality of the consequences to landowners who are forced to abide by the rules imposed by these folks or they just don’t care.

I adamantly oppose the effort by the HDC to take over control of 406 Great Falls Rd against the wishes of its owner.

If HDC wants to control the maintenance and use of this property in addition to the zoning restrictions, then I suggest the HDC put their money up and buy the property. Then they can do whatever they want to this property consistent with the zone it’s in.

If the owner doesn’t want to sell, then respect the owner’s investment and ownership rights. The owner paid for and owns this property - not the HDC.

William T. Wood, Esq.
Founder, Wood Law Offices, LLC
31 Wood Lane - First Floor
Rockville, Md. 20850
w: 301-424-6200
f: 301-424-2621
wtwood@woodlawoffices.net
To the HDC:
I am writing in support of historic designation of 406 Great Falls Rd. The house is a beautiful historic representation of Tudor Revival architecture (similar to my own home), represents Rockville’s history, and once gone, it can never be reclaimed. New construction will damage the streetscape and the lovely drive that we see when we drive at 30 mph along Great Falls Road.

Regards,
Sara Kiesler
103 Forest Ave.
Rockville, MD. 20850
December 14, 2021

Peerless Rockville Historic Preservation, Ltd.
Statement to Rockville, MD Historic District Commission
111 Maryland Ave
Rockville, MD 20850

Re: Evaluation of Historic Significance for 406 Great Falls Road, Rockville, MD (HDC2021-01033)

Greetings, Chairperson Neal Powell and Commissioners,

On behalf of the Board of Directors and members of Peerless Rockville Historic Preservation, Ltd, I submit these written comments supporting our nomination for a request for evaluation of historic significance for the residential property at 406 Great Falls Road. Peerless Rockville made the careful decision to nominate this property for evaluation according to the City of Rockville’s established criteria, as we find this distinctive Tudor Revival residence, with its surrounding lawn, mature trees and landscaping, merits such recognition and protection. We strongly assert this property meets the City of Rockville’s adopted criteria for Historic Designation based on meeting the standards of Historical Significance, Criterion A and Architectural, Design, and Landscape Significance Criteria A & E as detailed in Appendix A of the City’s Historic Resources Management Plan. And furthermore, the property exhibits strong integrity and identity as evidenced by its surviving physical characteristics.

Prior to a review of the special characteristics and defining features present at 406 Great Falls Road, we would like to address the past review and evaluation of this property and the letter received by the City from Miller, Miller and Canby, requesting withdraw of this nomination. It is true that this property has a fairly long history of review and that in 2007, a previous Commission decided against historic designation. However, as often happens when no significant or timely action was taken in response to those findings, the current Commission must look at this property anew, and decide if it meets today’s standards for historic and architectural designation. Peerless Rockville concurs with City’s legal recognition that previous decisions are non-binding and thanks the staff and legal team for proceeding with tonight’s evaluation. Making a decision based on the 2007 review discounts the passage of time that has only increased the threats to early examples of the City’s architecture. The Commission relying on old judgements could be also be a dangerous precedent - historians and the public have learned the value of critical re-examination of historical facts through the lens of our time.
The City of Rockville has found this application has merit and should go forward – with the Commissioners examining all available information. Your evaluation of 406 Great Falls Road should occur based SOLELY on the adopted HDC criteria for historic designation. Accordingly, Peerless Rockville would like to call your attention to the November 2020 staff report prepared for this Commission and point out that when this property appeared on the agenda in 2020, the staff report recommended designation based on architectural, design and landscape significance. Specifically citing its merits under Criteria A & E. We note no apparent changes to the structure, style, materials or setting in the interim months.

"Finding that the property at 406 Great Falls Road meets Architectural, Design, and Landscape Significance Criteria a) and e) of the adopted HDC criteria for historic designation, staff recommends historic designation" Page 1, November 2020 Staff report to HDC

Peerless Rockville is surprised and confused by the December 2021 staff report, which hesitates to give a clear recommendation despite the Department’s strong and clear recommendation from just one year ago. Peerless Rockville does not share this hesitancy...we support the November 2020 findings and find this property meets or exceeds the stated requirements for architectural, design, and landscape significance, and exemplifies the cultural, economic, social, or historical heritage of the city.

Criteria for Evaluation

The evaluation of historic significance is based on the adopted HDC Criteria per Appendix A, of the Historic Resources Management Plan. The HDC is the first evaluation, followed by a recommendation by Rockville’s Planning Commission, and a decision by the Mayor and Council.

Architectural, Design, and Landscape Significance

A) Embodies distinctive characteristics of a type, period, or method of construction

406 Great Falls Road embodies a type of architecture, Tudor Revival, as well as type of structure, a catalog kit house.

This property is listed in the City of Rockville’s Historic Building Catalogue as an illustration of Tudor Revival architecture, of which it is an excellent example with strong integrity.

406 Great Falls Road embodies the Tudor Revival architectural style, with intact design, asymmetrical massing, detailed architectural features, building elements, and materials. This structure possesses many of the identified and defining elements of Tudor Style including its steeply-pitched side-gabled roof, facade dominated by prominent, steeply-pitched cross gable, tall narrow windows, brick clad with contrasting wooden cladding on the second story, the use of dormers, multi-pane windows and embellished arched doorways. Additionally, Tudor Revival homes often also feature prominent and highly decorated chimneys, with multiple flues, this too can be seen on our example with the multi-flued and corbelled chimney, though more diminutive in scale than well-known examples. The structure retains strong historic integrity, of both style and materials and its various small alterations are reversible.
Virginia & Lee McAlester's Field Guide to American Houses, notes that Tudor style architecture was uncommon before World War I and exploded in popularity in the 1920s and 1930s. This period of building and development is reflective of individual taste and economics, of the time and preceded the later the Mid-Century homes in large-scale subdivisions platted, laid out, and constructed en masse by developers and independent builders. When Rockville's Historic Resources Management Plan was written in 1986, many of these 1930s and 1940s era properties were not yet 50 years old.

This house is also believed to be a catalog "kit" home, notably a Sears Belmont design. Kit homes themselves represent a distinct period of development that is well-documented and protected through the United States. The significance of kit homes is addressed on the Sears Archive website (http://www.searsarchives.com/homes/history.htm) "Between 1908 and 1940, Modern Homes made an indelible mark on the history of American housing. A remarkable degree of variety marks the three-plus decades of house design by Sears. A skilled but mostly anonymous group of architects designed 447 different houses.". The modifications which are mentioned as detrimental to the integrity of the home are actually part of the designers' intention. People could alter the floorplan to suit their needs, creating a custom home for a fraction of what it would cost to hire an architect. "Each of the designs, though, could be modified in numerous ways, including reversing floor plans, building with brick instead of wood siding, and many other options" This is a means by which the homes each have distinct character as opposed to being "cookie cutter homes" which will later characterize the suburbs. Further, it is notable that this is a known kit home as identifying kit homes is difficult as it is challenging to do from the street. While these buildings are poorly documented, they are important to Rockville's architectural history.

E) Represents an established visual feature of the neighborhood or City because of its physical characteristics or landscape components.

406 Great Falls Rd represents an established visual feature of the neighborhood or City because of its physical characteristics or landscape components.

The subject property is a prominent and distinctive visual feature along Great Falls Road. The house is sited significantly above street level for an established and striking visual landscape. Great Falls Road was an early gateway into Rockville and the house has been occupied this site with its neighboring property 408 for nearly 80 years. The large expanse of open space surrounding these homes conveys a stately and serene atmosphere, in excess of the size of the structure. Homes along Great Falls Road convey a period of American and Rockville building when residential designs were specifically chosen by the landowners and reflect the economic and stylistic taste of their owners in a manner far less common at mid-century or today.
Historic Significance

A) Represents the development, heritage, or cultural characteristics of the City.

406 Great Falls Road represents the development of Rockville as it expanded beyond the City Center

The subject property is a remnant of the large and elaborate Rockville Heights subdivision, built on originally platted lots in the 1930s. This home is a historic marker of the Rockville Heights subdivision, before it was re-subdivided in the late 20th century and developed with split levels and ranch style homes. Rockville Heights was platted with generous lots and picturesque roads, in the fashion of the late 19th century garden suburbs. In the interwar period, development was slow. Many of the platted lots remained vacant until well into the 20th century, and this house is integral to explaining the long development history of this western part of the City of Rockville.

Integrity

Integrity is the ability of a property to convey its significance. As defined by Rockville, Integrity is the authenticity of a property’s historic identity, evidenced by the survival of physical characteristics that existed during the property’s historic or prehistoric period. According to the National Register of Historic Places, there are seven aspects of integrity, in which this property scores extremely high

- Location - the place where the historic property was constructed
  - 406 Great Falls is in the structure’s original location from the mid-1930s.

- Design - the combination of elements that create the form, plan, space, structure, and style of a property.
  - 406 Great Falls is extremely identifiable as Tudor Style architecture. Additionally, it is very close to the design of a Sears Belmont kit home. Kit homes were not always built identically to the kit design.

- Setting - the physical environment of a historic property.
  - The house lot maintains the dimensions and siting of the original building setting, with a striking visual landscape from all viewing angles.

- Materials - the physical elements from a particular period of time and in a particular pattern or configuration.
  - Most of the materials are original, or so little changed such that they could be restored to original or historically appropriate materials.

- Workmanship - the physical evidence of craftsmanship
  - Workmanship in this house is largely original, construction has been attributed to Brawner Harding a local builder
• Feeling - a property's expression of the aesthetic or historic sense of a particular period of time.
  o The Tudor Revival style of this home grew out of an innovative arts and design movement that celebrated craftsmanship and fostered a resurgence of rural and folk styles. This home clearly evokes medieval English cottage homes that would have been found in pastoral county settings.

• Association - the direct link between an important historic event or person and a historic property.
  o Not Applicable at this site.

In conclusion, the property at 406 Great Falls Road meets the adopted Rockville HDC Criteria per Appendix A for Historic Significance Criterion A, Representing the development, heritage, or cultural characteristics of the City and also Architectural, Design, and Landscape Significance Criterion A, Embodying distinctive characteristics of a type, period, or method of construction as a Tudor Revival Kit House and Criterion E, Representing an established visual feature of the neighborhood or City because of its physical characteristics and landscape components that have stood the test of time on Great Falls Road for 80 years. The property has remarkable integrity, and we look forward to it remaining part of the City's protected historic resources.

At this time, I have to note the staff report acknowledges that the 210 day restriction on exterior changes to the building following a historic designation nomination will end 19 days after this review, due to unforeseen delaying circumstances with the process. We ask that following the decision, the HDC request immediate action on this building by the Planning Commission and the Mayor and Council to protect this historic resource.

Nancy O Pickard
Executive Director
Sears Belmont House, 406 Great Falls Road, Rockville, MD

Completed ca.1935, this distinctive Tudor Revival house crowns a gentle hill on its site and is set back along a curving driveway. Mature trees and landscaping frame the brick residence, enhancing its picturesque setting. The house is generally credited as a Sears Belmont house in the Lynnhaven Series and it is featured in the City of Rockville’s *Historic Buildings Catalogue* (2011).

Constructed of red brick, the 1.5-story house demonstrates the characteristics of the Tudor Revival style. It features a strong assertive architectural presence with asymmetrical massing, a steeply pitched side gable roof, and an off-set steeply-pitched gabled roof with an embellished doorway entrance flanked by two diminutive glazed alcoves. Additional stylistic features include varied window groupings and a chimney decorative brickwork. Its rustic appearance evokes medieval English cottages and manor houses surrounding pastoral countryside.

The Tudor Revival style was inspired, in part, by the Arts and Crafts Movement during the late 19th and early 20th century, an international style created by British designer William Morris who launched innovative arts and design movements throughout Europe and America. The movement, that eventually became Art Nouveau, rejected industrialization and fostered a recreation of traditional craftsmanship and a resurgence of rural and folk styles. Tudor Revival architecture and related arts and crafts were among the preferred favored styles of medievalism and the pre-Renaissance. Rockville is among a small handful of outstanding examples of Tudor Revival residences and should be protected for designation as cherished historic artifacts.

Writing on behalf of the Belmont house owners, Ms. Kathryn Kuranda, a Senior Vice President of R. Christopher Goodwin Associates, presents arguments for demolition of the property, citing “an architectural investigation of the house” based on HDC criteria and “assesses the historical significance and integrity of the property applying city guidelines.” Throughout the report, Ms. Kuranda reiterates “data analysis” and the changes “over time [that] have affected the integrity of the original house.” However, the historical context of late 19th to early 20th century Tudor Revival architecture within the broader international arts and
crafts movement is integral to an understanding and appreciation of historical designation and the ethos of its criteria, even on the community level. Ms. Kuranda’s report is clinical, absolutist, and reductionist in tone and lacks humanistic insight.

One hopes that the HDC will look beyond the “lack of architectural integrity” of the Belmont house and assess its value within a broad contextual and humanistic point of view. As the city’s Historic Buildings Catalogue indicates there are only a handful of Tudor Revival houses in Rockville and the Belmont house has great potential for restoring its original stature to 1935. These homes are a connection to a celebrated international style and artistic movement.

Teresa B. Lachin
December 13, 2021

Historic District Commission
City of Rockville
Historic Preservation Division
111 Maryland Avenue Rockville, MD 20850

Re: 406 Great Falls Road

Chairperson Neal Powell and Commissioners,

My name is Margaret Magner and I live in Rockville. Thank you for the opportunity to share my testimony, which is solely my own.

In researching 406 Great Falls and the decision on its designation, I have repeatedly heard and read that “nothing has changed since the 2007 evaluation” of this property. Nothing could be further from the truth! Numerous impacts on the significance of 406 Great Falls have changed since 2007.

First, the house was included 3 years later in the 2010 Rockville Historic Buildings catalogue. In a project given the time, research resources, and purpose of cataloging the fine examples of our architectural cultural history, this house was singled out for inclusion.

Second, Rockville’s housing stock has also changed over this time. As Kathryn Kuranda of R. Christopher Goodwin and Associates, Inc. pointed out in her testimony, there is now encroaching residential development that differs in scale and density, with progressively smaller lots over time and larger scale dwellings and minimal setbacks. These developments have changed the physical character of areas around this home and across all of Rockville, making houses with the character and provenance of 406 Great Falls even fewer, farther between, and thus of more value to the community today.

Third, since 2007 we have learned how real and dangerous is the change in our climate, spurring Rockville to create a Climate Action Plan and making the preservation of green space and mature tree canopy like that on the lot of the 406 property even more important.
Fourth, the Mayor and Council adopted in 2021 the new Planning Area 4 Neighborhood Plan, with its strong policy focus on protecting and enhancing not only historic structures in this neighborhood, but also the unique setting, environment and landscape surrounding these assets.

Fifth, since 2007 the house at 406 has survived intact for another 15 years. It is older, an artifact from a further time in the past than it was in 2007.

And sixth, one year ago, in 2020, the house was up for evaluation and, based solely on the merits against Rockville’s historic designation criteria, City Staff recommended historic designation (based on both the architectural and the landscape criteria). Quoting from the 2020 report:

“The house massing and its footprint are intact, as is the environmental setting. While there have been some alterations..., the house still retains its historic integrity, and the alterations are reversible.” “The property's prominent location is a familiar and distinctive visual feature along Great Falls Road ...”

Up until as recently as November 2021, one month ago, Staff was recommending historic designation of this property.

The argument that nothing has changed since 2007 is inaccurate, and the Board must not be swayed by it. The significance of 406 Great Falls Road must be evaluated as it exists in this time and in these surroundings. I firmly believe, as the Staff 2020 report states, that this property is significant for both the architectural and the landscape criteria, and I agree with the applicant that it is worthy of historic designation. I urge the Board to make this recommendation, based on criteria.

Thank you.

Sincerely,

Margaret M. Magner
115 Forest Avenue
Rockville, Maryland
Testimony
Evaluation of Historic Designation of 406 Great Falls Road
Noreen Bryan
16 December 2021

Good Evening Chairperson Powell and Members of the Historic District Commission. My name is Noreen Bryan and I live in the West End neighborhood of Rockville, a few streets away from 406 Great Falls Road. I am speaking as a neighbor.

This property is a key landmark on the Great Falls Road gateway to Rockville. Because of the curve in the road, this property, the Tudor revival house and the wide expanse of open land and trees, is visually memorable to anyone traveling east on Great Falls Road and has been so for many years. For those who live here or regularly frequent this area of Rockville, this property is key to the definition of the historic character of the West End.

Over the past five years I have been serving as the Co-Chairperson of the Committee leading the effort to update the Neighborhood Plan for Planning 4 where 406 Great Falls Road is located. Historic preservation policies and properties were greatly valued by the committee and represent nearly a third of the adopted Plan. The committee was committed to the preservation of the sites and landscapes of historic properties, believing them to be essential to accurately convey a property’s history. Too often in urban environments only structures remain without the historic site and landscape. The committee viewed this as a serious degradation of the historic record, thereby leaving it impoverished. In the adopted Plan, the first policy under historic preservation emphasizes the importance of the site and landscaping. It says:

Protect and enhance the historic and architectural integrity and value of the historic districts and sites, including their landscapes and environmental setting.

The policies of the updated Neighborhood Plan are new, adopted by the
Mayor and Council in August 2021. They did not exist when 406 Great Falls Road was evaluated previously for significance.

406 Great Falls Road is very unusual, and therefore precious, because it has the intact house and the uncompromised original setting and landscaping. I strongly believe that 406 Great Falls Road meets the architectural and landscape criteria for designation. I agree with the Applicant that it is worthy of designation.

Thank you for the opportunity to participate in this evaluation. I ask that you designate the property historic.
From: Caryl McNeilly <cjmc47@outlook.com> on behalf of Caryl McNeilly <mcneilly@alumni.princeton.edu>
Sent: Wednesday, December 15, 2021 9:55 PM
To: History
Cc: mayorcouncil
Subject: Please restore Recommendation for Historic Designation of 406 Great Falls Road

The Rockville Historic District Commission holds the power to help preserve a vital part of Rockville’s attraction relative to other cities in Montgomery County: the unique and historic houses that remain largely intact in the area loosely referred to as the West End. Together with the Red Brick Courthouse and the historic churches that remain in the historic downtown, they drew my husband and I to Rockville from Bethesda thanks to one of the Peerless Rockville events. The historic houses remain a key draw that distinguishes Rockville and attracts people here from the many other places people can choose to make their home in Montgomery County.

As part of keeping Rockville an attractive destination, I urge you to restore the Recommendation for Historic Designation of 406 Great Falls Road. This property is listed in the City of Rockville’s Historic Building Catalogue as an example of Tudor Revival architecture, of which it is an excellent example with strong integrity.

This property is believed to be constructed as a kit home, notably a Sears Belmont design. Kit homes themselves represent a distinct period of development that is well-known and protected through the US. This property meets the City of Rockville’s Architectural, Design, and Landscape Significance Criteria of the adopted HDC criteria for historic designation.

In 2020, the HDC staff report recommended designation of this property. Why does the 2021 HDC staff report no longer recommend designation, despite no notable changes to the property in the meantime?

I urge you to correct this oversight and restore the recommendation for historic designation of 406 Great Falls Road.

Respectfully yours,
Caryl McNeilly
5705 Stillwell Road, Rockville MD 20851
From: skipcaryl2@aol.com
Sent: Wednesday, December 15, 2021 11:20 PM
To: History
Cc: mayorcouncil
Subject: Please recommend 406 Great Falls Road for Historic Designation

The Rockville Historic District Commission has the power – and responsibility -- to help preserve a vital part of Rockville’s attraction relative to other cities in Montgomery County: the unique and historic houses that remain largely intact in the West End. Together with the Red Brick Courthouse and the historic churches that remain in the historic downtown, they drew my wife and I to Rockville from Bethesda thanks to one of the Peerless Rockville events. The historic houses remain a key draw that people see as they drive through Rockville, which distinguish it as a city and attract people here from the many other places people can choose to make their home in Montgomery County.

As part of keeping Rockville an attractive destination, I urge you to restore the Recommendation for Historic Designation of 406 Great Falls Road. This property is listed in the City of Rockville’s Historic Building Catalogue as an example of Tudor Revival architecture, of which it is an excellent example with strong integrity.

This property was most likely constructed as a Sears Belmont design kit home. Kit homes themselves represent a distinct period of development that is well-known and protected throughout the US, and shares Rockville’s close ties to growth of the railroads. This property meets the City of Rockville’s Architectural, Design, and Landscape Significance Criteria of the adopted HDC criteria for historic designation.

In 2020, the HDC staff report recommended designation of this property, yet the 2021 HDC staff report no longer recommends designation, despite no notable changes to the property in the meantime.

I urge you to correct this oversight and recommend 406 Great Falls Road for historic designation.

Sincerely yours,
Dr. Robert Williamson
5705 Stillwell Road, Rockville MD 20851
To Whom it May Concern,
As someone who grew up in Rockville and whose grandparents lived in a home not far from this historic residence, I am voicing my opinion and desire for this property to remain as it is designated. It is a treasure of our great city and a reminder of our bright past.
Thank you,
B-

Sent from my iPhone
The home Peerless Rockville is seeking to save represents history. Please don't demolish it.
Eleanor

--
Eleanor Elson Heginbotham, Ph.D.
Professor Emerita, Concordia University Saint Paul

10500 Rockville Pike #1624
N. Bethesda, MD 20852
301-530-4518
heginbotham@csp.edu

"I dwell in Possibility" Emily Dickinson
With regard to the 406 Great Falls Road property being considered for historic designation, we would like to see the property remain consistent to what it has been over the years. The house would add tremendous value to the neighborhood by being extensively renovated and would pair well with the relatively newly renovated 408 Great Falls property, which we believe was built approximately the same era circa early 1940's and may have been owned by the same Rockville family; the Nicholsons. We have heard rumors that the property may be demolished and built further back on the lot. This would not be appealing to the eye as you enter Rockville on one of its most scenic roads into our historic city. We feel the setback should remain consistent with 408 Great Falls to keep these two homes as a "pair" and hope that the property will be restored. The new owner has made improvements to the grounds and has maintained the grassy areas and trees, which has already been a tremendous improvement from the prior owner. We appreciate this and hope that they will continue to make improvements to the existing structure and restore it to what may become a gem of a property within our city.

Thank you for your consideration.
Ken and Melissa Scales
103 Dale Drive
Our names are Tim and Kavita Dawson and we live at 9 Dale Dr, Rockville, MD 20850. Our home is directly behind the home at 406 Great Falls Road. We have lived in this home since 1992, and knew the original owner of the home, Mr. Bill Nicholson, prior to his passing.

