MAYOR AND COUNCIL

MEETING NO. 18-22
Monday, May 23, 2022 – 7:00 PM
VIRTUAL MEETING ONLY
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.

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 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 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, June 6 from 5:30-6:30 pm with Mayor Newton and Councilmember Ashton. 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-drop-in-meetings-227

7:00 PM  1. Convene

    2. Pledge of Allegiance

    3. Agenda Review

7:05 PM  4. Presentation

    A. Presentation of Environmental Excellence Awards

7:25 PM  5. 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.

7:45 PM  6. Discussion and Instructions to Staff on Zoning Text Amendment Application TXT2019-00254 – to Modify the Requirements for Accessory Buildings and Structures in Residential Zones; Mayor and Council of Rockville, Applicants
8:30 PM   7.  Discussion and Instructions to Staff on Zoning Text Amendment TXT2019-00255, to Allow for Accessory Dwelling Units in Accessory Buildings on Properties with Single Unit Detached Dwellings; Mayor and Council of Rockville, Applicants

9:15 PM   8.  Discussion and Instructions on Parkland Dedication Requirements, Including Fee-In-Lieu of Dedication and Impact Fees, and a New Program for Contributions of Either Land or Funds for Acquiring or Improving Parkland, and Possible Authorization of Text Amendment for Parkland Dedication and Fee in Lieu of Dedication

10:15 PM  9.  Old/New Business

10:30 PM  10.  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
Presentation of Environmental Excellence Awards

Recommendation
Staff recommends that the Environment Commission and the Mayor and Council present the awards to the Environmental Excellence winners. Clark Reed, Chair of the Environment Commission, will be joined by other members of the Commission to announce the awards.

Discussion
In 2003, the Mayor and Council established a series of awards for Environmental Excellence to recognize extraordinary accomplishments made by residents, organizations, and businesses that work to enhance Rockville's environment and sustainability efforts. Additionally, these awards are intended to encourage other community members to follow the lead of the award recipients. Anyone can, at any time, nominate an individual, organization, or business for an Environmental Excellence Award. In 2008, the Mayor and Council designated the Environment Commission to review such nominations and select deserving award winners. In 2010, the Mayor and Council established the Carl Henn Environmental Excellence Award as a way to recognize outstanding individual efforts to improve the health or quality of Rockville’s environment, address a specific environmental problem, or increase public understanding of environmental issues.

The Environment Commission is recommending four awards:

1) Monica Berger receive the Carl Henn Environmental Excellence Award for Outstanding Individual Environmental Stewardship in recognition of her community leadership to remove invasives and restore native plant habitat at Dawson Park.

Monica Berger invests countless hours in habitat restoration and helps build community as a Weed Warrior project leader. As a certified Weed Warrior for the City, Monica helps organize and lead weed warrior group work events. Then, she participates in nearly every event that the Rockville Weed Warrior group organizes, both public and private events, contributing many hours of her own time. This past year, she spearheaded efforts to create a native pollinator garden in a section of Dawson Farm Park that was overrun with invasive Honeysuckle. Monica
recruited volunteers through neighborhood lists and other area environmental groups who together spent countless weekend hours from March to July, first removing invasive plants and then planting and establishing native plants.

Monica worked with her Master Gardeners network, the City, and Pope Farm to secure native plants and seeds to restore habitat. Then, she regularly maintained the plantings all summer, hauling water from a local stream, and attempting to protect the seedlings from deer. Monica also organized a movement to create a deer fence around the pollinator garden. She sought help from Rockville Weed Warriors and neighbors to harvest local bamboo poles and build the deer protection fence. Throughout the project, Monica and other volunteers educated curious passers-by about the importance of native habitat and plant identification, involving even more neighbors in the project. Monica’s volunteer efforts have played an integral role in restoring native habitat at Dawson Park, supporting wildlife, and educating the community.

2) **Croydon Creek Nature Center** receive the Environmental Excellence Award for Outstanding Education and Academic Achievement for fostering nature appreciation through innovative programs, habitat exploration, social media, and volunteer events.

This year marks the 20th anniversary of the Croydon Creek Nature Center (CCNC). The nature center presents a world of discovery through interpretive exhibits, informative programs, and the exploration of an urban forest. CCNC provides innovative programming utilizing both the natural and built environment to teach children and the community at large. Through advocacy, programs, and community partnerships, CCNC provides outstanding environmental education. In a typical year, there are 26,000 visitors to CCNC, or well over a half-million visitors over the past 20 years.

CCNC also is home to the Annual Spring Festival and Native Plant Sale, which draws in over 200 residents and families each year. The plant sale, combined with CCNC’s native demonstration gardens and status as a Certified Wildlife Habitat through the National Wildlife Federation, provide a unique venue to engage residents in the importance of planting and protecting native plants and wildlife habitat. In addition, CCNC coordinates an annual stream and park cleanup as part of the region-wide Annual Potomac River Watershed Cleanup. It is estimated that these annual cleanups have resulted in the removal of more than 1,000 pounds of litter from Croydon Creek and the John G. Hayes Forest Preserve, and engaged hundreds of volunteers over the past 20 years, about half of whom are students earning Student Service-Learning hours.

CCNC’s collaborates and builds partnerships both within the city and with outside organizations. CCNC has partnered with local volunteers on native wildlife habitat demonstration gardens, Weed Warriors events to remove non-native invasive plants, Rockville Science Center for STEM summer camps, and Boy Scouts for site improvement projects.

CCNC embraces innovative technology to promote advocacy efforts including social media campaigns to build awareness of climate change issues, native species, nature crafts, current
trends, and more. The nature center kept an active social media audience involved through the pandemic with animal videos and virtual programming.

3) William “Bill” Nickel receive the Carl Henn Environmental Excellence Award for Outstanding Individual Environmental Stewardship in recognition of his service beautifying Cambridge Walk II through environmental landscaping projects.

As a 24-year veteran of the World Bank and a former Peace Corps volunteer, Bill Nickel has effectively applied his project management skills to lead many nature-based projects locally. Bill has served as the chair of the Landscape Committee of Cambridge Walk II Homeowners Association since 2001, the year a storm caused major flooding in the neighborhood. Bill used his passion for gardening and wildlife to develop raingardens and water-retention areas that addressed flooding and served to beautify the neighborhood. Projects include a large pollinator garden and native plantings in common areas, removal of invasive plants, developing a Forest Conservation Easement and Tree Protection Area, and launching a community compost initiative. Bill’s impact has earned multiple awards including from Peerless Rockville and National Wildlife Federation and won grants from Rockville and Montgomery County, leveraging his annual budget of $100. Bill uses creative ways to keep project costs low and by propagating plants himself. He continues to involve and mentor others in natural landscaping. As a result of his efforts, Cambridge Walk II is an oasis for both human and wild inhabitants, which includes diverse birds and other wildlife.

4) The Environment Commission recommends Dianne Fasolina receive the Carl Henn Environmental Excellence Award for Outstanding Individual Environmental Stewardship for her service to Rockville’s parks as a champion of volunteer environmental stewardship efforts.

Dianne Fasolina is a Rockville resident who recently retired after 21 years of service to the City of Rockville. In her most recent role as a Parks Maintenance Manager for the Recreation and Parks Department, Dianne demonstrated her dedication to Rockville’s environment by supporting programs to reduce litter, restore habitat, and support volunteer efforts in City of Rockville Parks.

She coordinated citywide refuse collection within 65 parks, established large metal recycling at the City Maintenance Facility, and coordinated pickup and disposal of hundreds of bags of litter collected by volunteers at Adopt-a-Stream and park cleanup events. She helped forge the first formal Weed Warrior events in Twinbrook Park and Rockcrest Park, which led to her coordinating the first bulk purchase of native plants from Pope Farm Nursery. Dianne coordinated supplies and pick-up of bagged invasive plants as well. The Weed Warrior Program now engages hundreds of volunteers each year in removing non-native invasive plants within City Parks.
Dianne was instrumental in supporting the establishment of a children’s vegetable garden at Twinbrook Community Recreation Center. This provided children participating in after-school programs the opportunity to tend a garden, many for the first time, and take produce home. She even reached out to the Smithsonian National Zoo to coordinate bamboo collection from City parks to feed the zoo animals, including the pandas. As a City representative and familiar face in Rockville’s parks, Dianne played an integral role fostering an appreciation of nature and the value of protecting our local parks.

Mayor and Council History
The Mayor and Council periodically present the awards for Environmental Excellence as deserving candidates are nominated and evaluated by the Environment Commission.

Boards and Commissions Review
On March 3, 2022, the Environment Commission voted unanimously to recommend Monica Berger, Croydon Creek Nature Center, William Nickel, and Dianne Fasolina for Environmental Excellence Awards.

Rob DiSpirito, City Manager

5/18/2022
Subject
Discussion and Instructions to Staff on Zoning Text Amendment Application TXT2019-00254 – to Modify the Requirements for Accessory Buildings and Structures in Residential Zones; Mayor and Council of Rockville, Applicants

Recommendation
Staff recommends that the Mayor and Council discuss the Text Amendment and provide staff with any further instructions on changes to the draft ordinance. Staff further recommends that adoption be delayed until Zoning Text Amendment TXT2019-00255, to Allow for Accessory Dwelling Units in Accessory Buildings, has been through the required review process and is ready to be voted on at the same time as this text amendment.

Change in Law or Policy
The proposed Text Amendment (Attachment A) would revise the height standards, maximum footprint, and the rear yard coverage requirements for accessory buildings and structures in residential zones. The revisions also add a compliance provision for accessory buildings built under previous standards and clarify the requirements for accessory buildings in historic districts, including those in the MXT (Mixed-Use Transition) Zone.

Discussion
At the May 10, 2021, Mayor and Council meeting, a public hearing was held on Zoning Text Amendment Application TXT2019-00254 – Regarding Requirements for Accessory Buildings and Structures in Residential Zones. The following is a summary of those comments:

- A maximum square foot size is not fair, as the other requirements will determine the maximum size of the structure based on the lot area.
- Adjust maximum rear lot coverage percentages as found in the “Development Standards for Residential Accessory Buildings and Structures” chart.
- Permit the greater height as proposed.
- Allow only one-story units with the current restrictions.
The text amendment with proposed revisions is shown as Attachment A. Changes highlighted in yellow are the changes to the original draft as requested by Mayor and Council based on direction given after meetings held in January and February of 2021. The only modification to the amendment since the May 10, 2021, public hearing is noted below regarding “Building Footprint.”

**Staff Recommendation**

Staff recommends the Mayor and Council discuss the current draft of the Text Amendment, and provide comments and direction on changes so that the Text Amendment may be introduced and adopted at an upcoming meeting.

Most of the emphasis regarding accessory structures is focused on the accessory dwelling units (ADUs), which is a separate text amendment. There has been some mixed public feedback, particularly on the potential for a 20-foot maximum height limit. However, a property owner would have to apply to the Board of Appeals for the additional height. This process would require public notice and a public hearing. The Board of Appeals would consider each request on its own merits and adjacent property owners can provide public testimony. The height limit is not an expressed right for a property owner, but rather a possible opportunity if the Board of Appeals makes a finding that the additional height is merited based on the facts presented. The use of the second story is not limited to the use of an ADU, but also a personal office, bonus space, hobby/craft room, and the like.

**Proposed Changes to Zoning Text Amendment TXT2019-00255 since May 10, 2021**

The following changes are incorporated into the draft document and are based on the discussion at the last public hearing.

- Building Footprint
  - From
    - **Building Footprint Gross Floor Area** – The gross floor area cumulative building footprint of any all detached accessory buildings must not exceed ten percent of the minimum lot area in the R-40 and R-60 Zones; nine percent of the minimum lot area in the R-75 Zone; and eight percent of the minimum lot area in the R-90 Zone; and six percent of the minimum lot area in the R-150 Zone. No single accessory building can have a gross floor area greater than 500 square feet. **The maximum footprint of any one accessory building is 750 square feet and cannot exceed the footprint of the main building.**
  - To
    - **Maximum Building Footprint Gross Floor Area** – The gross floor area of any detached accessory buildings must not exceed ten percent of the minimum lot area in the R-40 and R-60 Zones, nine percent of the minimum lot area in the R-75 Zone, and eight percent of the minimum lot area in the R-90 Zone. No single accessory building can have a gross floor area greater than 500 square feet. **The maximum footprint of any one accessory building is 750 square feet and cannot**
The maximum footprint of all accessory buildings is 1,000 square feet.

The reason for these changes is to reduce the number of regulatory mechanisms to determine the size of a structure and reduce conflict or confusion within the regulations. There are four mechanisms providing a control on an accessory structure building size: maximum rear yard building coverage; maximum building footprint for any one accessory building, a cumulative maximum for all accessory buildings, and overall lot coverage limitations for all buildings on a lot.

Prior History
As noted above, on May 10, 2021, Mayor and Council meeting, a public hearing was held on Zoning Text Amendment Application TXT2019-00254 – Regarding Requirements for Accessory Buildings and Structures in Residential Zones.

At its November 16, 2020, meeting, the Mayor and Council directed that the staff pursue additional public outreach ahead of an additional public hearing. Based on the direction given at that and earlier meetings, staff proposed revisions to the text amendment to address concerns of the Mayor and Council and members of the public, which were presented at a series of public information virtual meetings held in January and February 2021.

The outreach also included information on related Zoning Text Amendment TXT2019-00255, which proposes to allow Accessory Dwelling Units (ADUs) in residential zones. During prior outreach efforts and at the previous public hearing, the participants’ comments overlapped between the Accessory Building standards text amendment and the ADU text amendment, so the most recent outreach effort included both topics.

Following is a summary of the direction given by the Mayor and Council, and the changes proposed by the staff to address them. The outreach effort included these changes:

- Definition of Breezeway: A technical change is proposed to better clarify the intent of the provision.
- Staff recommends retaining the 25% maximum rear yard coverage limit to address small rear yards. Staff recommended this revision at the last hearing to address issues with small rear yards and ensure that accessory buildings could not be built that would appear to be too large for a small rear yard. The standards table remains as it is, except for the change from 25% to 15% coverage in the R-200 Zone, as originally proposed.
- Building height will continue being measured to the peak of the accessory building. Footnote 1 is proposed to be amended to have the height measurement made from the lowest point of the finished grade of the structure. This is intended to address the issue of buildings located on rear sloping lots to mitigate the “looming” effect on neighboring properties.
• The setbacks for accessory buildings remain at 1 foot for 3 feet of additional height above 12 feet.

• The proposal for increased additional height up to 20 feet is retained for the purposes of gaining public input. The added height would require a variance from the Board of Appeals, subject to compatibility findings. A new third sentence is added stating that the accessory building height cannot exceed the height of the main building. This is intended to help maintain the subordinate character of the accessory building in relationship to the main building. At the public hearing, testimony was given on both sides of this issue. Staff has provided three options to address these concerns for the Mayor and Council’s consideration:

1. Keep the height limit for accessory buildings at 15 feet. This limits the height of accessory buildings such that a second story is not possible. Staff recommends that the Mayor and Council support this option in conjunction with limitations on the floor area of ADUs, discussed in the accompanying staff report.

2. Retain the draft revisions that allow extra height up to 20 feet with a variance from the Board of Appeals.

3. Retain the current height limit of 15 feet for accessory buildings and only allow the extra height in connection with the installation of an ADU, either with or without a variance. This option would limit those homeowners who desire a second story studio or home office, without creating an accessory dwelling unit.

• Members of the Mayor and Council proposed allowing the footprint of the accessory buildings to be a percentage of the actual lot area, rather than the minimum lot area in each zone. Staff proposed to add a column to the table setting the maximum cumulative accessory building footprint at 1,000 square feet for the smaller lot size zones. In order to maintain the subordinate character of the accessory buildings, staff proposes to limit any one building to a footprint that equals ten percent of the minimum lot area of the R-60 Zone (600 square feet), nine percent of the minimum lot area of the R-75 Zone (675 square feet), and eight percent of the minimum lot area of the R-90 Zone (720 square feet).

• The historic accessory building revision is retained as drafted.

• The provision allowing a breezeway between the main house and an accessory building with a maximum length of 20 feet is retained.

• In Subsection (i), a revision is proposed to add an upper limit of 100 square feet to the size of a gazebo or other small decorative accessory structure.
• The revision to the historic accessory buildings reference in Article 10 is retained.

• The revision to require accessory buildings in the MXT Zone within a historic district to comply with the standards of the closest equivalent residential zone is retained as drafted.

Public Outreach and Input

The Mayor and Council directed the staff to conduct further outreach to the community to inform them of the proposed revisions ahead of the new public hearing. Staff worked with our Communications staff to disseminate this information on our website and through social media in advance of three virtual meetings that were held on January 19, January 27 and February 4. A user-friendly handout was developed and circulated to all civic associations and was the basis for the presentation at the virtual public information sessions. A summary of the public input received at those sessions is included as Attachment C, along with a summary of the email input that has been received. Copies of the actual emails are included in Attachment D.

Most public input was received on the topic of ADUs rather than accessory buildings and structures. As per previous testimony, the West End neighborhood remains concerned about impacts on neighborhood character if the development standards for accessory buildings and structures are modified, particularly regarding height and setbacks for taller buildings and structures. As you can see in the summaries, little testimony was received regarding the requirements for accessory buildings and structures.

Mayor and Council History

As noted previously, on May 10, 2021, Mayor and Council meeting, a public hearing was held on Zoning Text Amendment Application TXT2019-00254 – Regarding Requirements for Accessory Buildings and Structures in Residential Zones.

The Mayor and Council held the initial public hearing on July 15, 2019. One member of the public addressed the Mayor and Council and provided written testimony. The Mayor and Council held a Discussion and Instruction session on September 16, 2019, at which time staff was directed to hold a second public hearing to address issues raised at the Discussion and Instruction session and provide for additional public comment opportunities.

The Mayor and Council held a second public hearing on this text amendment application on October 7, 2019. Four (4) members of the public addressed the Mayor and Council and provided their testimony. The Mayor and Council held a Discussion and Instruction session also on October 7, 2019, at which time staff was directed to meet with those providing testimony and work further with the community.
The Mayor and Council have received numerous emails from residents of the West End neighborhood after WECA president Brian Shipley provided testimony on the text amendment at the March 2 meeting. Most of the feedback we have received from West End residents oppose changes that would increase the size of accessory buildings and structures, particularly with respect to a potential increase in height so that an accessory building or structure could have two stories.

Additional Discussion and Instructions meetings were held on April 20, 2020, and November 16, 2020, at which the Mayor and Council directed the additional outreach that was undertaken.

**Public Notification and Engagement**

Notice for the Mayor and Council meeting on May 23, 2022, was sent via the City’s Listserv to civic and homeowners associations.

**Boards and Commissions Review**

The Planning Commission reviewed the application at its meetings on June 12, 2019, and July 10, 2019, and recommended approval. The Commission initially had concerns about the relationship between this text amendment and the related text amendment for accessory apartments. Individual members discussed other concerns, including the potential for additional height, but ultimately recommended approval by a vote of 5-1, with the additional text added as noted previously.

**Next Steps**

The Mayor and Council will need to introduce the ordinance for the text amendment, and if introduced, adopt the ordinance at a subsequent meeting. Staff recommends that the Mayor and Council wait for the ADU text amendment to return to the Mayor and Council for a possible adoption at the same time.

**Attachments**

- Attachment 6.a: Proposed Text Amendment as modified through October, 2020 (PDF)
- Attachment 6.b: TXT2019-00254 Public input summary (PDF)
- Attachment 6.c: TXT2019-00254 Public written comment (PDF)
ATTACHMENT TO APPLICATION TO THE CITY OF ROCKVILLE FOR A TEXT AMENDMENT TO THE ZONING ORDINANCE

Applicant: Mayor and Council of Rockville

The applicant proposes to amend the zoning ordinance adopted on December 15, 2008, and with an effective date of March 16, 2009, by inserting and replacing the following text (underlining indicates text to be added; strikethroughs indicate text to be deleted; *** indicates text not affected by the proposed amendment). Further amendments may be made following citizen input, Planning Commission review and Mayor and Council review.

SECTION 1. Amend Article 3, “Definitions, Terms and Measurement and Calculations: as follows:

Section 25.03.02 – Words and Terms Defined

***

Breezeway: A covered passage way, which may be enclosed or unenclosed, for the purpose of providing a connection from the main dwelling to an accessory building. No portion of the breezeway may be constructed in a way that could be interpreted to provide a common wall between the main building and the accessory building.

Section 2. Amend Article 9, “Accessory Uses; Accessory Buildings and Structures; Encroachments; Temporary Uses; Home-Based Business Enterprises; Wireless Communication Facilities” as follows:

25.09.02 – Accessory Structures

Requirements – Accessory structures must be customarily associated with and clearly incidental and subordinate to a legally established principal structure. Such structures cannot be attached to the main building by any part of a common wall or common roof except as set forth in Section 25.09.03.a.2(h). Uses within accessory structures must comply with the applicable provisions of Section 25.09.01, above.

25.09.03 – Accessory Buildings and Structures

a. Residential Accessory Buildings and Structures

1. Residential accessory buildings and structures are subject to the following development standards:
Development Standards for Residential Accessory Buildings and Structures

<table>
<thead>
<tr>
<th>Zone</th>
<th>Minimum Setback Requirements</th>
<th>Maximum Rear Yard Building Coverage</th>
<th>Maximum Height at Minimum Setback Not to Exceed&lt;sup&gt;1&lt;/sup&gt; (see subsection 2(a) below)</th>
<th>Maximum Footprint of All Accessory Buildings (See Sec. 2(b) below)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Front</td>
<td>Side - Street Abutting</td>
<td>Rear</td>
<td></td>
</tr>
<tr>
<td>R-400</td>
<td>30’</td>
<td>3’</td>
<td>15%</td>
<td>12’</td>
</tr>
<tr>
<td>R-200</td>
<td>25’</td>
<td>3’</td>
<td>25% 15%</td>
<td>12’</td>
</tr>
<tr>
<td>R-150</td>
<td>30’ 3’</td>
<td>3’</td>
<td>15%</td>
<td>12’</td>
</tr>
<tr>
<td>R-90</td>
<td>20’ 3’</td>
<td>3’</td>
<td>25%</td>
<td>12’ 1,000 sq. ft.</td>
</tr>
<tr>
<td>R-75</td>
<td>20’ 3’</td>
<td>3’</td>
<td>25%</td>
<td>12’ 1,000 sq. ft.</td>
</tr>
<tr>
<td>R-60</td>
<td>20’ 3’</td>
<td>3’</td>
<td>25%</td>
<td>12’ 1,000 sq. ft.</td>
</tr>
<tr>
<td>R-60 (Qualifying Undersized Lot)</td>
<td>20’ 3’</td>
<td>3’</td>
<td>25%</td>
<td>12’ 1,000 sq. ft.</td>
</tr>
<tr>
<td>R-40</td>
<td>20’ 3’</td>
<td>3’</td>
<td>25%</td>
<td>12’ 1,000 sq. ft.</td>
</tr>
</tbody>
</table>

<sup>1</sup> The height of an accessory building or structure is measured from the finished lowest point of the finished grade at the front location of the building to the highest point of the roof. Additional height may be allowed in conformance with Section 25.09.03.a.2(a), below.

2. Residential accessory buildings are limited to one story and are subject to the following additional provisions:

(a) *Accessory Buildings and Structures Greater than 12’ High* - Accessory buildings and structures that exceed 12 feet in height must be set back from all lot lines an additional three feet for each additional foot (or any portion thereof) of building height up to the maximum allowable height of 15 feet. Accessory buildings may exceed 15 feet in height, up to a maximum of 20 feet, if granted a waiver of the maximum height limitation by the Board of Appeals. The Board of Appeals must find that the waiver will not be contrary to the public interest. In no event can the height above 15 feet exceed the height to the peak of the main house.

(b) *Building Footprint Gross Floor Area* - The gross floor area cumulative building footprint of any all detached accessory buildings must not exceed ten percent of the minimum lot area in the R-40 and R-60 Zones; nine percent of the minimum lot area in the R-75 Zone; and eight percent of the minimum lot area in the R-90 Zone; and six percent of the minimum lot area in the R-150 Zone. No single accessory can have a gross floor area greater than 500 square feet. The maximum footprint of any one accessory building is 750 square feet and cannot exceed the footprint of the main building.
(c) **Accessory buildings and structures that were constructed in conformance with the standards in effect at the time they were erected are considered conforming and may be modified, repaired, or replaced so long as they conform to the standards under which they were built except that they must maintain a minimum setback of three (3) feet from any property line.**

(d) **Historic Accessory Buildings**

(i) **Historic Contributing** accessory buildings, located in a Historic District Zone are exempt from the calculation of rear yard coverage per subject to the provisions of Section 25.08.06.c.

(ii) For properties that include contributing accessory buildings, the maximum cumulative building footprint for accessory buildings may be increased by up to 20% if granted a waiver by the Board of Appeals. The waiver may be granted if it is demonstrated that (1) the contributing accessory building cannot be used for the desired purpose of the proposed accessory building; (2) the proposed accessory building is compatible with environmental features on the property, including significant trees; and (3) the proposed accessory building is compatible with the overall character of the neighborhood.

(e) **Accessory Buildings on Through Lots** – A through lot has no rear yard as defined in this Chapter. However, accessory buildings may be placed in the apparent rear yard, but must be set back from the street line at least the minimum front yard setback required in the zone. Within the area between the main building and the setback line, all of the requirements for accessory buildings, including setbacks, heights, and maximum lot coverage will apply.

(f) Accessory buildings on corner lots – Accessory buildings must be placed in the rear yard of a corner lot. The rear yard of a corner lot must meet the minimum rear yard setback from the lot line to the main building as set forth in the applicable zone.

(g) **Connection to Main Building** - An open, unenclosed breezeway with a length not exceeding 20 feet may connect a main building to one accessory building.

(h) **Accessory Structures**

i. Small open structures not exceeding a footprint of 100 square feet, such as gazebos, may be permitted with a ten-foot (10’) setback in a yard abutting a street.

ii. An accessory swimming pool must be located in the rear yard. All portions of the pool must be set back at least three (3) feet from any lot line and comply with any provisions of Chapter 5 of this Code. Such a swimming pool is not...
subject to the maximum rear yard coverage requirements of subsection (c) above.

Section 3. Amend Article 10, “Single Dwelling Unit Residential Zones”, as follows:

**25.10.05 Development Standards**

* * *

b. **Maximum Lot Coverage**

1. *Inclusion of Accessory Buildings* – Maximum lot coverage includes accessory buildings; however, historic accessory buildings structures, located in a Historic District Zone, are exempt from the calculation of rear yard coverage pursuant to Section 25.09.03.1.2.

Section 4. Amend Article 13, “Mixed-Use Zones”, as follows:

**25.13.08 Accessories**

a. All accessory uses within mixed-use zones must comply with the provisions of Article 9 of this Chapter.

b. **New accessory buildings in the MXT Zone constructed after [date of adoption] and located within a Historic District Zone are subject to the provisions of:**

1. **Section 25.09.03.a.2(a); and**
2. **Section 25.09.03.a.2(b), with the applicable cumulative building footprint being based on the zone with the largest minimum lot area that does not exceed the existing lot area of the property where the accessory building is located.**

c. **Accessory buildings that were constructed in conformance with the standards in effect at the time they were erected are considered conforming and may be modified, repaired or replaced so long as they conform to the standards under which they were built, except they must maintain a minimum setback of three (3) feet from any property line.**

**NOTE:** Strike-throughs indicate material deleted
Underlining indicates material added
Asterisks *** indicate material unchanged by this ordinance
## Summary of Public Input Received between July 2019 and April 30, 2021

<table>
<thead>
<tr>
<th>#</th>
<th>Source of Input (oral)</th>
<th>Neighborhood</th>
<th>Input Type</th>
<th>Summary of Input</th>
<th>Staff comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Noreen Bryan</td>
<td>West End</td>
<td>Info session 1/27/21</td>
<td>Concerns about upward sloping lots, taller accessory buildings could loom over nearby homes</td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>Vincent Russo</td>
<td>Twinbrook</td>
<td>Info session 1/27/21</td>
<td>Supportive overall of modifying standards</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>#</th>
<th>Source of Input (written)</th>
<th>Neighborhood</th>
<th>Input Type</th>
<th>Summary of Input</th>
<th>Staff comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Scott Roberson</td>
<td>Twinbrook</td>
<td>Mark-up</td>
<td>Limitations are too limiting; Cumulative accessory building footprints should be removed</td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>Planning Commission</td>
<td>N/A</td>
<td>Memo</td>
<td>Concur with staff recommendation for accessory buildings in the MXT Zone within a historic district</td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>David Hill</td>
<td>West End</td>
<td>Email</td>
<td>Disagrees with limits proposed for accessory buildings in the historic district; why is this being considered; use infill criteria to address structures in the historic district; accessory structure should be a public process; sliding scale for floor area is illogical</td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>Brian Shipley (WECA)</td>
<td>West End</td>
<td>Memo</td>
<td>Not sufficient time to consider changes; does not support exemption of historic accessory buildings from lot coverage calculations;</td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>Scott Roberson</td>
<td>Twinbrook</td>
<td>Mark-up</td>
<td>See above</td>
<td></td>
</tr>
<tr>
<td>6</td>
<td>Peerless Rockville</td>
<td>N/A</td>
<td>Letter</td>
<td>Concerns about impact on historic neighborhoods,</td>
<td></td>
</tr>
</tbody>
</table>
# ZONING TEXT AMENDMENT TXT2019-00254: Accessory Building Standards
## Summary of Public Input Received between July 2019 and April 30, 2021

<table>
<thead>
<tr>
<th></th>
<th>Name</th>
<th>Location</th>
<th>Type</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>7</td>
<td>David Hill</td>
<td>West End</td>
<td>Memo</td>
<td>Clarification of above points</td>
</tr>
<tr>
<td>8</td>
<td>Brian Shipley</td>
<td>West End</td>
<td>Memo</td>
<td>Supports retaining maximum rear yard building coverage; does not support additional lot coverage in historic districts</td>
</tr>
<tr>
<td>9</td>
<td>Brian Shipley</td>
<td>West End</td>
<td>Memo dated March 2, 2020</td>
<td>Opposes new limits on building area, height and setbacks; supports increased size for any one accessory building; retain current height limits</td>
</tr>
<tr>
<td>10</td>
<td>Frank Liu</td>
<td>West End</td>
<td>Email</td>
<td>Does not support TXT; supports increase in maximum size of any single accessory building</td>
</tr>
<tr>
<td>11</td>
<td>Amy Brown</td>
<td>West End</td>
<td>Email</td>
<td>Does not support TXT</td>
</tr>
<tr>
<td>12</td>
<td>Max Rozar</td>
<td>West End</td>
<td>Email</td>
<td>Does not support TXT; does support increase in size of any one building</td>
</tr>
<tr>
<td>13</td>
<td>Benjamin Marks</td>
<td>Unknown</td>
<td>Email</td>
<td>Opposes greater size and height and lesser setbacks</td>
</tr>
<tr>
<td>14</td>
<td>Jane Karakashian</td>
<td>West End</td>
<td>Email</td>
<td>Opposes two stories and increased size</td>
</tr>
<tr>
<td>15</td>
<td>Marina Korobov</td>
<td>Unknown</td>
<td>Email</td>
<td>Opposes generally but supports a more comfortable maximum building area</td>
</tr>
<tr>
<td>16</td>
<td>Joanne Frysiak</td>
<td>West End</td>
<td>Email</td>
<td>Opposes generally but supports a more comfortable maximum building area</td>
</tr>
<tr>
<td>17</td>
<td>Jo Ann/John Lynch</td>
<td>Woodley Gardens West</td>
<td>Email</td>
<td>Oppose increase in height</td>
</tr>
<tr>
<td>18</td>
<td>Harvey/Cecilia Strine</td>
<td>West End</td>
<td>Email</td>
<td>Oppose changes</td>
</tr>
<tr>
<td>19</td>
<td>Stacey Kaplowitz</td>
<td>West End</td>
<td>Email</td>
<td>Supports changes</td>
</tr>
<tr>
<td>No.</td>
<td>Name</td>
<td>Location</td>
<td>Communication</td>
<td>Position/Comment</td>
</tr>
<tr>
<td>-----</td>
<td>--------------------</td>
<td>----------</td>
<td>---------------</td>
<td>----------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>20</td>
<td>Jane Pontius</td>
<td>West End</td>
<td>Email</td>
<td>Opposes increases in height and building size and reduced setbacks</td>
</tr>
<tr>
<td>21</td>
<td>Ilian Bandaranayake</td>
<td>West End</td>
<td>Email</td>
<td>Opposes increases in height and building size and reduced setbacks</td>
</tr>
<tr>
<td>22</td>
<td>Thomas Weko</td>
<td>West End</td>
<td>Email</td>
<td>Support staff recommendations</td>
</tr>
<tr>
<td>23</td>
<td>Evan Herring</td>
<td>West End</td>
<td>Email</td>
<td>Opposes increases in height and building size and reduced setbacks</td>
</tr>
<tr>
<td>24</td>
<td>David Hill</td>
<td>West End</td>
<td>Memo</td>
<td>Consider whether to support ADUs before deciding on changes to development standards; supports changes to general measurement; does not support larger accessory buildings; supports a flat proportion of building size to lot size; Opposed to allowing additional building size on historic properties</td>
</tr>
</tbody>
</table>
1. Problem: Text Amendment TXT2019-00254: a) remains excessively limiting, b) is contrary to public interest, c) imposes additional limitations, d) is unfair, and e) is discriminatory.