We strongly believe that the home at 406 Great Falls Road should be designated as historic, and the integrity of the original home as well as its placement on the property should be retained. The home's architecture and style are unique in the area and are important to the history of Rockville.

Similar to the neighboring home at 408 Great Falls Road, the house sits back on the property line which gives it a stately and majestic appearance from the main road. With proper renovation and care, it would be a jewel on one the main roads leading into the City.

Thank you for your time and consideration.

Tim and Kavita Dawson
December 13, 2021

Historic District Commission  
City of Rockville  
Historic Preservation Division  
111 Maryland Avenue Rockville, MD 20850

Re: 406 Great Falls Road

Chairperson Neal Powell and Commissioners,

My name is Margaret Magner and I live in Rockville. Thank you for the opportunity to share my testimony, which is solely my own.

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First, the house was included 3 years later in the 2010 Rockville Historic Buildings catalogue. In a project given the time, research resources, and purpose of cataloging the fine examples of our architectural cultural history, this house was singled out for inclusion.

Second, Rockville’s housing stock has also changed over this time. As Kathryn Kuranda of R. Christopher Goodwin and Associates, Inc. pointed out in her testimony, there is now encroaching residential development that differs in scale and density, with progressively smaller lots over time and larger scale dwellings and minimal setbacks. These developments have changed the physical character of areas around this home and across all of Rockville, making houses with the character and provenance of 406 Great Falls even fewer, farther between, and thus of more value to the community today.

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Thank you.

Sincerely,

Margaret M. Magner
115 Forest Avenue
Rockville, Maryland
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Protect and enhance the historic and architectural integrity and value of the historic districts and sites, including their landscapes and environmental setting.

The policies of the updated Neighborhood Plan are new, adopted by the
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406 Great Falls Road is very unusual, and therefore precious, because it has the intact house and the uncompromised original setting and landscaping. I strongly believe that 406 Great Falls Road meets the architectural and landscape criteria for designation. I agree with the Applicant that it is worthy of designation.

Thank you for the opportunity to participate in this evaluation. I ask that you designate the property historic.
Planning Commission Staff Report:  
Sectional Map Amendment MAP2022-00123,  
406 Great Falls Road

MEETING DATE: January 12, 2022

REPORT DATE: January 5, 2022

RESPONSIBLE STAFF: Sheila Bashiri, Preservation Planner  
Comprehensive Planning,  
240.314.8236  
sbashiri@rockvillemd.gov

APPLICATION DESCRIPTION:  
Sectional Map Amendment to change the zone from R-90 to R-90 HD (Historic District)

Recommendation: Staff recommends that the Planning Commission find that the proposed Sectional Map Amendment MAP2022-00123, which would change the zone for 406 Great Falls Road from R-90 to R-90 HD (Historic District), is consistent with the Comprehensive Plan and in conformance with the purpose of the historic district zone.

Site Description

<table>
<thead>
<tr>
<th>Comprehensive Plan Land Use:</th>
<th>Residential Detached</th>
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<td>Zoning District:</td>
<td>R-90</td>
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<td>Existing Use:</td>
<td>Single-unit detached dwelling</td>
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<td>Property Area:</td>
<td>68,358 square feet</td>
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</table>
BACKGROUND

On June 8, 2021, Peerless Rockville submitted a Nomination of a Property for Local Historic Designation Application for the property at 406 Great Falls Road, which is owned by Joel Martinez and Ingrid Chua. The Zoning Ordinance permits a nomination by a party who is not the property owner, though it is an unusual occurrence in Rockville. On December 16, 2021, in accordance with 25.14.04.d of the City of Rockville’s Zoning Ordinance, Rockville’s Historic District Commission (HDC) conducted an Evaluation of Significance to determine whether the HDC would recommend that the Mayor and Council designate the property as historic. The staff report for the HDC meeting is provided as Attachment A.

On December 16, 2021, after the staff presentation, the HDC heard statements from the applicant (Peerless Rockville), who spoke in favor of designation, and from the property owner and representatives, who spoke against designation. The HDC also received public testimony, oral and written, from members of the public not connected to either of the two parties. Twelve members of the public expressed support for designation and one expressed opposition.

After deliberation, the HDC voted 2-0-1 in favor of historic designation for this property. By virtue of that vote, HDC became the applicant for the filing of an application for a Sectional Map Amendment to recommend that the Mayor and Council place the property in the Historic District Zone. Sectional Map Amendment application MAP2022-00123 was submitted to the City Clerk on December 21, 2021 by staff representing the HDC. The next step in this process is for the Planning Commission to review this proposed zoning change for consistency with the Comprehensive Plan and provide a recommendation to the Mayor and Council in that regard.

The HDC’s support for historic designation was based on its finding that the following two of the adopted criteria for historic designation were met:
Architectural, Design, and Landscape Significance Criteria:

a) **Embody distinctive characteristics of a type, period, or method of construction.**

The house at 406 Great Falls Road is listed in the Rockville Historic Buildings Catalogue as a good example of a Tudor Revival House. It embodies many of the distinctive characteristics found in the Tudor Revival style, which includes the steeply pitched side-gabled roof intersected by a steeply pitched front gable roof, the brick first-story walls with the wood-clad (replaced with aluminum siding) dormer, the massive chimney with the decorative brick crown and chimney pots, the rounded arch doorway with decorative brick detailing, and the original multi-lite windows. Its Sears Belmont design is not as common as other house designs in the City of Rockville.

e) **Represents a significant architectural, design, or landscape entity in the City.**

The house is an established visual feature of the neighborhood and the City because of its distinctive Tudor Revival styling and its siting on the massive lot. The property's prominent location is a familiar and distinctive visual feature along Great Falls Road, resulting from a combination of topography, the deep expansive front yard, and the house which sits significantly above street level. The property constitutes what was once one of the gateways to the town of Rockville.

The HDC meeting on December 16, 2021 was not the first time that this property has been evaluated for historic significance. On May 17, 2007, the HDC conducted an Evaluation of Significance and voted 3-1-1 against designation. At that time, the HDC found, consistent with staff's recommendation at that time, that the property lacked architectural integrity, a connection with the 1890 Rockville Heights Subdivision, and a connection with people who made significant contribution to the City. The staff in 2007, did find that the property was an established visual feature of the neighborhood, which met Architectural and Design Significance criteria E, but did not believe that meeting this one criterion was sufficient to recommend designation. Minutes for the May 17, 2007 meeting were included in the December 16, 2021 staff report to the HDC and are in Attachment A.

In 2020, an application for an Evaluation of Significance was submitted by yet a different owner (not the same as in 2007 or the current owner) in the context of a proposed development project. The review was planned for the November 19, 2020 HDC Meeting. When the staff report for that meeting was released and the applicant learned that staff was recommending designation, the property owner withdrew the application prior to the meeting and the HDC's evaluation did not occur.

The 2020 staff report did not take into account that the HDC had voted against designation in 2007. The staff report for the December 16, 2021 did take that 2007 vote into account. As a result, staff's updated 2021 recommendation was:
“Staff finds that the property at 406 Great Falls Road could be interpreted to meet the Historic District Commission’s (HDC’s) Architectural, Design, and Landscape Significance Criteria a) and e) for historic designation. However, the HDC evaluated the same property in 2007 and voted not to recommend historic designation. Since that time, almost no external changes have occurred. Therefore, staff recommends that the HDC consider not recommending historic designation of the property.”

On December 16, 2021, the HDC did consider the 2007 decision but reached a different conclusion.

The property owners, Joel Martinez and Ingrid L. Chua, have stated that they have future plans to expand the house; however, they have not submitted a building permit application and related plans to do so at this time. They do not support historic designation of the property and have submitted documentation from an historic preservation consultant that states the reasons why the property should not be designated (See Attachment A).

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**DISCUSSION:**

The proposed historic designation would be a change in zoning. Specifically, the proposed Sectional Map Amendment before the Planning Commission would change the zoning of 406 Great Falls Road from R-90 to R-90 HD by adding the Historic District Zone to the property. This designation would require any alterations to the buildings or site be reviewed and approved by the HDC.

The site identified as 406 Great Falls Road is a deeded lot that consists of parts of two record lots in the Rockville Heights subdivision that are both potentially buildable. The lot that includes the existing house currently has access to a public street via its frontage on Great Falls Road, but the other lot does not. For that second lot to be buildable, access would need to be achieved. Of critical importance for this review is that the application for historic designation covers the entire area of the property known as 406 Great Falls Road. Therefore, if the Mayor and Council ultimately decides to add the Historic District zone to designate the property as historic, any significant construction, on either of the record lots, would require review and issuance of a Certificate of Approval by the HDC before the construction could move forward.

As with all proposed sectional map amendments, the application is referred to the Planning Commission per Zoning Ordinance Sec. 25.06.01.g, which states that “The Commission may submit a written recommendation [to the Mayor and Council] which will be placed in the application file by the Clerk and become a part of the record on the application.”

Staff recommends that the Planning Commission consider any recommendation that it may wish to make based on two areas of analysis: whether the proposed Sectional Map Amendment...
would 1) be consistent with the City’s Comprehensive Plan (https://www.rockvillemd.gov/200/Comprehensive-Plans); and 2) conform to the Purposes of Historic District Zone, which are outlined in the Zoning Ordinance in 25.14.01.a. (https://www.rockvillemd.gov/DocumentCenter/View/11186/Zoning-Ordinance---Article-14?bidId=). A discussion of each is provided below.

Attachment A, the staff report for the December 16, 2021 HDC meeting, provides a detailed discussion of the property’s history and architectural features. That discussion is not repeated here but is important background to the Planning Commission’s review.

**Consistency with the Comprehensive Plan**

Two areas of the Comprehensive Plan (the Plan) are relevant to the analysis of consistency: the Historic Preservation Element and the Planning Area 4 plan which the property is located within.

**Historic Preservation Element**

Like all Elements in the Plan, the Historic Preservation Element is organized by a Vision, Goals, Policies and Actions. This analysis will identify discuss consistency using those organizational categories.

The Vision (p. 213) of the Historic Preservation Element is: “Enhance the character of Rockville and contribute to its quality of life and local economy by proactively identifying and safeguarding its physical and cultural heritage to preserve the themes and periods of the city’s history and development, no matter the era.” This vision clearly sets the stage for the historic designation of properties.

Action 1.1 (p. 219) calls for Rockville to “Maintain the City’s Certified Local Government (CLG) status. Rockville’s historic preservation efforts and its HDC are recognized by the Maryland Historic Trust (MHT) as a Certified Local Government program. To remain in good standing as a CLG, the City must continue to meet certain agreed-upon requirements. The CLG agreement between the City of Rockville and the MHT states that the City will "continue to enforce state and local legislation for the designation and protection of historic properties," and “continue to survey and reappraise the significance of properties within its jurisdiction.” Reappraisal and historic designation of 406 Great Falls Road would be consistent with Action 1.1 by contributing to maintaining the City’s CLG status.

Goal #2 (p. 219 of the Plan) calls for Rockville to “Preserve and recognize significant examples of architectural periods, historic themes and the diversity of Rockville’s history and historic resources through local historic designation.” As such, designating a property as historic is consistent with the Comprehensive Plan. The text discussion for Goal #2 includes, on p. 221, a full endorsement of all the criteria that the HDC uses in its evaluations of significance. Relevant to the case of 406 Great Falls Road, the Plan specifically mentions the two criteria on which the HDC made findings that were the basis for its recommendation for historic designation, which states:
“Rockville values buildings, structures, sites, landscapes, viewsheds, and objects that:”
  • “Embody distinctive characteristics of a type, period, or method of construction;”
  • “Represent an established visual feature of the neighborhood or city because of its physical characteristics or landscape components.”

Staff assessed, in its report to the HDC, that these criteria were met for 406 Great Falls Road; and the HDC found the same. Therefore, making a recommendation for historic designation based on these criteria is consistent with the Plan.

Policy #8 (p. 227) calls on Rockville to “Support the synergistic connection between historic preservation and environmental sustainability.” The text for that policy endorses “the retention of older buildings” because they preserve “the materials, energy, and human capital already expended in their construction. Rockville’s 19th and early 20th century buildings, in particular, were designed to work with their environment through site orientation, landscaping, and building features such as porches, operable shutters, and wide eaves.” Designating 406 Great Falls Road would be consistent with this Policy #8, especially with respect to retaining the older building, the site orientation and the landscaping.

Planning Area 4
The plan for Planning Area 4 clearly embraces historic preservation and the historic character of the neighborhood. The Plan Goal/Vision (p. 286 of the Plan) is to “Preserve, protect and enhance the quality of life in, and the unique history and identity of, the Planning Area 4 neighborhoods by addressing their challenges, issues and opportunities.” A list of Planning Principles then follows on that same page, which includes the principles:
  • “Maintain the historic character and identity of historic districts;
  • Celebrate and display the rich history of the planning area.”

Pages 306-313 of the Plan provide a more-detailed discussion of the importance of historic preservation in Planning Area 4. When discussing historically designated sites, the Plan states (p. 308) that “This list will likely grow as more properties are designated over time. It is important to preserve the integrity and character of historic districts and properties within Planning Area 4 as they, to a large extent, define the character and appeal of Planning Area 4.” As such, while this section of the Plan does not specifically call out 406 Great Falls Road, it does anticipate that there will be additional designations that will contribute to the preservation of the community.

An important sub-section related to the property in question is on pages 310-311, where there is a discussion of the Great Falls Road Black Kinship Community. The Plan states that there was a significant community of free black residents, consisting of at least ten acres of land near the present-day intersection of Great Falls Road and Maryland Avenue. Figure 56 (p. 310) shows the “approximate boundaries of the Great Falls Road Black Kinship Community.” The property at 406 Great Falls Road is within that approximate boundary. The plan states that this
community was established prior to the Civil War and continued into the middle of the 20th century. It further states, on p. 310, that:

“The existence of Great Falls Road Free Black community is little known or recognized, yet the women and men who lived here were leaders in building black schools and churches after the Civil War. Their work and the homesteads that they created illustrate how free black citizens initially obtained land for homes and enterprises. After slavery was abolished they brought their spouses and children to their holdings. As their families expanded the women valiantly protected and preserved their holdings so that their families could thrive.”

A set of policies are then presented for this area, which include “3. Evaluate the historic significance of existing structures that have not yet been evaluated.”

The structure at 406 Great Falls Road does not appear to be related to the Great Falls Road Black Kinship Community, as it was built by a white family well into the 20th century (as described in Attachment A). Based upon research at this time, staff does not view this component as a basis for recommending historic designation. However, more in-depth research could reveal historical information that may support this component to be a basis for designation.

**Conformance with the Purpose of Historic District Zones**

Historic District (HD) zoning is an overlay zone that does not change the underlying zoning, and requirements for “Use” and “Development Standards” are not affected or changed. The purpose for the HD Zone is outlined below, with staff’s assessment of how the proposed Sectional Map Amendment conforms with the provisions of the purpose.

25.14.01 - Historic District Zones

a. **Purpose** - The Historic District Zone is an overlay zone. The purpose of the zone is to:

1. **Safeguard the heritage of the City by preserving sites, structures, or areas which reflect elements of cultural, social, economic, political, archaeological, or architectural history**

   Historic District zoning would assure long-term preservation of the historic character of this property through requiring that the HDC review proposals for exterior alterations to the property to ensure compatibility with the historic designation.

2. **Stabilize and improve the property values of those sites and structures, and the adjacent neighborhood**

   Historic District zoning would be expected to provide a measure of stability for this property and for those in the immediate vicinity, as the HDC works to assure that proposed alterations at the site will be compatible with the historic significance of the property. However, such zoning could restrict the amount of expansion that the owner
could achieve if the property were not designated.

The impact of that restriction on neighboring properties is unclear. The designation of the property would maintain the aesthetic quality of the existing home, which could have a beneficial impact on the property values of the adjacent neighborhood. However, historic restrictions, could deter more investment in the property to make significant improvements.

3. Foster civic beauty

Historic designation inserts the HDC as a review board to ensure that the historic character of this property will be retained, even as improvements are carried out. Designation also provides an opportunity for public assistance in property maintenance through tax credit programs at the county and state levels. As such, designation of 406 Great Falls could foster civic beauty.

4. Strengthen the local economy

Heritage resources are an attraction to visitors who support the local economy (shops, restaurants). To the extent that Rockville takes advantage of its historic resources to market the City, designating this property on a key entry point into the center of the city can contribute to the local economy. The subject dwelling is linked to the Sears Belmont kit home design, which can be incorporated into heritage programming to be developed in the future.

5. Promote the preservation and the appreciation of those sites and structures for the education and welfare of the residents of the City

Historically designating this site provides an opportunity to enjoy the City’s heritage with an authentic resource that illustrates the early 20th century development of Rockville’s gateway.
PUBLIC OUTREACH:

The HDC held their Evaluation of Historic Significance on December 16, 2021. Noticing requirements of Section 25.05.03 of the Zoning Ordinance were met. The posting of the required sign on the property occurred two weeks prior to the HDC Meeting, and postcard notices were also sent out two weeks prior to the meeting. Staff also reached out and spoke directly with the President of the West End Citizens Association (WECA) to inform him of the upcoming HDC Evaluation of Significance for this property. A total of seventeen emails were received with comments on the future of the property. Four members of the community gave public testimony via WebEx at the HDC meeting.

Noticing requirements of Section 25.05.03 of the Zoning Ordinance were met as required for the January 12, 2022 Planning Commission meeting.

Recommendation

1) Staff recommends that the Planning Commission find that approval of the Sectional Map Amendment MAP2022-00123, to change the zone from R-90 to R-90 HD (Historic District), would be consistent with the Comprehensive Plan, based on the Historic Preservation Element and the plan for Planning Area 4.

   Specifically, staff finds that consistency derives from the Historic Preservation Element’s Vision, Action 1.1, Goal 2 and Policy 8.

   Staff also finds that historic designation of this property would be consistent with Planning Area 4’s Vision/Goal and Principles, as well as the language in the Historic Preservation Policies sub-section that expresses the anticipation that additional properties will be designated.

2) Staff also recommends that the Planning Commission finds that the proposed Sectional Map Amendment is in conformance with the provisions that constitute the Purpose of the Historic District Zone, per Section 25.14.01 of the Zoning Ordinance.

NEXT STEPS:

The Mayor and Council will hold a public hearing, at which time they will receive testimony from the public. The Mayor and Council will then make the final decision regarding the Sectional Map Amendment that, if approved, would designate the property as historic. It will do so based on public record, the recommendations of the HDC and the Planning Commission, and any other relevant information.
January 11, 2022

Peerless Rockville Historic Preservation, Ltd.
Statement to Rockville, MD Planning Commission
111 Maryland Ave
Rockville, MD 20850

Re: Sectional Map Amendment Application MAP2022-00123, to Rezone Property at 406 Great Falls Road from R-90 to R-90 (HD) to Place the Property in the Historic District Zone

Greetings, Chairperson Pitman and Commissioners,

On behalf of the Board of Directors and members of Peerless Rockville Historic Preservation, Ltd, I submit these written comments supporting the Historic District Commission’s recommendation to designate 406 Great Falls Road as a local historic district. Peerless Rockville made the careful decision to nominate this property for evaluation according to the City of Rockville’s established criteria, as we find this fine Tudor Revival residence, with its surrounding setting and landscape, merits such recognition and protection. **We strongly assert this property meets the City of Rockville’s adopted criteria for Historic Designation based on meeting the standards of Architectural, Design, and Landscape Significance Criteria A & E as detailed in Appendix A of the City’s Historic Resources Management Plan.** The property exhibits strong integrity and identity as evidenced by its surviving physical characteristics. We also assert that designation of this property is consistent with the Comprehensive Plan and in conformance with the purpose of the historic district zone.

The City of Rockville Historic District Commission has found this application has merit and should go forward based upon architectural, design and landscape significance. Specifically citing its merits under Criteria A & E.

**Peerless Rockville asserts that designation of this property is supported by the Comprehensive Plan Historic Preservation Element vision and goal #2 “to preserve and recognize significant examples of architectural periods,” the planning principles of its location Planning Area 4, and the purposes of the Historic District Zone.**
406 Great Falls Road meets the following Architectural, Design, and Landscape Significance criteria.

Criteria for Evaluation

Architectural, Design, and Landscape Significance

A) Embodies distinctive characteristics of a type, period, or method of construction

406 Great Falls Road embodies a type of architecture, Tudor Revival, as well as type of structure, a kit house.

This property is listed in the City of Rockville’s Historic Building Catalogue as an illustration of Tudor Revival architecture, of which it is an excellent example with strong integrity.

406 Great Falls Road embodies the Tudor Revival architectural style, with intact design, massing, architectural features, building elements, and materials and orientation. This structure possesses many of the identified and defining elements of Tudor Style including its steeply pitched side -gabled roof, facade dominated by prominent, steeply pitched cross gable, tall narrow windows, brick clad with contrasting wooden cladding on the second story, the use of dormers, multi-pane windows and rounded arched doorways. Additionally, Tudor Revival homes often also feature prominent and highly decorated chimneys, with multiple flues, this too can be seen on our example with the multi-flued and corbelled chimney. The structure retains strong historic integrity, of both style and materials and its various small alterations are reversible.

Virginia & Lee McAlester’s Field Guide to American Houses, notes that Tudor style architecture was uncommon before World War I and exploded in popularity in the 1920s and 1930s. This period of building and development is reflective of individual taste and economics, of the time and preceded later Mid-Century homes in large-scale subdivisions platted, laid out, and constructed en masse by developers and independent builders.

This house is also an excellent example of a catalog “kit” home, notably a Sears Belmont design. Kit homes themselves represent a distinct period of development that is well-documented and protected through the United States.

E) Represents an established visual feature of the neighborhood or City because of its physical characteristics or landscape components.

406 Great Falls Rd represents an established visual feature of the neighborhood or City because of its physical characteristics or landscape components.
The subject property is a prominent and distinctive visual feature along Great Falls Road. The house is sited significantly above street level for an established and striking visual landscape. Great Falls Road was an early gateway into Rockville and the house has been occupied this site with its neighboring property 408 for nearly 80 years. The large expanse of open space surrounding these homes conveys a stately and serene atmosphere, in excess of the size of the structure. Homes along Great Falls Road convey a period of American and Rockville building when residential designs were specifically chosen by the landowners and reflect the stylistic taste and economic situation of their owners in a manner far less common at mid-century or today.

**Integrity**

Integrity is the ability of a property to convey its significance. As defined by Rockville, Integrity is the authenticity of a property’s historic identity, evidenced by the survival of physical characteristics that existed during the property’s historic or prehistoric period. According to the National Register of Historic Places, there are seven aspects of integrity, in which this property scores extremely high: Location, Design, Setting, Materials, Workmanship, Feeling, and Association.

It stands in its original location, is extremely identifiable as Tudor Style Architecture and a Sears Belmont kit home and maintains the dimensions and siting of the original building setting, with a striking visual landscape from all viewing angles. Most of the materials are original, or so little changed such that they could be restored to original or historically appropriate materials. Workmanship in this house is largely original and construction has been attributed to Brawner Harding, a local builder. The extremely recognizable architectural style together with few changes to the building or landscape make this property’s feeling consistent with its historic appearance.

In conclusion, the property at 406 Great Falls Road meets the adopted Rockville HDC Criteria per Architectural, Design, and Landscape Significance Criterion A, embodying distinctive characteristics of a type, period, or method of construction as a Tudor Revival Kit House and Criterion E, Representing an established visual feature of the neighborhood or City because of its physical characteristics and landscape components that have stood the test of time on Great Falls Road for 80 years.

**Conformation to the Comprehensive Plan**

The Planning Commission is charged with evaluating designation in relation to consistency with the Comprehensive Plan, the Historic Preservation Element and the Planning Area 4 plan where
the property is located. Designation of this property is consistent with those documents in the following ways:

Historic Designation of properties fulfills the mission of the Vision (p. 213) of the Historic Preservation Element to “enhance the character of Rockville and contribute to its quality of life and local economy by proactively identifying and safeguarding its physical and cultural heritage to preserve the themes and periods of the city’s history and development, no matter the era.”

Goal #2 (p. 219 of the Plan) charges Rockville to “Preserve and recognize significant examples of architectural periods, historic themes and the diversity of Rockville’s history and historic resources through local historic designation.”

The text discussion for Goal #2 (p. 221), includes a full endorsement of HDC evaluation of significance criteria, and the Plan specifically mentions the two criteria identified by the HDC as the basis for its recommendation for historic designation of 406 Great Falls.

Discussion of Goal 2 states that “Rockville values buildings, structures, sites, landscapes, viewsheds, and objects that:
• Embody distinctive characteristics of a type, period, or method of construction;
• “Represent an established visual feature of the neighborhood or city because of its physical characteristics or landscape components.”

The subject property was recommended for designation by the HDC due to its distinctive Tudor Style Architecture and its 80 year history as an established visual feature on its landscape. Designating this property as historic is consistent with the Comprehensive Plan, particularly given its robust integrity as already described.

Policy #6 (p.225) asks the City to “Enhance understanding of and appreciation for Rockville’s history and historic character.”

The discussion of this policy states that “The visible evidence of Rockville’s unique identity derives from its geographical setting, its development pattern and street layout, its wide range of building ages and architectural styles, and the people who have lived here.” (p. 225).

Designation of the subject property is consistent with this policy and it would preserve the development pattern of the settling of Great Falls Road, as the village of Rockville expanded beyond its original central core.

Policy #8 (p. 227) calls on Rockville to “Support the synergistic connection between historic preservation and environmental sustainability.”
The text for that policy states that “The retention of older buildings also preserves the materials, energy, and human capital already expended in their construction. Rockville’s Rockville’s 19th and early 20th century buildings, in particular, were designed to work with their environment through site orientation, landscaping, and building features …”

The designation of 406 Great Falls Road would be consistent with this Policy #8, retaining the older building and preserving its site orientation and the landscaping.

Planning Area 4
406 Great Falls Road is located in Planning Area 4, the plan for which repeatedly emphasizes historic preservation and the historic character of the neighborhood. A list of Planning Principles (p. 286) includes the entries:

• “Maintain the historic character and identity of historic districts;
• Celebrate and display the rich history of the planning area”

The document explicitly references the probability of additional historic designations, stating that the list of designated properties will grow as “more properties are designated over time. It is important to preserve the integrity and character of historic districts and properties within Planning Area 4 as they, to a large extent, define the character and appeal of Planning Area 4. (p.308)

Designation of 406 Great Falls Road conforms to the policies and goals of Planning Area 4.

Conformance with the Purpose of Historic District Zones

The purpose for the HD Zone is outlined below, from 25.14.01 - Historic District Zones

a. Purpose -The Historic District Zone is an overlay zone. The purpose of the zone is to:

1. Safeguard the heritage of the City by preserving sites, structures, or areas which reflect elements of cultural, social, economic, political, archaeological, or architectural history.

Designation secures long-term preservation of the historic character of this property.

2. Stabilize and improve the property values of those sites and structures, and the adjacent neighborhood.

Designation of the property would maintain the character of the existing home, require HDC review of proposed external changes, and ensure that the attractive and recognizable architectural style remains intact, benefitting the streetscape of the adjacent neighborhood.
3. Foster civic beauty

**Historic designation ensures that the historic character of this property will be retained, and the beauty of the historic architectural style will be maintained.**

4. Strengthen the local economy

**Designation protects the integrity of this home, which possesses historical significance for its architectural style and origins as a kit home. Heritage tourism around these qualities would be made possible by its designation.**

5. Promote the preservation and the appreciation of those sites and structures for the education and welfare of the residents of the City.

**Designation secures the preservation of this home, promoting educational opportunities about the history of its architecture and the development of homes on Great Falls Road as Rockville expanded beyond its 19th century core, for the benefit of the entire Rockville community as well as visually preserving this established visual feature on the community landscape.**

In conclusion, the property at 406 Great Falls Road meets the criteria for historic designation through *Architectural, Design, and Landscape Significance Criteria A) and E)* with high integrity. Further, designation of this property is supported by the Comprehensive Plan vision and goal #2 “to preserve and recognize significant examples of architectural periods,” the planning principles of its location Planning Area 4, and the purposes of the Historic District Zone.

Therefore, Peerless Rockville strongly urges the Planning Commission to recommend designation of a sectional map amendment to R-90(HD).

We thank you for taking the time to thoroughly evaluate this property.

Sincerely,

Nancy Pickard
Executive Director

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January 11, 2022

Suzan Pitman, Chair  
and Members of the Rockville Planning Commission  
111 Maryland Avenue  
Rockville, Maryland 20850

Re: 406 Great Falls Road; Sectional Map Amendment MAP2022-00123

Dear Chair Pitman and Members of the Rockville Planning Commission:

On behalf of our clients, Ingrid Chua and Joël Martinez, the owners of the property located at 406 Great Falls Road in Rockville (the “Property”), the purpose of this letter is to vehemently oppose Sectional Map Amendment MAP2022-00123 (“SMA”). As discussed more fully below, approval of the SMA and placement of the Property in a historic district would constitute an impermissible change of mind by the City, to the substantial detriment of the owners, and simply is not warranted by a preponderance of the evidence.

A. The SMA is a Legally Impermissible Change of Mind by the City.

In 2007, a previous owner caused the Property to be evaluated for historic significance as part of a demolition permit application. On May 10, 2007, Historic Preservation Planner Cindy Kebba issued a Staff Report recommending against designation of the Property as a single site historic district, finding that the Property lacked architectural integrity. Specifically, Ms. Kebba noted:

To be eligible for architectural significance, a property should retain the majority of features that illustrate its style. The house at 406 Great Falls Road has had alterations that have an impact on its architectural integrity. Almost half of its windows have been replaced, including the triple window units on the first and second stories of the front façade….The window replacements exhibit loss of historic fabric and alter the solid to void spatial relationship which is important to the medieval feel that this style should convey…. Window replacements on the first floor below the dormer and enclosure of the side porch with large windows create more out of scale openings and detract from the intended façade fenestration pattern. See May 10, 2007 Staff Report, p. 1
During her presentation to the City’s Historic District Commission (“HDC”) on May 17, 2007, Ms. Kebba further elaborated that “while changes such as removing all the windows on the front can be changed with new windows of greater compatibility, ‘integrity’ can’t be restored.” HDC Minutes from May 17, 2007 Meeting, p. 3. She further noted that “a single-site historic district has to stand alone, and as such, the alterations of character-defining features (windows, siding, porch enclosures) is especially significant.” Id. The HDC ultimately agreed with Ms. Kebba’s analysis and voted 3-1-1 to not recommend the Property for designation.

Ms. Chua and Mr. Martinez purchased the Property in January of 2021, free from any historic designation, and engaged Craig Moloney, a former HDC Commissioner, to assist with designing an appropriate redevelopment of the Property to accommodate their “forever home.” They were subsequently contacted by Peerless Rockville, who urged them to instead retain and restore the existing structure on the Property. When it became clear that Ms. Chua’s and Mr. Martinez’ intended use of their Property differed from the strict restoration and preservation desired by Peerless, Peerless initiated another review of the Property’s potential significance by filing a nomination form, over the owners’ objections, in June of 2021.

Current Preservation Planner, Sheila Bashiri, issued her Staff Report on the nomination on December 9, 2021. Ms. Bashiri acknowledged the 2007 conclusions of Preservation Planning Staff and the HDC that the architectural integrity of the structure was so compromised as to not warrant designation, but continued that “[c]urrent staff believes that these alterations may be reversible and therefore believes that there could be a basis for designation, though questions whether it is a strong enough basis to reverse the 2007 decision.” December 9, 2021 Staff Report, p. 12 (emphasis added). Two members of the HDC, neither of whom was on the HDC when the 2007 decision was made, agreed there was a basis for designation, resulting in the SMA. The third member of the HDC, and current chair, who had seconded the motion against designation in 2007, abstained from this vote.

Importantly, neither Staff nor the current HDC allege any change in facts or circumstances concerning the Property itself that would warrant reconsideration of the 2007 decision. Instead, it is abundantly clear that the sole basis for the difference of opinion between 2007 and now is the replacement of staff and HDC commissioners with new ones holding different opinions. The issuance of contrasting decisions by different agency representatives on the same set of facts is exactly what Maryland courts have

1 While some have intimated that the Property’s inclusion in the City’s 2011 Historic Buildings Catalog (“Catalog”) somehow constitutes a change of circumstances warranting reconsideration, such an argument attempts to end-run the City’s statutory processes, and ignores the owners’ due process rights. The creation and adoption of the Catalog seems to have been devoid of any meaningful public process where homeowners could contest inclusion. Moreover, the catalog itself specifically notes: “some buildings included in the catalog may not meet Rockville’s criteria for historic designation after further research [. . .]. [. . .] Inclusion in this publication, therefore, does not guarantee or require historic designation in the future.” p.2.
found to constitute an impermissible “change of mind.” For instance, in *Kay Const. Co. v. County Council for Montgomery County*, 227 Md. 479 (1962), the Montgomery County Council granted a rezoning application, and opponents sought reconsideration. On reconsideration, the Council, which then included a new Councilmember, voted to deny the rezoning application, claiming the original decision was based on “a plain and simple error in judgement.” *Id.* at 481–82. In finding an impermissible change of mind, the Court explained: “It is apparent that the Council’s ‘plain and simple error of judgment’ was in reality a mere change of mind, a shift of majority opinion occasioned by the substitution of a councilman of one conviction for a councilman of another conviction.” *Id.* at 489 (emphasis added). Likewise, in *Polinger v. Briefs*, 244 Md. 538 (1966), the Montgomery County Council denied a rezoning application in 1962. When a rezoning application for the same zone was again filed in 1964, the Council granted the application on the same facts as those present in 1962. In reversing the County’s decision, the Court of Appeals noted, “[f]urther indication of the arbitrary and capricious nature of the rezoning by the Council is the fact that in 1962 it found no evidence of change …which would justify rezoning for multi-family density but in 1964, without any change in circumstance, fact or applicable law, it found change sufficient to sustain a rezoning for fourfold residential density. This can amount to no more than the mere impermissible change of mind….” *Id.* at 541. The impermissible change of mind doctrine is based on fundamental principles of fairness dictating that the rights of owners and applicants should not be subjected to change simply because of changes of opinion brought on by the natural turnover of agency positions. However, that is exactly what is occurring here: the current owners are having to engage in this process, at great expense, to defend a previous HDC decision upon which fairness dictates they should be permitted to rely.

B. The SMA is Premised Upon an Erroneous HDC Decision.

Moreover, even aside from the improper change of mind occurring in this case, the weight of the evidence dictates that the Property not be found historic. The 2007 Staff Report was detailed in its analysis regarding the loss of integrity, this conclusion was supported by three HDC members, and this analysis was recently independently verified by R. Christopher Goodwin & Associates, Inc., a well-respected cultural resources firm with over 40 years of experience who was engaged by the owners to evaluate the Property. Current Staff does not directly challenge the importance of the significant alterations affecting the integrity of the structure, but instead takes a different approach, suggesting that designation may be appropriate because the nonconforming alterations compromising the integrity of the structure “may be reversible.” In making this argument, Staff essentially argues that designation is not necessarily appropriate based on what is, but rather on what could be. Such a position is completely detached from the governing law, which requires that structures be evaluated based on their current characteristics. This position also ignores the fact that there is no legal mechanism by which the City can require property owners to reverse exterior modifications in order to better emulate a desired historic character. In this regard, the current justifications for designation are
entirely insufficient, and are greatly outweighed by the thoughtful 2007 decisions based on the correct legal standards.

C. General Support for the Historic Preservation Program in the 2040 Comprehensive Plan Must Not be Construed as Specific Support for this Single Site Historic District.

While the January 5, 2022 Staff Report valiantly attempts to promote the designation of the Property by citing to general language encouraging preservation in the City’s 2040 Comprehensive Plan (“Plan”), the reality is that there is no language in the Plan specifically addressing the Property or the single site historic designation at issue, as is acknowledged by Staff. See January 5, 2022 Staff Report, p. 71 (acknowledging that Planning Area 4 of the Plan “does not call out 406 Great Falls Road.”) The Historic Preservation Element also does not reference the Property or even mention the Catalog. Therefore, to base a decision on the merits of this SMA on general language calling for the retention of the City’s historic preservation program and the preservation of worthy sites in general, and referencing the City’s recognition by the Maryland Historical Trust as a Certified Local Government, is wholly inappropriate. Such generalized notions may serve as a basis for the City’s continued operation of its historic preservation program, but do not directly support historic designation of the Property. In this regard, a decision not to designate the Property would also be aligned and consistent with the excerpts of the Historic Preservation Element referenced by Staff because of their general nature.

Additionally, the owners are greatly troubled by assertions in the January 5, 2022 Staff Report that the Property was part of the Great Falls Road Black Kinship Community, as identified in the Plan, and that “more in-depth research could reveal historical information that may support this [connection] to be a basis for designation.” January 5, 2022 Staff Report, p. 71. First, the Property is not actually within this identified community. The figure referenced by Staff clearly depicts the community existing south of Monument Street, and the Property is north of Monument Street. Second, the assertion that a connection could be found in the future to serve as a basis for designation today again ignores the legal framework for designation and demonstrates an utter disregard for the rights of the owners in favor of a designation based on yet-undiscovered information.

Finally, by its own admission, the January 5, 2022 Staff Report fails to make a finding that designation conforms to the second purpose of the Historic District Zone that seeks to “stabilize and improve the property values of those sites and structures, and the adjacent neighborhood.” See Section 25.14.01.02 of the Zoning Ordinance. On the contrary, the January 5, 2022 Staff Report admits that the zoning “could restrict the amount of expansion that the owner could achieve if the property were not designated” and “could deter more investment in the property to make significant improvements.” The owners’ architect Mr. Moloney already testified before the HDC that the existing structure is substandard in size by today’s standards, and the owners believe the
designation would significantly decrease the value of the Property by severely restricting its future development potential. Therefore, adoption of the SMA, when the application itself fails to conform to one of the requirements of the zone, would be arbitrary and capricious.

Based on the foregoing, we request that the Planning Commission recommend against adoption of the SMA. We will be available at the hearing on January 12th to address any questions you may have.

Sincerely,

Erin E. Girard

cc: Ingrid Chua
    Joel Martinez
    Casey Cirner, Esq.
    James Wasilak
    David Levy
**Subject**
FY 2023 Budget and ARPA Worksession

**Recommendation**
Staff recommends that the Mayor and Council review the FY 2023 Proposed Operating Budget and Capital Improvements Program, and ARPA funding options and provide final direction on the changes and any additional appropriations to be provided for special projects, programs, and initiatives.

**Discussion**
This is the Mayor and Council’s fourth budget worksession related to the FY 2023 Proposed Operating Budget and Capital Improvements Program document that was presented on February 28, 2022. Staff have also included a broad range of American Rescue Plan Act (ARPA) funding options for the Mayor and Council’s consideration. The Mayor and Council are being asked to provide final direction on the changes and any additional appropriations to be provided for special projects, programs, and initiatives.

Attachment A contains the operating budget and special funding sources charts that were developed as part of the last budget worksession, held on April 18, 2022. Attachment B contains the updated General Fund five-year forecast, which incorporates the known revenue and expenditure updates for the FY 2023 budget. Attachment C contains the responses to FY 2023 budget questions that staff received from members of the Mayor and Council during the April 18, 2022 budget worksession.

**Base Operating Budget and Recurring Resources**

The Mayor and Council evaluated options for additions to the FY 2023 General Fund operating budget during the budget worksession held on April 18, 2022. Staff identified $379,870 of available capacity. TABLE 1 includes the various positions, programs, and initiatives that had majority support from the Mayor and Council.
TABLE 1 – Mayor and Council Changes for FY 2023 Base Operating Budget

<table>
<thead>
<tr>
<th>Expense Item</th>
<th>Type</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>FY 2023 Addition to Reserves - Available for Use</td>
<td></td>
<td>$379,870</td>
</tr>
<tr>
<td>Senior Center Program Specialist (Grade 214)</td>
<td>Recurring</td>
<td>(46,730)</td>
</tr>
<tr>
<td>Expanded Language Stipend Program</td>
<td>Recurring</td>
<td>(52,500)</td>
</tr>
<tr>
<td>Change Grants Manager from 0.5 FTE to 1.0 FTE (Grade 218)</td>
<td>Recurring</td>
<td>(52,810)</td>
</tr>
<tr>
<td>Pilot Composting Program</td>
<td>Recurring</td>
<td>(23,500)</td>
</tr>
<tr>
<td>Dog Exercise Area</td>
<td>One-Time</td>
<td>(80,000)</td>
</tr>
<tr>
<td>One-time Caregiver Grant Funding Increase</td>
<td>One-Time</td>
<td>(60,000)</td>
</tr>
<tr>
<td><strong>REMAINING SURPLUS</strong></td>
<td></td>
<td>$64,330</td>
</tr>
</tbody>
</table>

1The position cost of $88,730 is offset by revenues of up to $42,000.

The Mayor and Council may program the remaining surplus of $64,330 as part of the budget worksession or allow the balance to reflect an addition to reserves. Direction received will be incorporated for the final adopted budget and budget ordinance.

**Budgeted Use of Special Funding Sources**

During the April 18, 2022 budget worksession, the Mayor and Council reviewed opportunities to provide appropriations to meet one-time capital and one-time operating needs using special funding sources. These special funding sources include ARPA Funds, FY 2022 Supplemental Tax Duplication Funds, and General Fund Reserves above the 20 percent target. TABLE 2 includes the various projects, programs, and initiatives that had majority support from the Mayor and Council and are broken out by funding source.

TABLE 2 – Mayor and Council Use of Special Funding Sources

<table>
<thead>
<tr>
<th>Available Balances</th>
<th>Type</th>
<th>ARPA</th>
<th>FY22 Tax Dup.</th>
<th>Reserves</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sidewalks (TE21)</td>
<td>CIP</td>
<td>$4,000,000</td>
<td>$2,400,000</td>
<td>$2,500,000</td>
</tr>
<tr>
<td>Pedestrian and Bicycle Safety (TD21)</td>
<td>CIP</td>
<td>(600,000)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Hurley Avenue Bridge Replacement (TE16)</td>
<td>CIP</td>
<td>(200,000)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>6 Taft Court Updated Renovation Projections (GD19)</td>
<td>CIP</td>
<td>(870,000)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Civic Center Park ADA Sidewalk Design (RA23)</td>
<td>CIP</td>
<td>(900,000)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Twinbrook Ped./ Bicycle Bridge 100% Design (TC22)</td>
<td>CIP</td>
<td>(100,000)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1% Retiree Cost of Living Increase (General Fund only)</td>
<td>One-Time</td>
<td>(573,620)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Fall Protection for the Swim and Fitness Center</td>
<td>One-Time</td>
<td>(30,500)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Energy Efficient Lighting for City Hall</td>
<td>One-Time</td>
<td>(44,500)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Replacement of Police Tasers</td>
<td>One-Time</td>
<td>(106,700)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Replacement of Wooden Fire Escape at the Mansion</td>
<td>One-Time</td>
<td>(155,500)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Continuity of Operations and Emergency Planning</td>
<td>One-Time</td>
<td>(90,000)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Human Services Needs Assessment</td>
<td>One-Time</td>
<td>(180,000)</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>REMAINING BALANCES</strong></td>
<td></td>
<td>$2,689,800</td>
<td>$1,926,380</td>
<td></td>
</tr>
</tbody>
</table>
Appropriations to capital projects using special funding sources will be incorporated into the May 2022 budget amendment. Appropriations for one-time operating needs using special funding sources will be incorporated into the first budget amendment of FY 2023. Funding of $2,689,800 remains available from ARPA funds. Additional options for the use of these funds are presented at TABLE 3.

TABLE 3 – Additional ARPA Options for Mayor and Council Consideration

<table>
<thead>
<tr>
<th>Expense Item</th>
<th>Type</th>
<th>ARPA</th>
</tr>
</thead>
<tbody>
<tr>
<td>King Farm Farmstead Horse Barn (RA18)</td>
<td>CIP</td>
<td>$3,732,000</td>
</tr>
<tr>
<td>King Farm Farmstead Garage, Tenant Buildings (RC23)</td>
<td>CIP</td>
<td>$1,402,000</td>
</tr>
<tr>
<td>Stonestreet Corridor Improvements (TA20) 1</td>
<td>CIP</td>
<td>550,000</td>
</tr>
<tr>
<td>Rental Assistance Program</td>
<td>One-Time</td>
<td>1,504,000</td>
</tr>
<tr>
<td>Affordable Housing Production</td>
<td>One-Time</td>
<td>1,500,000</td>
</tr>
<tr>
<td>Bank On Rockville 1,2</td>
<td>One-Time</td>
<td>292,500</td>
</tr>
<tr>
<td>RHE Water Submeters 1,2</td>
<td>One-Time</td>
<td>58,250</td>
</tr>
<tr>
<td>ADA Improvements</td>
<td>One-Time</td>
<td>600,000</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td></td>
<td><strong>$9,638,750</strong></td>
</tr>
</tbody>
</table>

1The City Manager recommends funding these initiatives with ARPA.
2This is a two-year pilot project.

There are three initiatives in TABLE 3 that are recommended by the City Manager.