I object to the excessive these excessive and unfair limits.

Indicators of excessive accessory building limitations: public feedback, Board of Appeals approved variances, and breezeways were constructed because Rockville accessory building code is excessive. Breezeways and accessory buildings are not out of character for Rockville neighborhoods. Numerous breezeways are in Rockville.

The 2009 Ordinance 29-09 changed from “accessory building” singular to “accessory buildings” plural thereby limiting the sum of all accessory building areas to the small percentages listed, via adding a single letter. Before 29-09, the limit applied to accessory buildings individually, not to the sum for all accessory buildings.

The related and unchanging 25.10.05.a Table of Development Standards sets maximum lot coverage percentages for the sum of all main and accessory buildings, which are reasonable. Then 25.09.03 sets unreasonable further limitations on accessory buildings.

2. Cumulative accessory building footprint limits should be removed from TXT2019-00254 under 25.09.03.a.2.(b).

That is already elsewhere in the Code, and is not changing, specifically 25.10.05.a Table of Development Standards. A copy is attached.

Rockville Code is unfair by limiting Landowner A to lot coverage of 35%, while conversely limiting Landowner B to lot coverage of 18% (=1600/9000).

<table>
<thead>
<tr>
<th>Comparison of alternatives for a R-60 lot of 9,000 square feet</th>
<th>Lot Coverage (square feet)</th>
<th>Height (feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Case 1 Overboard</td>
<td>9000 lot area X 0.35 max coverage = 3150 main building</td>
<td>35</td>
</tr>
<tr>
<td>Case 2 Start Small</td>
<td>1000 main building + 600 accessory building=1600 total</td>
<td>20 and 12</td>
</tr>
<tr>
<td><strong>&quot;Penalty&quot;</strong></td>
<td>3150-1600=1550</td>
<td>35-12=</td>
</tr>
<tr>
<td>Equivalent to 1550/3150= 49% &quot;Penalty&quot; is</td>
<td>23 &quot;Penalty&quot;</td>
<td></td>
</tr>
<tr>
<td>HALF of a lot’s buildable area, for the accessory building.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Results</td>
<td>Ridiculous. Unfair. Discriminatory against persons who start small and persons who want a smaller main building in order to have a moderate accessory building.</td>
<td></td>
</tr>
</tbody>
</table>


4. See the markup I handed you. What is your response to my markup?
### Development Standards for Residential Accessory Buildings and Structures

#### Minimum Setback Requirements

<table>
<thead>
<tr>
<th>Zone</th>
<th>Side Street Abutting</th>
<th>Rear</th>
<th>Maximum Rear Yard Building Coverage</th>
<th>Maximum Height at Minimum Setback Not to Exceed (see sub-section 2(a) below)</th>
</tr>
</thead>
<tbody>
<tr>
<td>R-400</td>
<td>30'</td>
<td>3'</td>
<td>3'</td>
<td>15%</td>
</tr>
<tr>
<td>R-200</td>
<td>25'</td>
<td>3'</td>
<td>3'</td>
<td>15%</td>
</tr>
<tr>
<td>R-150</td>
<td>30'</td>
<td>3'</td>
<td>3'</td>
<td>15%</td>
</tr>
<tr>
<td>R-90</td>
<td>20'</td>
<td>3'</td>
<td>3'</td>
<td>25%</td>
</tr>
<tr>
<td>R-75</td>
<td>20'</td>
<td>3'</td>
<td>3'</td>
<td>25%</td>
</tr>
<tr>
<td>R-60</td>
<td>20'</td>
<td>3'</td>
<td>3'</td>
<td>25%</td>
</tr>
<tr>
<td>R-60</td>
<td>20'</td>
<td>3'</td>
<td>3'</td>
<td>25%</td>
</tr>
<tr>
<td>(Qualifying Undersized Lot)</td>
<td>20'</td>
<td>3'</td>
<td>3'</td>
<td>25%</td>
</tr>
</tbody>
</table>

1. The height of an accessory building or structure is measured from the finished grade at the front of the building to the highest mid-point of the a flat, hip or mansard roof. Additional height may be allowed in conformance with Section 25.09.03.a.2(a), below.

2. Residential accessory buildings are limited to one story and are subject to the following additional provisions:

#### Secondary Problem

(a) **Accessory Buildings and Structures Greater than 12' High** - Accessory buildings and structures that exceed 12 feet in height must be set back from all lot lines an additional two feet for each additional foot (or any portion thereof) of building height up to the maximum allowable height of 15 feet. Accessory buildings may exceed 15' feet in height, up to a maximum of 20 feet, if granted a waiver of the maximum height limitation by the Board of Appeals. The Board of Appeals must find that the waiver will not be contrary to the public interest.

#### Primary Problem

(b) **Building Footprint Cross Floor Area** - The gross floor area cumulative building footprint of all single detached accessory buildings must not exceed ten percent of the minimum lot area in the R-40 and R-60 Zones, nine percent of the minimum lot area in the R-75 Zone, and eight percent of the minimum lot area in the R-90 Zone, and six percent of the minimum lot area in the R-150 Zone. In the R-200 and R-400 Zones, the cumulative building footprint of all single accessory buildings must not exceed one and a half times the area greater than 1000 square feet.

(c) In no event shall accessory buildings collectively occupy more than 25 percent of the rear yard. Accessory buildings and structures that were constructed in conformance with the standards in effect at the time they were erected are
considered conforming and may be modified, repaired, or replaced so long as they conform to the standards under which they were built, except that they must maintain a minimum setback of three (3) feet from any property line.

(d) **Historic Accessory Buildings** – Historic accessory buildings, located in a Historic District Zone are exempt from the calculation of cumulative building footprint rear yard coverage.

***

(g) **Connection to Main Building** – An open, unenclosed breezeway with a length not exceeding 20 feet may connect a main building to one accessory building. No portion of the breezeway may be constructed in a way that could be interpreted to provide a common wall between the main building and the accessory building.

(h) **Accessory Structures**

i. Small open structures, such as gazebos, may be permitted with a ten-foot (10') setback in a yard abutting a street.

ii. An accessory swimming pool must be located in the rear yard. All portions of the pool must be set back at least three (3) feet from any lot line and comply with any provisions of Chapter 5 of this Code. Such a swimming pool is not subject to the maximum rear yard coverage requirements of subsection (e) above.

Amend Article 10, “Single Dwelling Unit Residential Zones”

25.10.05 – Development Standards

***

b. **Maximum Lot Coverage**

1. **Inclusion of Accessory Buildings** – Maximum lot coverage includes accessory buildings; however, historic accessory buildings, structures located in a Historic District Zone, are exempt from the calculation of rear yard coverage pursuant to Section 25.00.03.1.

***

Amend Article 13, “Mixed-Use Zones”, as follows:

25.13.08 – Accessories

a. All accessory uses within mixed-use zones must comply with the provisions of Article 9 of this Chapter.
Packet Pg. 24

Attachment 6.c: TXT2019-00254 Public written comment (4123 : D and I on Zoning Text Amendment Application TXT2019-00254 - Regarding
City of Rockville

MEMORANDUM

July 29, 2019

TO: Mayor and Council

FROM: Planning Commission

SUBJECT: Planning Commission Recommendation on Zoning Text Amendment Application TXT2019-00254

At its meetings on June 12, 2019 and July 10, 2019 the Planning Commission reviewed and discussed Text Amendment Application TXT2019-00254. At the June 12th meeting, the Commission received a presentation from Planning and Zoning Division staff. After discussion and deliberation on the proposed revisions, it was determined that additional information was needed before a recommendation could be made. Specifically, several members needed information on the effects of this text amendment and the related Zoning Text Amendment TXT2019-00255, which addresses new accessory apartments and accessory dwelling units (ADUs) on single family residential lots.

At the July 10th meeting, the Commission received a presentation from staff, which included an overview of the Text Amendment for accessory apartments and accessory dwelling units (ADUs). Staff also recommended a modification to Section 25.13.08 - Accessories, as it relates to new accessory buildings in the MXT Zone located within a historic district. Staff recommended including language that defines what “new,” means, as well as include a new subsection c, that will include a “grandfather” provision, with similar language that is being proposed in Section 2(c) for residential accessory buildings.

At the conclusion of staff’s presentation of the text amendment, Commission members raised a number of questions and concerns regarding the subject text amendment, which included but was not limited to the following: 1) clarification regarding historic accessory buildings being exempt from the lot coverage limitations; 2) concerns with the intent of “Contrary to the Public Interest,” and what that would mean on a case by case basis; and 3) regulating height via stories rather than by feet.

The Commission also raised a number of questions and concerns regarding the accessory apartments and accessory dwelling units (ADUs) text amendment (TXT2019-00255), including: 1) enforcement; 2) external issues such as parking; 3) potential school capacity issues; 3)
exploring mobile/temporary accessory dwelling unit options; 4) potential animal control issues; 5) use of the word “low cost housing;” and 6) rental rates in the Rockville. Staff noted that these issues would be reviewed and discussed further with the text amendment for accessory apartments and accessory dwelling units (ADUs).

After discussion and deliberation on the proposed revisions, the Planning Commission voted 5-1-1, with Commissioner Littlefield abstaining, to recommend approval of the proposed amendments to the text amendment including the edits to the MXT Zone.

With these comments included, on a motion by Commissioner Tyner, seconded by Commissioner Wood, with Commissioners Tyner, Hadley, Sherman, Miller and Wood voting in favor of the motion, Commissioner Littlefield abstaining, and Commissioner Goodman opposing, the Commission recommends approval of Text Amendment TXT2019-00254 with the additional recommendations set forth in this transmittal.

/nrw
cc: Planning Commission

   Jim Wasilik, Zoning and Development Manager
   Deane Mellander, Planning Supervisor
Dear Madame Clerk,

Please include the following clarification with the prior correspondence below.

The correspondence below was necessarily written quickly between the posting of the latest meeting agenda and timely submission the business day before the subject meeting. It is not a fully vetted position of Peerless Rockville, regardless of appearing over my signature as an officer therein. Therefore, you should consider it the opinion of one knowledgeable citizen.

Thank you,
David Hill

-------- Original Message --------
Subject: re TXT2019-00254, Accessory Structures
From: "David Hill" <DavidHill@tigger2.us>
Date: Fri, September 13, 2019 2:28 pm
To: mayorcouncil@rockvillemd.gov
Cc: "Nancy Pickard" <director@peerlessrockville.org>, cityclerk@rockvillemd.gov

Dear Mayor and Council,

Regarding the TXT2019-00254 (Accessory Structures) item on your Sept. 16 meeting agenda, I offer a couple points below. Please note that difficulties related to the Luckett House accessory structure application have only solidified since your July public hearing on this subject, which why some of these points only being raised now.

- The change here that matches the MXT zones to underlying residential equivalent, guts accessory structure limits in the Historic District Zone Overlay. You might want to rethink that explicitly. The switch to parcel area coverage has entangling effect too with that overlay zone. If inclined to continue in this direction, I strongly urge you to make parallel changes to the Historic District Overlay Zone. Otherwise you write two “gotchas” into the zoning code, whence someone reading that portion separately, because that is their focus, will not locate the exemption for MXT properties nor different area calculation, from those constraints. I suggest to you, the MXT areas in the Historic Zones are the most susceptible to near term development pressure.

- I question why this was brought forward when it was and is receiving fast track attention. The most significant change, as social policy, is to the RDU arm of accessory land use, not the structures part. I fear these changes and timing are happening as follow-on to the Luckett House recent application and an asserted legal mistake made by the PC and legal staff there. Thus, impetus here may shade to be cover-up for that mistake (especially related to the MXT exemption), rather than wholesome community merits.

I remind you that the M&C lately used infill constraints in the Historic District Overlay and related Master Planning to deny the Chestnut Lodge townhouse application. That path was not even brought forward in the Luckett House application by legal instruction. Is this a worthwhile land use mechanism? And if so, will staff follow-through on its applicability? The latest answer to that appears to be no. Staff replaced their judgement on this for denotation in the written ordinance and causing subterfuge to open discussion/consideration of this by deciding bodies (in
latest instance). Now they recommend you change this in ordinance. Please apply critical thinking on that, this is not all positives, as presented in staff examples, to impacts in the Historic District.

- These changes will shift much of accessory structure processing to staff judgment, lessening public transparency and input. Is that good? Are you aware the City is now under an Open Meetings Act complaint on this very topic of an accessory structure application? The Open Meetings Act Board is awaiting a response from the City (deadline Oct. 3) and then obligated to issue their opinion in next 30 days. I suggest you might want to hear that opinion, especially as it is germane to recent applicability of this ordinance topic, before moving swiftly to make changes. This does not look above board for the City, among those paying attention.

- Lastly, the staff report neglects to mention a point raised in the pre-submission public meeting. That is the illogic on the percentage sliding scale regarding zoning parcel size to allowed structure size. That scale is inverse, whereby larger parcels have smaller percentage accessory coverage limits. Does that make sense? Rather, larger parcels likely have greater (not lesser) potential for accessory structure implementation, without grievous impact. By recommended logic, areas of greater density (higher density residential zones) will be subject to greater proportional impact of accessory structure size. While larger parcels will enjoy greater proportional protection from impact. That smacks of socio-economic elitism. I advise this scale should be flat (thus rises proportionally as more space available on larger parcels), or perhaps even the reverse of that recommended (resembling progressive taxation). Please prompt staff to enunciate their rationale for this illogic.

Thank you for your attention and consideration.

Sincerely,
David Hill
Pres., Peerless Rockville
733 Beall Ave.

Cc     City Clerk
       Nancy Pickard, Exec. Dir., Peerless Rockville
September 16, 2019

SUBJECT: ZTA 254 Zoning Text Amendment re: Accessory Buildings in Residential Zones

Dear Mayor Newton and Members of the Council;

Last Wednesday, September 11, 2019, was the first time that citizens became aware that your discussions and deliberations on ZTA 254 would be held this evening. In reviewing the staff report, I have learned that there are new proposed revisions to the ZTA based on recommendations from the Planning Commission. These were not available to the public at the time of the Public Hearing of the Mayor and Council on July 15th.

The issues of accessory buildings in residential zones is of critical importance to our West End neighborhood. Given the fact that the new revisions were not available until a few days ago, residents have not had the opportunity to fully understand them and provide you with their issues and concerns. Further, since the public hearing was conducted during the summer, residents have not had sufficient time to fully understand the impact of ZTA 254 to themselves and the neighborhood as a whole.

In conversations with other neighbors and officers, I am particularly concerned that ZTA 254 does not provide adequate protections for residential historic properties. The ZTA had an exemption for historic accessory buildings, that was revised subsequent to the Public Hearing on July 15th. For historic properties, the ZTA exemption eliminates historic accessory buildings from calculation of maximum lot coverage. While I believe most residents would support grandfathering existing historic accessory buildings, it is unlikely that they would support eliminating a standard that would potentially allow for overburdening historic properties with more accessory buildings then would be allowed on a comparable residential lot.

Accordingly, I strongly recommend that you allow further public input on accessory buildings in residential zones prior to making a final decision.

Thank you very much for your consideration.

Brian Shipley
President
West End Citizen’s Association
Mayor and Council —

Please accept the attached and consider as you deliberate on ZTA-254 as this evening’s M&C meeting.

r/
Brian Shipley
President
West End Citizen’s Association

Brian
1. **Problem:** Text Amendment TXT2019-00254 remains excessively... My 15 July 2019 comments were not incorporated. I do not consent to TXT2019-00254. City Code applies force of law. City Code limits residential buildings thereby people’s lives too. You treat and write about person’s diversity and differences saying “What makes us different makes us great. We respect all these differences...” Likewise as you amend accessory building city code, exercise an abundance of equity, fairness, and respect differences among buildings. These buildings merely are a reflection and extension of people. Strive for latitude for variation, within a broad equitable system.

2. **Cumulative accessory building footprint limits should be removed from TXT2019-00254 under 25.09.03.a.2.(b).** Cumulative limits are already elsewhere in Code 25.10.05.a Table of Development Standards (Packet page 149), which are reasonable and unchanged.

**UNFAIR AND INEQUITABLE with lot coverage for Landowner B as HALF of Landowner A.**

<table>
<thead>
<tr>
<th>Lot Coverage</th>
<th>Square feet</th>
<th>%</th>
<th>Height (feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Landowner A 9000 lot area X 0.35 max coverage =</td>
<td>3150</td>
<td>35</td>
<td>35</td>
</tr>
<tr>
<td>Landowner B 1000 main building + 600 accessory building =</td>
<td>1600</td>
<td>18</td>
<td>20 and 12</td>
</tr>
<tr>
<td>&quot;Penalty&quot; 3150-1600=1550. Equivalent to 1550/3150= 49% &quot;Penalty&quot; is HALF of a lot’s buildable area, for the accessory building.</td>
<td>35-12= 23</td>
<td></td>
<td>&quot;Penalty&quot;</td>
</tr>
</tbody>
</table>

Excessive. Inequitable*. Discriminatory against persons who start small and persons who want a smaller main building in order to have a moderate accessory building. Contradicts Rockville’s Critical Success Factors*, Diversity in housing**.

3. Please reflect on attached Rockville’s Critical Success Factors excerpts: Processes that are administered equitably*... Diverse neighborhoods... Diversity in housing**... Housing opportunities for diverse populations. And Diversity, Inclusion and Engagement: Our city includes people of all races, ancestries, languages, gender identities, sexual orientation, ages, abilities and education and income levels. What makes us different makes us great. We respect all these differences and believe they make our city stronger. Rockville celebrates and supports all the people who live here through community support and quality services.

---

**Public Testimony, Packet Page 113**

<table>
<thead>
<tr>
<th>Quote</th>
<th>My Adjustments (deletions, additions) and Responses (in italics)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Allow for accessory buildings to have a minimum height of 15 feet and a maximum height of 20 feet with a setback of 3 feet from the property line.</td>
<td>1. Allow for accessory buildings to have a minimum height of 15 feet and a maximum height of 20 feet with a setback of 3 feet from the property line. <em>While this latitude would be nice, my comments are on packet page 147. Shorter accessory buildings should be allowed (not disallowed).</em></td>
</tr>
<tr>
<td>2. Allow for a height waiver with no findings, or a maximum height limit set if approved by the Board of Appeals.</td>
<td>2. Allow for a height waiver with no findings, or a maximum height limit set if approved granted by the Board of Appeals.</td>
</tr>
<tr>
<td>3. Eliminate the “cumulative” accessory buildings requirement and reinstate the “singular” accessory building requirement.</td>
<td>3. Eliminate the “cumulative” accessory buildings footprint requirement. and Reinstates the pre 2009 ordinance 29-09 “singular” accessory building footprint requirement under 25.09.03.a.2.(b). Retain 25.10.05.a. Table of Development Standards.</td>
</tr>
<tr>
<td>4. Allow the lot coverage for the main dwelling plus all accessory buildings to equal the total lot coverage allowed on the lot, with no limit on the size of the accessory building lot coverage.</td>
<td>4. Allow the lot coverage for the main dwelling plus all accessory buildings to equal the total lot coverage allowed on the lot, with no limit on the size of the accessory building lot coverage. Retain 25.10.05.a. Table of Development Standards.</td>
</tr>
<tr>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>5. Allow for accessory buildings to be equal to or greater in height and/or floor area than the main building for owners who desire the accessory building to be larger than the main dwelling.</td>
<td>This point is exaggerated. Where this really applies is in rare cases where main building is shorter or smaller footprint than in 25.09.03 accessory building limits.</td>
</tr>
<tr>
<td>6. Allow for the connection of the main dwelling and accessory buildings to continue without limitation, because this is not out of character for Rockville neighborhoods.</td>
<td>6. Allow for the connection of the main dwelling and accessory buildings to continue without limitation, because this is not out of character for Rockville neighborhoods.</td>
</tr>
</tbody>
</table>

The testimony, in summary, could make accessory buildings equal to or larger than the main dwelling, which is not consistent with the intent of the Zoning Ordinance to define accessory buildings as subordinate to the main dwelling.

This point is exaggerated. An accessory building equal to or larger than the main dwelling would be a rare occurrence for a case where main building is shorter or smaller footprint than in 25.09.03 accessory building limits. I strive to lessen, not eliminate, accessory building footprint limitations under 25.09.03.a.2.(b)., while retaining 25.10.05.a. Table of Development Standards. Greater latitude in proportioning between main and accessory buildings is needed.

Staff met with Mr. Roberson to discuss his concerns.

I appreciate the 26 July 2019 meeting attended by Ms. Nicole Walters, Deane Mellander, and Jim Wasilak who had to step away for another duty. Respectfully, "discuss" is exaggerated. I received some general understanding, and thank you. I did not receive specific responses with associated basis.

I struggle to pull out Rockville's response and associated basis, to my comments.

Paraphrasing Ms. Nicole Walters, from 26 July 2019 meeting: We are not prepared to respond to you today, and our response will be the staff report provided on 12 or 13 Sept.

Ms. Walters mailed it to me on 12 Sept. Thank you. I received it on 13 Sept.

I am happy to meet with Mayor, Councilmembers, Nicole Walters, Deane Mellander, and Jim Wasilak, as applicable to achieve a fair and equitable TXT2019-00254.
4. I formally request a formal Mayor and Council vote upon the question: is TXT2019-00254 treating Landowner B fairly in comparison with Landowner A?


6. See the papers I handed you and packet pages 147-148. Considering your vote, what is your response to me?

My markup of packet page 113 is attached. Friday 13 Sep 2019 was my first reading of the report. Indicators of excessive accessory building limitations: public feedback, Board of Appeals approved variances, and breezeways were constructed because Rockville accessory building code is excessive. Breezeways and accessory buildings are not out of character for Rockville neighborhoods. Numerous breezeways are in Rockville. The 2009 Ordinance 29-09 changed from “accessory building” singular to “accessory buildings” plural thereby limiting the sum of all accessory building areas to the small percentages listed, via adding a single letter. Before 29-09, the limit applied to accessory buildings individually, not to the sum for all accessory buildings.
9 of this Chapter.

b. New accessory buildings in the MXT Zone constructed after [date of adoption] and located within a historic district are subject to the provisions of:
1. Section 25.09.03.a.2(a); and
2. Section 25.09.03.02(b), with the applicable cumulative building footprint being based on the zone with the largest minimum lot area that does not exceed the existing lot area of the property where the accessory building is located.

c. Accessory buildings and structures that were constructed in conformance with the standards in effect at the time they were erected are considered conforming and may be modified, repaired or replaced so long as they conform to the standards under which they were built, except they must maintain a minimum setback of three (3) feet from any property line.

Public Testimony (See Attachment C)

The written and oral testimony submitted by Mr. Scott Roberson at the public hearing requests a number of changes be made to the proposed text amendment:

1. Allow for accessory buildings to have a minimum height of 15 feet and a maximum height of 20 feet with a setback of 3 feet from the property line.
2. Allow for a height waiver with no findings, or a maximum height limit set if approved by the Board of Appeals.
3. Eliminate the "cumulative" accessory buildings requirement and reinstate the "singular" accessory building requirement.
4. Allow the lot coverage for the main dwelling plus all accessory buildings to equal the total lot coverage allowed on the lot, with no limit on the size of the accessory building.
5. Allow for accessory buildings to be equal to or greater in height and/or floor area than the main building for owners who desire the accessory building to be larger than the main dwelling.
6. Allow for the connection of the main dwelling and accessory buildings to continue without limitation, because this is not out of character for Rockville neighborhoods.

The testimony, in summary, could make accessory buildings equal to or larger than the main dwelling, which is not consistent with the intent of the Zoning Ordinance to define accessory buildings as subordinate to the main dwelling.
Sec. 25.09.03 – Accessory Buildings and Structures

1. Residential accessory buildings and structures are subject to the following development standards:

<table>
<thead>
<tr>
<th>Zone</th>
<th>Side - Street Abutting</th>
<th>Land Abutting</th>
<th>Rear</th>
<th>Maximum Rear Yard Building Coverage</th>
<th>Maximum Height at Minimum Setback Not to Exceed</th>
</tr>
</thead>
<tbody>
<tr>
<td>R-400</td>
<td>All accessory buildings must be located in the rear</td>
<td>30'</td>
<td>3'</td>
<td>3'</td>
<td>15%</td>
</tr>
<tr>
<td>R-200</td>
<td>20'</td>
<td>3'</td>
<td>3'</td>
<td>25%</td>
<td>12'</td>
</tr>
<tr>
<td>R-150</td>
<td>30'</td>
<td>3'</td>
<td>3'</td>
<td>15%</td>
<td>12'</td>
</tr>
<tr>
<td>R-90</td>
<td>20'</td>
<td>3'</td>
<td>3'</td>
<td>25%</td>
<td>12'</td>
</tr>
<tr>
<td>R-75</td>
<td>20'</td>
<td>3'</td>
<td>3'</td>
<td>25%</td>
<td>12'</td>
</tr>
<tr>
<td>R-60 25.09.01(5)(g)</td>
<td>20'</td>
<td>3'</td>
<td>3'</td>
<td>25%</td>
<td>12'</td>
</tr>
</tbody>
</table>

1The height of an accessory building or structure is measured from the finished grade at the front of the building to the highest point of the roof. Additional height may be allowed in conformance with Section 25.09.03.a.2(a), below.

2. Residential accessory buildings are subject to the following additional provisions:

(a) **Accessory Buildings and Structures Greater than 12' High** - Accessory buildings and structures that exceed 12 feet in height must be set back from all lot lines an additional three (3) feet for each additional foot (or any portion thereof) of building height up to the maximum allowable height of 15 feet.

(b) **Gross Floor Area** – The gross floor area of any detached accessory buildings must not exceed ten percent of the minimum lot area in the R-40 and R-60 Zones, nine percent of the minimum lot area in the R-75 Zone, and eight percent of the minimum lot area in the R-90 Zone. No single accessory building can have a gross floor area greater than 500 square feet.
Critical Success Factors’
to Achieving Mayor and Council Vision

In early 2016, the Mayor and Council set their vision and goals for the term that ends in November 2019. Mayor Bridget Donnell Newton and Councilmembers Beryl L. Feinberg, Virginia D. Onley, Julie Palackovich Carr and Mark Pierzchala reaffirmed, with some revisions, eight “critical success factors,” which were first identified in January 2014, representing what the City will look like when the Mayor and Council achieve their shared vision.

EFFICIENT AND EFFECTIVE CITY SERVICE DELIVERY
Rockville is known for exceptional, personalized service delivery to residents and businesses, characterized by efficient, well-documented processes that are administered equitably by a committed workforce of employees with a “can-do” attitude. The Mayor and Council, together with Senior Management, work well together as they govern the community. The City has talented leadership that ensures the City government is moving in the right direction.

GOOD GOVERNANCE
The Rockville Mayor and Council work well together to make decisions for the betterment of the City, and the City enjoys excellent relationships with Montgomery County, Montgomery College, Montgomery County Public Schools, the State of Maryland and other governmental entities. Rockville residents are engaged with the community, actively volunteer for boards and commissions and turn out the vote in City elections.