**Stonestreet Corridor Improvements**
This project constructs street and sidewalk improvements along Park Rd. and N. Stonestreet Ave. near the Rockville Metro Station to provide safer multimodal transportation. This is a phased project: Phase I - Park Rd. improvement and traffic signal reconstruction at the intersection of S. Stonestreet Ave. and Park Rd.; Phase II - N. Stonestreet Ave. road improvement between Park Rd. and Lincoln Ave. This would provide funding for $550,000 of the $1,500,000 estimated total construction costs for Phase I of the Stonestreet Corridor Improvements CIP project, currently unfunded. Staff will pursue federal funding for the balance of the Phase I construction cost. (This project is on page 312 of the FY 2023 proposed budget).

**Bank On Rockville**
This funding provides banking opportunities for the unbanked as described in previous presentations to the Mayor and Council. The recommended funding would support a two-year pilot program. Funding beyond FY 2024 would be dependent upon the success of the program.

**RHE Water Submeters**
This request provides funding to RHE for the installation of submeters at the David Scull housing site and complements the $47,275 provided through the City’s CDBG Year 48 grant.
Changes to the Police Pay Scale

During the last budget worksession, the Mayor and Council discussed an option to add three steps to the police pay scale. The addition of the three steps would be cost-neutral in FY 2023 where lump-sum payments are already budgeted. In FY 2024 and FY 2025, the additional personnel costs associated with the new steps would result in increases of approximately $50,000 and $120,000, respectively. These estimates do not include the impact of additional required pension contributions, which are subject to a full actuarial valuation. The City expects to undergo a new compensation and classification study in FY 2024 which could be implemented in FY 2026.

The City Manager recommends the addition of these three new steps because doing so is important for police officer retention, and because it would be equitable for our officers given that those many other City employees who are included in the latest Compensation & Classification Study (as proposed for the FY 2023 Budget) have already had the upper end of their pay tables reviewed and modified within that study. Accommodating a Step 17 for officers for the FY23 Budget would not require a higher budgetary allocation for FY23.

The City Manager respectfully requests that the Mayor and Council provide direction on the expansion of the police pay scale, which is provided below at TABLE 4.

TABLE 4 – Expanded FY 2023 Police Scale Option

<table>
<thead>
<tr>
<th>Step/Grade</th>
<th>PL110</th>
<th>PL111</th>
<th>PL112</th>
<th>PL114</th>
<th>PL116</th>
<th>PL119</th>
</tr>
</thead>
<tbody>
<tr>
<td>Step 1</td>
<td>$62,311</td>
<td>$66,049</td>
<td>$70,012</td>
<td>$77,923</td>
<td>$85,909</td>
<td>$99,451</td>
</tr>
<tr>
<td>Step 2</td>
<td>$64,158</td>
<td>$68,008</td>
<td>$72,088</td>
<td>$80,403</td>
<td>$88,643</td>
<td>$102,616</td>
</tr>
<tr>
<td>Step 3</td>
<td>$66,060</td>
<td>$70,024</td>
<td>$74,226</td>
<td>$82,963</td>
<td>$91,465</td>
<td>$105,882</td>
</tr>
<tr>
<td>Step 4</td>
<td>$68,019</td>
<td>$72,100</td>
<td>$76,427</td>
<td>$85,604</td>
<td>$94,376</td>
<td>$109,252</td>
</tr>
<tr>
<td>Step 5</td>
<td>$70,036</td>
<td>$74,238</td>
<td>$78,693</td>
<td>$88,328</td>
<td>$97,379</td>
<td>$112,730</td>
</tr>
<tr>
<td>Step 6</td>
<td>$72,112</td>
<td>$76,439</td>
<td>$81,027</td>
<td>$91,140</td>
<td>$100,479</td>
<td>$116,318</td>
</tr>
<tr>
<td>Step 7</td>
<td>$74,251</td>
<td>$78,705</td>
<td>$83,429</td>
<td>$94,039</td>
<td>$103,677</td>
<td>$120,020</td>
</tr>
<tr>
<td>Step 8</td>
<td>$76,452</td>
<td>$81,039</td>
<td>$85,902</td>
<td>$97,032</td>
<td>$106,977</td>
<td>$123,840</td>
</tr>
<tr>
<td>Step 9</td>
<td>$78,720</td>
<td>$83,441</td>
<td>$88,451</td>
<td>$100,120</td>
<td>$110,382</td>
<td>$127,781</td>
</tr>
<tr>
<td>Step 10</td>
<td>$81,054</td>
<td>$85,915</td>
<td>$91,072</td>
<td>$103,307</td>
<td>$113,895</td>
<td>$131,849</td>
</tr>
<tr>
<td>Step 11</td>
<td>$83,458</td>
<td>$88,462</td>
<td>$93,773</td>
<td>$106,596</td>
<td>$117,521</td>
<td>$136,047</td>
</tr>
<tr>
<td>Step 12</td>
<td>$85,933</td>
<td>$91,086</td>
<td>$96,553</td>
<td>$109,989</td>
<td>$121,262</td>
<td>$140,377</td>
</tr>
<tr>
<td>Step 13</td>
<td>$88,480</td>
<td>$93,786</td>
<td>$99,416</td>
<td>$113,488</td>
<td>$125,120</td>
<td>$144,844</td>
</tr>
<tr>
<td>Step 14</td>
<td>$91,103</td>
<td>$96,566</td>
<td>$102,364</td>
<td>$117,101</td>
<td>$129,105</td>
<td>$149,454</td>
</tr>
<tr>
<td>Step 15</td>
<td>$93,804</td>
<td>$99,429</td>
<td>$105,399</td>
<td>$120,828</td>
<td>$133,210</td>
<td>$154,210</td>
</tr>
<tr>
<td>Step 16</td>
<td>$96,582</td>
<td>$102,376</td>
<td>$108,519</td>
<td>$124,676</td>
<td>$137,455</td>
<td>$159,122</td>
</tr>
<tr>
<td>Step 17</td>
<td>$99,445</td>
<td>$105,412</td>
<td>$111,735</td>
<td>$128,645</td>
<td>$141,830</td>
<td>$164,187</td>
</tr>
<tr>
<td>Step 18</td>
<td>$102,393</td>
<td>$108,537</td>
<td>$115,047</td>
<td>$132,740</td>
<td>$146,345</td>
<td>$169,413</td>
</tr>
<tr>
<td>Step 19</td>
<td>$105,429</td>
<td>$111,755</td>
<td>$118,456</td>
<td>$136,966</td>
<td>$151,003</td>
<td>$174,806</td>
</tr>
</tbody>
</table>

Option for three additional steps
**Budget Availability**

The FY 2023 Proposed Operating Budget and Capital Improvements Program is available online at [www.rockvillemd.gov/budget](http://www.rockvillemd.gov/budget). Also, on the website is a link to the Excel version of the budget, which details the budget in a line-item format.

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**Mayor and Council History**

<table>
<thead>
<tr>
<th>Date</th>
<th>Action Item</th>
</tr>
</thead>
<tbody>
<tr>
<td>October 25, 2021</td>
<td>FY 2023 Budget Public Hearing #1</td>
</tr>
<tr>
<td>October 25, 2021</td>
<td>FY 2023 Budget Calendar and Surveys</td>
</tr>
<tr>
<td>December 13, 2021</td>
<td>FY 2023 Budget Priorities and Survey Results</td>
</tr>
<tr>
<td>February 28, 2022</td>
<td>Presentation of FY 2023 Proposed Operating Budget and CIP;</td>
</tr>
<tr>
<td></td>
<td>Introduction of all related FY 2023 Ordinances and Resolutions</td>
</tr>
<tr>
<td>March 7, 2022</td>
<td>FY 2023 Budget Public Hearing #2</td>
</tr>
<tr>
<td>March 21, 2022</td>
<td>FY 2023 Budget Public Hearing #3</td>
</tr>
<tr>
<td>March 21, 2022</td>
<td>FY 2023 Budget Worksession</td>
</tr>
<tr>
<td>April 4, 2022</td>
<td>FY 2023 Budget Public Hearing #4</td>
</tr>
<tr>
<td>April 15, 2022</td>
<td>Close of FY 2023 Budget Public Record</td>
</tr>
<tr>
<td>April 18, 2022</td>
<td>FY 2023 Budget Worksession</td>
</tr>
</tbody>
</table>

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**Public Notification and Engagement**

The City held four budget public hearings between October 2021 and April 2022. The final budget public hearing related to the FY 2023 budget was held on April 4, 2022. In addition to the public hearings, the public was able to submit written comments directly to the Mayor and Council via the City Clerk/Director of Council Operations up through April 15, 2022 when the budget public record closed.

In addition, the Rockville community participated in the online community priorities survey for the FY 2023 budget. This survey was available in both English and Spanish and closed on April 15, 2022 with 405 responses.

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**Boards and Commissions Review**

The Financial Advisory Board met on March 9 and April 6, 2022, to discuss the FY 2023 proposed Operating Budget and Capital Improvement Program (the budget). Board members have reviewed the budget and watched broadcasts of Mayor and Council budget work sessions. As in prior years the budget is both clearly written and well organized. The Department of Finance has done another outstanding job in producing the budget for the upcoming fiscal year. Board questions, requests for clarification, and suggestions have been documented (and are
available upon request by email to XZhang@rockillemd.gov. City staff responded satisfactorily to the questions submitted by Board members. The questions and comments thus far resulted in only minor changes in wording or presentation. The Board will continue to work with the staff with respect to any outstanding questions not yet addressed.

Considering the uncertainty regarding the economy, the Russian invasion of Ukraine, the opening of City Hall, and the rise in the inflation rate and interest rates, the Board recommends that the city continue to take a conservative approach in managing the finances of the city. The Board is prepared to assist the Mayor and Council in reviewing any amendments to the budget and CIP that may be necessary.

Fiscal Impact
The FY 2023 Operating Budget and CIP will establish the annual City budget and the programs that the City will fund starting on July 1, 2022.

The FY 2023 proposed operating budget appropriation by category and fund can be found on page 59. The FY 2022 proposed CIP budget appropriation by fund, program area, and department can be found on page 270. Staff will incorporate the direction of the Mayor and Council into the final FY 2023 budget ordinance.

Next Steps

<table>
<thead>
<tr>
<th>Date</th>
<th>Action Item</th>
</tr>
</thead>
<tbody>
<tr>
<td>May 9, 2022</td>
<td>Adoption of FY 2023 Operating Budget and CIP Ordinance; Adoption of other related FY 2023 Ordinances and Resolutions</td>
</tr>
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</table>

Attachments
Attachment 11.a: AttachA_April18BudgetWorksessionData_Apr25 (PDF)
Attachment 11.b: AttachB_UpdatedFiveYearForecast_Apr25 (PDF)
Attachment 11.c: AttachC_M&CQ&A_Apr25 (PDF)
<table>
<thead>
<tr>
<th>Expense Item</th>
<th>Type</th>
<th>City Manager Recommendations</th>
<th>Recommended Funding</th>
<th>Funded</th>
</tr>
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<tr>
<td><strong>FY 2023 Addition to Reserves - Available for Use</strong></td>
<td></td>
<td></td>
<td>$ 379,870</td>
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</tr>
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</tr>
<tr>
<td>Expanded Language Stipend Program</td>
<td>Recurring</td>
<td></td>
<td>(52,500)</td>
<td>(52,500)</td>
</tr>
<tr>
<td>Senior Buyer (Grade 215)</td>
<td>Recurring</td>
<td></td>
<td>(92,630)</td>
<td></td>
</tr>
<tr>
<td>Change Grants Manager from 0.5 to 1.0 (Grade 218)</td>
<td>Recurring</td>
<td></td>
<td>(52,810)</td>
<td>(52,810)</td>
</tr>
<tr>
<td>Pilot Composting Program</td>
<td>Recurring</td>
<td></td>
<td>(23,500)</td>
<td>(23,500)</td>
</tr>
<tr>
<td>Fall Protection Solutions for the Swim and Fitness Center¹,²</td>
<td>One-Time</td>
<td>ARPA</td>
<td>(75,000)</td>
<td></td>
</tr>
<tr>
<td>Energy Efficient Lighting for City Hall¹</td>
<td>One-Time</td>
<td>ARPA</td>
<td>(106,700)</td>
<td></td>
</tr>
<tr>
<td>Dog Exercise Area</td>
<td>One-Time</td>
<td></td>
<td>(80,000)</td>
<td>(80,000)</td>
</tr>
<tr>
<td>Replacement of Police Tasers²</td>
<td>One-Time</td>
<td></td>
<td>(155,500)</td>
<td></td>
</tr>
<tr>
<td>Replacement of Wooden Fire Escape at the Mansion¹</td>
<td>One-Time</td>
<td></td>
<td>(90,000)</td>
<td></td>
</tr>
<tr>
<td>Continuity of Operations and Emergency Planning²</td>
<td>One-Time</td>
<td>FY 22 Tax Dupl.</td>
<td>(180,000)</td>
<td></td>
</tr>
<tr>
<td>Restore One-time Caregiver Grant Funding</td>
<td>One-Time</td>
<td></td>
<td>(47,520)</td>
<td>(60,000)</td>
</tr>
<tr>
<td>Caregiver Grants at 1% of General Fund Budget</td>
<td>One-Time</td>
<td></td>
<td>(150,570)</td>
<td></td>
</tr>
<tr>
<td>Human Services Needs Assessment¹</td>
<td>One-Time</td>
<td>ARPA</td>
<td>(83,000)</td>
<td></td>
</tr>
<tr>
<td>[Additional item]</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>[Additional item]</td>
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</tr>
<tr>
<td>[Additional item]</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>TOTAL</td>
<td></td>
<td></td>
<td>$ 64,330</td>
<td>SURPLUS</td>
</tr>
</tbody>
</table>

¹This item will be fully or partially funded with ARPA. See page 2.
²This item will be fully or partially funded with FY22 Supplemental Tax Duplication. See page 2.
<table>
<thead>
<tr>
<th>Capital Projects</th>
<th>Recommended Funding</th>
<th>ARPA</th>
<th>FY 2022 Tax Dupl.</th>
<th>Excess Reserves</th>
<th>Available Balances</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sidewalks (TE21)</td>
<td>(600,000)</td>
<td>$4,000,000</td>
<td>(600,000)</td>
<td>$2,400,000</td>
<td>$2,500,000</td>
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<tr>
<td>Pedestrian and Bicycle Safety (TD21)</td>
<td>(200,000)</td>
<td></td>
<td>(200,000)</td>
<td></td>
<td></td>
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<tr>
<td>Hurley Avenue Bridge Replacement (TE16)</td>
<td>(870,000)</td>
<td></td>
<td></td>
<td>(870,000)</td>
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</tr>
<tr>
<td>6 Taft Court Updated Renovation Projections (GD19)</td>
<td>(900,000)</td>
<td></td>
<td>(900,000)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Civic Center Park ADA Sidewalk (RA23)</td>
<td>(100,000)</td>
<td></td>
<td>(100,000)</td>
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</tr>
<tr>
<td>Twinbrook Pedestrian/ Bicycle Bridge (TC22)</td>
<td>(350,000)</td>
<td></td>
<td></td>
<td>(350,000)</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>One-Time Operating Expenses</th>
<th>Recommended Funding</th>
<th>ARPA</th>
<th>FY 2022 Tax Dupl.</th>
<th>Excess Reserves</th>
<th>Available Balances</th>
</tr>
</thead>
<tbody>
<tr>
<td>1% Retiree Cost of Living Increase (General Fund only)</td>
<td>(573,620)</td>
<td></td>
<td></td>
<td>(573,620)</td>
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</tr>
<tr>
<td>Fall Protection Solutions for the Swim Center</td>
<td>(75,000)</td>
<td></td>
<td>(30,500)</td>
<td>(44,500)</td>
<td></td>
</tr>
<tr>
<td>Energy Efficient Lighting for City Hall</td>
<td>(106,700)</td>
<td></td>
<td>(106,700)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dog Exercise Area</td>
<td>(80,000)</td>
<td></td>
<td></td>
<td>(80,000)</td>
<td></td>
</tr>
<tr>
<td>Replacement of Police Tasers</td>
<td>(155,500)</td>
<td></td>
<td>(155,500)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Replacement of Wooden Fire Escape at the Mansion</td>
<td>(90,000)</td>
<td></td>
<td>(90,000)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Continuity of Operations and Emergency Planning</td>
<td>(180,000)</td>
<td></td>
<td>(180,000)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Restore One-time Caregiver Grant Funding</td>
<td>(47,520)</td>
<td></td>
<td></td>
<td>(47,520)</td>
<td></td>
</tr>
<tr>
<td>Caregiver Grants at 1% of General Fund Budget</td>
<td>(150,570)</td>
<td></td>
<td></td>
<td>(150,570)</td>
<td></td>
</tr>
<tr>
<td>Human Services Needs Assessment</td>
<td>(83,000)</td>
<td></td>
<td>(83,000)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>[Additional item]</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>[Additional item]</td>
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<tr>
<td>[Additional item]</td>
<td></td>
<td></td>
<td></td>
<td></td>
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</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>ARPA</th>
<th>FY 2022 Tax Dupl.</th>
<th>Excess Reserves</th>
<th>Ending Balances</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>$2,689,800</td>
<td>$</td>
<td>$1,926,380</td>
</tr>
</tbody>
</table>
### Financial Summary: General Fund

<table>
<thead>
<tr>
<th>Revenue</th>
<th>FY 2019 Actual</th>
<th>FY 2020 Actual</th>
<th>FY 2021 Actual</th>
<th>FY 2022 Adopted</th>
<th>FY 2023 Updated</th>
<th>FY 2024 Forecast</th>
<th>FY 2025 Forecast</th>
<th>FY 2026 Forecast</th>
<th>FY 2027 Forecast</th>
</tr>
</thead>
<tbody>
<tr>
<td>Property Taxes</td>
<td>42,167,988</td>
<td>42,551,677</td>
<td>44,327,269</td>
<td>44,890,000</td>
<td>45,950,000</td>
<td>47,097,761</td>
<td>48,188,826</td>
<td>49,301,712</td>
<td>50,436,857</td>
</tr>
<tr>
<td>Other Gov’t.</td>
<td>22,774,302</td>
<td>23,200,905</td>
<td>24,560,191</td>
<td>23,325,610</td>
<td>28,550,720</td>
<td>29,803,405</td>
<td>31,064,661</td>
<td>31,675,343</td>
<td>32,298,238</td>
</tr>
<tr>
<td>Fines/Forfeitures</td>
<td>1,577,872</td>
<td>1,509,837</td>
<td>948,252</td>
<td>1,353,000</td>
<td>1,353,000</td>
<td>1,353,000</td>
<td>1,353,000</td>
<td>1,353,000</td>
<td>1,353,000</td>
</tr>
<tr>
<td>Use Money/Prop.</td>
<td>6,279,137</td>
<td>5,203,586</td>
<td>4,379,788</td>
<td>5,129,480</td>
<td>5,388,960</td>
<td>5,933,562</td>
<td>6,222,161</td>
<td>6,336,532</td>
<td>6,453,191</td>
</tr>
<tr>
<td>Total Revenue</td>
<td>86,055,584</td>
<td>83,896,309</td>
<td>81,597,043</td>
<td>86,480,000</td>
<td>93,319,500</td>
<td>96,467,853</td>
<td>99,316,825</td>
<td>101,367,644</td>
<td>103,460,132</td>
</tr>
</tbody>
</table>

| Transfers In             | -              | -              | -              | -               | -               | -               | -               | -               | -               |
| Total Resources          | 86,055,584     | 83,896,309     | 81,597,043     | 86,480,000      | 93,319,500      | 96,467,853      | 99,316,825      | 101,367,644     | 103,460,132     |

| Use of Reserves**        | -              | 747,906        | -              | -               | 643,954         | -               | 296,472         | 1,330,782       |
| Total ($)                | 86,055,584     | 84,644,215     | 81,597,043     | 86,480,000      | 93,319,500      | 97,111,807      | 101,664,116     | 104,790,914     |

* Includes hotel tax, miscellaneous revenues, and administrative charges from other funds.

** Although the forecast shows "Use of Reserves" to balance the budget in future years, it is the city's policy is to balance with current resources.

The forecast is not intended to be used as a proposed budget for future years because of the certainty of future adjustments.

The forecast is intended to inform staff and the elected body of the long-term impact that may result from short-term resource allocation decisions.

### Expenditures

<table>
<thead>
<tr>
<th>Expenditures</th>
<th>FY 2019 Actual</th>
<th>FY 2020 Actual</th>
<th>FY 2021 Actual</th>
<th>FY 2022 Adopted</th>
<th>FY 2023 Proposed</th>
<th>FY 2024 Forecast</th>
<th>FY 2025 Forecast</th>
<th>FY 2026 Forecast</th>
<th>FY 2027 Forecast</th>
</tr>
</thead>
<tbody>
<tr>
<td>Operating</td>
<td>13,954,003</td>
<td>13,092,371</td>
<td>12,515,227</td>
<td>15,465,650</td>
<td>17,343,410</td>
<td>17,662,490</td>
<td>17,882,465</td>
<td>18,129,210</td>
<td>18,377,891</td>
</tr>
<tr>
<td>Capital Outlay</td>
<td>2,488,291</td>
<td>2,096,886</td>
<td>1,797,328</td>
<td>1,578,050</td>
<td>2,503,590</td>
<td>2,309,635</td>
<td>1,474,505</td>
<td>1,390,530</td>
<td>1,695,858</td>
</tr>
<tr>
<td>Administrative</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Total Oper. Exp.</td>
<td>68,374,235</td>
<td>68,642,235</td>
<td>65,931,858</td>
<td>73,215,390</td>
<td>80,531,520</td>
<td>83,055,673</td>
<td>84,816,715</td>
<td>87,346,629</td>
<td>90,370,117</td>
</tr>
<tr>
<td>Principal</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Interest</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>CIP Transfer</td>
<td>8,448,000</td>
<td>9,800,000</td>
<td>7,507,000</td>
<td>7,000,000</td>
<td>7,000,000</td>
<td>8,550,000</td>
<td>8,650,000</td>
<td>9,250,000</td>
<td>9,350,000</td>
</tr>
<tr>
<td>Transfers Out</td>
<td>6,429,190</td>
<td>6,201,980</td>
<td>6,962,170</td>
<td>6,194,610</td>
<td>5,720,030</td>
<td>5,506,135</td>
<td>5,562,013</td>
<td>5,067,487</td>
<td>5,070,798</td>
</tr>
<tr>
<td>Total Use</td>
<td>83,251,425</td>
<td>84,644,215</td>
<td>80,401,028</td>
<td>86,410,000</td>
<td>93,251,550</td>
<td>97,111,807</td>
<td>99,028,728</td>
<td>101,664,116</td>
<td>104,790,914</td>
</tr>
<tr>
<td>Add. to Reserves</td>
<td>2,804,159</td>
<td>-</td>
<td>1,196,015</td>
<td>70,000</td>
<td>67,950</td>
<td>-</td>
<td>288,097</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Total ($)</td>
<td>86,055,584</td>
<td>84,644,215</td>
<td>81,597,043</td>
<td>86,480,000</td>
<td>93,319,500</td>
<td>97,111,807</td>
<td>99,316,825</td>
<td>101,664,116</td>
<td>104,790,914</td>
</tr>
</tbody>
</table>

*** Includes caregiver and outside agency grants and the city’s annual contribution to Rockville Economic Development, Inc. (REDI).