SAFE AND LIVABLE NEIGHBORHOODS
Rockville is a community of safe, diverse neighborhoods with well-kept homes and vital neighborhood centers. This is accomplished by the City’s commitment to public and pedestrian safety, diversity in housing, support for high quality education and well-maintained infrastructure and by providing City services that address the needs of all constituencies.

FISCAL RESPONSIBLE
The City of Rockville has a track record of fiscal stability evidenced by exemplary bond ratings, appropriate reserve planning, and well thought out and researched capital and operating plans.

PLANNING AND PRESERVATION
Honoring its history, the City strives to protect the integrity of each neighborhood and ensure the quality of life for its residents. Rockville is the epitome of well-planned communities that has constantly reinvented itself and handled increasing density and growth associated with being part of a major metropolitan area. Rockville is known for quality transit-oriented development. The City’s illustrious “Rockville Pike” is noted as a best practice application of multi-modal transportation planning and includes retail and housing opportunities for diverse populations.

INFORMED AND ENGAGED RESIDENTS
Rockville residents are involved with their community and take an active interest in City government by participating in City activities, serving on Boards and Commissions, voting in municipal elections, and engaging in City governance. The City ensures residents have access to information about City services and current issues, and reaches out to all populations through the innovative use of all media.

ECONOMIC DEVELOPMENT
Rockville has an enviable business climate built on the success of its multi-phased Town Center, Rockville Pike, and Neighborhood Commercial Centers. The community enjoys a balance of commercial and residential development, small and large businesses and is characterized by mixed use development. New investment is encouraged by the City’s innovative business incubators and the development community is supported by an efficient development process that balances and respects private and community interests in the process.

STEWARDSHIP OF INFRASTRUCTURE
Rockville maintains and enhances existing City infrastructure (i.e. roads, bridges, water and sewer systems, buildings, fleet, amenities, etc.), and while planning for future needs, makes fiscally sound decisions for the long term health of the City. The City strives to be an environmentally sustainable community that preserves its green spaces and continually reevaluates ways to reduce its environmental footprint.
1. Problem: Text Amendment TXT2019-00254 remains excessively limiting and unfair. My 15 July and 16 September 2019 comments were not incorporated. I do not consent to TXT2019-00254. City Code applies force of law. City Code limits residential buildings thereby people’s lives too. You treat and write about person’s diversity and differences saying “What makes us different makes us great. We respect all these differences...” Likewise as you amend accessory building city code, exercise an abundance of equity, fairness, and respect differences among buildings. These buildings merely are a reflection and extension of people. Strive for latitude for variation, within a broad equitable system.

2. Cumulative accessory building footprint limits should be removed from TXT2019-00254 under 25.09.03.a.2.(b). Cumulative limits are already elsewhere in Code 25.10.05.a Table of Development Standards, which are reasonable and unchanged.

UNFAIR AND INEQUITABLE with lot coverage for Landowner B as HALF of Landowner A.

Comparison of Landowners A and B for a R-60 lot of 9,000 square feet shows TXT2019-00254 is a process administered INequitably*

<table>
<thead>
<tr>
<th>Lot Coverage</th>
<th>Square feet</th>
<th>%</th>
<th>Height (feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Landowner A</td>
<td>9000 lot area X 0.35 max coverage = 3150</td>
<td>35</td>
<td>35</td>
</tr>
<tr>
<td>Landowner B</td>
<td>1000 main building + 600 accessory building = 1600</td>
<td>18</td>
<td>20 and 12</td>
</tr>
<tr>
<td>&quot;Penalty&quot;</td>
<td>3150-1600=1550. Equivalent to 1550/3150= 49% &quot;Penalty&quot; is HALF of a lot’s buildable area, for the accessory building.</td>
<td>35-12= 23</td>
<td></td>
</tr>
</tbody>
</table>

Excessive. Inequitable*. Discriminatory against persons who start small and persons who want a smaller main building in order to have a moderate accessory building. Contradicts Rockville’s Critical Success Factors* "...processes that are administered equitably...Diverse neighborhoods... Diversity in housing**... Housing opportunities for diverse populations...". And Diversity, Inclusion and Engagement: "What makes us different makes us great. We respect all these differences and believe they make our city stronger."

3. Primary comment: Eliminate the “cumulative” accessory buildings footprint requirement. Reinstate the pre 2009 ordinance 29-09 “singular” accessory building footprint requirement under 25.09.03.a.2.(b). Retain 25.10.05.a. Table of Development Standards.

4. I formally request a formal Mayor and Council vote right now to answer the question:

Is TXT2019-00254 treating Landowner B fairly in comparison with Landowner A?

5. Solution: Modify TXT2019-00254 per attached markup.

6. See the papers I handed you. Considering your vote, what is your response to me?

EXHIBIT NO. _1_  
TXT2019-00254 Chapter 5  
PH: JULY 15, 2019
SECTION 2. Amend Article 9, “Accessory Uses; Accessory Buildings and Structures; Encroachments; Temporary Uses; Home-Based Business Enterprises; Wireless Communication Facilities” as follows:

25.09.02 – Accessory Structures

Requirements – Accessory structures must be customarily associated with and clearly incidental and subordinate to a legally established principal structure. Such structures cannot be attached to the main building by any part of a common wall or common roof except as set forth in Section 25.09.03.a.2(i). Uses within accessory structures must comply with the applicable provisions of Section 25.09.01, above.

25.09.03 – Accessory Buildings and Structures

a. Residential Accessory Buildings and Structures

1. Residential accessory buildings and structures are subject to the following development standards:

<table>
<thead>
<tr>
<th>Zone</th>
<th>Minimum Setback Requirements</th>
<th>Maximum Rear Yard Building Coverage</th>
<th>Maximum Height at Minimum Setback Not to Exceed1 (see subsection 2(a) below)</th>
</tr>
</thead>
<tbody>
<tr>
<td>R-400</td>
<td>30' Front 30' Side - Street Abutting 3' Rear</td>
<td>15%</td>
<td>10'</td>
</tr>
<tr>
<td>R-200</td>
<td>30' Front 20' 3' Side - Street Abutting 3' Rear</td>
<td>15%</td>
<td>10'</td>
</tr>
<tr>
<td>R-150</td>
<td>20' Front 20' 3' Side - Street Abutting 3' Rear</td>
<td>25%</td>
<td>10'</td>
</tr>
<tr>
<td>R-90</td>
<td>20' Front 20' 3' Side - Street Abutting 3' Rear</td>
<td>25%</td>
<td>10'</td>
</tr>
<tr>
<td>R-75</td>
<td>20' Front 20' 3' Side - Street Abutting 3' Rear</td>
<td>25%</td>
<td>10'</td>
</tr>
<tr>
<td>R-10</td>
<td>20' Front 20' 3' Side - Street Abutting 3' Rear</td>
<td>25%</td>
<td>10'</td>
</tr>
<tr>
<td>R-60</td>
<td>20' Front 20' 3' Side - Street Abutting 3' Rear</td>
<td>25%</td>
<td>10'</td>
</tr>
<tr>
<td>R-60 (Qualifying Undersized Lot)</td>
<td>20' Front 20' 3' Side - Street Abutting 3' Rear</td>
<td>25%</td>
<td>10'</td>
</tr>
<tr>
<td>R-400</td>
<td>20' Front 20' 3' Side - Street Abutting 3' Rear</td>
<td>25%</td>
<td>10'</td>
</tr>
</tbody>
</table>

1 The height of an accessory building or structure is measured from the finished grade at the front of the building to the highest mid-point of the a gable, hip or mansard roof. Additional height may be allowed in conformance with Section 25.09.03.a.2(e), below.
2. Residential accessory buildings are limited to one story and are subject to the following additional provisions:

   (a) Accessory Buildings and Structures Greater than 15' High - Accessory buildings and structures that exceed 15 feet in height must be set back from all lot lines an additional three feet for each additional foot (or any portion thereof) of building height up to the maximum allowable height of 15 feet. Accessory buildings may exceed 15 feet in height, up to a maximum of 20 feet, if granted a waiver of the maximum height limitation by the Board of Appeals. The Board of Appeals must find that the proposed accessory building is consistent with the architectural style and predominant architectural features of the main building and is compatible in scale and placement with adjacent properties and the immediate neighborhood.

   (b) Building Footprint Gross Floor Area - The gross floor area cumulative building footprint of any accessory building must not exceed ten percent of the minimum lot area in the R-40 and R-60 Zones, nine percent of the minimum lot area in the R-75 Zone, and eight percent of the minimum lot area in the R-90 Zone, and six percent of the minimum lot area in the R-150 Zone. In the R-200 and R-400 zones, the cumulative building footprint of all accessory buildings must not exceed 1,000 square feet.

   (c) In no event can accessory buildings collectively occupy more than 25 percent of the rear yard.

   (d) Accessory buildings and structures that were constructed in conformance with the standards in effect at the time they were erected are considered conforming and may be modified, repaired, or replaced so long as they conform to the standards under which they were built except that they must maintain a minimum setback of three (3) feet from any property line.

   (e) Historic Accessory Buildings

      (i) Historic Contributing accessory buildings, located in a Historic District Zone are exempt from the calculation of rear yard coverage per subject to the provisions of Section 25.08.06.c.

      (ii) For properties that include contributing accessory buildings, the maximum cumulative building footprint for accessory buildings may be increased by up to 20% if granted a waiver by the Board of Appeals. The waiver may be granted if it is demonstrated that (1) the proposed accessory building will not have a negative impact on environmental features on the property, including significant trees; and (2) the proposed accessory building is compatible in
Mayor and Council of Rockville  
11 Maryland Avenue  
Rockville, Maryland 20850

October 7, 2019

Dear Mayor and Council,

I speak to you today on behalf of Peerless Rockville, Historic Preservation in regards to Zoning Text Amendment TXT2019-00254. While generally supportive of easing requirements on accessory structures throughout the city and zoning review in anticipation of potential accessory dwelling units, Peerless has some concerns about the cumulative effect of the changes as proposed in the text amendment. We urge caution in your considerations this evening - Of particular concern is the impact these changes may have on designated historic properties, entire historic districts, near historic properties and mid-century neighborhoods comprised of smaller homes with smaller footprints.

The text amendment lacks significant protections against single structures that – if proliferated – may have a significant and disproportionate impact on character-defining aspects of our older neighborhoods and historic structures including those zoned other than residential. That this amendment introduces changes such as, second stories and larger gross floor areas, in advance of the pending accessory dwelling unit amendment should be clear and transparent. Items of most concern are the ability to add a full second story, via waiver, and the combined result of changing the calculation of size from gross floor area to building footprint, with the elimination of a maximum square footage of gross floor area. In reviewing the proposed amendments we ask you to consider the cumulative effects, the potential for further study and possible standards and design guidelines that could be adopted to protect property rights of adjoining property owners and the historic character of Rockville’s neighborhoods. Please accept the following comments and suggestions from Peerless Rockville on changes proposed in the text amendment as well as the attached document that breakdown the size of a random sampling of homes in four of Rockville’s early and mid-20th century communities.

PO Box 4262, Rockville, MD 20849-4262 | 301.762.0096 | PeerlessRockville.org
Subsection 1: Residential accessory building and structures development standards table

Delete the rear lot coverage limitation for accessory buildings

Peerless Rockville cautions against the deletion of a rear lot coverage maximum and supports the current staff recommendation to limit accessory buildings to 25% maximum rear lot coverage.

Modify how the height of accessory buildings is measured.

Peerless supports the change to height measured at the midpoint of the gable and believes the city should seek consistency with how the primary buildings are measured. However with this change we:

Recommend that regulations or guidelines be developed to ensure a degree of conformity between rooflines of new and enlarged accessory structures and the existing architectural style and pitch of the primary structure and surrounding properties.

Subsection 2: Residential accessory buildings

Delete the limitation on stories

Peerless suggests the Mayor and Council use caution or revisit this point in coordination with the ADU amendment. While Peerless generally supports an additional ½ story within a 15 foot structure. The change to full second story dwelling should be considered in tandem with ADU zoning and the development of applicable guidelines.

Subsection 2(a): Accessory buildings and structures greater than 12’ High

Modify the additional setback required for accessory buildings taller than 12 feet

Peerless is supportive of the change to a 2:1 setback ratio for structures taller than 12 feet

Increase the potential height of accessory buildings up to 20 feet.

As noted earlier - the Board asks the Mayor and Council to hold on the waiver for additional height to 20 feet and full second story until pending text amendment TXT2019-00255 to allow time for additional guidelines and such to be determined.

Subsection 2 (b): Gross Floor Area

Modify the size limitation standard from gross floor area to footprint

Peerless also urges caution with this modification as it allows for a footprint of full size plus an additional ½ or full story. In effect, it grants accessory structures that could have double, triple, or more overall square footage than the current 500 square foot maximum area.

Modify the limitation on building footprint
We support the 10% limitation, but again caution against the elimination of the 500 square foot maximum without replacing it with a policy that limits the overall size as compared to the primary structure.

Recommend: Adding a statement similar to the one noted in DC that states – Accessory structures must be subordinate to and secondary in size to main buildings. (Staff Report packet pg. 40)

Subsection 2(c): In no event can accessory buildings collectively occupy more than 25 percent of the rear yard

Eliminate the rear yard coverage limitation

Peerless opposes the elimination of rear lot coverage limitation. We support the current staff recommendation to limit rear yard coverage to 25% maximum.

Reinstate the “grandfather” provision

Peerless supports the “grandfather” provision, with the caveat that guidelines be established for Historic District Commission and Planning Staff review of demolitions and replacement of historic structures.

Subsection (d) Historic District Building

Clarify the status of historic accessory buildings

Peerless opposes the earlier proposed exemption of historic accessory buildings from the calculation of maximum lot coverage. We note concern for the gradual diminishing of protections afforded by Historic designation and Historic District zoning, which has been put in place to protect against changes and overdevelopment, not make it easier. We strongly recommend crafting and adding development standards to Historic District overlay zones.

Peerless does support the current staff recommendation allowing a 10% waiver, if partnered with clear guidelines for Historic District Commission and Board of Appeals.

Subsection (g) Connection to Main Building

New regulations on accessory buildings connected to main structure with a breezeway

We support this regulation on buildings connected to main structures with a breezeway.

25.10.05 Development Standards

Subsection b.1, Maximum lot coverage, inclusion of accessory buildings:
I reiterate Peerless' objection to the earlier exemption for existing historic accessory buildings. We support the 10% waiver and support guidelines to better protect historic districts and historic resources zoned other than residential.

Section 25.13.08 — Accessories

Peerless strongly supports new standards for accessory buildings in HD zones and the recognition of HD as supplemental zoning that provides additional protections for historic buildings and the character of the property. The HDC and Planning Commission need solid criteria and standards for MXT and HD zones.

Sincerely,

Nancy Pickard
Executive Director
<table>
<thead>
<tr>
<th>Home Size Lot Size</th>
<th>Holland Rd.</th>
<th>R-60</th>
<th>R-60</th>
<th>R-60</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residence vicinity/neighborhood/ drive</td>
<td>R-60</td>
<td>R-60</td>
<td>R-60</td>
<td>R-60</td>
</tr>
<tr>
<td>Lincol Ave.</td>
<td>R-60</td>
<td>R-60</td>
<td>R-60</td>
<td>R-60</td>
</tr>
<tr>
<td>Rockestreet Simmons</td>
<td>R-60</td>
<td>R-60</td>
<td>R-60</td>
<td>R-60</td>
</tr>
</tbody>
</table>

House and lot sizes for your city and Mid-century neighborhoods (square feet) (According to SPAR Data 10/7/2019)

Attachment 6.c: TXT2019-00254 Public written comment (4123: D and I on Zoning Text Amendment Application TXT2019-00254 - Regarding
In prior written submission, that contributed to the D&I deferral leading to this additional hearing, I made five points: I improved with staff.

1. The prior wording of draft ordinance, was undermining the distinction and protection of land use in the Historic Districts. I recognize that staff seemed motivated to standardize property rights per residential density zones. Yet I propose that people owning property in the historic districts do indeed buy into cultural resources that are clearly identified as deserving a greater level of impact care, than general parcels. I note further that as a policy direction, the City seems moving away from that greater protection for historic districts, by administrative and attitudinal changes. Recognizing this shift, and rethinking it explicitly, is what I was referring to in my point, rather than standing-by while it happens or accelerating into it with perhaps differently intentioned changes that still have effects. For example, changes in staff draft that excepted existing structures the historic district and then allowed same density atop, can make historic district parcels MORE vulnerable, than general parcels, not less. In discussion with staff since last session, we at least agreed to compromise of restricting this effect to historically contributing structures, not all structures on a parcel. That’s like one in three possible steps in that direction. Progress, while I still prefer additional steps.

2. I questioned the relatively swift movement of this ordinance update and whether it had legs to a recent unfortunate accessory structure outcome, and whether an effort was afoot to justify that outcome by aligning code changes to it. I’ve heard since that getting something approved this term is major driving force. I’ve always been suspicious of that as motivation, because if really worthwhile toward
public good, that should be apparent to whomever sitting on the
dais, at time of content maturity; not a property of specific individual
politicians. And then seems apparent this was considered low
hanging fruit toward accessory updates. Yet the socially important
and likely more significant and controversial arm of this will be the
residential dwelling unit arm\footnote{Mr. Pierschalla mentioned this last
session in reference to the shelter agreement with the Co. and I
wished at that time I was testifying in that session to connect those
references.}.

3. I reminded you that not so terribly long ago, the MC used the
mechanism of the historic overlay zone and master planning
description to turn down a notable dev. at Chestnut Lodge. And
noted the inconsistency in late City case handling that mechanism is
abandoned. That seemed to fit with criteria being so written here.
So you might want to reflect on whether that is a worthwhile
mechanism so tolerate its demise relevant to other building in the
historic district.

4. I questioned that the prior draft shifted most approval decisions to
staff, curtailing public input opportunity and consideration on such
applications, and whether that was good. A compromise inserted
here, since last session, is a return of public review process by way of
BoA waivers. That is a good direction that has two instances likely
hitting the most controversial aspects we can anticipate. But it could
go further, for example to have a sliding scale threshold that much
bigger proposed structures trigger greater input opening. All
matters in the historic district should receive HDC certificate review,
but maybe land use, not historic retention review might also apply.

\textit{Revising up primary structures is non-simulation issue
piling on accessory structures is a fitting approved matter
but finely}
5. My last point was something that still strikes me as illogical: there exists a sliding scale where larger properties have small percentage of allowed accessory structure size. That seems inconsistent with the foremost policy goal of better land use utilization in the residential zones, because that suggests the largest potential build areas stick up with more stringent standard, while the smaller parcels are allowed larger percentage, therefore more relative impact. Staff has since answered that they seek some limit on the large parcels and they are repeating and commonality that arises with similar code outside Rockville. I still posit that the first effect seems to be troubling related to socio-economic alignment, while I have never found “what everyone else does” as too compelling a reason for Rockville not to exercise its zoning control thoroughly to its own ends.

I standby to respond to any questions you have.

proportionality ~ by 
~ 4/4

am
Testimony from
West End Citizens Association (WECA)
Zoning Text Amendment (ZTA 254) for Accessory Buildings
7 October 2019

Good Evening, Madam Mayor and Members of the Council. My name is Brian Shipley and I live at 211 South Washington St. I am currently serving as the President of the West End Citizens Association (WECA) and I am speaking for the association this evening.

In changing the standards for accessory buildings, WECA is concerned to preserve the character of the neighborhood and our historic districts while allowing flexibility for property owners. Two provisions of the draft Zoning Text Amendment for Accessory Buildings are essential, namely, Maximum Rear Yard Building Coverage and Maximum Cumulative Footprint for Historic Residential Districts.

But first, I would like to thank City staff for working with us to address our concerns and provide detailed information. The opportunity for face-to-face discussion helped to clarify our understanding. We highly recommend this approach for the future.

Specifying Maximum Rear Yard Building Coverage is extremely important for the preservation of the character of our largely single-family residential neighborhood. As you know, the West End was built over more than a century with small clusters of streets added and developed in a piece-meal fashion. The result is a neighborhood that has many irregularly shaped lots that vary in size from little to large. For small lots, the requirement to place residences at a uniform distance from the street has resulted in small, sometimes very small, back yards. Establishing a Maximum Rear Yard Building Coverage standard is critically important. It will prevent small rear yards from becoming overburdened with accessory buildings, which would largely eliminate the green space in backyards for recreation, gardening and other uses. These backyards of trees and lawns are a defining characteristic of our neighborhood. Therefore, we strongly support inclusion of the table that defines Maximum Rear Yard Building Coverage by lot size and the provision that states that: "In no event can accessory buildings collectively occupy more that 25 percent of the rear yard."

The standards that establish Maximum Cumulative Footprint for Historic Residential Districts are equally important. Back yards of trees and lawns were the norm when most historic residences were built. Preserving the backyards is as essential as the residential structures themselves if the history of these districts is to be preserved. The provision in the revised draft that allows new accessory buildings, while setting a maximum cumulative building footprint, is the right compromise. It allows owners of historic residences to add new accessory buildings while preventing the loss of the back yards to too many accessory structures.

WECA strongly recommends that the provisions on Maximum Rear Yard Building Coverage and Maximum Cumulative Footprint for Historic Residential Districts be included in the Zoning Text Amendment. Thank you very much for your consideration.

EXHIBIT NO. 9
TXT2019-00254 Chapter 5
PH: JULY 15, 2019
WECA Statement of Position on Proposed Zoning Text Amendment TXT2019-00254
Community Forum, 2 March 2020

Good evening Mayor and Council Members. I’m Brian Shipley, speaking to you tonight as the President of the West End Citizens Association regarding the proposed zoning text amendment for Accessory Buildings [TXT2019-00254].

This amendment proposes that backyard Accessory structures in the City could be two stories high (where they are restricted to one story under present zoning), and could be two and a half to three times larger, and one and a half times taller, than under current zoning. The amendment was filed in April 2019, and may soon be on the docket for your Discussion and Instruction to the Planning Department staff.

At the February monthly WECA meeting, after a robust discussion among our Executive Board and members of the West End community, a motion expressing the following concerning TXT2019-00254 on Accessory Buildings was unanimously approved:

- WECA opposes the new limits in the amendment for building sizes, heights and property line setbacks
- WECA supports increasing the allowable size of Accessory Buildings from the 500 square feet allowed today, to a maximum of
  - 600 square feet on an R-60 lot
  - 720 square feet on an R-90 lot
  - up to a maximum of 1,000 square feet for larger lots
- We support retaining the current height limit of 15 feet, measured to the roof gable peak, and one story only
- We do not support the amendment’s reduction of current property line setback requirements

I mention the unanimous nature of this vote against most of the proposed amendment to illustrate the strong consensus in the West End against increasing the height of, or substantially enlarging, Accessory Buildings. Since much of the neighborhood is composed of single story and one and a half story houses, residents are very concerned that two story Accessory Buildings, even if they are constrained to be no taller than the main house, would be too dominant and overwhelming.
This is consistent with feedback heard as WECA has spent the last four years updating its Neighborhood Plan. In responses to the neighborhood-wide survey and in public discussions, residents make it overwhelmingly clear that they want to preserve the green spaces and single-family residential zoning of the West End.

As I noted, we do support a limited size increase beyond the current 500 square feet to allow for comfortable-sized sheds or garages. We strongly oppose enlarging Accessory Buildings to the size proposed in the amendment - which could ultimately enable a detached second dwelling unit on single family lots. This would minimize or eliminate back yards, make streets more congested and over-burdened with parked cars, and further incent the teardown of smaller, more affordable homes in the neighborhood. We urge you to reflect the same when you provide instruction about next steps on this amendment.

Since our neighborhood varies widely from large Victorian houses to small post-WWII houses, guidance, beyond zoning regulations, is needed to assure designs that enhance and preserve the neighborhood. This need is recognized as a recommendation calling for Design Guidelines in the Neighborhood Plan that will be coming to you later this year.

Thank you.

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1 Separate Zoning Text Amendment TXT2019-00255, also filed in April 2019, proposes allowing occupancy of detached Accessory Dwelling Units.
From: Frank Liu <fliu888@hotmail.com>
Sent: Sunday, April 5, 2020 4:32 PM
To: mayorcouncil <mayorcouncil@rockvillemd.gov>
Subject: zoning amendment TXT2019-00254

The Honorable Mayor and City Council:

Thank you for your service. I am writing in regard to zoning amendment TXT2019-00254.

- I oppose the changes in zoning amendment TXT2019-00254 to accessory building height, total size, property line setback, and the allowance of two stories.
- I support retaining the current accessory building height limit of 15 feet, measured to the roof gable peak, and one story only.
- To allow for comfortably sized garages or sheds, I support increasing the allowable ground footprint of one-story backyard accessory buildings from the 500 square feet allowed today, to the maximums in the amendment of:
  - 600 square feet on an R-60 lot
  - 720 square feet on an R-90 lot
  - up to a maximum of 1,000 square feet for larger lots

Sincerely,

Frank Liu & Shu Zhang
309 Misty Knoll Dr.
Rockville, MD 20850
From: Amy Brown <sf_brown@yahoo.com>
Sent: Sunday, April 5, 2020 5:01:20 PM
To: mayorcouncil <mayorcouncil@rockvillemd.gov>
Subject: Zoning amendment TXT2019-00254

I oppose the expanded accessory building total size and height allowances, and the reduced property line setback requirements, in zoning amendment TXT2019-00254.

Thank you,

Amy Brown
110 Evans Street
Rockville

Sent from Amy's iPhone
From: maxrozar@comcast.net <maxrozar@comcast.net>
Sent: Sunday, April 5, 2020 5:14:36 PM
To: mayorcouncil <mayorcouncil@rockvillemd.gov>
Subject: Opposition To Zoning Amendment TXT2019-00254

• I oppose the changes in zoning amendment TXT2019-00254 to accessory building height, total size, property line setback, and the allowance of two stories
• I support retaining the current accessory building height limit of 15 feet, measured to the roof gable peak, and one story only
• To allow for comfortably sized garages or sheds, I support increasing the allowable ground footprint of one-story backyard accessory buildings from the 500 square feet allowed today, to the maximums in the amendment of:
  o 600 square feet on an R-60 lot
  o 720 square feet on an R-90 lot
  o up to a maximum of 1,000 square feet for larger lots

Maxine Rozar

Lynn Manor Drive
From: Benjamin Marks <benmarks@gmail.com>
Sent: Sunday, April 5, 2020 5:23:15 PM
To: mayorcouncil <mayorcouncil@rockvillemd.gov>
Subject: TXT2019-00254

I can’t believe I actually have to say this, but I oppose the expanded accessory building total size and height allowances, and the reduced property line setback requirements, in zoning amendment TXT2019-00254. This sounds like something a developer or one off home owner might like to have, but something that would be terrible for nearly every resident of Rockville... additionally, it sounds like something that a few rich people would enjoy, but would be out of reach for everyone else. Don’t change this zoning restriction. We’ve got enough problems dealing with ugly mega mansions popping up everywhere... let’s preserve as much outdoor space as possible. Thanks.

Sent from my iPhone
Dear Mayor and Council Members,

I oppose enlarging accessory buildings to two stories and the total size allowed by this amendment, and urge you to reflect the same when determining the next steps on amendment TXT2019-00254. Thank you.

Jane Karakashian

724 Carr Ave

Sent from my iPhone
From: Marina Korobov <redrussian97@gmail.com>
Sent: Sunday, April 5, 2020 10:45 PM
To: mayorcouncil <mayorcouncil@rockvillemd.gov>
Subject: oppose the changes in zoning amendment TXT2019-00254 to accessory building height, total size, property line setback, and the allowance of two stories

Greetings

I live in westend and as many in my community oppose the changes in zoning amendment TXT2019-00254 to accessory building height, total size, property line setback, and the allowance of two stories

- I support retaining the current accessory building height limit of 15 feet, measured to the roof gable peak, and one story only
- To allow for comfortably sized garages or sheds, we support increasing the allowable ground footprint of one-story backyard accessory buildings from the 500 square feet allowed today, to the maximums in the amendment of:
  - 600 square feet on an R-60 lot
  - 720 square feet on an R-90 lot
  - up to a maximum of 1,000 square feet for larger lots

Marina Korobov
From: Joanne F <gmojanda@yahoo.com>
Sent: Monday, April 6, 2020 4:30 AM
To: mayorcouncil <mayorcouncil@rockvillemd.gov>
Subject: amendment TXT2019-00254

Hello,

- I strongly oppose the changes in zoning amendment TXT2019-00254 to accessory building height, total size, property line setback, and the allowance of two stories
- I support retaining the current accessory building height limit of 15 feet, measured to the roof gable peak, and one story only
- To allow for comfortably sized garages or sheds, I support increasing the allowable ground footprint of one-story backyard accessory buildings from the 500 square feet allowed today, to the maximums in the amendment of:
  - 600 square feet on an R-60 lot
  - 720 square feet on an R-90 lot
  - up to a maximum of 1,000 square feet for larger lots

I oppose enlarging accessory buildings to two stories and the total size allowed by the amendment, and urge you to reflect the same when determining the next steps on amendment TXT2019-00254.

Thank you,

Joanne Frysiak

325 Beall Avenue
Please know that we are against the current plans to change/increase backyard building heights and locations.

Thank you for your attention to this matter.

Jo Ann & John Lynch

624 Smallwood Rd.

Rockville, MD 20850
Mayor Bridget Donnell Newton
Councilmember Monique Ashton
Councilmember Beryl L. Feinberg
Councilmember David Myles
Councilmember Mark Pierzchala

Dear Mayor and Council:

Harvey and I have lived at 508 Carr Ave. for 51 years. We agree with the WECA position, that we oppose the expanded accessory building total size and height allowances, and the reduced property line setback requirements, in zoning amendment TXT2019-00254.

Yours truly,

Harvey E. Strine

Cecelia Ann Strine
Dear Mayor and Council Members,

I am writing to indicate my strong support for the upcoming zoning amendments TXT2019-00254 & TXT2019-00255. Although I am a member of WECA, I disagree with its official position.

I believe this should be a step in eventually allowing the by-right development of 2-6 unit multifamily buildings on large lots currently zoned single family. This would enhance the vibrancy of downtown Rockville by increasing density adjacent to the infrastructure already in place to support it. It will also help advance Rockville toward its goal of being pedestrian friendly, green, and walkable.

I LOVE living in the West End and I want it to preserve its character and stay vibrant. Multifamily housing is not threat to our neighborhood's character.

Thank you for your leadership!

Warm regards,

Stacy Kaplowitz

719 Beall Avenue, Rockville, MD 20850
From: Jane Pontius <jane.m.pontius@gmail.com>
Sent: Tuesday, April 7, 2020 3:41 PM
To: mayorcouncil <mayorcouncil@rockvillemd.gov>
Subject: Opposition to Expanded Accessory Building Modifications

TO: Rockville Mayor and Council. Citizens Forum

I am writing to you in opposition to the proposed expanded accessory building total size and height allowances as well as to the reduced property line setback requirements in zoning amendment TXT 2019-00254. Please do not go forward with these proposed changes as they threaten the very character and livability of our family-oriented neighborhoods throughout the City.

Thank you.

Jane Pontius
S. VanBuren St.
Rockville
Hello,

I am a homeowner in the West End of Rockville. I agree with the West End Citizens Association position on zoning amendment TXT2019-00254 as follows:

- We oppose the changes in zoning amendment TXT2019-00254 to accessory building height, total size, property line setback, and the allowance of two stories
- We support retaining the current accessory building height limit of 15 feet, measured to the roof gable peak, and one story only
- To allow for comfortably sized garages or sheds, we support increasing the allowable ground footprint of one-story backyard accessory buildings from the 500 square feet allowed today, to the maximums in the amendment of:
  - 600 square feet on an R-60 lot
  - 720 square feet on an R-90 lot
  - up to a maximum of 1,000 square feet for larger lots

Thank you.

sincerely,

Ilian Bandaranayake
From: Thomas.WEKO@oecd.org <Thomas.WEKO@oecd.org>
Sent: Wednesday, April 8, 2020 3:24 AM
To: mayorcouncil <mayorcouncil@rockvillemd.gov>
Subject: pending zoning decisions

Dear Mayor and Council,

As a homeowner in the West End of Rockville, I wish to note that WECA does not represent my thinking, nor does it represent the thinking of many other of my friends and acquaintances in the neighbourhood.

I enthusiastically endorse both current staff proposal for rentable living spaces within a house as described by WECA in this document, and a careful sequence of zoning modifications that would make it possible for West End homeowners to build accessory buildings that permit long-term rental residence.

Homeowners who have aging parents or young adults just starting their careers, for example, would greatly benefit from these zoning changes. As a long-term caregiver for my late mother, and as parent of three young adults, I would be eager to consider an accessory building that would permit them to join my wife and I in the West End.

Zoning laws are meant to carefully adapt to the changing needs of a community, and I invite you to respond to the many of us whose needs would be best served by these zoning modifications.

With kind regards,

Thomas Weko
From: Evan Herring <evanherring@yahoo.com>
Sent: Friday, April 10, 2020 7:34 AM
To: mayorcouncil <mayorcouncil@rockvillemd.gov>
Subject: Proposed Zoning Changes for Accessory Residential Buildings

Mayor and Council,

I oppose enlarging accessory buildings to two stories as well as the total size allowed by amendment TXT2019-00254.

I support retaining the current accessory building height limit of 15 feet, measured to the roof gable peak, and one story only.

I urge you to reflect this sentiment when determining the next steps on the amendment.

Thank you,
Evan Herring
Dear Mayor and Council,
I want to express my wholehearted support for Zoning Code Amendment TXT2019-00255 which pertains to permitting accessory dwelling units in our detached single family neighborhoods. I think this is a smart policy that would promote more affordable options for younger folks looking to live in Rockville. They can also help homeowners who are struggling to pay their mortgage afford to stay in place since rental income can be used to pay for mortgages. As the value of homes in our single family neighborhoods continues to rise we need to be looking at creative ways to make sure Rockville remains a welcoming place to more than just the very rich.

Michael Dutka
713 Shetland Street
Rockville MD 20851
Accessory Structures, Proposed Ordinance Changes
Written Testimony: David Hill, Feb. 2021

Regarding changes proposed to the Accessory Structures ordinance, a number of topics are in play at the same time, and perhaps best to consider each one. I evaluate these as:

1. Modifications to accommodate further rental unit approval in single family zones.
2. Technical measurements changes
3. Enhanced basis (increased sizes) for accessory structures
4. A change in allowance for historic properties

Expanding on each topic:

1. Regarding enlarging the accessory structure envelope to accommodate further rental units in accessory buildings, better public policy formation is making good local choice about whether to have such rental units first (either long term as ADUs or short term as temporary rental units). Otherwise, zoning makers are pre-supposing that change, by creating an attractive nuisance of space for it, contrary to intention to have it. If City representatives move forward on ADUs or temporary rentals, then related envelope changes to accessory structure ordinance logically follows. Under that condition, these recommendations are sound. If not that condition, these are unsound as logically preceding, not following.

2. The technical measurement portion generally makes sense as recommended by staff that deal with these. Things such as roof or base grade measurements are intended to be clearer and easier to administer or cover large sloping situations, which should be uncontroversial.

3. Regarding enhanced basis for accessory structures, I pose some doubts. First, what NEED arises (other than further rental unit changes mentioned above) for larger accessory structures? Has the appetite of the citizenry changed on this score? At core, this is intensification of property use, causing such as loss of verdancy or perviousness, or rising impact on adjoining properties. Second, why change the processing of accessory filings to conditional uses, rather than submission to the BoA. Is there something broken in BoA practice? That body exists to consider such one-off zoning ordinance entanglements and has served the City well generally. Third, I see illogic in the percentage scale of accessory structure to lot size proportion and arbitrariness in the 1000 sq. ft. limit. The proposed inverse relationship of a declining sliding scale of lot coverage to larger sized lots is upside down to me. A flat percentage scale consistently adjusts with lot size and achieves proportionality aimed at in other City zoning requirements. Property owners get equitable consideration, by only allowing bigger structures in ratio to parcels that are bigger to accommodate. Yet the scale here diminishes with size. While if any sliding is pragmatic, sliding up makes sense, since larger lots already have more spacing for residences, suggesting they have greater capacity to accommodate proportionally larger structures without proximity impacts that are endemic to smaller lots. I advocate for the simple flat percentage and have yet to hear a meaty explanation for this inverse sliding variation. It smacks of giving large lot owners greater zoning protection.
4. On historic properties, change here may allow\(^1\) a new capacity distinct to historic properties for more accessory lot coverage. My guess is, this is well intended to reduce replacement pressure for historic accessory structures. However, I think it puts pressure on historic settings by perhaps objectionably allowing greater lot usage intensity on historic properties than suited to long term preservation of the historic assets. Historic property owners generally buy into that condition and its stipulations when they purchase properties (except for new owner-adverse historic designations; generally rare). This is a self-selective circumstance that may not warrant leeway to do something more later. The Historic District Commission administers those stipulations and I would tend to defer to that body regarding what makes sense for historic settings, then write a hard rule otherwise. Fundamentally, I do not follow why having a historic property correlates to an allowance to add more accessory intensity than other properties. If the on-site historic structures are inadequate to the new intentions, owners might have to live within the strictures they bought into for the continuity of the cultural resource they occupy. Preservation of those cultural resources is purpose of historic ordinances and community interest in the matter.

\(^1\) There is ambiguity on change here. One piece of the posted proposed text changes is a difference, another piece seems to contradict. Which of these is controlling in final draft will determine whether these remarks remain relevant. Still as a conceptual basis for such zoning, I go ahead to mention. [Citations from draft changes dated 10-19-20, "Attachment to Application to the COR for Text Amendment to the Zoning Ordinance. Applicant M&C of Rockville": Item (p. 3) 25.09.03a.2d.i Historic Accessory Buildings has strike-out of "exemption from calculation" and refers to stds. in 25.08.06.c [HD Zone Exceptions, subject to HDC approval]. Vs. Item (p. 4) 25.10.05b.1 Dev. Stds. Max. Lot Coverage says ". . . historic accessory buildings located in a HD Zone are exempt from calculation."
Subject
Discussion and Instructions to Staff on Zoning Text Amendment TXT2019-00255, to Allow for Accessory Dwelling Units in Accessory Buildings on Properties with Single Unit Detached Dwellings; Mayor and Council of Rockville, Applicants

Recommendation
Staff recommends that the Mayor and Council direct staff to make any further changes to the text amendment. Staff further recommends that the Mayor and Council reauthorize Zoning Text Amendment TXT2019-00255 as modified and refer the modified text amendment to the Planning Commission for a recommendation to the Mayor and Council prior to a formal public hearing.

Change in Law or Policy
The proposed text amendment would allow for free-standing Accessory Dwelling Units (ADUs) in the single unit detached and semidetached dwelling units (duplexes) residential zones, as a conditional use. The text amendment would also convert accessory apartments, which are located within or attached to a dwelling, from a special exception use to a conditional use. Regulations are proposed to manage the character and operation of both uses.

Discussion
Background
At the May 10, 2021, Mayor and Council meeting, a public hearing was held on Zoning Text Amendment TXT2019-00255, to allow for Accessory Dwelling Units (ADUs) in accessory buildings on properties with single unit detached dwellings. This text amendment has a related but separate text amendment, TXT2019-00254, which proposes modifications to the standards for accessory buildings.

The following summarizes the draft provisions for Accessory dwelling units (ADUs) and accessory apartments as authorized for filing in 2019:
• Text Amendment would allow for the construction of a free-standing accessory dwelling unit in the rear yard of a single-family and semi-detached dwelling unit (duplex) as a conditional use, if certain conditions are met.

• The Text Amendment would also allow for the installation of an accessory apartment within or attached to the main dwelling unit as a conditional use, instead of as a Special Exception use, which requires Board of Appeals approval.

• A new definition for an ADU is added in Article 3, Definitions. Within the definitions, the reference to accessory apartments as special exceptions is deleted.

• In the provisions of Article 9 for accessory buildings in residential zones, the conditional use regulations for the installation of an ADU are set forth. In essence, only one ADU can be constructed on the lot; only one of the dwellings on the lot may be a rental unit; the property owner must reside in one of the units; there must be two off-street parking spaces on the lot; and the ADU must have the same street address as the main house.

• In Article 10, the regulations for the single-family (R) zones, the land use tables are modified to allow accessory apartments and ADUs as conditional uses. A new set of regulations for the installation of accessory apartments is set forth, which are essentially the same as the current special exception regulations.

• With the allowance of accessory apartments as a conditional use, the special exception regulations for accessory apartments in Article 15 are deleted.

Summary of Public Hearing Comments from May 10, 2021

• Summary of the comments from the public hearing:
  o Public comments continue to be reflective of statements received in past meetings.
  o The Twinbrook Community Association, Lincoln Park Civic Association, and East Rockville Civic Association all are in support of the proposed text amendment.
  o The West End Citizens Association does not support free standing ADUs but does support accessory dwelling units that are attached/inside the principal dwelling (accessory apartments).

Proposed Changes to Zoning Text Amendment TXT2019-00255 Since May 10, 2021

• Changes highlighted in yellow are the changes to the original draft as requested by Mayor and Council based on direction given at prior meetings. The changes in blue are changes made in response to comments made at the May 10, 2021, public hearing.
These changes are:

- Increasing standards for architectural compatibility with the principal structure;
- Changing parking standards if located within a certain distance to a Metro station;
- Permitting only one ADU on single unit detached dwelling or semidetached dwelling (duplex) lot;
- Requiring that the ADU and principal dwelling remain under common ownership;
- Permitting an ADU structure to be built off-site;
- Establishing a compliance period for non-conforming ADUs; and
- Not permitting ADUs in Planning Area 4 (West End and Woodley Gardens East-West) in conformance with the Rockville 2040 Master Plan.

Options for Discussion
Although staff is recommending that ADUs not be permitted in Planning Area 4, staff is providing the following option if the Mayor and Council desires to allow ADUs throughout the city for Planning Area 4:

- “Not more than two (2) ADU structures per block are permitted, unless a waiver is granted by the Board of Appeals to permit more than two (2) units per block in Planning Area 4 in a three (3) year period as of __________(date of adoption).”
  - The Board of Appeals process would require a public notice and public hearing.
  - This compromise would allow for a pilot project period.
  - As the three (3) year timeframe approaches, the affected Planning Area and Mayor and Council could assess the pilot project for possible continuation.

Comprehensive Plan Guidance
This proposed zoning ordinance amendment is consistent with the guidance provided by the 2040 Comprehensive Plan as shown in the following excerpts:

- Land Use Element
  - GOAL 2
    - “Allow for greater flexibility and affordability in residential land use types, while maintaining a high quality of life in new and existing neighborhoods.”
  - Policy 2
    - “Maintain large areas of Residential Detached land use, while allowing one additional accessory apartment or accessory dwelling unit per residential lot.”
    - “The City of Rockville is largely developed with detached single-unit residential homes. One way to accommodate more affordable housing
options, flexible space for an office or shared family living arrangements, and financial assistance for current homeowners, while maintaining the city’s predominantly residential character, is with accessory apartments and accessory dwelling units.

This Plan recommends that accessory apartments (i.e., those internal to the main residential structure) be allowed across the city. Detached accessory dwelling units (ADUs) are also recommended to be allowed, under a zoning text amendment, if the proposed new construction conforms to conditional use criteria that address size, parking, and other development standards.”

- **Actions**
  - 2.2 “Allow one Accessory Dwelling Unit (ADU), attached or detached from the primary building, subject to size, parking, and development standards for Single Unit Detached lots. Revise the Zoning Ordinance and any applicable design guidelines to set standards for accessory dwelling units, assure neighborhood compatibility, and define applicability of adequate public facilities standards.”
  
  - 2.3 “Establish development standards for Accessory Dwelling Units (ADUs) in the Zoning Ordinance and design guidelines that address compatibility of architectural design, use of pervious surface materials, and retention of established tree canopy and landscaped settings. Standards should be developed in consultation with the Rockville community and take into consideration the unique character and development patterns of different neighborhoods in the city.”
  
  - 2.4 “Change the Zoning Ordinance to make one accessory apartment, internal to the structure, a permitted use on a Residential Detached lot.”

- **Planning Area 4 - West End and Woodley Gardens East-West**
  - “Accessory Dwelling Units Accessory Dwellings Units, or ADUs, are a separate additional living unit to a primary single-unit detached home that includes separate kitchen, sleeping, and bathroom facilities. They may be attached or detached from the primary home and are usually subordinate in size, location, and appearance to the primary dwelling. ADUs can provide opportunities for more affordable housing, shared family living arrangements, and financial assistance for current homeowners to afford mortgages and other costs, within the context of existing neighborhoods. However, ADUs are not always appropriate or welcome within established neighborhoods.”
• “A survey of the residents in this planning area prior to this plan’s adoption indicated a concern for allowing ADUs on existing single-unit residential lots due to their potential to change or diminish the residential character of the planning area. Any change in the allowance or standards for ADUs in the planning area should be considered in consultation with planning area residents and property owners and account for the established residential character of the planning area.”

• “1. Establish development standards for Accessory Dwelling Units in the Zoning Ordinance, such as compatible architectural design, use of pervious surface materials, and retention of established tree canopy. Standards should be developed in consultation with planning area residents and property owners and take into account the unique character and development patterns of the planning area’s neighborhoods.”

Staff Recommendation
Staff recommends that ADUs be implemented according to the policy guidance in the Comprehensive Plan for the following reasons:

• The inclusion of ADUs assists with the housing shortage within the city and region.
  o Single family detached zoning comprises the most amount of land area, 34.2%, in the City of Rockville. The second most amount of land area, 28.9%, is Parks and Open Space.
  o Currently, approximately 63% of the City of Rockville is not accessible for other land use options.
  o Allowing for modestly-sized ADUs that are to be complimentary in design to the principal dwelling unit would assist in providing additional units without significant impact to the city’s appearance and infrastructure.

• ADUs allow for inclusivity and affordability, both for owners and renters.
  o Enables property owners to build a unit that would offset the housing costs of property owners.
  o ADUs are often rented at rates less than similar units found in traditional apartment complexes.
  o Increasing the number of units can increase the inclusivity of a neighborhood.

• ADUs allow families that need to take in an aging or disabled parent or family member a place for that family member to reside. Multigenerational households are increasing, and this amendment accommodates this shift.
  o The city issues licenses for rentals of attached units currently and would do so with the ADUs. This provides that safety of the units is maintained.
The Twinbrook Community Association, Lincoln Park Civic Association, and East Rockville Civic Association are all in support of this proposed text amendment.

**Mayor and Council History**

Following introduction, the decision was made to proceed with Zoning Text Amendment TXT2019-00254, revisions to the regulations for accessory buildings, and delay the ADU text amendment. Therefore, a formal public hearing on this text amendment was not held at that time. However, at the hearings on July 15 and October 7, 2019, testimony on both matters was received. The Mayor and Council held a Discussion and Instructions session also on October 7, 2019, April 20, 2020, and November 16, 2020.

A public hearing was held on May 10, 2021, for this text amendment TXT2019-00255, and TXT2019-00254, Accessory Buildings and Structures. The feedback provided to staff was to consider a neighborhood approach to ADUs and not a Citywide approach. Staff was directed to return back to the Mayor and Council with a different approach for consideration.

**Public Notification and Engagement**

In early May 2022, staff had sent an information email information to civic associations in neighborhoods thought to be most impacted by the text amendment proposals, including Lincoln Park, East Rockville, Twinbrook and the West End notifying those neighborhoods of the May 23, 2022, Mayor and Council meeting.

A meeting was held on February 16, 2022, with West End Community Association members Brian Shipley and Noreen Bryan and City staff members Ricky Barker, Jim Wasilak, and Seth Rivard. The purpose of this meeting was to discuss options that WECA may consider that would allow ADUs in Planning Area 4. The representatives present for WECA stated that, at this time, they believe ADUs are not in keeping with the character of the neighborhood. However, there was strong support for accessory apartments.

**Boards and Commissions Review**

The Planning Commission reviewed TXT2019-00254, the accessory buildings text amendment, at its meetings on June 12, 2019, and July 10, 2019, and initially had concerns about the relationship between that text amendment and this related text amendment for accessory apartments and accessory dwelling units (ADUs). The Planning Commission will review this text amendment and make a recommendation if the Mayor and Council directs that the review process proceed.

**Next Steps**

Staff recommends that the Mayor and Council:
• Reauthorize Zoning Text Amendment TXT2019-00255, as shown in Attachment X, for the following reasons:
  o The amendment has been in process for a significant period.
  o The amendment was originally envisioned for implementation city-wide but would not apply to Planning Area 4, based on public comments received and the Comprehensive Plan recommendations.
  o The current modifications are material changes to the zoning text amendment as authorized by the Mayor and Council in 2019.

• Direct staff to make any further changes to the text amendment and refer the modified text amendment to the Planning Commission for a recommendation to the Mayor and Council prior to a formal public hearing.

Attachments
Attachment 7.a: ADU Text Amendment as Currently Modified (PDF)
Attachment 7.b: Acc Bldg-ADU Handout Final January 7 2021 (PDF)
Attachment 7.c: Written summary 5-18-22 (PDF)
Attachment 7.d: Written Comments - ADUs 5-18-22 (PDF)

Rob DiSpirito, City Manager 5/18/2022
ATTACHMENT TO APPLICATION
TO THE CITY OF ROCKVILLE FOR A
TEXT AMENDMENT TO THE ZONING ORDINANCE

Applicant: Mayor and Council of Rockville

The applicant proposes to amend the zoning ordinance adopted on December 15, 2008, and with an effective date of March 16, 2009, by inserting and replacing the following text (underlining indicates text to be added; strikethroughs indicate text to be deleted; * * * indicates text not affected by the proposed amendment). Further amendments may be made following citizen input, Planning Commission review and Mayor and Council review.

Amend Article 3, “Definitions, Terms of Measurements and Calculations”, as follows:

* * *

Accessory Dwelling Unit – A dwelling unit located within an accessory building located on the same lot as a single unit detached dwelling. An accessory dwelling unit must be subordinate to the primary residential dwelling on the lot.

***

Dwelling Unit – A building or portion thereof providing complete living facilities for not more than one (1) family, including, at a minimum, a kitchen, and facilities for sanitation and sleeping.

***

5. Dwelling, Single Unit Detached – A building designed and intended for use as a single dwelling and entirely separated from any other building or structure on all sides. A single unit detached dwelling may include an accessory apartment approved by special exception.

***

Amend Article 9, “Accessory Uses; Accessory Buildings and Structures; Encroachments; Temporary Uses; Home-Based Business Enterprises; Wireless Communication Facilities” as follows:

* * *

25.09.03 – Accessory Buildings and Structures

* * *
b. Regulations for accessory dwelling units – No more than one accessory dwelling unit is permitted on a residential lot, and must comply with the following:

1. Any accessory dwelling unit shall match the architectural design, style and appearance and character of the principal dwelling to which it is accessory by incorporating design elements of the principal dwelling with like compatible materials, similar façade treatment, colors, window style and treatment and roof design and pitch. Accessory structures built off-site are permitted and must be permanently attached to the ground by a foundation.

2. The building must be permanently attached to the ground by a foundation.

3. The maximum gross floor area of an accessory dwelling unit must be less than 50% of the total floor area of the main building.

4. There must be two off-street parking spaces on the lot. The Chief of Zoning may reduce this requirement to one (1) off-street parking space when the proposed Accessory Dwelling Unit is located within 7/10ths of a mile walk distance to a Metro station.

5. An accessory dwelling unit is prohibited on a lot that has an accessory apartment.

6. The owner of the lot on which the accessory dwelling unit is located must occupy one (1) of the dwelling units, except for bona fide temporary absences not exceeding six (6) months in any 12-month period.

7. An accessory dwelling unit shall be permitted as an accessory use to a single unit detached dwelling or semidetached dwelling (duplex).

8. The accessory and principal dwelling shall remain under common ownership.

9. The principal dwelling unit and the accessory building shall only have one metered utility connection.

10. Accessory dwelling units that were not constructed in conformance with the standards in effect at the time such structure was erected are considered nonconforming and must be brought into compliance within 6 months of [date of adoption of this amendment].

11. Accessory dwelling units are not permitted in Planning Area 4 as defined in the approved and adopted 2040 Rockville Comprehensive Plan.

c. Non-Residential Accessory Buildings and Structures – Non-residential accessory buildings and structures are reviewed as part of the site plan review and subject to all requirements of the relevant zone and all conditions of the site plan approval.

Amend Article 10, “Single Dwelling Unit Residential Zones”, as follows:

25.10.03 – Land Use Tables

The uses permitted in the Single Dwelling Unit Residential Zones are shown in the table below. All special exceptions are subject to the requirements of Article 15.
<table>
<thead>
<tr>
<th>Uses</th>
<th>Residential Estate Zone (R-400)</th>
<th>Suburban Residential Zone (R-200)</th>
<th>Low Density Residential Zone (R-150)</th>
<th>Single Unit Detached Dwelling, Restricted Residential Zone (R-90)</th>
<th>Single Unit Detached Dwelling, Residential Zone (R-75)</th>
<th>Single Unit Detached Dwelling, Residential Zone (R-60)</th>
<th>Single Unit Semi-detached Dwelling, Residential Zone (R-40)</th>
<th>Conditional requirements or related regulations</th>
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</thead>
<tbody>
<tr>
<td>a. Residential uses</td>
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<tr>
<td>Dwelling, single unit detached</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>Conditional use subject to the requirements of the R-60 Zone</td>
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<tr>
<td>Dwelling, semi-detached (duplex)</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>P</td>
</tr>
<tr>
<td>Accessory apartment</td>
<td>C</td>
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<td>C</td>
<td>N</td>
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<tr>
<td>Accessory dwelling units</td>
<td>C</td>
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<td>C</td>
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<td>C</td>
</tr>
</tbody>
</table>

***
*Only one accessory dwelling unit or accessory apartment is permitted on a lot.*

***

**25.10.14 – Regulations for Accessory Apartments**

An accessory apartment is allowed subject to the following requirements:

a. Only one (1) accessory apartment may be created or attached to an existing single unit detached dwelling.

b. The owner of the lot on which the accessory apartment is located must occupy one (1) of the dwelling units, except for bona fide temporary absences not exceeding six (6) months in any 12-month period.

c. Any separate entrance to the accessory apartment must be located so that the appearance of a single unit detached dwelling is preserved.

d. All external modifications and improvements to the single-unit detached dwelling in which the accessory apartment is to be created, or to which it is to be added, must be compatible with the existing dwelling and surrounding properties.

e. The accessory apartment must have the same street address (house number) as the main dwelling.
The gross floor area of the accessory apartment must be less than 50% of the total floor area of the main dwelling.

Amend Article 15, “Special Exceptions”, as follows:

25.15.02 – Additional Requirements for Certain Special Exceptions

a. Accessory Apartments RESERVED

1. General Requirements – Accessory apartments must:
   (a) Be contained in the same building as a single unit detached dwelling; and
   (b) Contain facilities for:
      i. Cooking;
      ii. Eating;
      iii. Sanitation; and
      iv. Sleeping.

2. Specific Requirements
   (a) Limitation to One (1) – Only one (1) accessory apartment may be created in, or attached to an existing single unit detached dwelling.
   (b) Lot Requirements – Accessory apartments may only be created on a lot:
      i. Which is occupied by a family of related persons;
      ii. Which contains no other rental residential use;
      iii. Which does not contain rooms for rent or a boarding house; and
      iv. Which does not contain a major home-based business enterprise.

3. Ownership Requirements – The owner of a lot on which an accessory apartment is located must occupy one (1) of the dwelling units, except for bona fide temporary absences not exceeding six (6) months in any 12-month period. The period of temporary absence may be increased by the Board at any time upon a finding that a hardship would otherwise result. Any request for an extension of the period of temporary absence made subsequent to the initial grant of the special exception must be made in compliance with the procedures for a minor modification of a condition of a special exception in Section 25.15.01.b.(1).
4. **Development Requirements**

(a) Both the main dwelling and the accessory apartment must comply with all current development standards, including off-street parking requirements.

(b) No variance may be granted to accommodate an accessory apartment.

5. **Design Requirements**

(a) **Separate Entrance**—Any separate entrance to the accessory apartment must be located so that the appearance of a single unit detached dwelling is preserved.

(b) **External Modifications and Improvements**—All external modifications and improvements to the single unit detached dwelling in which the accessory apartment is to be created, or to which it is to be added, must be compatible with the existing dwelling and surrounding properties.

(c) **Street Address**—The accessory apartment must have the same street address (house number) as the main dwelling.

(d) **Occupancy Limitation**—The accessory apartment must house no more than three (3) persons and must be subordinate to the main dwelling.

6. **Additional Findings for Special Exception Approval**—The Board must make the following additional findings:

(a) That such use will not constitute a nuisance because of traffic or number of people, and will cause no objectionable noise, odors, or physical activity; and

(b) That such use will not adversely impact the parking or traffic situation in the neighborhood.

7. **Additional Restrictions for Special Exceptions**—The following restrictions on special exceptions for accessory apartments apply:

(a) The owner must comply with the certification requirements of Chapter 5, Article XII of the Code.

(b) The special exception is granted solely to the owner/applicant and does not run with the land.

(c) The special exception automatically expires when either of the following occurs:

   i. The owner/applicant sells the property on which the accessory apartment is located; or
ii. The owner/applicant no longer occupies any portion of the single-unit dwelling in which the accessory apartment is located; and

(d) The accessory apartment must be removed, dismantled, or otherwise rendered inoperative within 30 days of the expiration of the special exception.

8. **Additional Conditions**—The Board may impose additional conditions deemed necessary to protect and limit any adverse impact on adjacent properties and the neighborhood, including, but not limited to one (1) or more of the following:

(a) Restricting the number of people that may occupy the accessory apartment;

(b) Prohibiting rental of the accessory apartment;

(c) Limiting the total number of motor vehicles that may be parked on the lot; and/or

(d) Limiting the total number of vehicles that may be used and parked on street by the occupants of both the accessory apartment and the main dwelling.
PUBLIC FEEDBACK REQUESTED
REVISIONS TO RESIDENTIAL ACCESSORY BUILDING REGULATIONS
AND TO ALLOW ACCESSORY DWELLING UNITS (ADUs) ON RESIDENTIAL LOTS
January 2021

PURPOSE OF PUBLIC FEEDBACK:
The Mayor and Council are considering revisions to standards regarding these items and have requested feedback from City residents, builders and other interested parties on the proposed revisions. Once the public sessions are completed, a summary of the feedback will be provided to the Mayor and Council to help with shaping the revisions to the standards. Below is helpful information that describes our current standards and some potential changes.

RESIDENTIAL ACCESSORY BUILDINGS are small, detached structures, such as sheds or garages, located in the rear yards of single family homes.

The size and use of residential accessory buildings are currently regulated by the City’s Zoning Ordinance, subject to the following requirements:

- Must be located in the rear yard;
- Must not exceed a height of 15 feet, measured from existing grade to the peak of the roof;
- Must have a minimum setback of three feet from the side and rear property lines. For buildings taller than 12 feet, an additional setback of three feet for each additional foot of height is required.
- No single accessory building may have a floor area greater than 500 square feet.
- Total cumulative floor area for all accessory buildings on a lot is limited by zone, regardless of actual lot size: R-40 and R-60 Zones = 600 square feet, R-75 Zone = 675 square feet, R-90 Zone = 720 square feet.
- Must not cover more than 25 percent of the existing rear lot area.

FEEDBACK REQUESTED: The Mayor and Council are considering the following revisions to the Zoning Ordinance regarding accessory buildings, and request public feedback on these issues.

Possible revisions include:
- Limiting the height of an accessory building to less than the height of the main house.
• Allowing for additional height up to 20 feet, if granted a waiver by the Board of Appeals. This would allow for 2-story accessory buildings which could be used as a studio or home office over a garage. It could also allow for an accessory dwelling unit (ADU) if the companion legislation is adopted (see below).
• Allowing the total accessory building footprint to be a percentage of the actual lot area, with a maximum of 750 square feet for a single building.
• Limiting the footprint of an accessory building to 75% of the building footprint of the main house to help maintain compatibility with the existing house and neighborhood.