Goal: Maintain an unassigned fund balance of at least 20 percent of annual adopted revenue.

---

**Notes on Updated Forecast:** The revenue and expenditure assumptions for the five-year forecast can be found on pages 68-71 and 74-77 of the FY 2023 Proposed Budget and CIP. The updated forecast incorporates budget changes made to date, including the items in TABLE 1 of this budget worksession report. One change to the forecast assumptions was made for admission and amusement tax, which now projects an increase to $1 million in FY 2023 and a 2 percent annual increase thereafter.
FY 2023 Proposed Operating Budget and Capital Improvements Program
Follow-Up Information – Q&A

Budget Works session (4/18/22)

Councilmember Ashton:

1. How do the Caregiver Agency budget requests compare to the proposed funding?
   Please see attached table.

2. How would the Expanded Language Stipend Program be leveraged to support community outreach and engagement?
   As a diverse and inclusive city, we recognize that fluency in a second language is of great benefit in serving the needs of our community. An expanded, citywide language stipend program would allow for increased engagement with the diverse populations in Rockville, which is in line with the Mayor & Council’s priorities for equity, social justice, and inclusion.
   
   In addition, this added benefit addresses an issue of equity among Rockville employees, where non-police employees may be requested to provide translation assistance to the public, but currently aren’t eligible for a language stipend.

3. What is the current level of unspent personnel funds?
   Unspent personnel costs as of December 31, 2021 were $671,813. Of this amount, $401,847 has been used for premium pay and $55,100 has been used for snow and ice expenditures. Unspent personnel costs as of March 31, 2022 will be shared in the Third Quarter FY 2022 Financial Report. This will be attached to the FY 2022 Budget Amendment agenda item in May.

4. Can you explain how the future tax duplication funds have been programmed?
   Tax duplication is a General Fund revenue source that supports general city services. For FY 2024 and FY 2025, tax duplication is set to increase by $824k per year according to what was adopted by Montgomery County (inflationary increases are assumed after FY25). For context, this increase will help to support the overall General Fund expenditure budget, which is projected to increase by approximately $2 to $4 million each year over the forecast. The expenditure budget increases in most areas—mainly personnel, operating, and the CIP transfer—and relies on the increases in major revenue sources to support growth over time. We do not assign specific revenues to specific expenditures in the General Fund.
   
   More details can be found on page 64 of the proposed budget. Please note the planned increases in the CIP transfer over the five-year period (from $7 million in FY23 to $9.4 million in FY27). The increases in the CIP transfer are needed to support the capital budget that is currently proposed. A majority of the capital budget focuses on major maintenance/repair items that support Vision Zero Initiatives.
Mayor Newton:

5. Are there any other organizations with which the city has a similar arrangement as with the Sister Cities budget item?
The three resident companies (Rockville Little Theatre, Rockville Musical Theatre, and The Victorian Lyric Opera Company) receive an allocation for their use of city facilities and services. This is an administrative budgeting technique to represent the “cost” of Rockville donating venues/services for outside organizations. There is no budget impact and this does not result in any additional expense being incurred by the outside organization. In the past, the city has donated facility space for other events and organizations, though there are no recurring events happening at this time.

6. What is the cost of the additional 10% retirement contributions and car allowances for Directors?
Supplemental Thrift Plan Contribution = $247,630
Car Allowance = $61,920
Total = $309,550

All Councilmembers:

7. Please provide more info on the Police Step Increases.
The projected cost for the additional Police Steps is $50k in FY24 and $120k in FY25. These estimates do not include costs associated with increased pension contributions, as these are subject to an actuarial valuation. A new Compensation & Classification study is planned for FY24 and would be implemented by FY26. The addition of these steps provides current officers with base salary growth up through FY25, with the expectation that the outcomes of the new study would take effect thereafter.

For added context, the officers that are currently at the top of the scale have tenures ranging from 18 to 43 years with an average tenure of 24 years. Police officers are eligible for retirement after 25 years of service.
### FY 2023 Caregiver Agency Grants

<table>
<thead>
<tr>
<th>Organization</th>
<th>Adopted FY 2021</th>
<th>Adopted FY 2022</th>
<th>Request FY 2023</th>
<th>Proposed FY 2023</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Shelters</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Home Builders Care Assess. Center</td>
<td>Mont. County Coalition for the Homeless</td>
<td>59,000</td>
<td>62,000</td>
<td>70,000</td>
</tr>
<tr>
<td>Hope Housing</td>
<td>Mont. County Coalition for the Homeless</td>
<td>37,660</td>
<td>37,660</td>
<td>52,000</td>
</tr>
<tr>
<td>Jefferson House</td>
<td>Community Ministries of Rockville</td>
<td>18,500</td>
<td>18,500</td>
<td>18,500</td>
</tr>
<tr>
<td>Rainbow Place</td>
<td>Rainbow Place Shelter for Homeless Women, Inc.</td>
<td>25,500</td>
<td>25,500</td>
<td>25,000</td>
</tr>
<tr>
<td>Rockland House</td>
<td>Community Ministries of Rockville</td>
<td>16,920</td>
<td>16,920</td>
<td>16,920</td>
</tr>
<tr>
<td>Stepping Stones Shelter</td>
<td>Stepping Stones Shelter</td>
<td>15,000</td>
<td>15,000</td>
<td>15,000</td>
</tr>
<tr>
<td>Women’s Assessment Center</td>
<td>Interfaith Works</td>
<td>40,000</td>
<td>40,000</td>
<td>60,000</td>
</tr>
<tr>
<td><strong>Food/Clothing Services</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Emergency Hunger Relief Program</td>
<td>So What Else, Inc.</td>
<td>-</td>
<td>27,300</td>
<td>40,000</td>
</tr>
<tr>
<td>Interfaith Clothing Center</td>
<td>Interfaith Works</td>
<td>35,000</td>
<td>47,000</td>
<td>50,000</td>
</tr>
<tr>
<td>Manna Food Center</td>
<td>Manna Food Center</td>
<td>44,000</td>
<td>50,000</td>
<td>52,000</td>
</tr>
<tr>
<td>Multi-Cultural Mobile Food Assistance</td>
<td>Nourish Now</td>
<td>25,000</td>
<td>31,000</td>
<td>50,000</td>
</tr>
<tr>
<td>A Wider Circle’s Essential Support Program</td>
<td>A Wider Circle (New Applicant)</td>
<td>-</td>
<td>-</td>
<td>30,000</td>
</tr>
<tr>
<td><strong>Health Care</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mansfield Kaseman Health Clinic</td>
<td>Community Ministries of Rockville</td>
<td>107,700</td>
<td>106,000</td>
<td>120,000</td>
</tr>
<tr>
<td>Pan Asian Volunteer Health Clinic</td>
<td>Chinese Culture and Comm. Service Center, Inc.</td>
<td>28,350</td>
<td>32,010</td>
<td>100,000</td>
</tr>
<tr>
<td>Rockville Primary Care</td>
<td>Mobile Medical Care, Inc.</td>
<td>30,190</td>
<td>37,740</td>
<td>40,000</td>
</tr>
<tr>
<td>Outpatient Mental Health Clinic</td>
<td>Cornerstone Montgomery, Inc.</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td><strong>Information and Referral</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Comprehensive Community Empowerment</td>
<td>Korean Community Center of Greater Washington</td>
<td>8,500</td>
<td>10,000</td>
<td>10,000</td>
</tr>
<tr>
<td><strong>Language and Citizenship Education</strong></td>
<td></td>
<td></td>
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<td></td>
</tr>
<tr>
<td>Language Outreach Program</td>
<td>Community Ministries of Rockville</td>
<td>60,000</td>
<td>30,000</td>
<td>40,000</td>
</tr>
<tr>
<td><strong>Supportive Services/Youth Development</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Senior Reach</td>
<td>Community Ministries of Rockville</td>
<td>92,700</td>
<td>92,700</td>
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<tr>
<td>Healthy Families Montgomery</td>
<td>Family Services, Inc.</td>
<td>21,000</td>
<td>25,000</td>
<td>30,000</td>
</tr>
<tr>
<td>Rockville Youth Development Out-of-School Time Programs</td>
<td>So What Else, Inc.</td>
<td>-</td>
<td>-</td>
<td>35,000</td>
</tr>
<tr>
<td>Mental Health Support and Education</td>
<td>National Alliance on Mental Illness</td>
<td>-</td>
<td>15,000</td>
<td>25,000</td>
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<tr>
<td>Apartment Program for Adults with Disabilities in Rockville</td>
<td>Target Community and Educational Services (New Applicant)</td>
<td>-</td>
<td>-</td>
<td>20,000</td>
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<tr>
<td>Safer and Healthy Homes Program</td>
<td>Rebuilding Together Montgomery County (New Applicant)</td>
<td>-</td>
<td>-</td>
<td>15,000</td>
</tr>
<tr>
<td>Expanding Home Health Services for the Elderly in Rockville</td>
<td>Care for Your Health, Inc. (New Applicant)</td>
<td>-</td>
<td>-</td>
<td>60,000</td>
</tr>
<tr>
<td><strong>Emergency Funds</strong></td>
<td></td>
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<td></td>
<td></td>
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<tr>
<td>COVID-19 Relief</td>
<td>Available to existing grantees</td>
<td>45,000</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td><strong>TOTAL for Caregiver Agencies ($)</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>710,020</td>
<td>719,330</td>
<td>1,067,120</td>
<td>713,530</td>
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</table>

1 This funding was set aside to assist existing grantees with unplanned expenses related to the COVID-19 pandemic. The Mayor and Council directed staff to include this funding again for FY 2022, but to allocate it directly to individual caregiver agencies. Of the $719,330 in funding shown for FY 2022, $45,000 is one-time COVID-19 relief, and the remaining $674,330 is considered the base.
Subject
Adoption of Paid Parental Leave Policy

Recommendation
Staff recommends that the Mayor and Council adopt the proposed Parental Leave Policy. The Mayor and Council can vote to adopt the proposed policy at this meeting and the policy will become effective immediately. If the Mayor and Council does not adopt the amended policy nor takes action to instruct staff to modify the proposed policy, per City Code, the Paid Parental Leave Policy will go into effect 55 days from the date of transmittal to the Mayor and Council. (April 20, 2022)

Please Note: The recently-passed Maryland Family and Medical Leave Insurance (FAMLI) program will impact the City’s paid parental leave benefits and administration. Employer and employee contributions to the FAMLI fund will be required, beginning in 2023. Benefit payments, which will be based on a qualified employee’s average weekly wages, subject to a cap, will not start until January 1, 2025. Recognizing the immediate need and value of paid parental leave benefits to our employees, the City is recommending that the Mayor and Council proceed with adopting the Paid Parental Leave Policy.

Discussion
During the January 31, 2022 Mayor and Council meeting, staff presented a proposed Parental Leave Policy for review and discussion. The Mayor and Council directed staff to revise the policy based on the agreed upon changes discussed during the meeting. Revisions that were discussed on January 31, 2022 are reflected in the amended policy that’s being presented on April 25, 2022.

The City has long had in place processes for employees who wish or need to take time off due to the birth of a child or placement for adoption or foster care, which include the following:

- Employees follow the requirements of the Family and Medical Leave Act (FMLA), and eligible employees may take a total of up to 12 weeks per year as protected leave under the FMLA. FMLA leave is unpaid but is replaced with employees’ appropriate paid leave.
Medical leave following the birth of an employee’s child is typically six (6) or eight (8) weeks, depending on the type of delivery. During the medical time off, the mother uses sick leave and compensatory/annual leave, as needed, and may be eligible to receive leave from the Short-Term Disability Leave Bank (see below). A spouse may use family sick leave but is not eligible for leave from the Short-Term Disability Leave Bank.

Eligible employees may receive leave from the Short-Term Disability Leave Bank after meeting a 15-calendar-day elimination period and exhausting all of their own leave. Leave may continue for the medically-certified period, for up to 90 calendar days from the start of the absence (at which point the employee would need to apply for long-term disability benefits if medically unable to return to work).

After the medical leave, additional time off (for bonding/family leave) may be taken, using the employee’s compensatory/annual leave, followed by unpaid leave if needed.

Highlights of a proposed new Paid Parental Leave Policy include the following:

- Regular employees who have been employed by the City for at least 12 months and have worked at least 1,250 hours during the 12 consecutive months immediately preceding the start of the leave would be eligible for paid parental leave.

- Paid parental leave of up to eight (8) workweeks may be granted for the following reasons: the birth of a child; the placement of a child with the employee for adoption; an employee’s medical recovery following childbirth; or an employee’s need to care for a spouse during the medical recovery following childbirth.

- If both parents work for the City, they will be limited to receiving a combined maximum of eight (8) workweeks of paid parental leave.

- Paid parental leave must be used within twelve (12) months following the birth or adoption of the child.

- Paid parental leave runs concurrently with, and is not in addition to, leave taken under the FMLA.

- Employees may use paid parental leave before other appropriate forms of leave, such as annual or sick leave or compensatory time.

- Paid parental leave that is not used by the employee prior to the end of the 12-month period to which it relates shall be forfeited.

- Paid parental leave would be paid at the employee’s regular pay rate based on their regularly-scheduled workweek; however, it shall not include overtime. If the employee
is in an acting capacity, their parental leave will be paid at their rate of pay they received prior to being placed in an interim (acting) position.

- The City would maintain all benefits for employees during the paid parental leave period just as if the employee were taking other paid leave, such as annual leave or sick leave or compensatory time.

- Upon return from paid parental leave, employees would be restored to their original or an equivalent position.

- Employees not returning after receiving paid parental leave will be required to reimburse the City for pay they received during their leave.

The Human Resources Department surveyed peer jurisdictions to gather information regarding whether they have a designated parental leave policy and, if so, the specifics of their leave policies. Information gathered is summarized in the attached chart. Although most jurisdictions have not implemented a designated parental leave policy, a couple of jurisdictions indicated that they are exploring this benefit option.

**Mayor and Council History**

On April 8, 2021, City staff met with Councilmembers Feinberg and Ashton to discuss the sample Parental Leave Policy. Staff were asked to clarify key points that were included in the sample Parental Leave Policy and to provide additional information. During the January 31, 2022 Mayor and Council meeting, staff presented a proposed Parental Leave Policy for review and discussion. The Mayor and Council directed staff to make revisions to the policy. The Parental Leave Policy was scheduled for the March 7, 2022 Mayor and Council meeting, but was postponed until April 25, 2025, due to the pending FAMLI legislation and its potential impact on the City’s proposed Parental Leave Policy.

**Fiscal Impact**

Although implementing a Paid Parental Leave benefit would not impact the appropriated budget, there will be actual expenses associated with the benefit because of the backfill needed due to the employee leave and the future value of the preserved balances of leave in other categories (sick, annual, compensatory). The level of backfill will depend on the position and could be in the form of temporary employee wages, contract services, or overtime for other employees. The backfill will be paid from unspent personnel funds for each individual fund during the year. Backfill for the General fund is reported on the quarterly financial report. The financial impact of the preserved leave balances will be realized upon employee separation or retirement.

**Next Steps**

When the Parental Leave Policy becomes effective, staff will distribute the new policy to City employees and add it to the Personnel Policy Manual (PPM).
Attachments
Attachment 12.a: Parental Leave Policy-V8 REDLINED (PDF)
Attachment 12.b: Parental Leave Policy-V8 CLEAN (PDF)

Rob DiSpirito, City Manager 4/20/2022
**SAMPLE Parental Leave Policy**

The City will provide up to eight (8) weeks of paid parental leave to eligible employees following the birth of an employee’s child or the placement of a child with an employee in connection with adoption or foster care, or placement of a child with the employee for whom the employee is acting “in loco parentis” as defined in the Family and Medical Leave Act (FMLA) policy.

This policy will run concurrently with Family and Medical Leave Act (FMLA) leave, as applicable.

**Effective Date**

This policy is effective April 25, 2022. Paid parental leave is available to eligible employees only in connection with the birth or placement of a child that occurs on or after April 25, 2022, and paid parental leave may not be used for any period of time prior to April 25, 2022.

**Eligibility**

Regular employees who have been employed by the City for at least 12 months and have worked at least 1,250 hours during the 12 consecutive months immediately preceding the start of the leave are eligible for paid parental leave.

Non-benefit eligible employees are not covered by this policy but may be eligible for unpaid leave under the FMLA, if the employee otherwise meets those requirements. Please refer to the FMLA policy for further guidance.

If an employee no longer meets the eligibility requirements for paid parental leave because he or she moved into a non-benefitted status, paid parental leave will no longer be available for use.

Any questions about eligibility should be directed to the Human Resources department.

**Conditions**

Paid parental leave may be granted for the following reasons:

- The birth of a child/children;
- The placement of a child/children with the employee for adoption or foster care;
- An employee’s inability to work because of a post-pregnancy disability or incapacity related to childbirth; or
- To care for a spouse who experiences a post-pregnancy disability or period of incapacity related to childbirth.

**Amount of Leave**

The City will provide up to eight (8) workweeks of paid parental leave to an eligible employee upon the birth of a child/children or the placement of a child with an employee in connection with adoption or foster care. The child being adopted or placed for foster care must be under the age of 18 (or age 18 or older and incapable of self-care because of a mental or physical disability). An employee shall not receive more than eight (8) workweeks of paid parental leave in any 12-month period, regardless of whether more than one birth or adoption, or foster care placement event occurs within that 12-month time frame.

If both parents work for the City and meet the eligibility requirements, they are limited to receiving a combined maximum of eight (8) weeks of paid parental leave.

Eligible employees will receive a maximum of eight (8) weeks of paid parental leave in any rolling 12-month period, regardless of whether more than one birth or adoption event occurs within that 12-month time frame.

Paid parental leave must be used within twelve (12) months following the birth, adoption, or foster care placement of a child.

- To the extent that an employee qualifies for leave under the FMLA for the birth, adoption, or foster care placement of a child, any paid parental leave taken under this policy shall run concurrently with, and will not
be in addition to, leave taken under the FMLA. An employee who is not eligible for FMLA leave (due to having exhausted that leave) will be afforded the same level of job protection for the period of time that the employee is on paid parental leave, as if the employee were on FMLA-qualifying leave.

Use of paid parental leave shall not require use of any accrued sick or annual leave or compensatory time, such as sick leave or annual leave. Employees may use paid parental leave before other accrued forms of leave. Paid parental leave must be used before an employee enters into an unpaid leave status. Any paid parental leave not used by the employee before the end of the 12-month period to which it relates shall be forfeited and may not be accumulated for any subsequent use. Paid parental leave benefits cease upon employment separation.

Paid parental leave will be paid at the employee’s regular base rate of pay, rate based on their regularly scheduled workweek; however, it shall not include overtime.

Notice

Employees planning to use paid parental leave shall provide the Human Resources Department and their supervisor with at least thirty (30) calendar days’ advance notice of the birth, or adoption, or foster care placement of a child. When the birth, or adoption, or foster care placement is not foreseeable, employees shall provide as much notice as is practicable. The City will process requests for paid parental leave using the same procedures established for employees to request FMLA leave.

Certification

The employee must submit the necessary/required forms to the Human Resources Department to substantiate the request.

Use of Leave

Paid parental leave may be used on a continuous, intermittent, or reduced schedule basis subject to approval by the Human Resources Director or designee. Leave may be taken in one-quarter hour increments. Employees may not be paid more leave per day then they are normally scheduled to work.

Effect on Employment and Benefits

Time spent on paid parental leave will be considered “time worked” for purposes of calculating eligibility requirements for the FMLA. However, paid parental leave will not be considered “time worked” for purposes of calculating overtime. Suggest removing both sentences.

The City will maintain all benefits for employees during the paid parental leave period just as if the employee were taking any other paid leave, such as paid-sick or annual leave or compensatory time paid-sick leave. If an employee goes into unpaid status, the employee needs to contact the Human Resources Department to arrange for payment of benefits.

Return to Work Obligation

Prior to receiving any paid parental leave, an employee must agree, in writing, to return to work for the City for at least eight (8) weeks at the end of the employee’s period of paid parental leave, regardless of the amount of leave used by the employee in the 12-month period. The City will waive the obligation if an employee is unable to return to work because of a serious health condition of the employee or the newly born or adopted child, if the condition is related to the birth or adoption. In the case of a newly born or adopted child, any serious health condition of the child will be deemed to be related to the applicable birth or adoption.

If an employee fails to return to work for the required eight (8) weeks, the City may recover from the employee the total amount of paid parental leave, the City’s contributions paid on behalf of the employee to maintain the employee’s health insurance coverage during the period of paid parental leave. Therefore, prior to receiving any paid parental leave, the employee must also state, in writing, that, in the event the employee does not fulfill the eight-week work obligation, he or she agrees to make reimbursement. The City may waive the reimbursement provision if the employee is unable to return to work due to a serious health condition, as described above, or for any other circumstance beyond the employee’s control (e.g., employee moves because the employee’s spouse is unexpectedly transferred to a job location out of the area).
When evaluating whether to waive the return to work obligation or reimbursement requirement, the City may require an employee to provide medical certification supporting the employee’s claim that a serious health condition is causing the employee to be unable return to work for the required eight (8) weeks, or may require documentation substantiating another circumstance beyond the employee’s control.

Return to Work

Upon return from paid parental leave, employees will be restored to their original or an equivalent position with equivalent pay, benefits, and other employment terms.

Discrimination and Retaliation Prohibited

The City prohibits and will not tolerate discrimination or retaliation against any employee or applicant because of that person’s pregnancy or use of parental leave. Specifically, no one will be denied employment, reemployment, promotion, or any other benefit of employment, or be subjected to any adverse employment action based on that person’s pregnancy or use of parental leave. In addition, no one will be disciplined, intimidated, or otherwise retaliated against because that person exercised rights under this policy or applicable law.
Parental Leave Policy

The City will provide up to eight (8) weeks of paid parental leave to eligible employees following the birth of an employee's child or the placement of a child with an employee in connection with adoption.