ACCESSORY DWELLING UNITS (ADUs) are separate dwelling units housed in an accessory building located in the rear yard of a single family home. Rockville’s Zoning Ordinance does not currently permit detached ADUs. The proposed revisions would allow them to be located in residential accessory buildings, subject to conditions, including that only one ADU can be constructed on a lot; that only one of the dwellings may be rented; that the property owner reside in one of the units; that there be two off-street parking spaces on the lot; and the ADU and house have the same address. Size would be regulated by the accessory building standards as proposed.

1. Accessory Dwelling Unit

ACCESSORY APARTMENTS are separate dwelling units contained within the main house. Currently, accessory apartments are permitted only by approval of a Special Exception by the City’s Board of Appeals. The proposed amendment will allow these as a conditional permitted use. The proposed regulations are drawn from the current special exception requirements.

2. Accessory Apartment
FEEDBACK REQUESTED: The Mayor and Council are considering revisions to the Zoning Ordinance to allow both ADUs and Accessory Apartments in residential neighborhoods, subject to criteria.

Options for consideration:

- Permit ADUs in all single family neighborhoods throughout the City, but limit the size and occupancy that limit them to a small apartment in a single story building;
- Permit ADUs in specific neighborhoods, based on recommendations in the City’s Master Plan, (which is currently being updated); or
- Permit ADUs in certain defined areas, such as part of a neighborhood, that would be shown on the zoning map.

FOR MORE INFORMATION: The City has established a web page where additional information can be found, including a link to the proposed zoning text amendment language and information on up-coming virtual meetings on Webex when interested parties may gain additional information, ask questions of City staff and provide input. The Webex meetings are scheduled for Tuesday, January 19 at 7:00 p.m., Wednesday, January 27 at 10:00 a.m. and Thursday, February 4 at 7:00 p.m.

Input received will be presented to the Mayor and Council in advance of a future public hearing and their consideration of the proposed revisions. The address for the web page is www.rockvillemd.gov/2345.

For more information or to sign up for the Webex meetings, please contact Jim Wasilak, Zoning and Development Manager, at 240-314-8211 or by email at jwasilak@rockvillemd.gov.
ZONING TEXT AMENDMENT TXT2019-00255: Accessory Dwelling Units (ADUs) and Accessory Apartments
Summary of Public Input Received between November 16, 2020 and April 30, 2021

<table>
<thead>
<tr>
<th>#</th>
<th>Source of Input (Verbal)</th>
<th>Neighborhood</th>
<th>Input Type</th>
<th>Summary of Input</th>
<th>Staff comment</th>
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<tbody>
<tr>
<td>1</td>
<td>Noreen Bryan</td>
<td>West End</td>
<td>Info session</td>
<td>Supports allowing ADUs on a neighborhood by neighborhood basis.</td>
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<tr>
<td>2</td>
<td>Noreen Bryan</td>
<td>West End</td>
<td>Info session</td>
<td>Concern about resulting climate impact, loss of mature tree canopy, expansion of impervious surfaces via parking.</td>
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<tr>
<td>3</td>
<td>Margaret Magner</td>
<td>West End</td>
<td>Info session</td>
<td>ADUs could provide incentive for tear-downs and rebuilds that include them</td>
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<td>4</td>
<td>Heath Marell</td>
<td>Unknown</td>
<td>Info session</td>
<td>Concern about possible renting of rooms and maximum occupancy of home plus ADU</td>
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<td>5</td>
<td>Noreen Bryan</td>
<td>West End</td>
<td>Info session</td>
<td>Accessory apartments more acceptable to West End residents than ADUs (50% support)</td>
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<tr>
<td>6</td>
<td>Margaret Magner</td>
<td>West End</td>
<td>Info session</td>
<td>Concern about school impacts – should be a maximum limit on occupancy</td>
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<tr>
<td>7</td>
<td>Vincent Russo</td>
<td>Twinbrook</td>
<td>Info session</td>
<td>Supportive of ADUs and simplifying the process to obtain</td>
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<tr>
<td>8</td>
<td>Lee Blank</td>
<td>Twinbrook</td>
<td>Info session</td>
<td>Concerned about impact of ADUs being used as Short Term Residential Rentals</td>
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<tr>
<td>9</td>
<td>Vincent Russo</td>
<td>Twinbrook</td>
<td>Info session</td>
<td>Supports more flexible in parking requirements, particularly close to transit options</td>
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<td>Summary of Input</td>
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<tr>
<td>Cassandra Pollard</td>
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<td>Supports</td>
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<td>Tara Dutka</td>
<td>Twinbrook</td>
<td>Email</td>
<td>Supports</td>
<td></td>
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<tr>
<td>Heath Marell</td>
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<td>Does not support occupancy limits</td>
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<td>Marlene Berg</td>
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<td>Email</td>
<td>ADUs would not be affordable; negative impact on the environment by removing trees and paving lawns</td>
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<td>Steven Smith</td>
<td>West End</td>
<td>Email</td>
<td>Supports accessory apartments but not ADUs due to potential tax increases; use of ADUs as STRs; destruction of historic properties; loss of tree canopy and green space</td>
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<td>Andrew Sellman</td>
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<td>Email</td>
<td>Not enough information for ADUs and STRs to be considered; require background checks for renters</td>
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<td>Phillip Staub</td>
<td>West End</td>
<td>Email</td>
<td>Supports ADUs; height should be limited to one floor over loft with requirement that ADU not loom over main structure; benefits of increasing density near transit</td>
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<td>8</td>
<td>Jamilah Ali</td>
<td>Twinbrook</td>
<td>Email</td>
<td>Supports in all neighborhoods</td>
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<td>9</td>
<td>David Hill</td>
<td>West End</td>
<td>Memo</td>
<td>Consider cultural aspect of implementing ADUs – neighborhoods will no longer be “single family”; little benefit to renters if numbers are small; large scale implementation impacts neighborhood character</td>
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<td>Michael Dutka</td>
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<td>11</td>
<td>Ethan Goffman</td>
<td>East Rockville</td>
<td>Email</td>
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<td>12</td>
<td>Yajie Li</td>
<td>Hungerford</td>
<td>Email</td>
<td>Supports with less restrictions</td>
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<td>13</td>
<td>Brian Shipley</td>
<td>West End</td>
<td>Email</td>
<td>Supports accessory apartments but not ADUs; response to CM Pierzchala’s questions</td>
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<td>14</td>
<td>Jonathan Robinson</td>
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<td>Supports</td>
<td></td>
</tr>
</tbody>
</table>
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From: cassandrap828 <cassandrap828@yahoo.com>
Sent: Sunday, October 6, 2019 6:07:41 PM
To: mayorcouncil <mayorcouncil@rockvillemd.gov>
Subject: Regarding ADUs

Please support ADU, alternate dwelling units and affordable housing in the City of Rockville.

Thanks.
Cassandra Pollard
City of Rockville Resident
Dear Mayor Newton and Rockville City Council Members:

I am writing to express my support for the proposed legislation modifying regulations on Accessory Dwelling Units (ADUs) in the City of Rockville. This proposed legislation will go a long way towards making ADUs more feasible for Rockville residents to build, and more valuable to those who build them. This, in turn, will help address the current housing shortage in our City and in our County and hopefully contribute to the affordable housing options available in our city. I strongly encourage the Council and the Mayor to pass this legislation and increase the potential supply of ADUs in Rockville.

Sincerely,

Tara Dutka, Ph.D.
Resident of Twinbrook
Hello Mr Wasilak,
I am very interested in participating in the Accessory Buildings and Dwellings public input webinar. Please send me the invitation to join the virtual meetings or let me know how to register.

I would also like to discuss and propose potential changes to the DHCA ADU Requirements. Specifically, I believe that the ADU Requirement specifying that "The Accessory Dwelling Unit may not be occupied by more than two adults (eighteen years or older)" is extremely limiting, detrimental, and contrary to the goals of the ADU program.

Please let me know how I can be listed as a speaker/presenter on this topic.

Additional Details:
Over the past month, I have been contacted by several ideal tenants that would not be allowed under the current two adult occupant limit, even with a two bedroom ADU. One scenario was a couple that had their 18-year old son living with them temporarily while his college was closed during the pandemic. Another scenario was a couple that temporarily had their mother-in-law living with them so that they could care for her and isolate together during the pandemic.

The current ADU occupancy rule would not allow any scenario for 3 adults to share two bedrooms, but it implies that 4 or even 5 occupants could share the same two bedroom apartment as long as only two are over 18. I believe that this rule directly contradicts Fair Housing Laws prohibiting discrimination and leasing decisions that are based on familial status, age of occupants, and presence of children (if over 18). It also puts an excessive burden on ADU owners to ask inappropriate questions directly prohibited by Fair Housing Rules when vetting tenants, occupants, and even short-term guests. I recommend that this rule be stricken entirely and that ADU occupancy should simply follow Fair Housing Laws and Guidelines.

FYI - I believe your phone number is incorrectly listed as 240-314-8871 on the Rockville MD Site - https://www.rockvillemd.gov/2345/Accessory-Buildings-and-Dwellings. I have been trying to get in touch with you for a few days and would really appreciate a return call whenever you are available tomorrow. I can be reached on my cell phone 202-352-2200.

Thanks,
Heath

Heath Marell
hmarell@gmail.com
Cell: 202-352-2200
Mayor Newton and City Council Members,

My name is Marlene Berg and I have resided at 715 Beall Avenue in the West End of Rockville for over 30 years. I am a member of the West End Citizens Association, or WECA. I am providing comments on the city’s proposed zoning amendments which would allow construction and rental of free standing second houses in backyards, called Accessory Dwelling Units (ADUs).

I applaud the city’s intention to promote affordable housing within the city of Rockville. However, I absolutely do not support the use of ADUs within Rockville. My concerns are two-fold, as follows.

ADUs would be located on private property. As such, I do not see how these units would be considered affordable. While I am not planning on building an ADU on my property (which is one and one-half lots), if I were to invest in such a structure, I would need to maximize the return on my investment.

My second concern is that ADUs would have a significant detrimental impact on the environment. Again, I highly applaud the city of Rockville’s efforts to address climate change and to maintain Rockville’s standing as a Tree City USA. However, installation of ADUs would result in the removal of trees, many of them mature trees, as well as reduce permeable surfaces, transforming lawns into paved areas.

Thank you very much for considering my comments.

Marlene Berg
715 Beall Avenue
Rockville, MD 20850
mgkpberg@gmail.com
ph.# 301-704-8177
To Mayor and Council:
I would like to offer you my comments concerning Accessory Dwelling Units.

I have no issue with the current proposals for Accessory Buildings (garages and sheds), or Accessory Apartments within single family homes.

However, I do have concerns about Accessory Dwelling Units (ADUs) - freestanding second houses in backyards. My concerns are:

- Possible tax increases for property owners, simply for having space on their property which could potentially support an ADU;
- The use of ADUs as high-profit, short-term rentals, and not as affordable housing;
- Further destruction of historic properties, to maximize building space/size and income-potential of Lots;
- Loss of tree canopy and green space.

Thank you for considering my comments.

Steven Smith
135 Bullard Circle, Rockville
From: ANDREW SELLMAN <sellmana@verizon.net>
Sent: Friday, January 22, 2021 10:47:29 PM
To: Robert DiSpirito <rdispirito@rockvillemd.gov>
Cc: Bridget Newton <bnewton@rockvillemd.gov>
Subject: ADU and Short-Term Rentals

The staff reports on the subject were pretty light on suggesting any regulation and seemed to just dump the problem on the Mayor and Council. I saw no recommendations, analysis of alternatives, or recommendations for ADUs and Short-Term Rentals.

I don't really see any specific goals the city has established for ADUs and short-term rentals. What end result do the citizens of Rockville expect and how is the staff meeting those expectations? I can't tell from the staff report.

Rather surprising. I used to be a landlord in Towson, MD, so background checks were something I always depended upon.

Of course, a short-term rental is different...time constraints, costs, etc. But there are ways to manage the risk...so we don't have another 'murder house' on West Montgomery Ave in the West End.

I'll try to do the 'virtual' public hearings on 27 Jan or 4 Feb. But I think the staff ought to do some research on what resources are out there that could be considered. Here are a couple URLs for the staff to chew on:
From: Jamilah Ali <jamilahalex@yahoo.com>
Sent: Sunday, January 31, 2021 10:40 PM
To: Jim Wasilak
Subject: ADUs

should be permitted in all rockville single family neighborhoods--to limit to certain neighborhoods or certain parts of neighborhoods is a set up for racial class and ethnic disparities.
I will try to attend on feb 4, but under no circumstances should restrictions like this be passed.
Thank you,
Jamilah
514 woodburn rd
rockville
I am a resident of West End and support greater flexibility on ADUs.

I realize that I am in disagreement with my neighborhood association. They argue that accessory dwellings will make the neighborhood less affordable by increasing home values. I believe that being able to rent out an accessory dwelling will make the neighborhood more affordable for both the owner and renter.

WECA also argues that ADUs will be large and unsightly on our smaller lots. I think the proposed footprint limits and setbacks are appropriate. I believe height should be limited to one floor plus loft unless over a garage in which case it can be a full-height second floor limited to 90% of the height of the main structure. This would make full-height second floors the exception not the rule, and no ADU would appear to loom over the main home. Together, these limits are also likely to discourage the building of two full-size homes on lots, as WECA fears.

WECA's concerns about short term rentals can also be addressed by sensible regulation. The number of short term rentals in a year could be limited to encourage longer term rentals.

Further, I believe WECA overlooks the environmental benefits of increasing density near transit. WECA argues that people will cut down trees and pave lots to build ADUs. I think that's unlikely and also easily regulated as part of the ADU application process.

In case you're wondering, my opinions are not motivated by self-interest. I have no plans to build an ADU. I simply believe relaxing regulations on ADU will benefit the neighborhood. I am comfortable with a Rockville-wide approach to avoid NIMBYism and promote cohesiveness.

Please let me know if I need to provide comments in another way in order to make them part of your record for consideration.

Thank you,
Phill Staub
206 Upton St.
As consideration of having an ADU ordinance is underway, I recommend you consider the threshold-crossing cultural aspects of this action. You should be aware of the nature of this change.

The topmost classification of residential zones in the City are single family and multi family zones. This is roughly lower vs. higher density zones. While the key cultural distinction of the single family zones is they contain stand-alone residences on single lots, at whatever density determined. Thus, R45, R60, R90, etc. zones. Where did this expectation come from? I propose it came from the push to a cultural norm of nuclear families living in neighborhoods in the post WWII era. This expectation was enshrined in “living the American dream” and drove the growth of suburbs (of which contemporary Rockville was undeniably developed as one), and the prominence of this style of residential structure into the late 20th century. The cultural expectations were young people became couples, got married, had children and all lived in a single family house, in a neighborhood of like structures and family units. Indeed, Rockville’s majority land use is such residential structures. I emphasize “single” commonly means stand alone, and “family” means directly related people.

Since that early zoning start, peripheral zoning options poked at these commonly held meanings. The combination of higher land costs, decline of available space and desire for diversity of living styles, motivated addition of multi-family zones from duplexes, through townhouses, to high density condos or apartments. Yet the only modifications in such regard to core single family zones are 1) exceptional accessory apartments, or 2) exceptional “granny flats.” The first stretched the occurrence of single residential, yet only inwardly, as outwardly the appearance is to remain standalone. The second stretched the meaning of family, to extended family. While both are exceptions literally and individually reviewed and acted upon via Special Exceptions. Otherwise, the historic thrust of Rockville zoning has been to resist impacts on existing single family residential zones.

The reason an ADU ordinance change is a big cultural step is: it infringes upon the common understanding of both “single” and “family.” Having another lived-in structure on a single family lot, no longer makes the land use single residential, and a rent-able dwelling unit is likely occupied by renters other than family, even by stretched definition. Plus, the regulatory mechanism is no longer an exception, but an encoded use. This is then a bold step, across the threshold of commonly understood neighborhood fabric. Are the householders ready for that?

Housing policy merits exist to make this step, such as increasing residential housing and diversity, or allowing for more intense land use as the City urbanizes. Rockville is no longer a town unto itself or ring suburb, but a small city inside the wider DC metro area.

Economic advantage occurs for property owners by gain of rental income, attractive as area property values keep rising. However, this does not mean a sure gain in housing affordability. That is because mortgage lenders likely will not weight rental income offset in mortgage equations, as not assured month to month in step with mortgage payments. So mortgagees will still have to show they can carry their payments without last recourse to rental income.
Accessory Dwelling Unit, Proposed Ordinance Changes
Written testimony: David Hill, Jan-Feb. 2021

For renters this provides a new rental unit type and with embedding in single residential lots and resembling same living style, may be attractive by type itself. Yet such attractiveness may only accrue when implementation remains sparse, as large implementation more likely shifts the neighborhood type, not just the lot type. I predict little economic benefit will accrue to renters other than perhaps by more unit availability. Micro economic market circumstances will not cause a large amelioration of existing costly rents, unless such ADU units are so numerous as to re-shape the supply side of rental market pricing. And if that comes to pass, the intensity of further residential density may strain neighborhood infrastructure.

Regarding the effects for the general population (not direct providers or renters, presumably making choice to participate in this housing variation), the foremost matter is impact. If these units remain small in number and spread out, such impact may be hardly noticeable. However, at other end of spectrum, the effects of large scale implementation will be felt as crowding, intensification in neighborhood fabric, and perhaps infrastructure overloading. An assumption here seems to be that incremental implementation will have small impact on neighborhood resources. That’s a crystal ball call. At most dire, higher implementation risks creating tragedy of the commons of those same resources. For example, large implementation may push most narrow residential streets to need to be one way, since having adequate empty curb street turn-outs for two way traffic may become too infrequent. The two parking spaces on site is a good requirement but not panacea for parking impact potential.

Therefore, I urge City representative decision makers on this ordinance change to understand the threshold crossing nature from zoning enshrined land use past. This could be a bold zoning change oriented toward new residential cityscape for the 21st century. It loosens core purposes of 20th century cultural assumptions which undergird single family residential zoning. Recall that the value citizens have in their homes is often their greatest and daily lived-in asset. Then, residents moved to Rockville presumably because they liked it, as it was when they moved in. This causes a change-resistance bias among the residential owners. Still, things change in time. Where’s the balance? My judgment on my fellow citizens is, this ADU change is ahead of the curve of consensus householder desire for their City. Your decision may then become whether the City should be ahead of the curve using this zoning mechanism, in this policy direction?
Accessory Structures, Proposed Ordinance Changes  
Written Testimony: David Hill, Feb. 2021

Regarding changes proposed to the Accessory Structures ordinance, a number of topics are in play at the same time, and perhaps best to consider each one. I evaluate these as:

1. Modifications to accommodate further rental unit approval in single family zones.
2. Technical measurements changes
3. Enhanced basis (increased sizes) for accessory structures
4. A change in allowance for historic properties

Expanding on each topic:

1. Regarding enlarging the accessory structure envelope to accommodate further rental units in accessory buildings, better public policy formation is making good local choice about whether to have such rental units first (either long term as ADUs or short term as temporary rental units). Otherwise, zoning makers are pre-supposing that change, by creating an attractive nuisance of space for it, contrary to intention to have it. If City representatives move forward on ADUs or temporary rentals, then related envelope changes to accessory structure ordinance logically follows. Under that condition, these recommendations are sound. If not that condition, these are unsound as logically preceding, not following.

2. The technical measurement portion generally makes sense as recommended by staff that deal with these. Things such as roof or base grade measurements are intended to be clearer and easier to administer or cover large sloping situations, which should be uncontroversial.

3. Regarding enhanced basis for accessory structures, I pose some doubts. First, what NEED arises (other than further rental unit changes mentioned above) for larger accessory structures? Has the appetite of the citizenry changed on this score? At core, this is intensification of property use, causing such as loss of verdancy or perviousness, or rising impact on adjoining properties. Second, why change the processing of accessory filings to conditional uses, rather than submission to the BoA. Is there something broken in BoA practice? That body exists to consider such one-off zoning ordinance entanglements and has served the City well generally. Third, I see illogic in the percentage scale of accessory structure to lot size proportion and arbitrariness in the 1000 sq. ft. limit. The proposed inverse relationship of a declining sliding scale of lot coverage to larger sized lots is upside down to me. A flat percentage scale consistently adjusts with lot size and achieves proportionality aimed at in other City zoning requirements. Property owners get equitable consideration, by only allowing bigger structures in ratio to parcels that are bigger to accommodate. Yet the scale here diminishes with size. While if any sliding is pragmatic, sliding up makes sense, since larger lots already have more spacing for residences, suggesting they have greater capacity to accommodate proportionally larger structures without proximity impacts that are endemic to smaller lots. I advocate for the simple flat percentage and have yet to hear a meaty explanation for this inverse sliding variation. It smacks of giving large lot owners greater zoning protection.
Accessory Structures, Proposed Ordinance Changes
Written Testimony: David Hill, Feb. 2021

4. On historic properties, change here may allow\(^1\) a new capacity distinct to historic properties for more accessory lot coverage. My guess is, this is well intentioned to reduce replacement pressure for historic accessory structures. However, I think it puts pressure on historic settings by perhaps objectionably allowing greater lot usage intensity on historic properties than suited to long term preservation of the historic assets. Historic property owners generally buy into that condition and its stipulations when they purchase properties (except for new owner-adverse historic designations; generally rare). This is a self-selective circumstance that may not warrant leeway to do something more later. The Historic District Commission administers those stipulations and I would tend to defer to that body regarding what makes sense for historic settings, then write a hard rule otherwise. Fundamentally, I do not follow why having a historic property correlates to an allowance to add more accessory intensity than other properties. If the on-site historic structures are inadequate to the new intentions, owners might have to live within the strictures they bought into for the continuity of the cultural resource they occupy.

Preservation of those cultural resources is purpose of historic ordinances and community interest in the matter.

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\(^1\) There is ambiguity on change here. One piece of the posted proposed text changes is a difference, another piece seems to contradict. Which of these is controlling in final draft will determine whether these remarks remain relevant. Still as a conceptual basis for such zoning, I go ahead to mention. [Citations from draft changes dated 10-19-20, "Attachment to Application to the COR for Text Amendment to the Zoning Ordinance. Applicant M&C of Rockville": Item (p. 3) 25.09.03a.2d.ii Historic Accessory Buildings has strike-out of "exemption from calculation" and refers to stds. in 25.08.06.c [HD Zone Exceptions, subject to HDC approval]. Vs. Item (p. 4) 25.10.05b.1 Dev. Stds. Max. Lot Coverage says ". historic accessory buildings located in a HD Zone are exempt from calculation." ]
Dear Mayor and Council,

I want to express my support for the possible changes around accessory dwelling units outlined below. I think accessory dwelling units are a small proactive step towards addressing our regions affordable housing shortage.

- Should free-standing ADUs be allowed in the single-family residential zones?
  
  Yes I believe they should

- The accessory building text amendment allows for extra height above 15 feet. Should that extra height only be allowed in conjunction with an ADU, if it is allowed at all?

  Yes extra height should be allowed

- The text amendment also proposes to allow accessory apartments as a conditional permitted use instead of a special exception. These are unit that are installed within the main house. They must meet certain conditions that are drawn from the conditions set forth in the special exception regulations.

  Yes I agree with the above change

https://www.rockvillemd.gov/2345/Accessory-Buildings-and-Dwellings

Michael Dutka
713 Shetland St, Rockville, MD 20851
Dear Mayor and Council,

I am writing to support accessory dwelling units (ADUs) in the City of Rockville. The greater DC area has a crisis of affordable houses and the I270 corridor has an imbalance between the number of jobs and the amount of housing. This means that people are forced to live further out and drive long distances, lessening their quality of life and contributing to traffic congestion.

ADUs are one solution to these problems and the county has already passed legislation allowing them, largely to address the housing crisis. Particularly if they are built near public transport, jobs, and shopping, they can help lessen congestion and improve the environment. In addition, unless there is a compelling reason, people should be free to alter their property.

Thank you very much!

Sincerely,

Ethan Goffman
523 N Horners Ln
Rockville, MD 20850
Good Morning Ms. Li.

On behalf of the Mayor and Council, thank you for your comments on Accessory Dwelling Units.

Your comments will be placed into the official record and considered by the Mayor and Council as they discuss all aspects of Accessory Dwelling Units.

Please continue to follow the City’s website http://rockvillemd.gov/AgendaCenter for more information.

The Mayor and Council appreciate your comments.

Kind regards and stay safe!

Judy Penny
Election Specialist
City Clerk’s Office/Board of Supervisors of Elections
City of Rockville
111 Maryland Avenue
Rockville, MD
Direct: (240) 314-8288
Main: (240) 314-8280
jpenny@rockvillemd.gov

Follow up comments after public hearing:

I respectfully disagree with some public comments concerning ADU changing residential characters, pricing or affecting the environment.

ADUs are limited by the size of the existing structure and can also be restricted in characters. In fact many attached additions today were built unmatched with the main building already. It’s all about style and color regulations, not about attached or detached.
With limited housing inventory, ADUs will increase affordability of the neighborhood and reduce social isolation and burden on senior services by enabling multi-generational living.

Regulations can even specify no tree removal for ADUs. The flat and grass land on my lot can host 2-3 tennis courts. Adding an ADU will have close on no impact on the environment. Rather, more single family living means easy access to composting and gardening.

Thank you.
Yajie

On Mon, May 10, 2021 at 3:26 PM Benita Koch <bkoch@rockvillemd.gov> wrote:

Good Afternoon Ms. Li,

I haven't sent the invitation yet, due to my work effort on another critical issue. I'll send the invitation by 5 p.m. if not sooner.

My apologies for any inconvenience,

Benita Koch

Benita M. Koch

IT Enterprise Project Manager
Department of Information Technology
City of Rockville
111 Maryland Avenue
Rockville, MD 20850
(240) 314-8189
(240) 314-8179 (fax)
bkoch@rockvillemd.gov
Need assistance with an agenda item? Please contact the IT Service Desk at 240-314-8172, via email at help_desk@rockvillemd.gov or via the portal at https://it.rockvillemd.gov/support.

From: Yajie Li <lyj108crystal@gmail.com>
Sent: Monday, May 10, 2021 2:56 PM
To: Judy Penny <jpenny@rockvillemd.gov>; Benita Koch <bkoch@rockvillemd.gov>
Cc: Jim Wasilak <jwasilak@rockvillemd.gov>; cityclerk <cityclerk@rockvillemd.gov>
Subject: Re: ADU May 10 hearing written comments

Thank you. When will the login information be sent out?

On Mon, May 10, 2021 at 9:30 AM Judy Penny <jpenny@rockvillemd.gov> wrote:

Good Morning Yajie,

Your name have been added to the Public Hearing Speakers list for Monday May 10 at 7 p.m.

Your written comments are welcomed and will be given to the mayor and council.

Finally, you will receive an email with login and participation instructions from Ms. Benita Koch, bkoch@rockvillemd.gov on May 10th. Please monitor your emails for these instructions.

Kind regards,

Judy Penny

Election Specialist
From: Yajie Li <lyj108crystal@gmail.com>
Sent: Sunday, May 9, 2021 10:38 PM
To: Judy Penny <jpenny@rockvillemd.gov>; Jim Wasilak <jwasilak@rockvillemd.gov>
Subject: ADU May 10 hearing written comments

Please kindly find my comments and questions below. I will try to speak at the hearing but in case it runs too late I have to attend to my son, hence the written submission. I look forward to the call and feedback. Thank you.

To whom it may concern:

I strongly support the proposed Rockville detached ADU ordinance. There are many benefits of having a detached ADU in my case, and I suspect many other families are in the same position as I am. I own a single-family home built in the 1950s located at 11 Paca Place, which is in the Hungerford neighborhood. The house’s foundation area is 880 square feet, which is very small by current standards. My house sits on a cul-de-sac on a fan-shaped lot with privacy and flat space in the rear yard. My lot is about 0.4 acre, leaving plenty of room for a reasonably sized ADU. Such a reasonable ADU will certainly not change the character of the lot, and will leave plenty of open space.

I am the only child of parents who have immigrated from China, and as they age I plan to have them live in an ADU on my property. I am a single mother of a four-year-old boy, and my parents have limited English skills and do not drive. Having an ADU to allow family members to live on the property would benefit my family and provide for a positive living opportunity for multiple generations. Given the small size of many of the houses in Rockville’s current housing stock, this type of multi-generational living is currently somewhat difficult and cumbersome for people like me. This is why I believe allowing ADUs would benefit many other people as well.

Another reason to allow detached ADUs is that the current situation leads to odd architectural choices. In my current neighborhood, Hungerford, there are several awkward attached additions bigger than the original houses, making the combo look like a turtle with a big shell in the back. These are not the most tasteful buildings and certainly affect the visual appeal of the neighborhood. The detached ADU ordinance will allow more freedom for the architecture to complement the original houses in style and color, as well as to be visually in sync and appealing.
I do not support the requirement of two off-street parking spaces on the lot. In my case, my parents don’t even drive, making parking irrelevant for the ADU. I also already have a carport and long driveway that can host three cars. Possibly clarifying this requirement to ensure that the equivalent of two off-street parking spaces is provided would be helpful. Also some clarity on the tax treatment of detached ADUs would be helpful. Thank you for your consideration.

Yajie Li
202.617.0763
From: Brian Shipley <shipley.brian@gmail.com>
Sent: Monday, May 17, 2021 1:43 PM
To: Mark Pierzchala <mpierzchala@rockvillemd.gov>
Cc: mayorcouncil <mayorcouncil@rockvillemd.gov>; Noreen Steed Bryan <noreen1945@yahoo.com>; Patrick Woodward <patrick.woodward@mdcourts.gov>; Margaret Magner <margaretmagner@nyc.rr.com>
Subject: WECA Response to Council Member Pierzchala's May 10th ADU Questions

Dear Council Member Pierzchala:

We, the undersigned members of the West End Citizens Association (WECA), wish to respond to the two questions that you posed to WECA during the public hearing last Monday on Accessory Dwelling Units (ADUs). Before doing so, we want to thank you for continuing the discussion about ADUs by seeking further information about WECA’s views on the subject and providing the opportunity to share them with you, the Mayor and the other members of the Council.

A robust dialogue between the Mayor and Council and the residents of Rockville will assist the Mayor and Council in its decision-making process by providing a greater in-depth understanding of the residents’ views.

Also, we would like to clarify for the record WECA’s position on ADUs. WECA supports allowing accessory apartments that are a part of a single-family dwelling structure. It only opposes free-standing ADUs in accessory buildings in the backyards of our neighborhood. Accessory apartments do not have many of the negative impacts of free-standing ADUs. Most importantly, accessory apartments do not change the character of the neighborhood from one dwelling structure per lot to two. Further, an accessory apartment will not create the risk of removing mature trees in the backyard that is associated with the construction of a separate dwelling unit and its attendant water and sewer lines. Although some pervious surface will be lost, the amount will be significantly less than with free-standing ADUs.

The benefits of additional housing and rental income, whether from long term or short-term rentals, that can be realized from accessory apartments is comparable to that from free-standing ADUs making them unnecessary. Finally, the additional traffic of people to and from an accessory apartment will appear to be nothing more than a large family, rather than a small one, residing in a single-family dwelling.

We respectfully submit WECA’s answers to your questions in the attachment to the email.

Sincerely,
Brian Shipley, President WECA
Noreen Bryan, Vice President WECA and Co-Chair of the Planning Area 4 Committee
WECA Response
Council Member Pierzchala’s May 10th Questions Regarding ADUs

Question #1: Does WECA distinguish between accessory structures that are not ADUs and those that are ADUs? For clarification Mr. Pierzchala gave the example that constructing a garage would have the same impact on the ground as building an ADU. Is WECA distinguishing between these two kinds of accessory buildings?

Response:
WECA distinguishes between non-ADU uses (e.g. garages) and ADUs in the following ways:

- **Water and Sewer Hookups**
  Most garages do not connect to the sewer. All ADUs would need sewer and water connections, which would require digging large trenches from the rear yard to the sewer and water hook-ups near the street. These trenches are very likely to result in removal of mature trees and harm root zones of trees on neighboring properties.

- **Traffic to and across properties**
  The number of people who access a garage is small, limited to the residents of the main house. They may or may not visit the garage daily. For ADUs the amount of foot and, potentially, vehicular traffic to the back yard would go up many-fold as renters go in and out of the ADU, since this is their home.

- **Safety risks**
  There will be safety risks associated with ADUs, that are not associated with garages, particularly if ADUs are used for short term rentals, such as Airbnb. The draft Zoning Text Amendment (ZTA-255) does not place limits on the number of people who could stay in a freestanding ADU. An ADU used for short-term rentals will result in unknown people coming and going at any time of the day and night.

- **Paved surface area**
  Increased paving will be required to provide footpaths from the street, patios and additional off-street parking spaces - needs which are not generated by garages. The greater paved surfaces with an ADU mean less water can be absorbed and increases the likelihood of flooding neighboring basements, erosion and/or increased pollutant levels in waterways.

- **Light pollution**
  In addition to the adverse environmental impact of more paved surfaces, ADUs in the backyard would lead to the need to install lights along access paths for safety. This would increase light pollution as would the interior and exterior lights of the ADU itself. There is unlikely to be an overnight time when neighbors do not see light from an ADU.

- **Mansionization**
  Of great concern is the increased motivation ADUs bring to developers to tear down smaller houses and build two homes on one lot, pricing average middle-class families out of the community. Unlike the allowance to build a garage on a single-family lot, allowing ADUs will create a high financial motivation to replace smaller neighborhood homes with two houses - a large one up to 5000 square feet or more, and an ADU of 1200-1500 square feet.
WECA Response
Council Member Pierzchala’s May 10th Questions Regarding ADUs

With edge-to-edge construction this means the loss of even more trees and the park-like quality of backyards, but most significantly the loss of neighborhood affordability. Garages do not drive the transition of the neighborhood to one where only wealthy people can afford to buy homes.

- **Property Tax Increase**
The ability to build a garage or shed on a lot does not change the state’s tax view of “highest and best use” of the land as an ADU allowance would. If ADUs are allowed, the taxes of most homeowners in the neighborhood will increase because of the state’s view of their land’s “highest and best use” potential, regardless of whether they build an ADU in their backyard or not. This is not the case with garages.

**Question #2**: What is WECA’s view on converting existing accessory structures (e.g. garages) to ADUs?

**Response**: For smaller houses with garages, the motivations for developers will be the same, namely tear down and replace with a small house with a much larger main house and a smaller ADU. That approach will lead to a return on investment comparable to a small house without a garage. For existing larger houses with large garages in the backyard, there will be less motivation to replace them. However, the issues of increased environmental degradation, light pollution, and safety will be the same as new ADUs. Further, the economic advantages of having a larger ADU will create motivation for property owners to expand existing garages thereby increasing the adverse impacts. Lastly, it seems unfair for a small handful of the wealthier property owners in the West End to be allowed to have ADUs and exclude all others.
1. Question: Do you support a second story on accessory buildings?

Yes!

1. Question: Do you support these standards as proposed?

Yes! The more liberal the better, but we need something now with the opportunity to amend swiftly as it makes sense

1. Should free-standing ADUs be allowed in the single-family residential zones?

Yes!

1. The accessory building text amendment allows for extra height above 15 feet. Should that extra height only be allowed in conjunction with an ADU, if it is allowed at all?

No! We need to better use the land that we have for housing in Rockville, let people do what they want with their property.

1. The text amendment also proposes to allow accessory apartments as a conditional permitted use instead of a special exception. These are units that are installed within the main house. They must meet certain conditions that are drawn from the conditions set forth in the special exception regulations.

Yes!!

https://www.rockvillemd.gov/2345/Accessory-Buildings-and-Dwellings
Subject
Discussion and Instructions on Parkland Dedication Requirements, Including Fee-In-Lieu of Dedication and Impact Fees, and a New Program for Contributions of Either Land or Funds for Acquiring or Improving Parkland, and Possible Authorization of Text Amendment for Parkland Dedication and Fee in Lieu of Dedication

Recommendation
Staff recommends that the Mayor and Council discuss and provide instruction on the proposed text amendment and, if changes are not requested, possibly authorize staff to file the application and initiate the public review process. In addition, provide direction on the new program for parkland related contributions.

Discussion
Background
Open space and recreation are highly valued in Rockville. The City has approximately 1,035 acres of parkland in 65 parks with a variety of amenities across the community. Recreation facilities range from small-scale neighborhood-based spaces for programming and meetings, to large ‘specialized’ facilities that serve the entire community and beyond.

Funds are allocated each year to maintain and upgrade the parks and recreation facilities in the city to ensure safe, clean, and attractive amenities for residents and visitors. The 2016 Community Survey results indicate that recreation facilities, athletic facilities, and the appearance of City parks are rated much higher than in other benchmark jurisdictions.

To ensure equitable access to park facilities citywide, the City set a goal to provide parkland within a 10-minute walk from any residence. The City’s PROS Plan also established a goal to maintain a ratio of 18 acres of parkland for every 1,000 residents. While some areas of the city are well served by parks within convenient walking distance, others are not. As a city with a population nearing 70,000 and 1,035 acres of parkland, the goal for acreage per 1,000 residents is not currently met.

The population is projected to grow to 82,000 by 2040, and this growth will put even more pressure on the existing parks and recreation facilities. The population growth calls for creation
of new or expansion of existing parks and other recreation facilities to meet the demand that comes with additional users, especially in redeveloping and urbanizing areas along Rockville Pike and in Town Center.

The Mayor and Council authorized a study on parkland dedication and fee-in-lieu options in 2017. PDS and Recreation and Parks staff, in consultation with consultant Duncan & Associates, developed background and options to address the issues, resulting in the Report on Parkland Acquisition Approaches for the City of Rockville that was presented to the Mayor and Council in February 2018 (See Attachment A). The Mayor and Council held subsequent work sessions to discuss the issues and provide direction.

The attached report mentioned above describes jurisdictions in this region and nationally that are using these mechanisms and outlines the pros and cons of both options.

**Overview of Options**

The City does not currently have a permanent, dedicated funding source or other specific mechanism to acquire or require parkland from developers during the development review process. The goal of the parkland acquisition initiative is to create a consistent, standardized tool to use as new development occurs. The intent is to give the City an opportunity to strategically manage growing demands placed on the parks and recreation system, and to reasonably ensure that new capacity can be provided to assist in meeting those demands.

The 2018 report outlined two primary options for addressing the need to ensure that the City’s parks and recreation facilities are not overburdened with the stress of an increasing population from new development. The options presented were:

- Parkland dedication, or fee-in-lieu when dedication is not feasible; and
- An impact fee for parks and recreational facilities.

These approaches could ensure that the landowner, developer, and future residents who are creating the new demand for new parks and recreation facilities bear a portion of the costs of the City providing them.

**Parkland Dedication/Payment-in-lieu of Dedication**

The 2018 report recommended the parkland dedication/payment-in-lieu option as the primary mechanism for achieving additional parkland in new development. As a result of discussions with the Mayor and Council, staff of the Recreation and Parks Department, the City Attorney’s Office and Community Planning and Development Services Department have been working on a draft of the Zoning Text Amendment that would require parkland dedication, and related changes to City Code Chapter 14, Parks and Recreation, to implement a Parks impact fee, that is a hybrid approach utilizing both mechanisms. The basic framework of the program being formulated regarding parkland dedication is as follows:
1. A new article would be added to the Zoning Ordinance regarding parkland dedication and payment in lieu of dedication.
2. The minimum development area subject to the dedication requirement is five acres.
3. The area of dedication is proposed to be at least ten percent of the subject development site, less any additional area dedicated to a public entity.
4. Threshold levels of proposed development that would trigger the dedication requirement would be 20 dwelling units or 25,000 square feet of commercial or office space.
5. Dedication and/or payment-in-lieu of dedication would be achieved through approval of a project plan application by the Mayor and Council, with the result potentially being a combination of land dedication and payment in lieu of dedication.
6. Land to be dedicated could be located within a project development site or located off-site, but must be reasonably near and accessible to the proposed development. Staff recommends being within one mile of the proposed development and not separated by major roadways such as I-270.
7. Land proposed to be dedicated must consist of usable space, with limitations on features that would make the property substantially unusable for either active or passive recreation use.
8. Land to be dedicated must be consistent with the Comprehensive Plan.
9. Initial review and recommendation of proposed dedication to be accomplished by Director of Recreation and Parks, with his or her recommendation to be forwarded to Planning Commission and Mayor and Council, along with the project plan.
10. Planning Commission would provide comments and recommendations to the Mayor and Council on the proposed dedication arrangement, with the Mayor and Council having sole discretion to accept dedication or payments in lieu of dedication.
11. Payment in lieu funds may be used for the acquisition or development of parks that will serve the proposed development.
12. Amount of payment in lieu of dedication equals ten percent of the fair market value of the development site, less the percentage of the site proposed for dedication as parkland.
13. A refund provision would require funds received as a payment in lieu of dedication to be used or committed to a use within ten years of deposit or refunded to the current owners of the property. However, the funds may be exempt from this refund requirement if the City makes annual findings identifying a proposed use for the funds and demonstrating a roughly proportional and reasonable relationship between the amount of the funds and the proposed use.
14. A conceptual park plan would be required to be submitted by an applicant along with the project plan application showing dedication, to be reviewed by the Recreation and Parks Director, who must then submit comments for the Mayor and Council.
15. Land to be dedicated must be free of debris and, at the discretion of the Director of the Department of Recreation and Parks, may be required to be graded and stabilized.
16. Dedication or a payment in lieu of dedication would typically occur prior to building permit issuance, which is a typical requirement for such payments.
17. As currently proposed, funds received as payments in lieu of dedication must be spent on the development or acquisition of land for parks, recreation facilities, or open space, or to pay the principal, interest, or other costs associated with financing such development or acquisition.

Parkland will be dedicated on properties larger than five acres where new development occurs, which primarily means the Mixed-Use zones such as MXTD, MXCD and MXE zones, represented geographically by the Rockville Pike corridor, Town Center, and the Research Boulevard and Piccard Drive areas primarily. All these areas will require additional parkland as new residential redevelopment occurs. As the attached map shows, there are many parcels that are greater than five acres in the Research Boulevard/Piccard Drive/Shady Grove Road areas that could potentially redevelop, with few large parcels in the Rockville Pike corridor outside of the Twinbrook metro area. Otherwise, the Comprehensive Plan, the Parks, Recreation and Open Space Plan, or the Recreation and Parks Strategic Plan will provide guidance on the desirability of parkland dedication in other locations. Most of the developable parcels in other zoning districts are smaller than five acres, except for school sites and other institutions within the single unit residential (R) zones. Redevelopment projects on the smaller parcels would not dedicate parkland but would be subject to the park impact fee instead.

Park Impact Fees

Impact fees, which would be a fee charged to the developer on a per-residential unit basis payable at the time of building permit, must relate to the park and recreation needs generated by the new development. Impact fees should be used to defray capital expenses for land acquisition or facilities that add capacity to the City’s recreation and park system, but not for existing operating and maintenance costs. Park impact fees would be assessed broadly across most development in the city, but developers of property over five acres subject to the dedication requirement, or a payment in lieu of dedication, would have the opportunity to credit the value of such dedication or payment against any park impact fees owed.

Based on previous discussions, the basic framework of the Parks Impact Fee is recommended to consist of items below, which are included in a draft amendment to Chapter 14 of the City Code related to recreation and parks.

- Require that new residential development pay for its share of park acquisition, development and park capital improvements that increase capacity.

- Exempt new residential development or alterations to an existing development creating three or fewer dwelling units; accessory buildings and structures; moderately priced dwelling units (MPDUs); and any residential development for which a building permit was submitted to the City prior to enactment of the ordinance (Claims of exemption must be made in writing to the Director of CPDS at the time of building permit).
• Give credit for land dedicated to the city as parkland, based on the fair market value of the land dedicated (credit may be given for up to the full amount of the impact fees, based on two appraisals of the property to be dedicated).

• Establish a proposed impact fee schedule based on residential unit type.

• Collect impact fees prior to building permit issuance and deposited into an impact fee account.

• Use impact fees for park acquisition, development and capital improvements that add capacity to the park system, and for principal and interest and costs associated with bonds or notes or similar means used to finance park acquisition or improvements.

• Provide no option for a refund process for impact fees given the broader nature of impact fees and the likelihood that they can be spent within a reasonable time frame.

In previous discussions, the Mayor and Council have discussed whether a park impact fee would also apply to non-residential development. The draft impact fee ordinance has been drafted in accordance with the 2018 report recommendations, given that the primary source of demand for recreation and park facilities comes from residential development. If the Mayor and Council wish to pursue the option of a park impact fee for new non-residential development, staff will develop a recommendation that would be considered when the proposed impact fee ordinance and resolution are brought back to the Mayor and Council.

**Voluntary Contributions of Land and/or Funds for Parkland**

A separate but related item was discussed at the December 20, 2021 work session, which was a recommendation to either allow contributions of land that could become parkland, or funds that could contribute toward acquiring or improving parkland. These contributions could come from businesses, private foundations, non-profit organizations, and/or individuals. To address this recommendation, staff confirmed that Article XII, Section 1 of the City Charter already allows the City to receive donations of real or personal property for any public purpose by, among other things, gift and bequest, as follows:

The City may acquire real, personal, or mixed property within or without the corporate limits of the City for any public purpose by purchase, gift, bequest, devise, lease, condemnation, or otherwise and may sell, lease or otherwise dispose of any property belonging to the City. All municipal property, funds, and franchises of every kind belonging to or in the possession of the City (by whatever prior name known) at the time this section becomes effective are vested in the City, subject to the terms and conditions thereof.
Presently, the public can make monetary donations via the City’s recreation registration system and the City’s website. On the website, there is a page for “Pay Your Water Bill of Make a Donation.” Under the “Donations” header, monetary contributions can be made to the Rockville Recreation Fund, which supports recreational scholarships. Staff is exploring adding a portal under this Donations site for the public to donate to parkland acquisition. Similarly, we are looking to modify the Recreation programs registration site on the web to permit donations for parkland acquisition. Additionally, the Rockville Recreation & Parks Foundation, (a non-profit 501c3 organization), solicits and receives monetary donations for supporting City recreational programs, especially sports. Staff will discuss with the Foundation members if they would consider also accepting donations from the public for the acquisition of park land.

To promote public contributions for parkland acquisition, staff will coordinate with the Public Information Office to create a campaign with consistent messaging that will publicize and promote this opportunity and to encourage these voluntary gifts. The message will focus on the impact and benefits to both the donor and the community and will provide easy instructions on how to make the contribution. Platforms will include the City and Department websites, social media, Rockville Reports, Rockville 11, and appropriate press releases that would publicize the creation of this opportunity, as well as provide regular reminders to the public moving forward. The “Life in Rockville” and “Senior Recreation” guides, and other Department channels will also be utilized to spread the word. Presentations and displays promoting seasonal campaigns at the Senior Center, Croydon Creek Nature Center and community centers could also be implemented.

**Mayor and Council History**

The Mayor and Council have discussed this topic on February 12, 2018, May 18, 2018, and July 8, 2019. The Mayor and Council gave preliminary direction at these sessions. The Mayor and Council also held work sessions on this topic on December 7, 2020, and December 20, 2021.

At the December 7, 2020 work session on this topic, the Mayor and Council provided the following feedback.

1. Agreed that the City should consider implementing a parkland dedication and/or fee-in-lieu to provide for future parkland.
2. Discussed how to identify priority sites for acquisition since the City has recognized areas with deficiencies.
3. Agreed that a suitability determination for potential parkland to be dedicated to the City would be made by the Director of Recreation and Parks, but that the Mayor and Council will review and approve acceptance of the parkland.
4. Discussed options for ensuring that the established timeframe for using the fee-in-lieu funds collected is reasonable and considers property acquisition and procurement processes. The initial recommendation of a 7-year timeframe for using funds could be modified by the Mayor and Council within limits as the City must make sure that expended funds benefit the project from where the funds came.
• Agreed that applying the requirements citywide would maximize flexibility.
• Decided that the City should undertake public outreach prior to coming back to the Mayor and Council and receiving direction to prepare a draft ordinance. (Completed as described below).

In addition, Councilmember Pierzchala suggested that a definition of pending projects should be included if they are to be exempt. He also wondered if developers could be required to improve an existing park. He suggested that parkland separated by large rights-of-way from the development should not count to satisfy the parkland need. In addition, the requirements should not get in the way of housing production. He also suggested that Champion projects encourage consolidation to provide more flexibility for developments that in turn would yield larger parkland properties.

At the December 20, 2021 work session, the Mayor and Council discussed the following, with general agreement shown in italics:

• Whether the Mayor and Council wish to implement a parkland dedication and fee-in-lieu system, an impact fee regime, or a combination of both? Agreed on a combination of parkland dedication and impact fees that requires dedication in certain areas.

• Basic parameters of parkland dedication, including the amount of parkland dedicated by zoning category.
  o Should there be varying amounts required within each zoning category, such as MXTD (high density) vs. MXC (low density)? Not decided.
  o Minimum amount of land to be dedicated as public parkland (0.3 or 0.5 acres). Agreed on 0.5 acres.
  o Minimum thresholds of development that requires parkland dedication. Agreed.
  o Development of suitability standards for land to be dedicated as parkland, to be determined initially by the Director of Recreation and Parks, and approved by Mayor and Council; Agreed.
  o Criteria for where and how the fee-in-lieu funds will be spent – with preferences from the Recreation and Parks guiding documents; Agreed.
  o Maximum time period during which the fee-in-lieu funds must be spent, including when the time period begins (building permit issuance vs. occupancy permit). Time-period should be longer than 7 years.

Subsequent to the early issuance of the staff report, Councilmember Ashton provided additional questions for staff to address, including:

• I really appreciate that staff is thinking about ways to honor our commitment to green space as our City grows. We have previously mentioned other ways such as an allocation of a part of the annual budget process. Is there any recommendation on that approach in concert with or part of this parkland dedication approach? *This item does not make
any recommendations on that approach as the focus is on parkland dedication/fee in lieu/impact fees from development. If Mayor and Council would like to incorporate an annual allocation to a parkland acquisition fund as part of the annual budget process, something like an established percentage of the total general fund allocations, staff would be happy to work with Finance and the City Attorney’s Office to determine the appropriate mechanism for this.

- Would individual home buyers who renovate/rebuild be required to pay the impact fee? There is language about smaller parcels. No, individual homeowners or buyers would not be required to pay the impact fee or fee-in-lieu, as very small projects are proposed to be exempt.

- Would the developer get credit/ reduced fee as it relates to moderately priced/affordable housing? I believe there is language tied to fair market value, and would like to encourage developers to do more on affordable housing/not hinder projects that are significantly focused on moderate and affordable that have thinner margins than market rate. The current recommendation is that MPDUs would be exempt.

- Can part of the fees go to park upgrades and enhancements? There is an ongoing need for maintenance and enhancements. The fees can only be used for upgrades and enhancements that add capacity to the park, as there must be a relationship to the impact created by new development. Use of the fees for maintenance or the correction of an existing deficiency would not be permitted.

- I also appreciate the efforts to allow for voluntary gifts towards park needs and support this approach. We have many people who come into Rockville from other areas who may be interested in giving back, as well as residents and businesses who may want to support parks.

- In other jurisdictions where this was implemented, was there any impact on/slowdown of project development? Affordability of housing? Staff is not aware of slowdowns or significant impacts on housing affordability, but we continue to inquire of other jurisdictions.

- In areas where we have existing parks near a development, would staff encourage fee vs onsite to help support other nearby parks? In this case, would the rule that land must be within 1 mile stand? Would there be opportunities for developers to work together to consolidate a piece of land for parkland to build a bigger park. The Director of Recreation and Parks would make a recommendation to the Mayor and Council on whether to accept land dedication or fee-in-lieu based on a number of factors, including the amount of existing parkland in the vicinity. Opportunities for developers to collaborate or for the City to facilitate consolidation would likely occur.
• How can we apply an equity lens to this policy? Sometimes development happens in higher income areas vs lower income areas. How can we work to ensure that there is park development in lower income areas; areas where residents live very close to industrial; and parts of the City that have less parkland. As drafted, impact fees would apply to new development regardless of location within the City. This mechanism would not be the only way to achieve additional parkland or upgrades, as it only applies to new development that comes to the City. The City’s budget process and Capital Improvements Program can also address needs identified by the Recreation and Parks Strategic Plan and Comprehensive Plan.

• What is the status of the potential donation of parkland near Twinbrooke metro? If we have not heard back, is it possible to follow-up? The City continues to work with WMATA and the developer of the 1800 Chapman Avenue project to ultimately modify the Twinbrooke Station Planned Development to achieve additional parkland on the west side of the Twinbrooke Metro station.

Public Notification and Engagement

Staff undertook a public notification and engagement program based on the Mayor and Council’s direction. These virtual public input sessions were held on December 2 and December 7, 2021 and were widely publicized. Below is a summary of the feedback received at the meetings. Written comments are also attached.

The public outreach meetings were attended by a total of 16 individuals, most if not all of whom were residents of Rockville. Most attendees were strongly in favor of the concept of a reliable way of achieving parkland in new development and applauded the Mayor and Council for considering it. Most speakers were in favor of dedication over fee-in-lieu or a parks impact fee as the best way to achieve the goal of additional parkland. Others recognized that the flexibility afforded by fee-in-lieu was a positive aspect, and some expressed support for both parkland dedication/fee-in-lieu and impact fees. Other concerns expressed include:

• Whether implementing a new requirement would dissuade developers who are providing needed housing in the City;
• Whether the minimum requirement for parkland dedication in the MX zones should be uniform or more related to the density and location of each;
• Concern that the additional fees would increase the cost of residential units in the City;
• Whether the requirements should apply to developments that are only commercial;
• Emphasis on acquisition should be for key natural areas and places for additional tree planting to gain environmental benefits;
• Ensure that park maintenance is adequate;
• Explore conservation easements on land that could be used as parkland but would remain privately-owned;
• Support for extending the period during which the City must spend the in-lieu funds or
risk losing them (perhaps no end date).

Staff has used various avenues to inform the public about this agenda item (Next Door, Notification of Civic/Neighbor Association representatives, and emails to interested parties).

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**Boards and Commissions Review**

Staff has reviewed this item with the Planning Commission on March 23 and April 13, and it was well received. The Commission identified several issues to be considered with the proposed ordinance:

- Ensure that properties that are annexed into the city dedicate parkland if a development proposal is forthcoming;
- Consider reframing the definition of parks to include more than active and passive recreation;
- Increase creativity to reimagine the design of facilities that are provided in parks;
- Consider that parks maintenance will be increasingly important as new parkland is funded or dedicated.

The Commission was split on whether the hybrid option or just the impact fee option should be implemented.

This item has been scheduled for discussion with the Recreation and Park Advisory Board on May 19th. A report from that meeting will be supplied to the Mayor and Council on May 23rd.

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**Next Steps**

Following the discussion and instruction of the Mayor and Council, staff will complete the draft text amendment for future authorization to file. If no specific changes are recommended at the May 23rd meeting, the Mayor and Council may authorize staff to file the text amendment. If supported by the Mayor and Council, staff will develop and implement a communication plan, in coordination with the Public Information Office, that would inform the public about opportunities for voluntary gifts toward park needs. Staff anticipates using the City’s communications resources for an initial public notice, along with regular reminders throughout the year.

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**Attachments**

- Attachment 8.a: Draft Park Dedication Ordinance 4.14.22 (PDF)
- Attachment 8.b: Draft Park Impact Fee Ordinance_4.14.22 (PDF)
- Attachment 8.c: Parcels Greater Than 5 Acres (4_14_22) (PDF)
- Attachment 8.d: 2018 Report on Approaches on Parkland Acquisition(PDF)
- Attachment 8.e: Planning Commission Memo on Parkland Ordinance (PDF)
ORDINANCE NO._______

ORDINANCE: To amend City Code Chapter 25, titled “Zoning Ordinance,” to establish a park dedication or in lieu payment requirement for new development on five or more acres of property generating more than twenty (20) dwelling units or 25,000 square feet of commercial or office uses, to require such development receive project plan approval, and to exempt certain of such development from a public use space requirement

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF ROCKVILLE, MARYLAND as follows:

SECTION I – That Chapter 25 of the Rockville City Code entitled “Zoning Ordinance” be amended as follows:

Chapter 25

ZONING ORDINANCE

ARTICLE 7. – PROCEDURES FOR SITE PLANS AND PROJECT PLANS, SPECIAL EXCEPTION AND OTHER PERMITS

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Sec. 25.07.02. – Application procedures for site plans, project plans, and special exceptions.

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b. Application procedure, in general.

1. The level of review for each application is based in part on a point system, provided in the chart below. Each application must be evaluated on the acreage of the site, the number of dwelling units proposed, the square footage of non-residential space, the residential impact area, and the traffic impact of development proposed. Each of these items is allocated a number of points which are added together to determine the complete point valuation for the project.
d. **Project plan review.** If the elements of the proposed project total sixteen (16) or more points, or if the development is subject to Article 22 of this chapter, the development is subject to project plan review. The Mayor and Council and Planning Commission will each hold a briefing session on the plan application, the Chief of Planning and Planning Commission will perform a preliminary review and make a recommendation to the Mayor and Council, and the Mayor and Council will then complete a final review of the plan in accordance with subsection 25.07.01.b.2. and section 25.07.06. The Planning Commission will thereafter review subsequent site plans implementing the approved project plan in accordance with the level 2 site plan review procedures under section 25.07.04.

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**ARTICLE 17. - PUBLIC USE SPACE, LANDSCAPING AND SCREENING, UTILITY PLACEMENT AND SCREENING, LIGHTING, SIDEWALKS, AND SHADOWS**

Sec. 25.17.01. – Public use space.

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a. **Dedication of parkland public use space.** Land may be dedicated to the City for public use in connection with the approval of a project plan, site plan or subdivision for the purpose of providing public parks, open areas, or recreation areas that will be owned by the City and operated as part of the City’s public park system. Dedication must be made pursuant to Article 22 or consistent with the recommendations of the relevant plan indicating the locations where such public use space is desired. Land dedicated to the City for public parks, open areas, or recreation space may replace up to 50% of an application’s public use space requirement.

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ARTICLE 22. - PARKLAND DEDICATION

Sec. 25.22.01. – Purpose and intent.

This Article is for the purpose of requiring that new development of a certain size on sites of five (5) or more acres within the City is served by adequate, nearby parks, recreation facilities, and open space through the imposition of a dedication requirement that will ensure adequate parks, recreation facilities, and open space to serve such development.

Sec. 25.22.02. – Applicability.

This Article applies to any development encompassing a site of five (5) or more acres and generating more than twenty (20) dwelling units or 25,000 square feet of commercial or office space. This Article does not apply to an application for a project plan amendment, including an amendment to a planned development.

Sec. 25.22.03. – Dedication or in lieu payment required.

a. The Mayor and Council must not approve a project plan subject to this Article unless:

1. The application incorporates a dedication of land to the Mayor and Council of Rockville of an area equal to at least ten percent (10%) of the site subject to the application less any additional area required to be dedicated to a public entity under this chapter or other applicable law;

2. The approval is conditioned on the applicant making a payment in lieu of dedication in accordance with this Article; or

3. The approval is conditioned on a combination of a dedication of land equal to less than the minimum dedication required under subsection 1 above and a payment in lieu of dedication in accordance with this Article.
Sec. 25.22.04. – Minimum standards of dedicated land.

a. Location. Land dedicated under this Article may be either within the site encompassed by the project plan or off-site. A dedication of off-site land must be reasonably near and accessible to the proposed development. Off-site land dedicated under this Article must not be more than one mile from any portion of the site of the proposed development, measured in a straight line, or separated from the site of the proposed development by an existing arterial street or highway.

b. Access. Land dedicated under this Article must abut or have adequate access to a public street and must be within or connected by sidewalk to the site encompassed by the project plan.

c. Usability. Land dedicated under this Article must consist of substantially usable space. No more than one-fourth of the land dedicated may include floodplains, wetlands, stormwater management facilities, heavy slopes, or any other feature that renders it substantially unusable for active or passive recreation activities. The Mayor and Council may consider areas in forest or proposed for afforestation or reforestation on a forest conservation plan to be substantially usable space.

d. Plan consistency. The configuration of land dedicated under this Article must be consistent with any recommendations in the Plan.

e. Fee simple. Land dedicated under this Article must be conveyed to the City in the form of a fee simple interest, unless the Mayor and Council finds that an easement or other ownership interest is in the best interests of the City.