This policy will run concurrently with Family and Medical Leave Act (FMLA) leave, as applicable.

Effective Date

This policy is effective April 25, 2022. Paid parental leave is available to eligible employees only in connection with the birth or placement of a child that occurs on or after April 25, 2022, and paid parental leave may not be used for any period of time prior to April 25, 2022.

Eligibility

Regular employees who have been employed by the City for at least 12 months and have worked at least 1,250 hours during the 12 consecutive months immediately preceding the start of the leave are eligible for paid parental leave.

Non-benefit eligible employees are not covered by this policy but may be eligible for unpaid leave under the FMLA, if the employee otherwise meets those requirements. Please refer to the FMLA policy for further guidance.

If an employee no longer meets the eligibility requirements for paid parental leave because he or she moved into a non-benefitted status, paid parental leave will no longer be available for use.

Any questions about eligibility should be directed to the Human Resources department.

Conditions

Paid parental leave may be granted for the following reasons:

- The birth of a child/children;
- The placement of a child/children with the employee for adoption;
- An employee’s inability to work because of a post-pregnancy disability or incapacity related to childbirth; or
- To care for a spouse who experiences a post-pregnancy disability or period of incapacity related to childbirth.

Amount of Leave

The City will provide up to eight (8) workweeks of paid parental leave to an eligible employee upon the birth of a child/children or the placement of a child with an employee in connection with adoption. The child being adopted must be under the age of 18 (or age 18 or older and incapable of self-care because of a mental or physical disability). An employee shall not receive more than eight (8) workweeks of paid parental leave in any 12-month period, regardless of whether more than one birth or adoption occurs within that 12-month time frame.

If both parents work for the City and meet the eligibility requirements, they will be limited to receiving a combined maximum of eight (8) weeks of paid parental leave.

Paid parental leave must be used within twelve (12) months following the birth or adoption of a child.

Eligible employees will receive a maximum of eight (8) weeks of paid parental leave in any rolling 12-month period, regardless of whether more than one birth or adoption event occurs within that 12-month time frame.

To the extent that an employee qualifies for leave under the FMLA for the birth or adoption of a child, any paid parental leave taken under this policy shall run concurrently with, and will not be in addition to, leave taken under the FMLA. An employee who is not eligible for FMLA leave (due to having exhausted that leave) will be afforded the same level of job protection for the period of time that the employee is on paid parental leave, as if the employee were on FMLA-qualifying leave.
Use of paid parental leave shall not require use of any accrued sick or annual leave or compensatory time. Employees may use paid parental leave before other forms of leave. Paid parental leave must be used before an employee enters into an unpaid leave status. Any paid parental leave not used by the employee before the end of the 12-month period to which it relates shall be forfeited and may not be accumulated for any subsequent use. Paid parental leave benefits cease upon employment separation.

Paid parental leave will be paid at the employee’s regular base rate of pay, based on their regularly scheduled workweek; however, it shall not include overtime.

**Notice**

Employees planning to use paid parental leave shall provide the Human Resources Department and their supervisor with at least thirty (30) calendar days’ advance notice of the birth or adoption of a child. When the birth or adoption is not foreseeable, employees shall provide as much notice as is practicable. The City will process requests for paid parental leave using the same procedures established for employees to request FMLA leave.

**Certification**

The employee must submit the necessary/required forms to the Human Resources Department to substantiate the request.

**Use of Leave**

Paid parental leave may be used on a continuous, intermittent, or reduced schedule basis subject to approval by the Human Resources Director or designee. Leave may be taken in one-quarter hour increments. Employees may not be paid more leave per day than they are normally scheduled to work.

**Effect on Employment and Benefits**

The City will maintain all benefits for employees during the paid parental leave period just as if the employee were taking any other paid leave, such as sick or annual leave or compensatory time. If an employee goes into unpaid status, the employee needs to contact the Human Resources Department to arrange for payment of benefits.

**Return to Work Obligation**

Prior to receiving any paid parental leave, an employee must agree, in writing, to return to work for the City for at least eight (8) weeks at the end of the employee’s period of paid parental leave, regardless of the amount of leave used by the employee in the 12-month period. The City will waive the obligation if an employee is unable to return to work because of a serious health condition of the employee or the newly born or adopted child, if the condition is related to the birth or adoption. In the case of a newly born or adopted child, any serious health condition of the child will be deemed to be related to the applicable birth or adoption.

If an employee fails to return to work for the required eight (8) weeks, the City may recover from the employee the total amount of paid parental leave. Therefore, prior to receiving any paid parental leave, the employee must also state, in writing, that, in the event the employee does not fulfill the eight-week work obligation, he or she agrees to make reimbursement. The City may waive the reimbursement provision if the employee is unable to return to work due to a serious health condition, as described above, or for any other circumstance beyond the employee’s control (e.g., employee moves because the employee’s spouse is unexpectedly transferred to a job location out of the area).

When evaluating whether to waive the return to work obligation or reimbursement requirement, the City may require an employee to provide medical certification supporting the employee’s claim that a serious health condition is causing the employee to be unable return to work for the required eight (8) weeks, or may require documentation substantiating another circumstance beyond the employee’s control.

**Return to Work**
Upon return from paid parental leave, employees will be restored to their original or an equivalent position with equivalent pay, benefits, and other employment terms.

**Discrimination and Retaliation Prohibited**

The City prohibits and will not tolerate discrimination or retaliation against any employee or applicant because of that person’s pregnancy or use of parental leave. Specifically, no one will be denied employment, reemployment, promotion, or any other benefit of employment, or be subjected to any adverse employment action based on that person’s pregnancy or use of parental leave. In addition, no one will be disciplined, intimidated, or otherwise retaliated against because that person exercised rights under this policy or applicable law.
Subject
Adoption of Reduction in Force and Furlough Policy

Recommendation
Staff recommends that the Mayor and Council adopt the amended Reduction in Force (RIF) and Furlough Policy. The Mayor and Council can vote to adopt the amended policy at this meeting and the policy will become effective immediately. If the Mayor and Council does not adopt the amended policy nor takes action to instruct staff to modify the proposed amendments, per City Code, the amended Reduction in Force (RIF) and Furlough Policy will go into effect 55 days from the date of transmittal to the Mayor and Council (April 20, 2022).

Discussion
During the January 31, 2022 Mayor and Council meeting, the revised Reduction in Force (RIF) and Furlough Policy was reviewed and discussed. The Mayor and Council directed staff to make additional revisions to enhance the policy. Revisions that were discussed on January 31, 2022 are reflected in the amended policy that’s being presented at this meeting. This existing policy was revised and presented for discussion in the event the City finds it necessary to implement a Reduction in Force (RIF) and/or Furlough of employees. These measures could be necessary for various reasons, including budgetary constraints, lack of work, or other business reasons. Recognizing that a RIF or Furlough may be necessary at some point in the future, it was important that City staff and the Mayor and Council reviewed the current RIF policy to determine whether sections in this existing RIF policy needed revision.

Based on that review, staff believes it is important to include the option of implementing furloughs when discussing the RIF policy. A furlough is a temporary leave from work, without pay, due to budgetary constraints, and is a short-term measure that may be implemented instead of a RIF or in conjunction with a RIF, to address the fiscal needs of the City. A RIF is a permanent elimination of services and or positions that are no longer required for the delivery of City services.

When a RIF has been approved by the City Manager and the affected City services and job classification(s) have been determined, the City proposes the following be approach to reduce the City’s labor cost:
• Reduction of temporary employees
• Layoff of probationary employees
• Layoff of employees with the least seniority
• Reduce Vacant Positions
• Early retirement incentive

Staff proposes that we maintain the following approach regarding seniority as outlined in the current RIF (Layoff) policy, “an employee’s length of service will be a factor in determining whether or not the employee shall be laid off, but it is not necessarily the determining factor.” Additionally, all RIF proposals will have to be reviewed and approved by the City Manager and the Director of Human Resources, prior to implementation. This review will provide an opportunity to assess RIF proposals for any adverse impact on any specific employee population or protected class.

The purpose of the attached revised draft Reduction in Force (RIF) and Furlough Policy is to provide more details on how the City should proceed in the event there is a need for a RIF and/or furlough to be implemented by the City.

Mayor and Council History
On January 31, 2022 the Mayor and Council discussed the City's proposed revisions to the RIF and Furlough Policy and provided additional revisions for staff to make to the policy

Next Steps
When the revised Reduction in Force (RIF) and Furlough Policy become effective, staff will distribute to City employees and add to the Personnel Policy Manual (PPM).

Attachments
Attachment 13.a: Reduction in Force (RIF) and Furlough Policy Redlined (PDF)
Attachment 13.b: Reduction in Force (RIF) and Furlough Policy Clean (PDF)
PPP # 80-18
Procedure on Reduction in Force (RIF) and Furlough

PURPOSE

This procedure implements the RIF and Furlough section on Reduction in Force described in the Policy on Personnel Changes (PPP# 80-00).

GENERAL RULES

Furlough

A temporary leave from work, without pay, due to the shortage of funds. A furlough is a short-term measure or solution that may be implemented instead of a RIF or in conjunction with a RIF to address the fiscal needs of the City.

Selection of Employees to Be Laid Off

Reduction in Force (Layoff)

A permanent elimination of services and/or positions that are no longer deemed necessary for the delivery of city services. Regular non-AFSCME employees may be laid off when required for the good of the public service. Reasons for a RIF include, but are not limited to, shortage of funds, lack of work, the abolishment of a position, or other business reasons unrelated to the employee’s job performance. These reasons for a RIF apply regardless of whether the RIF is made on a citywide, departmental, divisional or sectional basis.

In applying a RIF to Union represented positions, the provisions of the Agreements between the City and AFSCME Local 1453 should be followed.

The duties performed by any laid off employee may be reassigned to other employees in an appropriate job classification.

Reduction in Force Criteria

When a RIF has been approved by the City Manager and the affected city services and job classification or job classifications of employees have been determined, the City will implement the following approach to reduce labor costs:

- Position(s) no longer support the City’s guiding principles
- Reduction of temporary staffing
- Layoff of Probationary employees
- Layoff of Employees with the least seniority
- Reduce Vacant Positions
- Early retirement incentive

reduction in force based upon the needs of the City’s determination of the skills and experience required for the duties to be performed after the layoff is conducted. An employee’s length of service will be a factor in determining whether or not the employee shall be laid off, but it is not necessarily the sole determining factor.

All RIF proposals shall be reviewed and approved by the City Manager and Director of Human Resources, prior to implementation of any RIF plans.

Notification

All employees who are to be laid off will be given a minimum written sixty 630 calendar days’ notice clearly stating the effective date and the reason for the RIF reduction in force and the reason for the reduction in force. The employees will also be furnished information concerning their benefits by the Human Resources Department. The Human Resources Department will also furnish employees with information concerning their benefits and transition services. Transition services may include assistance on how to apply for unemployment compensation, assistance updating resumes, and interview skills coaching.
**Re-employment List**

Employees laid off from the City of Rockville will be given priority consideration for vacancies within their job class that occur within twenty-four (24) months of the effective date of the reduction in force. Within twenty-four (24) months of the effective date of the RIF, employees laid off from the City will be given priority consideration for vacancies within their job classification and job classifications lower than the job classification they held prior to being laid off from the City.

The City may fill a vacant position in a job classification for which a re-employment list exists by either offering the position to a person on the re-employment list (consisting of individuals laid off in that class within the last 12 months) or by promoting an eligible employee. Where a person on the re-employment list has qualifications equal to or better than other applicants for the same position, the person on the re-employment list shall be selected.

An employee's name will remain on a re-employment list for twenty-four (24) months from the date of the RIF reduction in force, but will be removed from the list if the employee:

- Accepts another City position; or
- Refuses a job offer made from a re-employment list for a job at the same job classification; salary grade or rate class or higher; or
- Fails to respond to the Human Resources Department within fifteen (15) calendar days notification of the job offer, to a letter from the City of Rockville concerning re-employment.

**Employees Who are Rehired After a Reduction in Force**

The following rules apply to employees who:

- Were laid off from a regular job classification; and
- Are rehired into a regular job classification; and
- Are rehired within twenty-four (24) months of being laid off.

**Physical Examination**

For a job which requires a pre-employment physical examination, employees may be required to pass a physical examination prior to being rehired.

**Probation**

Employees who are rehired from a re-employment list into their former classification will not be required to serve a probationary period provided they have successfully completed a probation within the job classification. If appointed to a different job classification, they must serve a probationary period.

**Credit for Prior Service**

When rehired, employees recalled to regular positions within twenty-four (24) months of their layoff reduction in force will be credited with prior service for the purpose of calculating seniority, longevity, and vacation leave. If employees are rehired within twenty-four twelve (124) months, they also will be credited with prior service in grade for the purpose of determining length of continuous service in one level of a salary grade. Those re-employed after being laid off in excess of twenty-four twelve (124) months shall be considered as new employees.

Terms of retirement benefits and credited service will be as defined in the retirement plan.

**Sick Leave**

When rehired, employees recalled to regular positions within twenty-four twelve (124) months of their layoff reduction in force, will be credited with any sick leave balance at the time of their layoff.
Salary

If employees are rehired in the same pay grade class within twenty-four twelve (124) months of being laid off their reduction in force, then they will be rehired at the placed in the same grade and rate of pay they were paid held at the time of their layoff the reduction in force. If employees they accept a job in a classification that’s which has a lower pay salary grade than their former job classification, the action will be considered a voluntary demotion and the rules for demotion will determine the salary.

If employees accept a job in a class which has a higher salary grade than their former class, their action will be considered a promotion and the rules for promotion will determine salary. To be considered for a position in a job classification that’s higher pay grade than the job classification the laid off employee held prior to the RIF, they will be eligible to apply when the position is posted open competitive. If the employee is hired into a higher-level job classification, that will be considered a promotion and the rules for promotion will determine salary.
PPP #80-18

Procedure on Reduction in Force (RIF) and Furlough

PURPOSE

This procedure implements the RIF and Furlough section described in the Policy on Personnel Changes (PPP # 80-00).

Furlough

A temporary leave from work, without pay, due to the shortage of funds. A furlough is a short-term measure or solution that may be implemented instead of a RIF or in conjunction with a RIF to address the fiscal needs of the City.

Reduction in Force (Layoff)

A permanent elimination of services and/or positions that are no longer deemed necessary for the delivery of city services. Reasons for a RIF include, but are not limited to, shortage of funds, lack of work, the abolishment of a position, or other business reasons unrelated to the employee’s job performance. These reasons for a RIF apply regardless of whether the is made on a citywide, departmental, divisional or sectional basis.

In applying a RIF to union represented positions, the provisions of the agreements between the City and AFSCME Local 1453 should be followed.

The duties performed by any laid off employee may be reassigned to other employees in an appropriate job classification.

Reduction in Force Criteria

When a RIF has been approved by the City Manager and the affected city services and job classification or job classifications have been determined, the City will implement the following approach to reduce labor costs:

• Reduction of temporary staffing
• Layoff of Probationary employees
• Layoff of Employees with the least seniority
• Reduce Vacant Positions
• Early retirement incentive

An employee’s length of service will be a factor in determining whether or not the employee shall be laid off, but it is not necessarily the sole determining factor.

All RIF proposals shall be reviewed and approved by the City Manager and Director of Human Resources, prior to implementation of any RIF plans.

Notification

All employees who are to be laid off will be given a minimum written sixty 60 calendar days’ notice clearly stating the effective date and the reason for the RIF. The Human Resources Department will also furnish employees with information concerning their benefits and transition services. Transition services may include assistance on how to apply for unemployment compensation, assistance updating resumes, and interview skills coaching.
Re-employment List

Within twenty-four (24) months of the effective date of the RIF, employees laid off from the City will be given priority consideration for vacancies within their job classification and job classifications lower than the job classification they held prior to being laid off from the City.

The City may fill a vacant position in a job classification for which a re-employment list exists by offering the position to a person on the re-employment list.

A laid off employee's name will remain on a re-employment list for twenty-four (24) months from the date of the RIF, but will be removed from the list if the employee:

- Accepts another City position; or
- Refuses a job offer made from a re-employment list for a job at the same job classification.
- Fails to respond to the Human Resources Department within fifteen (15) calendar days notification of the job offer.

Employees Who are Rehired After a Reduction in Force

The following rules apply to employees who:

- Were laid off from a regular job classification; and
- Are rehired into a regular job classification; and
- Are rehired within twenty-four (24) months of being laid off.

Physical Examination

For a job which requires a pre-employment physical examination, employees may be required to pass a physical examination prior to being rehired.

Probation

Employees who are rehired from a re-employment list into their former classification will not be required to serve a probationary period provided they have successfully completed a probation within the job classification. If appointed to a different job classification, they must serve a probationary period.

Credit for Prior Service

When rehired, employees recalled to regular positions within twenty-four (24) months of their layoff will be credited with prior service for the purpose of calculating seniority, longevity, and vacation leave. If employees are rehired within twenty-four-(24) months, they also will be credited with prior service in grade for the purpose of determining length of continuous service in one level of a salary grade. Those re-employed after being laid off in excess of twenty-four-(24) months shall be considered as new employees.

Terms of retirement benefits and credited service will be as defined in the retirement plan.

Sick Leave

When rehired, within twenty-four (24) months of their layoff, employees will be credited with any sick leave balance at the time of the RIF.
Salary

If employees are rehired in the same pay grade within twenty-four (24) months of being laid off, they will be rehired at the rate of pay they were paid at the time of their layoff. If employees accept a job in a classification that’s a lower pay grade than their former job classification, the action will be considered a voluntary demotion and the rules for demotion will determine the salary.

To be considered for a position in a job classification that’s higher pay grade than the job classification the laid off employee held prior to the RIF, they will be eligible to apply when the position is posted open competitive. If the employee is hired into a higher-level job classification, that will be considered a promotion and the rules for promotion will determine salary.
Subject
Adoption of Changes to Work-Related Injury Paid Leave Benefits

Recommendation
Staff asks the Mayor and Council to discuss the proposed changes, as requested, to the City’s Policy on Leave, Job-Injury Leave to the Personnel Policy and Procedures Manual. Should the Mayor and Council vote to adopt the amended policy at this meeting, the policy would become effective immediately. If the Mayor and Council does not adopt the amended policy, nor takes action to instruct staff to modify the proposed amendments, per City Code, the amended policy will go into effect 55 days from the date of transmittal to the Mayor and Council (April 20, 2022).

Taking into account the important and relevant employee feedback on this topic, which is strongly opposed to a change, as shared later in this report, and the fact that the current policy has applied to only one employee in the past 5 years, the City Manager recommends that any proposed changes to this current policy not be made now, but perhaps could be revisited at some point in the future. The City Manager further believes that while an objective case for an amendment can be made, nevertheless, the timing is not right given the negative message it would send to our employees who have struggled to maintain good morale during this ongoing COVID-19 pandemic. Also, there is no real financial imperative to make these changes now, as the provision that is in question within the policy has been rarely activated.

Change in Law or Policy
If adopted, this would update the City’s Policy on Leave, Job-Injury Leave to the Personnel Policy and Procedures Manual.

Discussion
This is a follow-up to the January 31, 2022 Mayor and Council work session where, among other benefits-related topics, staff asked the Mayor and Council to consider reducing the length of time an employee may receive paid leave benefits following a work-related injury. A reduction of this benefit will still provide a generous benefit to employees but will more closely align it with those benefits provided by other state municipalities and counties. This included reducing...
the length of time an employee may receive Job-Injury Leave from a maximum of the earlier of two-years or maximum medical improvement to one-year or maximum medical improvement.

As a follow-up from our last discussion, staff confirmed the realized financial benefit an employee receives related to Job-Injury Leave payments made by the City. When an employee is eligible for and receives Job-Injury Leave payments, they receive their regular rate of pay and their take-home pay remains the same. However, as temporary total disability payments are non-taxable, adjustments are made to an employee’s taxable salary. For employees receiving Job-Injury Leave payments, two-thirds of their salary will be non-taxable and the added benefit an employee receives will depend upon a variety of factors, including how long the employee may have received disability payments and other factors related to their income tax filing. To clarify, the added benefit to the employee is not realized until they file their taxes, however the amount may be substantial depending upon the employee’s base rate of pay and length of time Job Injury Leave was paid.

Staff was also asked to provide additional information regarding the benefits provided by other municipalities and counties in the state, and we received the following responses for your review.

Additional Benchmark Information:

- **Washington Suburban Sanitary Commission (WSSC):** Union-represented employees receive up to five months of full-pay and non-represented employees receive up to 30 days of continued pay following a work-related injury. If an employee remains out of work after five months, they may be eligible for up to 60% of their salary for up to two years, less any workers’ compensation payments received, which is set by law at 66 2/3%. Therefore, since the benefits provided by law are greater than the 60% continuance of pay benefit, there is no additional benefit if an employee remains out of work for more than five months.

- **City of Westminster:** No additional benefit beyond statutory limits.

- **City of Salisbury:** Full pay for up to 3 months with additional leave for up to one year to be authorized on a case-by-case basis.

- **Howard County:** Full pay for up to 12 months if using County-approved providers. There is no added benefit if employees do not agree to see a County-approved provider.

- **City of Laurel:** Beyond providing full pay for the first 2 days of absence, there is no additional benefit beyond statutory limits if an employee is out of work. Employees are allowed to attend doctor’s appointments on City-time for work-related injuries.

Benchmark Information Previously Provided:
- **City of Gaithersburg**: Full pay for up to 90 days.
- **Montgomery County**: Full pay for up to 18 months if using network of physicians or up to 12 months if using non-network providers.
- **Frederick County**: Full pay for up to 90 days.
- **City of Annapolis**: No additional benefit for non-police/fire employees beyond statutory limits. For police/fire employees, they receive full pay up to maximum medical improvement or employment action taken.
- **City of Bowie**: No additional benefit beyond statutory limits.
- **City of Greenbelt**: Full pay for up to one year.
- **City of Hagerstown**: No additional benefit beyond statutory limits.
- **Cecil County**: No additional lost time benefit beyond statutory limits. Cecil County does provide up to 100 hours of leave to attend appointments related to the injury.

The data is clear that the City’s policy to allow employees to receive up to two years of full pay following a work-related injury far exceeds what is provided by others.

Since the January 31, 2022 meeting, City staff also met with our broker, Aon Risk Services of Washington, D.C. (Aon), to discuss how a possible reduction in the amount of time an employee receives Job-Injury Leave with pay benefits may affect our workers’ compensation program. Aon’s brokers indicated that reducing the amount of time an employee may be eligible to receive their full regular base rate of pay will look very favorable to insurance underwriters. If the change is made to reduce this benefit, Aon will be able to highlight this to underwriters as a positive step the City has taken to reduce the financial liability of a longer-term absence and encourage employees to seek the necessary treatment sooner, leading to shorter periods of recovery and allowing an injured employee to return to work sooner.