Sec. 25.22.05. – Review of proposed dedication.

a. Review by Department of Recreation and Parks. A copy of any project plan application proposing dedication under this Article must be referred to the Director of the Department of Recreation and Parks.
Recreation and Parks, who must submit a recommendation to the Department of Planning and Development Services as to the suitability of the proposed area for parkland dedication. The Department of Planning and Development Services must transmit the recommendation of the Director of the Department of Recreation and Parks to the Planning Commission and the Mayor and Council no later than the Planning Commission public meeting on the project plan application under Section 25.07.07.8.

b. **Referral to Planning Commission.** As part of its review of a project plan application under Section 25.07.07.8, the Planning Commission must review a proposed dedication under this Article in terms of its location, accessibility, topography, shape, size, relationship to surrounding properties, and consistency with the Plan.

c. **Planning Commission recommendation.** In its comments and recommendations to the Mayor and Council on the project plan application, the Planning Commission must include any comments and recommendations on the proposed dedication to the Mayor and Council.

**Sec. 25.22.06. – Acceptance of dedication or in lieu payment.**

The decision of the Mayor and Council as to whether it will accept a dedication of land, a payment in lieu of dedication, or a combination thereof is at the sole discretion of the Mayor and Council.

**Sec. 25.22.07. – Timing and nature of development.**

The Mayor and Council has the right to accept, develop, and maintain property dedicated under this Article in accordance with its determination of public recreation and park needs.

**Sec. 25.22.08. – Collection and use of payment in lieu of dedication.**

a. **Payment process.** If the Mayor and Council requires a payment in lieu of dedication under Section 25.22.04, the payment in lieu of dedication must be paid to the City and placed by the
City in an account used only for the acquisition or development of parks, recreation facilities, or open space that will serve the proposed development, provided that such payment may be used by the City for acquisition or development of parks, recreation facilities, or open space that serve both the proposed development and other development within the immediate area.

b. **Amount.** The amount of the payment in lieu of dedication equals ten percent (10%) of the fair market value of the site on which the development is proposed as of the time of project plan approval, less any area required to be dedicated to a public entity under this chapter or other applicable law. If, pursuant to Section 25.22.03.a.3, the Mayor and Council approves a dedication of less than the minimum required under Section 25.22.03.a.1, the amount of the payment in lieu of dedication equals the fair market value at the time of project plan approval of ten percent (10%) of the site on which the development is proposed less the percent of the site which is being dedicated to the City and any additional area required to be dedicated to a public entity under this chapter or other applicable law.

c. **Appraisal.** The fair market value of the site on which the development is proposed must be calculated based on the average of two appraisals of the site from two independent appraisers licensed in the State of Maryland. The appraisals must be submitted by the applicant prior to approval of the proposed project plan.

d. **Payment due.** The payment in lieu of dedication must be made in full prior to issuance of any building permits for the proposed development.

e. **Use of funds.** Funds paid in lieu of dedication must be used by the City for the development of or acquisition of land for parks, recreation facilities, and open space to serve such development or to pay the principal, interest, or other costs of bonds, notes, or other obligations issued or
undertaken by or on behalf of the City to finance the development of or acquisition of land for parks, recreation facilities, or open space that will serve the proposed development.

f. Payment in lieu accounts. The City must establish a separate account for each development subject to a payment in lieu of dedication under this Article, and such payment must be deposited in such account. The funds of the account must not be commingled with other funds of the City. A payment in lieu of dedication account must be interest-bearing, and the accumulated interest must become a part of the account.

g. Reduction in payment for park improvements. If the Mayor and Council approves a dedication of less than the minimum area required under Section 25.22.03.a.1, the Mayor and Council may authorize a reduction in any required payment in lieu of dedication equivalent to the cost of the developer constructing park or recreation improvements approved by the Mayor and Council within the area to be dedicated to the City.

Sec. 25.22.09. – Refund of Payment in lieu of dedication.

(a) Except as described below, upon application of the property owner, the City must refund that portion of any payment in lieu of dedication which has been on deposit for more than ten (10) years and which is unexpended or uncommitted. The refund must be made in equal shares to the then-current owners of residential lots or dwelling units within the residential development, with one share allocated to each single family or townhouse lot and one share allocated to each dwelling unit within a multifamily structure that is either built or eligible to be built under a valid project plan or site plan.

(b) If a property owner is entitled to a refund, the City must notify the property owner by first class mail. The property owner must submit a request for a refund to the Finance Department in writing within one year of the date the right to claim the refund arises or...
the date the notice is given, whichever is later. Any payments in lieu of dedication that
are not expended or committed within the time limitations established herein, and for
which no application for a refund has been made within this one-year period, will be
retained and expended in accordance with this Article.

(c) If funds in any payment in lieu of dedication account are uncommitted for three (3) or
more years after deposit, the City shall make findings, at least once each fiscal year while
such condition prevails, to identify the purpose to which such funds shall be put and to
show a roughly proportional and reasonable relationship between the amount and the
purpose for which it was collected. If the City makes such findings, the funds are exempt
from the refund requirement.

(d) The City may refund by direct payment, or otherwise by agreement, with the owner.

(e) An applicant who has made a payment in lieu of dedication for a development for which
the necessary building permit has expired prior to construction, for which the building
permit has been revoked prior to construction, or for which the building permit has been
cancelled prior to construction, shall be eligible to apply for a refund. The applicant must
submit a request for a refund to the Finance Department in writing within one year of the
date the subject permit expired, was revoked, or was cancelled. Any payment in lieu of
dedication that is expended or committed within the time limitations established herein,
and for which no application for a refund has been made within this one-year period,
shall be retained and expended in accordance with this Article.

Sec. 25.22.10. – Conditions of dedication.

a. Park plan. Prior to approval of any project plan application subject to this Article, the applicant
must prepare a conceptual park plan for any land proposed to be dedicated under this Article.
The conceptual park plan must be reviewed by the Director of the Department of Recreation and Parks, who must submit comments on the conceptual park plan for the Mayor and Council’s consideration no later than the Mayor and Council’s public hearing on the project plan.

b. Site condition. Before any proposed park dedication is accepted by the City, the land to be dedicated must be cleared of debris, weeds, and other undesirable material. The Director of the Department of Recreation and Parks may also require the land to be graded and stabilized by grass seeding or other acceptable methods at the expense of the owner of the property.

a. Timing of dedication. Any dedication of land under this Article must be effectuated prior to the issuance of any building permits for the proposed development, unless another deadline is established by the Mayor and Council as part of project plan approval.
ORDINANCE NO. ________

ORDINANCE: To amend City Code Chapter 14, titled “Parks and Recreation,” to establish a park impact fee for new residential development in the City

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF ROCKVILLE, MARYLAND as follows:

SECTION I – That Chapter 14 of the Rockville City Code entitled “Parks and Recreation” be amended as follows:

Chapter 14
PARKS AND RECREATION

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ARTICLE III. PARK RULES

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ARTICLE IV. PARK IMPACT FEE

Sec. 14-70. Purpose and intent.

This Article is for the purpose of requiring that new residential development pay for its share of park acquisition, development, and improvement through the imposition of a park impact fee which will be used to finance, defray, or reimburse the City for all or a portion of the costs of park acquisition, development, and capital improvements that add capacity to the City’s park system.
Sec. 14-70. - Applicability.

Except as provided in Section 14-71, any person who undertakes a residential development project must pay a park impact fee.

Sec. 14-71. - Exemptions.

(a) The following types of development are exempt from the provisions of this section.

1. New residential development creating three (3) or fewer dwelling units.

2. Alterations or expansions of an existing residential building, where three (3) or fewer dwelling units are created and where the use is not changed.

3. The construction of accessory buildings or structures.

4. The on-site replacement of a destroyed or partially destroyed structure with a new building or structure, where three (3) or fewer dwelling units are created.

5. The off-site replacement of a demolished structure with a new building or structure where three (3) or fewer dwelling units are created, provided the demolition and replacement are performed pursuant to a validly-approved demolition permit prior to the demolition of the structure.

6. Any residential development for which a building permit application was submitted to the City prior to [date of enactment of ordinance].

7. Moderately priced dwelling units, as defined in Chapter 13.5.

(b) Any claim of exemption must be made by the applicant, in writing, to the Director of the Department of Community Planning and Development Services no later than the time of application for a building permit. Any claim not so made is deemed to be waived.
Sec. 14-72. - Definitions.

As used in this Article:

*Building permit* means an official City document or certification authorizing the construction, alteration, enlargement, conversion, reconstruction, remodeling, rehabilitation, erection, moving, or repair of a building or structure.

*Dwelling unit* means a building or portion thereof providing complete living facilities for not more than one (1) family, including, at a minimum, a kitchen, and facilities for sanitation and sleeping.

*Park impact fee* means any monetary exaction imposed by the City in connection with approval of a residential development project for the purpose of defraying all or some of the cost of or repayment of costs previously expended from other City funds for park acquisition, development, and improvement.

*Residential development* means any development undertaken which creates a new dwelling unit or units.

Sec. 14-73. – Impact fee schedule.

Park impact fees are hereby established and must be imposed as set forth in the following schedule:

<table>
<thead>
<tr>
<th>Type of Residential Development</th>
<th>Fee Per Dwelling Unit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single family detached</td>
<td>TBD</td>
</tr>
<tr>
<td>Single family attached</td>
<td>TBD</td>
</tr>
<tr>
<td>Multi-family/other</td>
<td>TBD</td>
</tr>
</tbody>
</table>
Sec. 14-74. - Imposition and collection of impact fees.

(a) The City must impose a park impact fee on all residential development subject to this Article.

(b) All park impact fees must be collected by the Department of Finance prior to the issuance of any building permit for the residential development subject to the park impact fee.

Sec. 14-75. – Credits.

(a) An applicant may receive a credit towards required park impact fees in an amount equal to the appraised fair market value of any land dedicated to and accepted by the City for public park, open space, or recreational purposes as part of the residential development for which impact fees are owed.

(b) A credit under this section may equal, but not exceed, the total amount of park impact fees required for a residential development under this Article.

(c) An application for a credit under this section must be made, in writing, to the City Manager prior to issuance of a building permit for the applicant’s development. An applicant’s failure to timely apply for a credit under this section is deemed a waiver of the credit.

(d) An application for a credit under this section must include two appraisals of the property to be dedicated from two independent appraisers licensed in the State of Maryland. The City Manager must approve a credit in an amount equal to the average of the two appraisals, up to the total amount of park impact fees required.

(e) Unless dedication has occurred prior to the City Manager’s approval of a credit under this section, the credit applicant must enter into an agreement with the City, in a form approved by the Office of the City Attorney, setting out the terms of the dedication.
The City Manager is authorized to execute such agreement on behalf of the Mayor and Council.

**Sec. 14-76. - Impact fee account.**

The City shall establish a park impact fee account, and impact fees collected must be deposited in such account. The funds of the account must not be commingled with other funds of the City. The impact fee account must be interest-bearing, and the accumulated interest must become a part of the account.

**Sec. 14-77. - Use of impact fee proceeds.**

Impact fees must be expended only for park acquisition, development, or capital improvements that add capacity to the City’s park system. Impact fees may be used to pay the principal interest and other costs of bonds, notes, and other obligations issued or undertaken by or on behalf of the City to finance such acquisition, development, or capital improvements.

**Sec. 14-78. - Severability.**

If any section, subsection, sentence, clause, phrase, or portion of the ordinance codified in this Article is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this section.

SECTION II – This ordinance shall become effective immediately upon adoption.

*********************************************************************************************************************************************

NOTE: Strikethrough indicates material deleted.

Underlining indicates material added.
I hereby certify that the foregoing is a true and correct copy of an Ordinance adopted by the Mayor and Council of Rockville at its meeting of _________________.

____________________________________
Sara Taylor-Ferrell
City Clerk/Director of Council Operation
Report on Parkland Acquisition Approaches for the City of Rockville

Community Planning and Development Services
Recreation and Parks
City Manager’s Office

January 2018
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Attachment A - Map of Existing Parks and Recreational Facilities

Attachment B - Walkability Analysis / Access to Parks

Attachment C - Definitions (current) of Open Area and Public Use Space
I. Introduction

The parks and recreational facilities maintained and operated by the City of Rockville are often cited as a key factor in Rockville residents rating our quality of life so high. It has long been a priority of the City to provide a top-notch park and recreation system that offers enjoyable neighborhood parks, community facilities and other recreational amenities. The City’s current level of service in terms of parkland per 1,000 residents is roughly 16 acres. The map at Attachment A shows the City’s existing parks and recreational facilities.

While some areas of the city are well served by parks within walking distance of their neighborhoods, others are not. Also, with a growing population, there is continued pressure to create new park space, especially in redeveloping and urbanizing areas along Rockville Pike and in Town Center. The map at Attachment B describes how the City is covered in terms of walkability to parks.

The focus of this report (and work session with the Mayor and Council) is to discuss ways to go about ensuring that while new growth occurs, the City is able to plan for and provide new park space and recreational facilities. The overarching goal is to provide parks and recreational facilities, or to collect fees to create them, as new development occurs so that the new development does not overburden the existing park system, and the City continues to provide facilities that serve all residents. One of the many keys to this effort will be to create a mechanism that is fair and equitable as the City attempts to keep up with the on-going demands of a growing population.

The City currently does not specifically require parks to be provided as part of new development projects. Instead, we have standards requiring that “open area” and “public use space” be provided within new development projects. However, those standards are fairly flexible and permissive in terms of what constitutes an open area and public use space, and they do not specifically call for the creation of additional parkland. The City also has goals, policies and recommendations in the Comprehensive Master Plan and in the Parks, Recreation and Open Space Plan that speak to the need and desire to acquire parkland, but those recommendations have not been implemented through an ordinance requirement.

There are tools used in other jurisdictions that provide the means to ensure new parks and recreational facilities are provided as new development occurs. These tools will be explored further in this report.
II. How has the City acquired parks in the past?

There are a number of ways in which the City has acquired parkland over the years, including recently. These include the following.

- **Deeded to City as part of a development project** – As the King Farm, Fallsgrove, Rose Hill, and Tower Oaks development projects were planned and approved, the City was able to negotiate for park and open space to be dedicated to the City for public use. These include Mattie Stepanek Park, King Farm Park, Fallsgrove Park, Village Green, and the Rose Hill and Tower Oaks stream valleys.

- **Conveyed to the City by a Homeowners Association** – This involved the acquisition by the City of parcels A and B from the Chestnut Lodge Planned Development area, conveyed by their homeowners’ association earlier this year.

- **Purchased from Developer** – In conjunction with the acquisition of the two donated parcels from the Chestnut Lodge HOA, parcel I of Chestnut Lodge was purchased by the City from the private owner of the parcel.

- **Purchased from the County** – The City arranged to purchase land previously owned by the county at 175 Watts Branch Parkway where the Karma Academy once stood.

- **Land Swap with County** – The City has swapped property with the county in the past, including for a portion of Upper Watts Branch (a school site) in exchange for land adjacent to Wootton Parkway.

Revenue sources that have been used for acquisition include the City’s general fund appropriations, and state grants through the Program Open Space fund. This is a grant program funded through real estate transfer taxes, administered by the Maryland Department of Natural Resources, with funds being allocated annually to the counties for subsequent allocation. The City does not currently have a permanent, dedicated funding source, nor other specific mechanisms to acquire or require parkland in the city.

It should also be noted that there is a portion of the County property tax dedicated to advanced parkland acquisition. It is administered by the Maryland National Capital Park and Planning Commission. Although that tax is assessed on properties in the city as well as throughout the county, the City does not typically receive any of the revenue generated. The fund is used to support and expand the countywide parks system, which city residents also use. The tax rate is .001, or 1/100th of a penny per $100 of assessed value.

Although some of these tools have served us well from time to time, they are not ones that may be used on a consistent basis as new development occurs, especially with the redevelopment nature of our recent growth patterns. A consistent, standardized tool that can be employed regularly as new development occurs will give the City an opportunity to more carefully manage the demands placed upon our park and recreational facilities, and to reasonably ensure that new capacity is provided to meet those new demands.
III. Tools used by other jurisdictions

Many jurisdictions across the country, as well as a few locally, use either a parkland dedication requirement through their zoning ordinance, or an impact fee that is charged to new development for parks and recreation facilities. Below are several examples researched by staff. One common feature they all share is a robust park system for their local population.

Parkland Dedication examples

**Austin, TX** has a dedication ordinance required for residential subdivisions, site plans that include residential units, and hotels/motels. The required amount is based on a formula of parkland acreage per 1,000 resident population to be generated by the development (to maintain 9.4 acres of parkland per 1,000 population); the amount varies by density of the project. In their “urban core,” parkland dedication cannot exceed 15% of the gross site area. The requirement is reduced for affordable housing. Under certain conditions, the land can remain as private parkland, with a recorded recreation easement, for 100% of the requirement. Austin includes a fee-in-lieu provision where dedication of land is not feasible. The fee-in-lieu amount is based on the average purchase price to the City for acquiring an acre of parkland, along with the parkland level-of-service (which is based on the total citywide acreage of neighborhood parks and greenways relative to the city’s population).

Their Recreation and Parks director makes the initial determination as to whether to accept dedication or fee-in-lieu, with final approval by their Land Use Commission. They emphasize the purpose of the fee in-lieu is not to achieve equity in terms of where parkland is provided, but rather to have development maintain the same citywide parkland level-of-service. If development occurs in deficient areas, the dedication tool may contribute to equity. Otherwise, bond funds, grants, donations or some other source would be needed to address deficiency problems. However, when deciding where to spend their fee-in-lieu, they do use a parkland deficiency map as a guide, along with other criteria in their operating procedures. Their funds must be spent within five (5) years of collection.

**St. Paul, MN** requires 150 square feet of parkland per residential dwelling unit, up to a maximum of 4.5% of the buildable land area, or a fee-in-lieu of dedication at $1,200 per dwelling unit (up to 4.5% of county assessor’s value of the land). The requirement is reduced for affordable housing.

They are also one of the few jurisdictions that require parkland dedication for non-residential projects. St. Paul has documented that 90% of their demand for park space is from residential uses, and 10% from commercial/industrial. They require 28 square feet per 1,000 square feet of commercial gross floor area (GFA), 11 square feet per 1,000 square feet of industrial GFA, and 6 square feet per 1,000 square feet GFA for wholesale, warehousing and storage space. Non-residential projects that are less than 5,000 square feet are exempt.

They also have an option for private land to be maintained for public use instead of making a dedication. However, the area must be accessible to the public in a manner similar to public land, and a parkland development agreement must be executed. They specify that funds collected through fee-in-lieu shall be used within ½ mile of the project for which the funds were collected, or for the neighborhood or community park nearest to the project.
**Dunedin, FL** requires dedication, or a fee in-lieu, when five (5) or more residential units are constructed, via a site plan or subdivision. They require six (6) acres to be dedicated per 1,000 population to be generated (prorated for the project). The six (6) acres are split evenly between neighborhood and community park needs.

They allow credit up to 75% of the neighborhood park requirement to be private open space. Their fees collected in-lieu of dedication must be spent or obligated within 7 years of collection, and be spent in the “general vicinity” of the area where the fees were generated.

**Impact Fee examples**

**Pasadena, CA** has used their Residential Impact Fee since 1988 to help mitigate the impacts on the park system from new residential development. The fee is imposed on all new residential development, and they range from $15,000 to over $28,000 per unit depending on the number of bedrooms; affordable housing units are charged $800. The fee has been the primary funding mechanism for parkland acquisition, trails and capital improvements for parks in the city’s budget. It helped fund the first new city park in over 30 years, and brought about the city dog park in the city. They can also use the fund on any school ground park which is subject to a cooperative agreement between the city and the Pasadena Unified School District.

**Boulder, CO** has an impact fee for parks and recreation that ranges from $2,700 to $7,000 per unit, depending on the size of the dwelling unit. In **Sacramento, CA**, their park development impact fee is about $3,500 for multi-family units (but $1,600 if in an infill area), and $5,900 for single-family units ($2,700 if infill).

**Local/Regional examples**

**The City of Frederick, MD** actually has both an impact fee and a parkland dedication requirement. They require 500 square feet of parkland to be dedicated for each infill residential unit and for retirement communities, and 1,000 square feet for other non-infill residential units. They have a provision where private open space may suffice to serve multi-family and townhouse development, and dedication would not be required unless the comprehensive plan calls for a park in the area. They also have a provision where, if approved by the city, the city may deem areas in forest or proposed for afforestation (or reforestation in a forest conservation easement) to be suitable as public parkland.

Fee-in-lieu is determined by the Board of Aldermen and is based on the fair market value of the property with a recent appraisal. Funds may be used to acquire city parkland, or to pay the principal, interest or other costs of bonds, notes or other obligations issued or undertaken by or on behalf of the city to finance the acquisition of city parkland. Under certain conditions, private open space may comprise 20% of the total parkland required.

In addition to their required parkland dedication, the City of Frederick also charges a park and recreation impact fee of $868 per residential unit (but $586 if the development has a pool to be maintained by the homeowner’s association).
**Prince Georges County** has had a parkland dedication ordinance with fee-in-lieu since 1981. Theirs is limited to new residential subdivisions, so it doesn’t apply to site plan projects. Their dedication requirement ranges from 5% to 15% of the site depending on the density of the development project.

**Fairfax County, VA** has a strategic plan requiring 10% of their land mass to be held as county parks. In suburban areas, their goal is to provide at least 5 acres per 1,000 population. In urban areas, the goal is 1.5 acres per 1,000 population and 1 acre per 10,000 employees. Countywide, their goal is for a minimum of 13 acres per 1,000 population.

**Montgomery County** has an adopted Parks, Recreation and Open Space Plan that states that recommendations for parks and recreation must be provided in all urban plans and sector plans, with a hierarchy and typology of parks described. New parkland is added to the County park system through: dedication via the land development process, direct purchase using CIP funds, and the occasional donation of land by property owners. Dedication is not a zoning ordinance requirement, but can be achieved through their optional method of development, which provides additional density or other incentives for certain amenities provided as part of a development project. The White Flint Plan recommended several parks in the area, but according to the County, those will likely be privately owned and maintained. The plan also discusses the possibility of an amenity fund, but that has not yet been pursued.

**The City of Gaithersburg** requires a minimum green area, landscaping and amenity area for new development as a percentage of the site, but they don’t have a specific parkland requirement nor an impact fee.
IV. Guidance from the Comprehensive Master Plan and Parks, Recreation and Open Space Plan

When considering new land use or other tools required to advance goals of the City, it is always advisable to look to the Comprehensive Master Plan for guidance to ensure consistency with the City’s overall vision for the community. Fortunately, the 2002 Comprehensive Master Plan (the “Master Plan”), as well as other subsequent neighborhood plans and plan elements, provide guidance and support for possible new tools the City may want to consider.

Chapter 6 of the Master Plan addresses Recreation, Parks and Open space, and identifies parkland acquisition as a critical issue. It discusses the desire for parkland dedication and also for a payment-in-lieu fee of 5% of the total value of the land being developed. It goes on to say that this is “generally a last resort option; however, consideration should be given to adopting such a requirement to apply only in cases where dedication is not practical or feasible.” The chapter concludes with a set of recommendations, which includes the following:

“Require allocation of a minimum of 20% of development area for parkland. The requirement should provide appropriate payment-in-lieu only if the allocation of parkland is not feasible or desirable.” (p. 6-7)

The Rockville Pike Neighborhood Plan, adopted in 2016, builds upon the Master Plan goals by recommending that 10-acres of new parkland be created along the Rockville Pike corridor. The plan states as a goal to have parkland accessible within a 10-minute walk from any residence. It describes a minimum size of 3/10 of an acre for new parkland, and that 15% of a developable project’s site should be allocated to publicly-accessible open space (or fee-in-lieu).

The Parks, Recreation and Open Space (PROS) Plan was adopted by the Mayor and Council in 2009, and although it is not technically part of the Master Plan, it certainly provides guidance for park needs throughout the city. The plan recommends obtaining funding for land acquisition, and for a focus on areas of greatest need, especially East Rockville, Twinbrook, Town Center and Rockville Pike.
V. Two Options to Consider

Two options are presented for the Mayor and Council to consider as possible approaches for the acquisition or expansion of parks and recreation facilities, with details on both described in the following section. The two options are:

1. Parkland dedication, or fee-in-lieu when dedication is not feasible (a new option supported by the Comprehensive Master Plan)
2. Impact fee for parks and recreation facilities (a new option)

Both measures provide an approach to help meet the demand for new parks and recreation facilities as new development occurs, but without overburdening existing residents with the financial impact to expand the City’s park system due to increased demand caused by the new development. With this type of regulatory or “user fee” approach, the intent is that the landowner, developer and future residents who are creating the demand for new park facilities should bear at least a portion of the costs of providing new parks and recreation facilities. Historically, the City has often had to resort to using general fund reserves to pay for parkland, rather than having a ready park fund to tap.

Both approaches must also meet certain ‘tests,’ starting with being proportional in terms of the requirement relative to the demand generated by the new development. There must also be a relationship or a “nexus” between the dedication or use of the fees and the benefits received by the development. Finally, any fees that are generated must be spent in a timely manner so they benefit the new residents creating the demand.

Neither measure is intended to achieve equity in terms of providing park space or recreation facilities in certain areas of a city. They are not designed to make up for existing deficiencies in park space or recreation facilities. Rather they are intended to have new development reasonably pay for itself in terms of impacts they would have on the City’s parks and recreation facilities. The City must remain committed to taking the lead in the creation of new parkland and recreation facilities, and also work with applicants to meet our future demands.

Public Use Space and Open Area Zoning Text Amendment

Staff will also propose updates to our current open area and public use space requirements, regardless of which of the two options described in this report might be favored by the Mayor and Council. Staff will bring forward a zoning text amendment that proposes to combine those two current zoning ordinance standards into a “common open space” standard with a clearer definition of what should be included. The current definitions of “open area” and “public use space” are included in Attachment C. The standards for this new common open space requirement should be adjusted to work in concert with any new parkland dedication requirement or impact fee that the City decides to implement. The table on page 9 provides suggestions for what a common open space requirement might be. That new draft standard will be finalized and brought forward in a zoning text amendment for consideration as direction is provided on the options described in this report.
A. Option 1 - Parkland Dedication, with a Fee-in-Lieu-of dedication

Description – This approach would be implemented as a zoning ordinance standard, requiring onsite parkland dedication for public use, or payment of a fee-in-lieu of dedication. This approach would implement the Master Plan recommendation of allocating a certain percentage of a development area for parkland, or to allow a fee-in-lieu where it is not practical or feasible to dedicate. It would apply to all new applications for development and redevelopment that result in a net increase in residential dwelling units, as described below.

As this option was drafted, staff was mindful of having an approach that is reasonable and provides some flexibility in how it could be administered. For dedication, allowing options is important – the City could require onsite dedication as a starting point, but also allow offsite dedication, or a fee-in-lieu of dedication, or a combination of approaches. The City could also consider private open space to meet a portion of the dedication requirement, and allow onsite private amenities to be credited at least partly against the dedication requirement. Staff also proposes to allow applicants to use at least a portion of the proposed dedicated area to meet some of their forestry requirements.

Applicability – A parkland dedication requirement, or fee-in-lieu-of dedication, could apply to site plan applications and subdivision plats, with the following net increase in residential dwelling units on the project site (above the number of units that previously existed):

- 25 multi-family dwelling units
- 20 townhouse (single family attached) dwelling units
- 15 single-family detached dwelling units

Staff believes it is important to have a threshold below which this option would not apply. Development projects yielding a fewer number of units than indicated here would likely generate either very small parcels of proposed dedicated park areas which would not be desirable for the City to maintain, or would generate a modest fee-in-lieu amount that would be restricted in terms of how, where and when it could be spent. Also, the stress on the existing park system by relatively few units would likely be small.

For affordable or moderately-priced dwelling units, staff has not defined a credit or exemption since we are not proposing to apply it on a per-unit basis. The standard is based on land area, so a reduction or exemption may not apply. One exception would be if the entire development project consists of affordable units, then we could exempt the entire application (or require a lower percentage to be set aside or paid-in-lieu).

Dedication Requirement – Consistent with the Master Plan recommendation, an onsite parkland dedication requirement could be based on a percentage of the total site area. It would vary by zoning district, similar to the current open area and public use space requirements. As noted above, the current open area and public use space standards are also proposed to be amended and combined into one common open space standard, with a new definition which is described later in this report.
### Possible Dedication and Open Space Requirements in Mixed Use Zones

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<th>Zone</th>
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<th>Suggested Common Open Space %</th>
<th>Current Requirements %</th>
<th>Public Use Space*</th>
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*Public use space is within required open area.

An additional consideration regarding the standards suggested here is to allow an exemption from the Common Open Space requirement if an applicant proposes to set aside a greater amount of dedicated parkland than the minimum required percentage.

### Medium Density Residential Zones

For proposed development in the Residential Medium Density Zones (RMD-25, RMD-15 and RMD-10), the City currently has a standard requiring 50% open area within the overall site (section 25.11.06). This section should be amended to include a parkland dedication requirement of 20%, which could be part of an overall 50% open area standard (which would also be updated to the new common open space requirement).

### Single Dwelling Unit Residential Zones

For proposed development in the Single Dwelling Unit Zones (R-400, R-200, R-150, R-90, R-75, R-60 and R-40), the same parkland dedication standard of 20% would be required. But those cases would be reviewed through the subdivision process. Section 25.21.19 would need to be updated, which currently describes the City’s standards for Public Sites and Open Spaces as follows: “proposed park, playground, or other public use shown in the Plan... the subdivider must dedicate or reserve, at the option of the Commission, adequate space for such purpose...”

When analyzing possible dedication standards to use for the mixed use and residential zones, staff considered different approaches to determine what a fair standard would be, including a calculation based on setting aside a specific amount of square footage per dwelling unit or per capita. However, staff continued to come back to the guideline recommended in the current Comprehensive Master Plan (which suggests 20% dedication of developed area). Nevertheless, the recommendation here is to consider a lower set-aside amount (10%). This standard is a reasonable one to begin with, and is also accompanied by flexibility in how it could be administered. It is roughly in line with (but lower than) the City’s current level of service for parkland, but is not as impactful as a per-unit or per-capita standard might be. Many jurisdictions that require parkland dedication do so on the basis of maintaining a level
of service expressed by the number of acres per resident population. However, trying to maintain our current level of service of 16.5 acres per 1,000 in population through a dedication requirement would be too onerous to require for new development projects.

Suitability standards/criteria for dedicated land - To determine whether proposed parkland is suitable for dedication, the criteria below could be used by the City in making its determination. The use of the term “suitability” is intended to result in parkland area that can meet the park and recreation needs of new residents in the development that is triggering the need.

- **Minimum size** – a proposed parkland dedication shall be no less than 3/10 of an acre in the MX-TD and MX-CD zones, and no less than ½ acre in all other zones. If the ordinance standard results in an amount less than these minimum allowable parkland dedication areas, then a fee-in-lieu-of dedication would be required.
- **Usability** – the proposed area must be useable as park space in terms of topography, drainage and configuration of the site. It shall not be configured as a narrow strip of land without substantial demonstration of its purpose and function to serve the general public.
- **Contiguous** – the proposed parkland to be dedicated shall be in a contiguous area to the extent feasible. Small, scattered, individual sites will likely not be accepted, unless it is demonstrated that they would serve the needs of residents of the proposed development.
- **Accessibility** – the proposed dedicated site must be accessible to the general public.
- **Connectivity to other parks** – where existing parks, open space, or trails are present on sites adjoining the proposed development project, the proposed parkland to be dedicated should be located so it is contiguous to such areas, and provide connections to adjoining parks and open areas where feasible.
- **Underserved areas** – when the neighborhood where the proposed development is occurring is at a deficit in terms of park space, then parkland dedication will be preferred over payment of a fee-in-lieu. Underserved and deficit areas would be based on guidance provided in the City’s Parks, Recreation and Open Space Plan as well as the Comprehensive Master Plan.
- **Sensitive and rare habitat protection** – proposed dedication areas that provide for the protection of habitat for sensitive and rare plant and animal species are desired.
- **Consistent with the City’s Comprehensive Master Plan** – proposed parkland dedications shall be consistent with and result in implementing the City’s Parks, Recreation and Open Space Plan and/or the Comprehensive Master Plan.

Determination of parkland dedication or fee-in-lieu – It is the City’s preference to have land dedicated onsite for a public park with the development projects that trigger this requirement. However, it will also be possible for an applicant to propose to pay a fee-in-lieu-of dedication in instances where dedication is not feasible on the site, or not desired by the City. If a proposed site does not meet the minimum size requirements, or is otherwise determined to be unsuitable by the City based on the criteria described above, then a fee-in-lieu-of dedication may be provided. However, the City is also providing an opportunity for an applicant to propose an off-site parkland dedication when onsite
dedication is determined not to be feasible. Finally, a combination of options (onsite dedication, fee-in-lieu, and off-site dedication) will also be considered and may be allowed.

The process for determining whether to accept a proposed dedication, to require a fee-in-lieu-of dedication, to allow an off-site dedication, or a combination of those options, is to have the director of the Recreation and Parks Department consider the applicant’s submittal, and following consultation with the City Manager, provide direction early in the development review process. The director will evaluate the proposed method of meeting this requirement based on the suitability standards described above, and will provide a determination in writing based on those standards.

This determination will occur early in the development review process in order to provide certainty and predictability for the applicant for their overall design of the project. The determination by the director of the Recreation and Parks department will be made during the pre-application stage of site plan review, or during the review of a preliminary plan for subdivision for single-family residential development. The Director of Recreation and Parks will notify the applicant in writing of this determination.

When City staff have completed their full review of an application, with a recommendation prepared for transmittal to the approving authority for action, the staff report will describe the determination made for parkland dedication, or payment of a fee-in-lieu, or a combination thereof.

**Appeal** - If the Director rejects a request by the developer to dedicate parkland, or to pay a fee-in-lieu-of dedication, the applicant may appeal the decision to the approving authority for the application. The approving authority will then make the final determination as to whether the dedication or fee-in-lieu-of dedication will be accepted, considering the suitability standards set forth above and the recommendation of the Director.

**Offsite Parkland Dedication** – The City may accept an offsite dedication of parkland upon approval of such proposal by the Director of Recreation and Parks, provided it is in the general vicinity of the development site and meets the suitability standards/criteria for dedicated land described above.

**Credit for onsite amenities and private open space** – The City may allow that privately-owned onsite amenities being provided with the development project could be credited against the public parkland dedication and fee-in-lieu requirement, but not to exceed 50% of the requirement. Onsite amenities that may be considered for such credit include publicly-accessible open areas, parks, playgrounds, trails and exercise areas. Credit may also be provided for indoor spaces dedicated to the provision of publicly-accessible art, and open areas or dedicated spaces open to the public such as museums, art galleries, science centers or facilities, cultural arts centers, or community rooms.

As with the approval of dedicated parkland, the Director of Recreation and Parks will make the determination as to whether credit for onsite amenities and private open space will be accepted, which will also be determined during the pre-application stage.
Land, facilities, and improvements approved under this provision must be accessible to the public in a manner similar to public parkland. The City and the owners of the development must execute a parkland development agreement insuring that specific land will be developed and maintained by the owners, and that the parkland use is a covenant that runs with the land.

This provision is consistent with other jurisdictions analyzed. St. Paul, MN, allows private land to be maintained for public use for up to 100% of the dedication requirement. Austin, TX, allows up to a 50% credit for onsite amenities provided by an applicant (for pools, exercise areas and publicly-accessible open space). Dunedin allows a credit for up to 75% of their neighborhood park requirement where private open space is being provided and will be privately maintained (but only for the neighborhood park requirement; but not the community park requirement). Frederick, MD has a provision where private open space may suffice to serve multi-family and townhouse development, and dedication would not be required unless the master plan calls for a park.

**Ability to meet certain development standards/requirements on proposed parkland dedication sites**

With the approval of the Director of Recreation and Parks, the City could allow the proposed parkland dedication area to be used to meet a portion of certain development standards, provided the primary use of the proposed parkland area for public recreation is not impeded. A maintenance agreement between the City and the applicant will be required, describing maintenance responsibilities and other obligations.

The following could be acceptable on the dedicated parkland:

- Areas in forest or proposed for afforestation or reforestation in a forest conservation easement.
- Environmental site design features and related improvements required as a result of the development project. This may include publicly accessible, useable portions of a stormwater management facility.

This provision would be consistent with other jurisdictions as well. Although Frederick does not allow stormwater ponds in dedicated areas, they do allow areas in forest or proposed for afforestation or reforestation in such areas. Austin allows up to 50% of a dedicated site to be in the floodplain, and the City of San Jose allows a 50% credit for stormwater detention facilities.

**Ownership, conveyance and improvement of dedicated land**

Ownership of dedicated parkland will be conveyed to the City, and will be City-maintained. Conveyance of parkland will occur through subdivision plat approval and recordation prior to obtaining building permits for the project, and will be accompanied with a fee simple deed conveying ownership to the City.

If amenities or improvements to the park are being provided by the developer, those shall be completed in a manner consistent with City standards, and accepted by the City prior to issuance of occupancy permits. Otherwise the applicant will provide improvement guarantees for grading and seeding of the parkland to be dedicated. The dedicated land will be conveyed in a condition that is graded, seeded and otherwise prepared as agreed upon, and free from debris and other construction material.
Proposed Amendments Impacting Approved Parkland Dedication Areas – If an amendment to an approved site plan or subdivision is proposed that would impact an approved parkland dedication area (public or private), or would impact the required fee-in-lieu, then a recommendation from the Director of Recreation and Parks is required as part of the application. Compliance with the dedication or fee-in-lieu standards is still required.
**Fee-in-lieu-of dedication**

**Description** – When dedication of parkland (either onsite or off-site) is deemed by the City to not be feasible due to the suitability standards described, payment of a fee-in-lieu-of dedication would be required. Fee-in-lieu funds would be spent in the general vicinity of the development from which the fees were paid. The funds can be pooled with other in-lieu payments, or other City or park funds, for the acquisition of land for new parks or expansion of existing ones. However, they cannot go toward operations, recreational programs or maintenance of parkland or facilities. The funds should also not be used specifically to remedy existing park deficiencies, unless this also aligns with the needs created by the new development.

**Amount Required** – The amount of a required fee-in-lieu payment would be based on the assessed value of the land at the time of pre-application. The source for determining the assessed value of the land will be the State of Maryland’s Department of Assessments and Taxation (SDAT) most recent records published online.

For proposed development projects that include residential units, and would otherwise be required to comply with the parkland dedication requirement, the fee-in-lieu is equal to 10% of the assessed value of the land within the project boundaries; improvements to land are not included.

As described, a combination of onsite and/or offsite parkland dedication and fee-in-lieu is acceptable. If an applicant dedicates a portion of the required parkland and satisfies the balance of the requirement with fee-in-lieu, the amount of land dedicated will be deducted from the required fee-in-lieu payment that was otherwise required.

**Administering the Fee** – The fee must be paid prior to issuance of the first building permit for the development project, but at the discretion of the City, partial payments may be made that are proportional based on the number of units being developed within the phases of a multi-phase project.

**Expenditure of fees collected** - Revenue generated through fees paid in-lieu-of dedication will be used by the City for parkland acquisition, expansion or enhancement of existing parks, to serve the new residents of the development that was assessed the fee. Fees collected under this provision will be spent in the general vicinity of the site of the development application. The City will use the Parks, Recreation and Open Space Plan and the Comprehensive Master Plan for guidance in deciding on locations to spend fees collected.

The funds generated by fee-in-lieu will not be used for maintenance and operations, and will be used only for the following purpose:

- To acquire parkland for a public use; or
- For capital expenses for new, expanded or enhanced public parks and/or recreation facilities
The fees collected will need to be accounted for separately from other funds, including being segregated from the City’s general fund money. The funds would be appropriated in the budget that is approved by the Mayor and Council, and most likely in the form of a Capital Improvement Project.

Fees collected by the City must be spent within seven (7) years from the date of receipt. This period may be extended by five (5) years if, at the end of the initial seven-year period, less than 50% of the residential units within the development project that generated the fee have been constructed.

**Refund** - If the City does not expend the fee payment within seven (7) years of being paid, the applicant/developer (or successor) may request a refund for the portion of the fee that was not expended. The refund request must be made in writing and filed with the Finance Department no later than 180 days after the expiration of the deadline to expend the funds. The Finance Department will refund the unspent fees to the applicant.
B. Option 2 - Impact Fee for Parks and Recreational Facilities

The other option staff is putting forth for consideration is that of an impact fee that could be charged to new development applications during the permitting process. An impact fee is a commonly accepted financing mechanism used by local jurisdictions to offset the cost of expansion of infrastructure or government facilities that would be required to be built as a result of new development. It’s a way of assuring new development pays its “fair share” for providing services. It is based on maintaining the current level of service by assessing new development the proportional cost of expanding that service or facility. For parks and recreational facilities, it is typically charged for new residential development, but may also be required with new non-residential construction.

As described in a 2009 impact fee study conducted for the City, in order for an impact fee to be valid, it typically must satisfy two conditions: “rational nexus” and “rough proportionality.” First, there must be a need for the additional facilities or expansion of infrastructure as a result of the new development. Second, there must be a fair and equitable connection between the fee charged to the new development and the benefit it receives. A municipality may only charge an impact fee for capital projects that will benefit the new development, and for services provided by the jurisdiction.

A Maryland Attorney General’s opinion issued in 2004 addresses this concept as well. In response to a request from Taneytown, MD, the opinion supports the power of Maryland municipalities to enact reasonable impact fees as a regulatory tool. But there must be a sufficient nexus between the fee assessed and the proportional cost of providing the benefits supported by that fee to the affected property owners. It should be used to defray the costs of infrastructure and capital expenses, but not for operating costs. The Attorney General’s office stated:

"Under the rational nexus test, an impact fee is permissible as a regulatory measure, so long as (1) the fee relates to the needs attributable to new development, and (2) the revenue collected is earmarked for the substantial benefit of the development charged."

2008/09 City of Rockville Impact Fee study

In 2008, the City contracted with the consulting firm Municipal Financial Services Group (MFSG) of Annapolis to evaluate, calculate and recommend possible impact fees for the City to consider. The areas studied and ultimately recommended were: public safety, recreation and parks, stormwater and general government. Other service areas were studied but not recommended. However, as the study was concluded in 2009 during the “Great Recession,” none of the recommended fees were enacted. There were also concerns about the timing of spending revenue that is generated, and where it could be used.

The calculation of the fees was based on the incremental cost of replacing the current recreational and park facilities owned and operated by the City. The actual value of the land for parks was excluded from the calculation.

Facilities counted within the inventory at the time included: the swim center, the senior center, F. Scott Fitzgerald Theater, Glenview Mansion, all the community and neighborhood centers, the King Farm Farmstead, the Beall Dawson House, and other facilities, for a total of 183,319 square feet of facility space. The estimated average cost to build a new facility was $250 per square foot, plus another $50
per square foot to outfit the facility. At a total cost of $300 per square foot, times 183,319 square feet total, the full cost to replace all facilities was estimated at about $55 million. This cost was then allocated between residential and non-residential uses in the city, and then further broken down for an average cost per resident and per employee.

The following table describes the 2009 recommendation for impact fees for parks and recreational facilities that could be charged for different uses, along with a potential revenue generation forecast through fiscal year 2030.

Recreation/Parks Recommended Impact Fees (2009 study):

<table>
<thead>
<tr>
<th>Residential (per unit)</th>
<th>Fee</th>
<th>Potential Revenue – FY09 to FY30</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single family detached</td>
<td>$1,711</td>
<td>$95,800</td>
</tr>
<tr>
<td>Single family attached</td>
<td>$1,524</td>
<td>$253,000</td>
</tr>
<tr>
<td>Multi-family / other</td>
<td>$1,230</td>
<td>$7,567,400</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Non-residential (per 1000 sq ft)</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Retail / Restaurant</td>
<td>$582</td>
<td>$468,800</td>
</tr>
<tr>
<td>Office</td>
<td>$931</td>
<td>$5,224,900</td>
</tr>
<tr>
<td>Industrial</td>
<td>$517</td>
<td>$42,700</td>
</tr>
<tr>
<td>Other</td>
<td>$466</td>
<td>$453,200</td>
</tr>
<tr>
<td></td>
<td></td>
<td>$14,105,800</td>
</tr>
</tbody>
</table>

The study recommended spending the fees collected within six to eight years, and they could be used for expansion of recreational facilities operated by the City.
Updated Impact Fees

The City re-engaged with the firm MFSG to update the base assumptions and other data used in the 2009 study, so that a revised, current impact fee may be considered. They have included the land cost within the calculation as well (at about $840,000 of assessed value per acre), and have updated the cost of improved facility area at $400 per square feet. Below are the updated impact fee rates to consider, with those provided by the consultants, and fee levels recommended by staff (along with average fees from a 2015 national survey).

Updated Recreation/Parks Impact Fees:

<table>
<thead>
<tr>
<th>Residential (per unit)</th>
<th>National Average (2015)*</th>
<th>Updated Fees from consultant study</th>
<th>Recommended Fees by Staff (75% of the consultant fee)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single family detached</td>
<td>$2,812</td>
<td>$2,290</td>
<td>$1,718</td>
</tr>
<tr>
<td>Single family attached</td>
<td>$1,950</td>
<td></td>
<td>$1,463</td>
</tr>
<tr>
<td>Multi-family / other</td>
<td>$2,099</td>
<td>$1,570</td>
<td>$1,178</td>
</tr>
</tbody>
</table>

| Non-residential (per 1000 sq ft) |                         |                                   |                                                      |
| Retail / Restaurant              | $815                     | $700                              | $525                                                 |
| Office                           | $881                     | $1,120                            | $840                                                 |
| Industrial                       | $562                     | $620                              | $465                                                 |
| Other                            |                          | $560                              | $420                                                 |


Staff believes an impact fee for parks and recreation facilities should be one of the options seriously considered as this discussion continues.

Staff also recommends that the impact fees be adjusted downward slightly from the fee levels determined through the updated consultant work. The rates recommended by staff in the table above are at 75% of the levels determined by the consultants to be defensible and justifiable based on the methodology used. It is customary for jurisdictions enacting new impact fees to not charge the full amount allowable, since this introduces a new financial impact to the economics of development projects. However, this is a policy decision that would ultimately be decided by the Mayor and Council.

Staff also recommends that units required under the City’s Moderately Priced Dwelling Unit (MPDU) program be fully exempt from paying impact fees. Since it a long-standing City goal to promote the creation of additional affordable and moderately-priced housing options, exempting such units from this new charge would be consistent with that goal.

If the impact fee option is ultimately adopted, staff recommends that development applications that are currently in the review process should be exempt from the fee. This would include complete, accepted applications for projects plans, site plans and building permits.

An impact fee would be administered at the building permit stage of the review process, where the fee would be paid prior to issuance of a building permit. As such, it would have the effect of being phased in for a large, multi-phase development project, since the fee would only apply to those phases about to
be constructed. Staff also recommends exempting any development application where three (3) or fewer additional (net) residential dwelling units are being created on the subject site. If this is applied to new non-residential development as well, then there should also be a minimum square footage at which it is triggered (perhaps at 5,000 square feet and above).

Although Maryland does not have a specific, required timeframe for spending the funds, the revenue collected would likely need to be spent, or at least programmed, within about seven (7) years of being collected. The revenue may be used for capital expenses only, and for new capacity such as new or expanded parkland, or new or expanded recreational facilities in the City.

There are jurisdictions which also include annual adjustments to impact fees. For instance, in Maryland, Anne Arundel, Talbot and Queen Anne’s counties adjust their fees each year based on the Construction Cost Index published in the Engineering New Record. In those jurisdictions, fees are automatically adjusted to account for inflationary increases in the cost of providing public facilities utilizing the most recent twenty-city annual national average data from the Engineering News Record Construction Cost Index. The City currently makes a similar adjustment using the Builder’s Cost Index to the in-lieu fee in the Publicly-Accessible Art in Private Development ordinance.
VI. Examples, using the draft standards in this report, and the general characteristics of recent projects in Rockville:

<table>
<thead>
<tr>
<th>Ex. #</th>
<th>Acres</th>
<th>Dwelling Units</th>
<th>Assessed Value (land)</th>
<th>Zone</th>
<th>Parkland Dedication (at 10%) in Acres</th>
<th>Parkland Dedication (at 10%) in Sq. Ft.</th>
<th>Common Open Space (10%) in Sq. Ft.</th>
<th>Total Open Area in Sq. Ft.</th>
<th>Fee-In-Lieu at 10% of Assessed Value</th>
<th>Residential Impact Fee $1,178/unit (multifamily)</th>
<th>Non-Res Sq. Ft.</th>
<th>Non-Res Use Type</th>
<th>Non-Res Rate per 1,000 sq ft</th>
<th>Non-Res Impact Fee</th>
<th>Total Impact Fee (Res and Non-Res)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>3.5</td>
<td>360</td>
<td>$8,400,000</td>
<td>MXTD</td>
<td>0.35</td>
<td>15,246</td>
<td>15,246</td>
<td>30,492</td>
<td>$840,000</td>
<td>$360,468</td>
<td>100,000</td>
<td>Retail</td>
<td>$525</td>
<td>$52,500</td>
<td>$412,968</td>
</tr>
<tr>
<td>2</td>
<td>5.0</td>
<td>400</td>
<td>$6,000,000</td>
<td>MXTD</td>
<td>0.50</td>
<td>21,780</td>
<td>21,780</td>
<td>43,560</td>
<td>$600,000</td>
<td>$400,520</td>
<td>6,000</td>
<td>Retail</td>
<td>$525</td>
<td>$3,150</td>
<td>$403,678</td>
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<tr>
<td>3</td>
<td>4.0</td>
<td>200</td>
<td>$2,700,000</td>
<td>MXTD</td>
<td>0.40</td>
<td>17,424</td>
<td>17,424</td>
<td>34,848</td>
<td>$270,000</td>
<td>$200,260</td>
<td>5,000</td>
<td>Office</td>
<td>$840</td>
<td>$4,200</td>
<td>$204,460</td>
</tr>
<tr>
<td>4</td>
<td>3.5</td>
<td>275</td>
<td>$1,700,000</td>
<td>MXE</td>
<td>0.35</td>
<td>15,246</td>
<td>15,246</td>
<td>30,492</td>
<td>$170,000</td>
<td>$283,456</td>
<td>15,000</td>
<td>Retail</td>
<td>$525</td>
<td>$7,875</td>
<td>$291,331</td>
</tr>
<tr>
<td>5</td>
<td>3.2</td>
<td>650</td>
<td>$12,400,000</td>
<td>MXTD</td>
<td>0.32</td>
<td>13,939</td>
<td>13,939</td>
<td>27,878</td>
<td>$1,240,000</td>
<td>$650,845</td>
<td>50,000</td>
<td>Retail</td>
<td>$525</td>
<td>$26,250</td>
<td>$677,095</td>
</tr>
<tr>
<td>6</td>
<td>2.3</td>
<td>275</td>
<td>$2,500,000</td>
<td>MXTD</td>
<td>0.23</td>
<td>9,801</td>
<td>9,801</td>
<td>19,602</td>
<td>$250,000</td>
<td>$275,358</td>
<td>10,000</td>
<td>Retail</td>
<td>$525</td>
<td>$5,250</td>
<td>$280,608</td>
</tr>
<tr>
<td>7</td>
<td>10.0</td>
<td>1000</td>
<td>$20,000,000</td>
<td>MXCD</td>
<td>1.00</td>
<td>43,560</td>
<td>43,560</td>
<td>87,120</td>
<td>$2,000,000</td>
<td>$1,001,300</td>
<td>200,000</td>
<td>Retail (3/4)</td>
<td>$525</td>
<td>$120,750</td>
<td>$1,122,050</td>
</tr>
</tbody>
</table>

Notes:
1. For MX-TD & MX-CD, the minimum area to be dedicated (for the dedication scenario) is 3/10th of an acre (13,068 sq. ft.); therefore the minimum development site where dedication is required is 3 acres.
2. For all other zones, the minimum area to be dedicated is 1/2 an acre (21,780 sq. ft.); therefore the minimum development site where dedication is required is 5 acres.
3. Project examples 1, 2, 3, 5 and 7 would dedicate land onsite (under the dedication scenario), since the proposed dedicated area exceeds the minimum required size.
4. Project examples 4 and 6 would pay fee in-lieu-of dedication, since the dedicated area would be less than the minimum size allowed.
5. For the impact fee examples, the rates are those recommended by staff, and MPDUs are exempt from the calculation (15% of the units in the MX-TD & MX-CD zones are MPDUs, and 12.5% of the units are MPDUs in all other zones).
VII. Pros and Cons of the Two Options

Pros of Parkland Dedication and Fee-In-Lieu:

- It’s an accepted standard in the typical zoning powers of a municipality
- Has a direct, clear relationship to the application to which it is being applied
- With dedication, the land is made available at the location where the development being built is creating the need
- It is in support of Master Plan goals to create additional parkland (20% per the plan)

Cons of Parkland Dedication and Fee-In-Lieu:

- Appears to be more effective as a suburban standard, where new subdivisions are created or large development projects are built. Rockville is experiencing mostly smaller, infill, mixed use projects.
- Will mostly result in fee-in-lieu payments, since the average size of our site plans is 2.5 acres and the same cons that are listed in the Cons of Impact Fee would be applicable.
- Fee-in-lieu must be spent in the general vicinity of the development project, so it is limited in terms of how, where and when it must be used; and must be tracked and accounted for separately
- It’s an additional regulatory demand on top of already fairly restrictive standards
- Dedication of land would require an applicant to go through the subdivision platting process, which doesn’t always happen on a site plan application (especially redevelopment activities)

Pros of Impact Fee:

- Would potentially apply to more residential units than a parkland dedication standard
- We can vary the fee by residential unit type, and apply it to non-residential permits, too
- Average size of site plans is too small to be affected by parkland dedication, so most projects would pay fee-in-lieu anyway.
- We have a methodology already (by MFSG) along with the regulatory authority to do it

Cons of Impact Fee:

- Requires creation of a separate fund, to ensure it is spent in a timely manner
- Requires active CIP planning to program funds, and the discipline to spend in a timely manner and to combine it with other city revenue where necessary for project implementation
- Places the burden on the City to purchase land where necessary (dedication requirement places more of this burden on the developer)
- City must have funds available to construct park amenities (with impact fees and other revenue as needed)
TO: Mayor Newton and Members of the Council  
FROM: Suzan Pitman, Chair of the Planning Commission  
SUBJECT: Planning Commission Review of Parkland Options  

Staff has reviewed the parkland ordinance with the Planning Commission, which was well received. The Commission identified several issues to be addressed as the ordinances are considered. These include:

1. Ensuring that properties annexed into the City dedicate parkland if a development proposal is forthcoming, or that annexed property that already contains parkland or forest conservation areas is maintained as such.

2. Consider reframing the definition of parks to broader, more inclusive applications such as elevated parks like New York’s Highline, roof-top parks, and shade parks built into what would be the first floor of a multi-story building.

3. It was noted that parks maintenance will be increasingly important as new parkland is funded or dedicated. We have a great recreation and parks staff, already adept at creative adaptation and reuse of current space, but they will need a larger budget and enough FTEs to continue to maintain the high standards we are accustomed to as new parkland is added to the City.

4. It was recognized that there is little undeveloped space left in the City, and that moving forward much of the development we see will actually be redevelopment. It is possible that the dedication of “parkland” might actually be an old surface parking lot that the City has to work with. The definition of “cleared space” should include the removal of pavement and, possibly, site preparation if not site improvement.

The Commission was split on whether the hybrid option or just the impact fee option should be implemented. We appreciate the opportunity to review this issue, which will certainly impact development as well as the quality of life for Rockville residents.
<table>
<thead>
<tr>
<th></th>
<th>Name</th>
<th>Address/Phone</th>
<th>Topic</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td><strong>Speaker by Phone</strong></td>
<td>215 Harrison Street</td>
<td>Agenda Item #6</td>
</tr>
<tr>
<td></td>
<td>Donald H. Hadley</td>
<td>Rockville, MD 20850</td>
<td></td>
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<td></td>
<td></td>
<td>301-213-0452</td>
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<td><strong>Speaker by Computer</strong></td>
<td>301-318-7118</td>
<td>Agenda Item #7</td>
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<tr>
<td></td>
<td>Patrick Woodward</td>
<td>** will be speaking from**</td>
<td></td>
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<tr>
<td></td>
<td></td>
<td><a href="mailto:noreen1945@yahoo.com">noreen1945@yahoo.com</a></td>
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<td>3</td>
<td><strong>Written Comments</strong></td>
<td>1019 De Beck Dr.</td>
<td>Agenda Item #7</td>
</tr>
<tr>
<td></td>
<td>Vincent Russo</td>
<td>Rockville, MD 20851</td>
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<tr>
<td></td>
<td>President, Twinbrook</td>
<td>301-980-3169</td>
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<tr>
<td></td>
<td>Community Association</td>
<td><a href="mailto:Vdrusso1@gmail.com">Vdrusso1@gmail.com</a></td>
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<td>4</td>
<td><strong>Written Comments</strong></td>
<td>713 Shetland St.</td>
<td>Agenda Item #7</td>
</tr>
<tr>
<td></td>
<td>Michael S. Dutka</td>
<td>Rockville, MD 20851</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td><a href="mailto:Ditko86@gmail.com">Ditko86@gmail.com</a></td>
<td></td>
</tr>
</tbody>
</table>
May 23, 2022

Dear Mayor Newton and Councilmembers,

The Twinbrook Community Association reaffirms its prior support for Zoning Text Amendment TXT2019-00255 to allow accessory dwelling units as a conditional use. We also support relaxation of the parking standards for properties located close to transit, a change made after the May 10, 2021 public hearing.

However, we have reservations about unequal application of this policy throughout the city. The staff recommendation to exclude Planning Area #4 from this ZTA will have the effect of denying property owners in one planning area rights that will be enjoyed in all the others.

Mayor and Council should be cautious about using planning areas as a criterion in the zoning code. Planning areas were not intended for this use. Nor do they provide a stable basis for policymaking. For example, the 2040 Comprehensive Plan combined two planning areas in Twinbrook. It also made other boundary changes from the previous 2002 Comprehensive Master Plan. When TCA asked to reverse one of these changes—the shift of the Cambridge Walk properties on Halpine Road from Planning Area 8 (Twinbrook and Twinbrook Forest) to Planning Area 9 (Rockville Pike)—staff agreed, but noted at the time that this was just a planning convention and had no practical effect on the properties. However, if the staff recommendation to treat Planning Area 4 differently is adopted, Mayor and Council will ascribe a legal significance to planning areas that did not exist previously. The implications of this precedent must be carefully considered.

- What happens when planning area boundaries change? What impact will this have on properties that lose or gain rights as result?
- Will staff be reluctant to change the composition of planning areas if city code defines rights based on their boundaries? How will the master planning process be affected if the stakes are raised for defining planning area boundaries? The process is already complex without that dimension.
- Will property owners “shop” for planning area designations with zoning codes favorable to their interests?

The alternative of setting a quota of two ADUs per block seems unfair to the unlucky homeowner who would otherwise qualify for the third.

TCA urges Mayor and Council to think through the legal and practical implications of regulating property rights using the planning area convention and to ensure it maintains best practices when writing zoning code.

Vincent Russo

President, Twinbrook Community Association
Dear Mayor and Council,
I want to voice my support for the proposed revisions to the rules governing accessory dwelling units in Rockville. I would also urge that rules be uniform throughout every neighborhood and that ADUs should be permitted as a "by right" use and that ADUs be exempt from parking requirements. We're in the midst of a dire housing shortage and I think making it easier to build ADUs will help to alleviate that in a small but meaningful way.


Michael S. Dutka
713 Shetland St, Rockville, MD 20851