Enclosed and accompanying this staff report is the redline version of the City’s Policy on Leave, Job-Injury Leave, which is contained in the City’s Personnel Policies and Procedures Manual. The majority of the edits are meant to provide clarity to the policy, without substantially changing its objectives. The only consequential change being proposed is to reduce the maximum length of time an employee may receive this benefit.

Claim data has shown that reducing this benefit from a maximum of two-years to one-year will have a minimal effect on our employees, as only one employee in the last 5-year period was out of work for more than a year due to a work-related injury.
Staff also sought input on the effects this change may have on the City’s departments and employees. In speaking with department heads, some felt that reducing this benefit will have little effect on operations as this policy does not apply except in very limited situations, however, reducing the benefit will encourage employees to receive prompt treatment for their injuries and possibly return to work sooner. In speaking with Chief Brito, he asked that I share that reducing this benefit for police officers without the City replacing it with another benefit is concerning. Many agencies provide separate disability retirement policies for their police officers who are afforded a financial guarantee that they will receive ongoing compensation if they become severely injured and disabled following a work-related injury. It was Chief Brito’s desire that the City not modify this benefit for police officers at this time, as it may impact our ability to attract and retain officers and lead to a possible reduction of the benefits they may be entitled to receive if they were to become severely injured while on-duty.

At the Mayor and Council’s request, staff also provided notice to the City’s AFSCME Local 1453 (AFSCME), the Maryland Fraternal Order of Police Lodge 117, and the Association of Administrative Municipal Employees (AAME) of the proposed changes to this policy and asked for their comments and feedback. Of note, in the City’s agreement with AFSCME, benefits that eligible employees receive following a work-related injury is covered in the “On-The-Job-Injury Leave” section of the agreement. While the agreement has not yet been finalized, the City’s new agreement with AFSCME dated retroactive to 7/1/2021 and running through 6/30/2024 contains revisions to the On-The-Job-Injury Leave section of the agreement to reflect that employees may receive Job Injury Leave through the earlier of maximum recovery or one year from the date of injury or illness. This change will mirror the proposed changes to the City’s Job-Injury Leave Policy contained within the City’s Personnel Policy and Procedures Manual.

Response from AAME on Proposed Changes to Job-Injury Leave Policy:

At a time when employee morale is low, retention suffering, and hiring difficult; AAME finds it difficult to understand why the City is proposing to cut any benefit. Particularly one that appears to be under-utilized and hasn’t resulted in a great expense to the City. Having gone without merit increases and facing unprecedented inflation, the City should be focusing on enhancing relief for employees. Not cutting it. Especially in light of the continually delayed comp and classification implementation. It’s also worth noting that the City provides services with occupations that have higher risks associated with them (i.e. Water Treatment Plan), compared to the organizations that were benchmarked. You may want to consider surveying an organization such as WSSC for their Job-Injury Leave Benefit.

AAME Board

Response from Maryland Fraternal Order of Police Lodge 117:

After discussing the proposed policy change with FOP members at our meeting, the FOP’s stance is that the policy should not be changed. It is our strong belief that when
an officer is injured in the line of duty while protecting the citizens of Rockville, they have earned the maximum amount of time to recover from their injuries before they are forcibly separated from the City. As you know, there are already checks and balances in place (visiting doctors chosen by the City) to ensure the officer is taking the given time to heal rather than ‘just collecting a paycheck’ as some believe is the case. For extremely serious injuries or if an officer is ever shot in the line of duty, the officer may NEED the full two (2) years or more to recover. There may be surgeries and multiple levels of recovery before an officer is ready to return to full-duty after a serious injury.

According to the National Institute of Occupational Safety and Health, police officers are THREE TIMES MORE LIKELY to suffer a non-fatal injury on the job than all other U.S. Workers. The FOP believes that this benefit should remain in place because should one of us be injured in the line of duty, we should be given ample time (if needed) to fully recover so we can return to full-duty status doing the job we love.

Law enforcement is in a staffing crisis all over the country. Rockville Police Department is not immune and currently has eleven (11) vacancies. The FOP is concerned that the City Administration is more concerned about saving a few dollars by lowering this benefit and does not understand the need. Lowering this benefit may force officers to return to full-duty before they are fully recovered because they are in fear of losing their job, which could further injure the officer and result in additional on-duty injury claims; or the City will force separation on the officer who is still actively recovering and showing medical improvement as a result from an on-duty injury.

What saves the City more money, keeping the benefit at two (2) years allowing an officer ample time to recover from a serious on-duty injury ultimately returning to full-duty? Or lowering the benefit, forcing an officer to return to full-duty before they are fully recovered potentially causing further injury and/or separating an officer in the middle of recovery, and going through the two (2) year process of recruiting/hiring/training a new officer? Given the current staffing crisis, it will most likely be difficult to replace that officer for quite some time, if at all.

In many instances, officers can report for duty in an alternate capacity performing other duties as assigned within the station while they are recovering. You will not find an officer who wants to just ‘sit at home and collect a paycheck’ instead of returning to full-duty.

The FOP respectfully requests you think about the employees first and vote to keep this benefit which gives officers peace of mind knowing they have up to two (2) years to recover fully should they be seriously injured without the worry of being forced to return to full-duty too early or forcibly separated from a job they love. No one has shown this benefit has been abused in the past. So lowering the benefit out of fear of potential abuse will punish officers who may truly need the benefit of up to two (2) years to fully recover.
Thank you,

Chris Peck
President MD FOP 117

Mayor and Council History
The Mayor and Council first discussed possible changes to the City’s Policy on Leave, Job-Injury Leave amendments during their January 31, 2022 work session.

Next Steps
Should the Mayor and Council act to amend the Job-Injury policy, staff will inform all employees of this change in City policy.

Attachments
Attachment 14.a: Redline Changes to Job-Injury Leave Policy (PDF)
Attachment 14.b: Clean Version of Job Injury Leave Policy (PDF)

Rob DiSpirito, City Manager 4/20/2022
2. The employee fails to return to work for a reason other than:
   a. The continuation, recurrence, or onset of a serious health condition that would entitle the employee to leave, or
   b. Other circumstances beyond the employee’s control.

Employees may be required to support their claims of inability to return to work because of the above conditions. In such cases, employees must provide, in a timely manner, certification from the appropriate health care provider.

Employees who are among the highest paid 10 percent of eligible employees may be denied restoration to their prior or an equivalent position in accordance with the Family and Medical Leave Act of 1993. This may occur when: it is necessary to prevent substantial and grievous economic injury to the City’s operation; when they have been notified at the time the City determines injury would occur that the City intends to deny restoration; and, in the case of an employee already on leave, the employee elects not to return to work after being notified of the City’s decision.

Failure to return to duty immediately after the leave expires (unless other arrangements have been made in advance) will be considered a resignation from the City.

11. Bereavement Leave

Regular employees shall be entitled to a three-day leave of absence with pay for a death in the employee’s immediate family. The immediate family includes spouse, child, sibling, parent, parent-in-law, foster parent, grandparent, and grandchild, sister-in-law, brother-in-law, aunt, uncle, niece, nephew, and foster child. In some circumstances, bereavement leave may be approved by the Human Resources Director, for non-immediate family members. Such leave will be granted at the request of the employee, subject to valid proof, for the period including the date of death and the day after the burial. An employee who requires more time off because of distant travel or other extraordinary circumstances may be granted one (1) additional day leave of absence with pay by the Human Resources Director.

Employees may be granted one (1) working day off with pay for the death of other close extended family members (extended family member is still related) either related or non-related, with authorization of the Human Resources Director.

Employees represented by AFSCME Local 1453 shall receive Bereavement Leave in accordance with the terms of the Collective Bargaining Agreement.

Requesting Bereavement Leave

The employee, upon learning of the death of a relative, an immediate family member will notify the immediate supervisor of his or her current or intended absence, and indicating the relationship of the deceased. For this purpose, the Request for Leave Form will be used. Use of Bereavement Leave is limited to the relatives set forth in the Policy on Leave (PPP# 120-00).

1. The supervisor notifies the Payroll Division of the Bereavement Leave, which it is to be granted for bereavement, by sending a copy of the signed and completed leave slip to them.

Recording Bereavement Leave

The supervisor will record Bereavement Leave for an employee as appropriate.

12. Job-Injury Leave

Eligibility

Job-Injury Leave is a benefit offered to all regular City employees. Non-regular City employees are not eligible for this benefit.

Job-Injury Leave with pay is granted upon certification by the City’s workers’ compensation provider insurer, third-party administrator, claim service, self-insurer and/or Workers’ Compensation Insurer and/or physician(s).
that the employees are unable to perform the duties of their jobs and that the incident is compensable in accordance with Workers’ Compensation for laws in the State of Maryland.

New regular employees are eligible from the first day at work. There is no waiting period for eligibility. However, employees must use Sick Leave, Annual Leave, or Leave Without Pay for the first three days of the injury period of disability.

Nothing in this policy or procedure will prohibit the City and an eligible employee from reaching a mutually agreeable settlement in lieu of the leave benefit described herein.

Payment

In the event an employee sustains a compensable injury or illness rendering them totally disabled while on the job, they shall, after a three (3) calendar day waiting period, receive their regular base rate of pay (not to exceed forty (40) hours per week), less any worker’s compensation payments during the period of temporary total disability. Employees are eligible to use their accrued Annual, Sick, or Compensatory Time during the 3-day waiting period. If an employee does not have available accrued leave during the 3-day waiting period, their time will be entered as Leave Without Pay in the city’s time and attendance system. If an employee is out of work for more than fourteen (14) days due to a compensable injury, the City will recredit two (2) days of leave used by an employee during the initial three (3) day waiting period. This will occur after the City’s workers’ compensation insurer has reimbursed the City for this period. If any days within the 1-day waiting period are entered as Leave Without Pay, the city’s workers’ compensation provider may pay the employee temporary total disability for any unpaid days during the waiting period; assuming the employee remained out of work more than 14-days due to a compensable injury.

Payment

In the event an employee sustains a compensable injury or illness rendering them totally disabled while on the job, they shall, after three (3) days of absence, receive their regular base rate of pay (not to exceed forty (40) hours per week), less any worker’s compensation payments during the period of temporary total disability. If an employee is out of work for more than fourteen (14) days due to a compensable injury, the City will recredit two (2) days of leave used by an employee during the initial three (3) day waiting period. This will occur after the City’s workers’ compensation insurer has reimbursed the City for this period.

Should the time off not be authorized by the City’s provider’s Claim Service and/or physician in accordance with Workers’ Compensation Laws of the State of Maryland, any payment received by the employee for such time off shall be charged against available leave. If no accrued leave is available, it may be charged as Leave Without Pay. Leave used for approved on the job injuries during the first three days will be adjusted at a rate of 66 2/3 percent for leave used for disabilities when the disability exceeds fourteen (14) days.

Authorized Job-Injury Leave is payable through the earlier of maximum recovery or two one year from the date of injury/illness. Absences for Job-Injury Leave must be authorized solely by the City’s workers’ compensation provider, insurer, third-party administrator, claim service, self-insurer Claim Service and/or physician. When Job-Injury Leave stops, the disabled individual may continue to be compensated in accordance with the Workers’ Compensation Laws of the State of Maryland and the City’s Income Protection Program.

Job-Injury Leave and Workers’ Compensation Reporting Process

1. Employees must, as soon as reasonably practical, immediately report any injury or illness or recurrence of an injury or illness incurred on the job to their immediate supervisor.

   a. Employees will notify their immediate supervisor of the details concerning the injury or illness, unless they are incapacitated, immediately, as soon as reasonably practical, after the injury or onset of illness.

   b. Employees must provide appropriate, acceptable and verifiable medical documentation for any lost time as soon as possible.

   c. Employees will secure appropriate medical treatment as soon as possible after the injury for their workers’ compensation claim. Employees may use the medical facility of their choice for seeking treatment for a compensable workers’ compensation injury/illness.

   d. Both Job-Injury Leave and associated medical bills will only be paid after confirmation by the City’s provider’s claim service and/or physician that the incident is compensable in accordance with Workers’ Compensation laws in the State of Maryland. Employees can use their health insurance plan...
to ensure that medical bills are covered.

Failure of an employee to follow this policy and procedure or any directives or requests concerning Job- Injury Leave may result in forfeiture of benefits and appropriate forms of disciplinary action, up to and including dismissal.

2. The supervisor will gather information regarding the occurrence of the injury or illness and fill out an appropriate claim form. In the case of a serious injury or illness which either results in a fatality or requires transport or admission to an emergency facility, the Human Resources Department should be notified immediately. Additional reporting requirements are contained in PPP #200-00 and #200-10 Policy and Procedure on Reporting Incidents Involving Property Loss or Personal Injury.

3. The Human Resources Department will review and process the report. The Human Resources Department will verify the nature and extent of the injury through the City’s provider claim service and/or physician. The Human Resources Department will process the workers’ compensation claim with the claims service along with all supporting documents and relevant history, and will authorize the Job-Injury Leave as appropriate.

3a. If an employee is denied Job-Injury Leave and is later awarded workers’ compensation for temporary total disability by the Maryland Workers’ Compensation Commission for that time period, the City will credit Job-Injury Leave for the disputed time, minus any workers’ compensation payments, subject to the leave maximum. Any Annual or Sick Leave used will then be credited back to the employee.

4. Approval for Job-Injury Leave will continue based upon compensability determined by the City’s workers’ compensation provider, third-party administrator, claim service, self-insurer and/or physician. Workers’ Compensation Insurer and/or physician until the Workers’ Compensation Commission denies the period of temporary total disability, the claim, upon the offer of an alternate duty assignment, or the employee reaches the maximum period, as described in the policy.

5. The Workers Compensation Insurer will send the Workers’ Compensation Employee form to employees to be completed. The Workers Compensation Insurer will assign the employee a claim number and will coordinate all medical and temporary total Workers’ Compensation payments.

6. Employees must provide current medical evaluations on the City’s Medical Certification Form appropriate, acceptable and verifiable medical documentation throughout the duration of the absence. Employees are responsible for ensuring that documentation of work restrictions or inability to work is submitted to the Human Resources Department through their supervisors.

a. No Job-Injury Leave payment will be made without approval from the City’s workers’ compensation provider, third-party administrator, claim service, self-insurer and/or physician. In the event that the documented period of excused absence approved Job-Injury Leave (as indicated on the City’s Medical Certification Form) has expired and no further documentation is received within three days of the expiration date, Job-Injury Leave will be terminated until verifiable documentation is received and approval is obtained by the City’s workers’ compensation provider, third-party administrator, claim service, self-insurer and/or physician. Workers’ Compensation Insurer and/or physician. Copies of all documentation must be submitted directly to the Human Resources Department upon receipt.

7. The Human Resources Department will periodically review the employee’s status while on Job Injury Leave. As part of this review, the Human Resources Department may request additional medical evaluations and City Workers’ Compensation Insurer and/or physician’s certifications.

a. The employee must submit to medical evaluations as requested by the City including independent medical evaluations to receive Job-Injury Leave payments. Failure to submit to any required medical evaluations, including independent medical evaluations, or otherwise comply with the Policy and Procedure on Job-Injury Leave may result in forfeiture of such Leave and disciplinary action.

7a. After evaluation of an employee’s status, the Human Resources Department will advise the employee’s Appointed Official or Department Director, and supervisor, or designee that the employee can:

- return to work;
- cannot return to work at that time. If so, there will be an estimation of when the employee will be able to return to work.
b. perform alternate work duties as certified by the City’s workers’ compensation insurer, third-party administrator, claim service, self-insurer and/or physician.

c. cannot return to work at that time. If so, there will be an estimation of when the employee will be able to return to work, or

d. cannot return to work at any time and is determined to be at maximum recovery.

Employees receiving Job-Injury Leave payments are responsible for:

a. following all doctor’s orders including any treatment plans prescribed during their recovery;

b. being available to the City during normal working hours, unless alternate leave has been approved for personal business;

c. accepting any alternate duty offered, provided it is within the medical limitations authorized by the City’s workers’ compensation provider and/or physician;

d. signing over to the City all Workers’ Compensation payments for periods of time covered by Job-Injury Leave;

e. complying with all policies, procedures and directions concerning Job-Injury Leave.

910. Employees on Job Injury Leave will remain responsible for their share of benefit premium payments. Regular benefit and other deductions will continue to be made while an employee is receiving Job-Injury Leave payments. While an employee is receiving Job-Injury Leave payments, no Annual or Sick Leave will accrue. All paid time on Job-Injury Leave will count as time worked for purposes of service awards and benefit calculations only.

Recording and Processing Job-Injury Leave:

1. The supervisor will record time spent on Job Injury Leave by an employee as directed by the Payroll Division, up to the maximum permitted by the Job-Injury Leave Policy.

2. The Payroll Division will ensure through that the maximum Job-Injury Leave is not exceeded and that all benefit accruals and payments are proper based on this Policy and Procedure.

3. The Payroll Division will verify all Job-Injury Leave requested with the Human Resources Department to ensure that appropriate medical documentation has been received and that the Job-Injury Leave is authorized.

4. At the end of each calendar year, the Payroll Division is responsible for adjusting the taxable wages of all employees who received Job-Injury Leave and who signed their workers’ compensation payments over to the City. These employees’ year-end W-2’s will reflect the adjusted taxable income based on the amount of non-taxable workers’ compensation payments received during that calendar year.

13. Off-The-Job Injury/Illness Leave:

Commented [MP20]:
Clean Version of Proposed Changes to Job-Injury Leave Policy

Job-Injury Leave

Eligibility
Job-Injury Leave is a benefit offered to all regular City employees. Non-regular City employees are not eligible for this benefit.

Job-Injury Leave with pay is granted upon certification by the City’s workers’ compensation provider that the employee is unable to perform the duties of their job and that the incident is compensable in accordance with workers’ compensation laws in the State of Maryland.

New regular employees are eligible from the first day of work. There is no waiting period for eligibility. However, employees must use Sick Leave, Annual Leave, Compensatory Leave, or Leave Without Pay for the first three days of the period of disability.

Payment
In the event an employee sustains a compensable injury or illness rendering them totally disabled while on the job, they shall, after a three (3) calendar day waiting period, receive their regular base rate of pay (not to exceed forty (40) hours per week), less any workers’ compensation payments during the period of temporary total disability. Employees are eligible to use their accrued Annual, Sick, or Compensatory Time during the 3-day waiting period. If an employee does not have available accrued leave during the 3-day waiting period, their time will be entered as Leave Without Pay in the City’s time and attendance system. If an employee is out of work for more than fourteen (14) days due to a compensable injury, the City will recredit two (2) days of leave used by an employee during the initial three (3) day waiting period. This will occur after the City’s workers’ compensation insurer has reimbursed the City for this period. If any days within the 3-day waiting period are entered as Leave Without Pay, the City’s workers’ compensation provider may pay the employee temporary total disability for any unpaid days during the waiting period; assuming the employee remained out of work more than 14-days due to a compensable injury.

Authorized Job-Injury Leave is payable through the earlier of maximum recovery or one year from the date of injury/illness. Absences for Job-Injury Leave must be authorized solely by the City's workers' compensation provider. When Job-Injury Leave stops, the disabled individual may continue to be compensated in accordance with the Workers' Compensation Laws of the State of Maryland.

Job-Injury Leave and Workers’ Compensation Reporting Process

1. Employees must, as soon as reasonably practical, report any injury or illness or reoccurrence of an injury or illness incurred on the job to their immediate supervisor.
   a. Employees will notify their immediate supervisor of the details concerning the injury or illness, as soon as reasonably practical, after the injury or onset of illness.
   b. Employees must provide appropriate, acceptable, and verifiable medical documentation for any lost time as soon as possible.
c. Failure of an employee to follow this policy and procedure or any directives or requests regarding Job-Injury Leave may result in forfeiture of benefits and appropriate forms of disciplinary action.

2. In the case of a serious injury or illness which either results in a fatality or requires transport or admission to emergency facilities, the Human Resources Department should be notified immediately. Additional reporting requirements are contained in PPP #200-00 and #200-10 Policy and Procedure on Reporting Incidents Involving Property Loss or Personal Injury.

3. If an employee is denied Job-Injury Leave and is later awarded temporary total disability by the Maryland Workers’ Compensation Commission for that same period, the City will credit Job-Injury Leave for the disputed time, minus any workers’ compensation payments, subject to the leave maximum. Any Annual or Sick Leave used will then be credited back to the employee.

4. Approval for Job-Injury Leave will continue based upon compensability determined by the City’s workers’ compensation provider until the Workers’ Compensation Commission denies the period of temporary total disability, the claim, upon the offer of an alternate duty assignment, or the employee reaches the maximum period as described in this policy.

5. Employees must provide current appropriate, acceptable, and verifiable medical documentation throughout the duration of the absence. Employees are responsible for ensuring that documentation of work restrictions or inability to work is submitted to the Human Resources Department.

   a. No Job-Injury Leave payments will be made without approval from the City’s workers’ compensation provider. In the event that the documented period of approved Job-Injury Leave has expired and no further documentation is received within three days of the expiration date, Job-Injury Leave will be terminated until proper documentation is received and approval is obtained by the City’s workers’ compensation provider.

6. The Human Resources Department will periodically review the employee’s status while on Job-Injury Leave. As part of this review, the Human Resources Department may request additional medical evaluations and/or physician’s certifications.

   a. The employee must submit to medical evaluations as requested by the City, including independent medical evaluations, to receive Job-Injury Leave payments. Failure to submit to required medical evaluations, or otherwise comply with the Policy and Procedure on Job-Injury Leave may result in forfeiture of such leave and disciplinary action.

7. Employees receiving Job-Injury Leave payments are responsible for:

   a. Following all doctor’s orders including any treatment plans prescribed during their recovery.
b. Being available to the City during normal working hours, unless alternate leave has been approved for personal business.

c. Accepting any alternate duty offered, provided it is within the medical limitations authorized by the City's workers' compensation provider and/or physician.

d. Complying with all policies, procedures, and directions concerning Job-Injury Leave.

8. Employees on Job-Injury Leave will remain responsible for their share of benefit premium payments. Regular benefit and other deductions will continue to be made while an employee is receiving Job-Injury Leave payments. While an employee is receiving Job-Injury Leave payments, no Annual or Sick Leave will accrue. All paid time on Job-Injury Leave will count as timed worked for purposes of service awards and benefit calculations only.
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| **Speaker by Computer** | **100 First Street, Apt 139**  
Zola Shaw  
Charter Review  
Commission | Resolution No. 9-20 |                       |
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| **Speaker** Doug Lunenfeld  
Chair of Landlord Tenant Commission | 727 Anderson Ave  
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240 994 8117  
dlunenfeld@gmail.com |
| **Speaker and Written Comments** Margaret Magner | 115 Forest Ave.  
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margaretmagner@nyc.rr.com |
| **Speaker and Written Comments** Nancy Pickard; Dr. Miriam Bunow  
Director Peerless Rockville | 39 Courthouse Square  
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April 25, 2022

Mayor and Council
City of Rockville
111 Maryland Avenue
Rockville, MD 20850

Re: 406 Great Falls Road

Dear Mayor Donnell Newton and Members of Council,

My name is Margaret Magner and I live in Rockville, a few streets from 406 Great Falls Road. I am testifying as an individual who lives in the neighborhood.

Over the last few months, there has been much discussion about a vote taken 15 years ago regarding 406 Great Falls Road. Many key points affecting the significance of this property have changed over the ensuing time. As this property is being evaluated today, in our own time and place, I would like respectfully to emphasize a few of these points:

- Since 2007, the house at 406 Great Falls Road has survived intact for another 15 years. During this time, Rockville’s housing stock has changed significantly. As Kathryn Kuranda of R. Christopher Goodwin and Associates, Inc. has pointed out in previous testimony, there is now encroaching residential development that differs in scale and density with 406 Great Falls. I agree with her point that the “progressively smaller lots over time and larger scale dwellings with minimal setbacks” have changed the physical character of areas around this home, and indeed across all of Rockville. But rather than diminishing the importance of 406 Great Falls, this housing trend makes homes with the history, integrity and landscape surroundings of 406 Great Falls even fewer, farther between, and thus of greater value to the community today.

- In 2021, Madame Mayor and Councilmembers, you approved the new Planning Area 4 Neighborhood Plan, with its strong policy focus on protecting and enhancing not only historic structures in this neighborhood, but also the unique setting, environment and landscape surrounding these
Greetings Mayor Donnell Newton & Members of Council,

In June 2021, Peerless Rockville made the careful decision to nominate the 406 Great Falls Road property for evaluation according to the City of Rockville's established criteria, as we found this fine Tudor Revival residence, with its intact architecture, setting, and landscape, merited such recognition and protection. Nominating a property for historic evaluation is a right afforded to anyone under Rockville Zoning law. Peerless does not take this action lightly, having carefully considered the significance and integrity of this property before submitting our nomination.

Our request for evaluation of significance was validated by the Rockville Historic District Commission's finding of historic significance followed by the Rockville Planning Commission's assertion that designation is in conformance with the Rockville 2040 Comprehensive Plan, Area 4 Plan, and the purpose of Historic District Zoning.

As a Certified Local Government, the City of Rockville has undergone a certification process administered by the National Park Service and Maryland State Historic Preservation Office, involving demonstration of a commitment to historic preservation, including the establishment of a qualified historic preservation commission, inventory maintenance and surveys of local historic resources, and enforcement of state and local historic preservation laws.

In Rockville, our Zoning Ordinance governs historic preservation laws, serving to create and maintain the character of the city by regulating the allowable uses and development standards for each piece of land in the city. Eligibility for a historic district zone overlay requires meeting the City's standards for Historic Significance or Architectural, Design, and Landscape Significance and also conformity to the City's Comprehensive Plan Historic Preservation Element including the Planning Area in which the property is located and the purposes of Historic District Zoning. These are all cited in the staff report.
appeared. The property constitutes what was once one of the gateways to the town of Rockville.

**Integrity** is key to 406 Great Falls Road’s qualification for historical significance under these criteria.

**Integrity is the ability of a property to convey its significance.** As defined by Rockville, integrity is the authenticity of a property’s historic identity, evidenced by the survival of physical characteristics that existed during the property’s historic or prehistoric period. According to the National Register of Historic Places, there are seven aspects of integrity used to determine a site’s authenticity and ability to convey the historical record, including Location, Design, Setting, Materials, Workmanship, Feeling, and Association. This property highly meets these standards.

This home stands in its original location, is extremely identifiable as Tudor Style Architecture and a Sears Belmont kit home and maintains the dimensions and siting of the original building setting, with a striking visual landscape from all viewing angles. Most of the materials are original, or so little changed such that they could be restored to original or historically appropriate materials.

Workmanship in this house is largely original and construction has been attributed to Brawner Harding, a local builder. The extremely recognizable architectural style together with few changes to the building or landscape make this property’s feeling is consistent with its historic appearance. Homes in the Great Falls area built during this period were largely left out of City review of historic resources in the 1970s because they were not yet 50 years old.

The Rockville Planning Commission unanimously found historic designation of 406 Great Falls Road is in conformance with Rockville Comprehensive Plan and the purpose of the Historic District Overlay. Following those established City procedures has led us to your decision on this property.

With these recommendations before you, Peerless Rockville believes your decision is straightforward and direct:

- **Affirm the expertise** and recommendations from HDC and the Planning Commission
- **Affirm the value** of historic properties
- **Affirm** the City’s agreement with state preservation policies and its **status as a Certified Local Government**
- **Act** in accordance to Rockville’s well-vetted and established zoning regulations that govern all land use activities and to which all property owners are subject
- **Designate 406 Great Falls Road as a local historic district**
April 15, 2022

Mayor Bridget Newton  
   And City Councilmembers  
City of Rockville  
Mayor and Council Chambers  
111 Maryland Avenue  
Rockville, MD 20850

Re: 406 Great Falls Road; Sectional Map Amendment MAP2022-00123

Dear Mayor Newton and City Councilmembers,

On behalf of our clients, Ingrid Chua and Joël Martinez, the owners of the property located at 406 Great Falls Road in Rockville ("Property"), the purpose of this letter is to oppose Sectional Map Amendment MAP2022-00123 ("SMA"). As discussed more fully below, approval of the SMA and placement of the Property in a historic district is not warranted due to the Property’s lack of historic significance and integrity, would be based on an impermissible change of mind by the City’s Historic District Commission ("HDC"), would create a substantial hardship for the owners, and simply is not warranted by a preponderance of the evidence.

A. Background

Ms. Chua\(^1\) and Mr. Martinez are 20 year City residents. Since 2017, they have resided at 103 Luckett Street, but have been searching for a property in the City on which to construct a new home with features they desire in order to remain in Rockville for the foreseeable future. In 2019, they purchased 515 Beall Avenue - just two blocks from their Luckett Street home - with the intention of constructing their new home there. As part of the demolition permit process for that Property, Mr. Martinez appeared before the HDC for an Evaluation of Significance Application, and both Staff and the HDC recommended against designation. However, their desired design ultimately could not be achieved at 515 Beall, and there were concerns about street traffic and neighboring properties with regard to the Beall property that ultimately led the couple to sell the property and continue their search. In January 2021, after looking into various

\(^1\) In addition to being a long-term City resident, since 2002, Ms. Chua has also been the co-owner and president of Computer Packages Inc. ("CPI"), which has been headquartered in the City since its founding in 1968. Approximately 80 of CPI’s 200 employees work in the company’s headquarters at 11 N. Washington Street. CPI specializes in developing and providing patent and trademark management systems that optimize the management of IP portfolios and due dates for corporations and law firms. CPI is a private company in a unique and growing business and has been a substantial contributor to the City’s economy for over 53 years.
options of bigger lots in the local Rockville area on which to build their desired home, Ms. Chua and Mr. Martinez were introduced to the then-owner and purchased the Property. Based on publicly available information at the time of their purchase, the Property had been evaluated for historic designation in 2007 but found not to be worthy of designation. This was a critical factor in their purchase decision. Ms. Chua and Mr. Martinez thereafter engaged Craig Moloney, a former Rockville HDC Commissioner and well-known and respected architect in Rockville, to assist with designing an appropriate redevelopment of the Property to accommodate their desired home on the existing lot. They were excited by the prospect of taking what was clearly a dilapidated and uncared for home and replacing it with something more representative of the best of Rockville’s future. Subsequent to their closing on the purchase of the Property, however, they were contacted by Peerless Rockville, who urged them to instead retain and restore the existing structure on the Property, despite the fact that the Property was specifically not designated in 2007. When it became clear that Ms. Chua’s and Mr. Martinez’s intended use of their Property differed from the strict restoration and preservation desired by Peerless, Peerless initiated another review of the Property’s potential significance by filing a one-page nomination form in June of 2021. Importantly, Peerless’ submission did not assert any change in circumstances warranting a decision on the designation different than that made by the HDC in 2007.

Six months after the filing of the nomination, on December 9, 2021, Preservation Planning Staff issued a Report and Recommendation finding that while the Property “could be interpreted to meet the Historic District Commission’s (HDC’s) Architectural, Design, and Landscape Significance Criteria a) and e)” the “HDC evaluated the same property in 2007 and voted not to recommend historic designation.” Because no external change had occurred since 2007, Staff ultimately recommended that “the HDC consider not recommending historic designation of the property.” Despite this recommendation, on December 16th the HDC voted 2-0-1 to recommend placement of the Property in a historic district, thereby initiating the SMA. Subsequently, the SMA was considered by the Planning Commission on January 12, 2022. The Planning Commission, obviously uncomfortable with the notion of a designation over an owner’s wishes, and recognizing that placement of the Property in a historic district would place a significant burden on the owners, declined to specifically recommend approval of the SMA. Instead, the Planning Commission recommended that if the Mayor and Council were to designate the Property, it would be in compliance with the recommendations of the 2040 City of Rockville Comprehensive Plan (“2040 Plan”).

A. The SMA is premised upon a Legally Impermissible Change of Mind by the HDC

The origin of the SMA is a legally impermissible change of mind by the HDC. The HDC previously voted against the historic designation of the Property in 2007. Despite no change in circumstances, the HDC has now voted to recommend designation, thereby initiating the SMA. Zoning Ordinance § 25.14.01(d)(3). Had the HDC not improperly recommended designation on the same set of facts as those serving as the basis for the HDC’s 2007 decision, per Zoning

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2 As was recognized during the proceedings before the Planning Commission, the 2040 Plan was adopted approximately eight months after Mr. Chua and Mr. Martinez purchased the Property.
Ordinance Section 25.14.01(d)(4)(a), this process would have ended and the SMA would never have come before the Mayor and Council. Because the SMA is therefore not properly before the Mayor and Council, it should be denied.

As noted above, in 2007, a previous owner caused the Property to be evaluated for historic significance as part of a demolition permit application. On May 10, 2007, Historic Preservation Planner Cindy Kebba issued a Staff Report recommending against designation of the Property as a single site historic district, finding that the Property lacked architectural integrity. Specifically, Ms. Kebba noted that “[t]o be eligible for architectural significance, a property should retain the majority of features that illustrate its style.” See May 10, 2007 Staff Report, p. 1. She went on to note that “[t]he house at 406 Great Falls Road has had alterations that have an impact on its architectural integrity.” Ms. Kebba specifically noted that nearly half of the windows had been replaced and that such replacements “exhibit loss of historic fabric and alter the solid to void spatial relationship which is important to the medieval feel that this style should convey.” Id. During her presentation to the HDC on May 17, 2007, Ms. Kebba further elaborated that “while changes such as removing all the windows on the front can be changed with new windows of greater compatibility, ‘integrity’ can’t be restored.” HDC Minutes from May 17, 2007 Meeting, p. 3. She further noted that “a single-site historic district has to stand alone, and as such, the alterations of character-defining features (windows, siding, porch enclosures) is especially significant.” Id. The HDC agreed with Ms. Kebba’s analysis and voted 3-1-1 not to recommend the Property for designation.

When current Preservation Planner, Sheila Bashiri, issued her Staff Report on the nomination on December 9, 2021, Ms. Bashiri acknowledged the 2007 conclusions of Preservation Planning Staff and the HDC that the architectural integrity of the structure was so compromised as to not warrant designation, but continued that “[c]urrent staff believes that these alterations may be reversible and therefore believes that there could be a basis for designation, though questions whether it is a strong enough basis to reverse the 2007 decision.” December 9, 2021 Staff Report, p. 12 (emphasis added). Two members of the HDC, neither of whom was on the HDC when the 2007 decision was made, agreed there was a basis for designation, resulting in the SMA. The third member of the HDC, and current chair, who had seconded the motion against designation in 2007, abstained from this vote.

Importantly, as noted above, neither Peerless, nor Staff, nor the current HDC allege any change in facts or circumstances concerning the Property since 2007 that warrant reconsideration of the previous decision.3 Instead, it is abundantly clear that the sole basis for the difference of opinion

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3 While some have intimated that the Property’s inclusion in the City’s 2011 Historic Buildings Catalog (“Catalog”) somehow constitutes a change of circumstances warranting reconsideration, such an argument attempts to end-run the City’s statutory processes, and ignores the owners’ due process rights. The creation and adoption of the Catalog seems to have been devoid of any meaningful public process where homeowners could contest inclusion. Moreover, the catalog itself specifically notes: “some buildings included in the catalog may not meet Rockville’s criteria for historic designation after further research [. . .] Inclusion in this publication, therefore, does not guarantee or require historic designation in the future.” p.2.
between 2007 and now is the replacement of staff and HDC commissioners with new ones holding different opinions. The issuance of contrasting decisions by different agency representatives on the same set of facts is exactly what Maryland courts have found to constitute an impermissible “change of mind.” While agencies have the inherent authority to reconsider their own decisions, that authority, where not otherwise constrained by statute, is limited to circumstances in which the “original action was the product of fraud, surprise, mistake, or inadvertence, or that some new or different factual situation exists that justifies the different conclusion.” Cinque v. Montgomery County Planning Board, 173 Md. App. 349, 361 (2007) (quoting Calvert County Planning Commission v. Howlin Realty Management, Inc., 364 Md. 301, 325 (2001)). The reason for this constraint on reconsideration is that “[o]therwise there would be no finality to the proceeding; the result would be subject to change at the whim of members or due to the effect of influence exerted upon them or other undesirable elements tending to uncertainty and impermanence.” Miles v. McKinney, 174 Md. 551, 556 (1938) (quoting Saint Patrick’s Church Corp. v. Daniels, 113 Conn. 132, 154 A. 343, 345 (1931)). For instance, in Kay Const. Co. v. County Council for Montgomery County, 227 Md. 479 (1962), the Montgomery County Council granted a rezoning application, and opponents sought reconsideration. On reconsideration, the Council, which then included a new councilmember, voted to deny the rezoning application, claiming the original decision was based on “a plain and simple error in judgment.” Id. at 481–82. In finding an impermissible change of mind, the Court explained: “It is apparent that the Council’s ‘plain and simple error of judgment’ was in reality a mere change of mind, a shift of majority opinion occasioned by the substitution of a councilman of one conviction for a councilman of another conviction.” Id. at 489 (emphasis added); see also Polinger v. Briefs, 244 Md. 538, 541 (1966) (holding that it was arbitrary and capricious for the Montgomery County Council to deny a rezoning request for a particular zone in 1962 then grant the same request in 1964 despite no change in circumstances). The impermissible change of mind doctrine is based on fundamental principles of fairness and finality dictating that the rights of owners and applicants should not be subjected to change simply because of changes of opinion brought on by the natural turnover of agency positions. Kay Const. Co., 227 Md. at 481–82; McKinney, 174 Md. at 556. Regardless, that is exactly what occurred here. The current owners relied on the 2007 decision when they purchased the Property and now may not be able to build what they envisioned. They are having to engage in this process, at great expense, to defend a previous HDC decision upon which fairness dictates they should be permitted to rely.

Adoption of the 2040 Plan similarly does not represent a change in circumstances with respect to the Property’s historic significance. In the January 5, 2022 Staff Report and before the Planning Commission, it was claimed that general recommendations for promoting historic preservation throughout the City, including in Planning Area 4, constituted a change in circumstances. However, the recommendations of the 2040 Plan merely reiterate the City’s longstanding preservation goals for the City, which were similarly included in the former 2002 Comprehensive Plan (“2002 Plan”) and the 1989 approved and adopted Planning Area 4 West End – Woodley Gardens East/West Neighborhood Plan (“1989 Neighborhood Plan”). 2002 Plan at p. 8-1, 11-17, 11-24; 1989 Neighborhood Plan at p.28.
Had the HDC properly followed its 2007 decision and denied Peerless’ request for designation, no SMA would have been initiated and the process would have ended at that point.

B. The Property lacks historic significance

Without prejudice to the above, the weight of the evidence in this matter also dictates that the Property not be found historic. The 2007 Staff Report was detailed in its analysis regarding the loss of integrity and its conclusion was supported by three HDC members. This analysis was recently independently verified by R. Christopher Goodwin & Associates, Inc. (“Goodwin”), a well-respected cultural resources firm with over 40 years of experience who was engaged by the owners to evaluate the Property. Specifically, in its report dated December 10 2021 (Attachment 2). Goodwin notes that the house on the Property appears to be the Sears Belmont model, but has been altered in a number of significant ways, compromising its integrity. Noted alterations include: 1) deviations from the original roof design; 2) alteration of the dormer; 3) enclosure of the porch; 4) changes to the original windows; and 5) the ill-maintained state of the detached garage. Current Staff does not directly challenge the importance of the significant alterations affecting the integrity of the structure, but instead takes a different approach, suggesting that designation may be appropriate because the nonconforming alterations compromising the integrity of the structure “may be reversible.” In making this argument, Staff essentially argues that designation is not necessarily appropriate based on what is, but rather on what could be. Such a position is completely detached from the governing law, which requires that structures be evaluated based on their current characteristics. This position also ignores the fact that there is no legal mechanism by which the City can require property owners to reverse exterior modifications in order to better emulate a desired historic character. In this regard, the current justifications for designation are entirely insufficient, and are greatly outweighed by the thoughtful 2007 decisions based on the correct legal standards.

C. The City cannot make an affirmative finding that designation would stabilize or improve the Property’s value.

In order to place a property in a Historic District Zone, the City must make a finding that such designation will “stabilize and improve the property values of those sites and structures, and the adjacent neighborhood.” See Section 25.14.01.02 of the Zoning Ordinance. The January 5, 2022 Staff Report on the SMA admits that the zoning “could restrict the amount of expansion that the owner could achieve if the property were not designated” and “could deter more investment in the property to make significant improvements.” January 5, 2022 Staff Report, p. 72. The owners’ architect Mr. Moloney testified before the HDC that the existing structure is substandard in size by today’s standards. Additionally, the house has been unoccupied since the original owner passed away in 2001, leaving the house in a state of disrepair. The basement floods with each rain, and the water coming in flows over the electric panel, which has necessitated the shutting off of power to the structure. The constant flooding has even caused the metal piers supporting the structure to rust, jeopardizing its stability. Under these circumstances, designation would be tantamount to imposing a requirement that the owners renovate and restore the house. This obligation is not something Ms. Chua and Mr. Martinez could have anticipated.
when they purchased the house in January 2021 — especially in light of the City’s refusal to designate the property as historic in 2007. As such, designation would impose a heavy and unexpected financial burden on Ms. Chua and Mr. Martinez. Therefore, adoption of the SMA, when the application itself fails to conform to one of the requirements of the zone, would be arbitrary and capricious.

D. Due process considerations

Finally, we note that the City’s Zoning Ordinance anticipates that historic designation nominations will be reviewed and acted upon within 210 days of the date of filing. During this timeframe, no exterior changes are allowed to be made to a subject property. See Zoning Ordinance § 25.14.01(d)(5). This time limitation is clearly based on the premise that a property owner’s right to the use and enjoyment of his land cannot be restricted indefinitely. In this case, however, as of the date of your public hearing the nomination will have been pending for over 320 days, which has left the owners in an extended state of limbo regarding their ability to effectuate their plans for the Property. Moreover, the process will not conclude with the hearing on April 25th, but rather will continue into future Mayor and Council discussions and eventual action, further extending the timeline and raising legitimate due process concerns. It also bears repeating that this entire process was initiated and has been conducted over the objections of the owners. Heightened scrutiny should therefore apply to both the process and the potential designation itself, as adoption of the SMA would effectively thwart the owner’s ability to build their dream home on the Property and impose on them significant financial hardships, as described above.

Thank you for your consideration of the above information. We will be present at your April 25th public hearing and would be happy to address any questions or comments you may have at that time. In that regard, we request that, given the significance of this decision, sufficient time be allocated for Ms. Chua and Mr. Martinez’s presentation of their position at the hearing, and that they be given an opportunity to rebut conflicting testimony.

Sincerely,

Erin E. Girard

cc: James Wasilak
    David Levy
    Sheila Bashiri
    Ingrid Chua
    Joël Martinez
    Casey Cirner, Esq.
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<td>406 Great Falls Road</td>
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<td>406 Great Falls Road</td>
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<td>406 Great Falls Road</td>
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<td>5.</td>
<td>Craig Moloney</td>
<td>301-794-0882</td>
<td>Rockville, MD 20850</td>
<td>240 Anderson Ave, 220 Anderson Ave</td>
<td>Person</td>
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**406 GREAT FALLS ROAD - HISTORIC DESIGNATION**

MAP 2022-00123

Monday, April 25, 2022

In Person

Public Hearing Speaker/Written Comments List
Evaluation of Historic Designation of 406 Great Falls Road
MAP2022-00123

Noreen Bryan
25 April 2022

Good Evening, Mayor Newton and Members of the Council. My name is Noreen Bryan and I live in the West End neighborhood of Rockville, a few streets away from 406 Great Falls Road. I am speaking as a neighbor.

The property under consideration at 406 Great Falls Road is a key landmark on the Great Falls Road gateway to Rockville. Because of the curve in the road, this property, the Tudor revival house and the wide expanse of open land and trees, is visually memorable to anyone traveling east on Great Falls Road and has been for nearly 80 years. For those who live here or regularly frequent this area of Rockville, this property is key to the definition of its historic character. It is a remnant of the more open, less developed landscape that was characteristic of the period in which it was built. Subsequently, most of that open landscape has been lost to development, making it even more important that this property be saved through historic designation.

Over the past five years I have been serving as the Co-Chairperson of the Committee leading the effort to update the Neighborhood Plan for Planning Area 4 where 406 Great Falls Road is located. Historic preservation policies and properties are greatly valued by the community and represent nearly a third of the adopted Plan. The Plan sets policy to preserve the sites and landscapes not just structures, recognizing that the loss of the landscape and setting of historic properties results in a serious degradation and impoverishment of the historic record. In the adopted Plan, the first policy under historic preservation emphasizes the importance of the site and landscaping. It states:

Protect and enhance the historic and architectural integrity and value of the historic districts and sites, including their landscapes and environmental setting.