AGENDA

Note: Due to the number of Community Forum speakers signed up to speak this evening, the times of the agenda items have been adjusted to reflect realistic estimated time frames.

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

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

Virtual Speakers

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

In-Person Attendance

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

Viewing Mayor and Council Meetings

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

Participating in Community Forum & Public Hearings:

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

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

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

1. Send your Name, Phone number, the Community Forum, and Expected Method of Joining the Meeting (computer or phone) to mayorandcouncil@rockvillemd.gov no later than Noon on the day of the meeting.
2. Send your Name, Phone number, the Public Hearings 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**.

3. 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.

4. Plan to join the meeting no later than 6:40 pm (approximately 20 minutes before the actual meeting start time).

5. Read for [https://www.rockvillemd.gov/DocumentCenter/View/38725/Public-Meetings-on-Webex meeting tips and instructions on joining a Webex meeting](https://www.rockvillemd.gov/DocumentCenter/View/38725/Public-Meetings-on-Webex) (either by computer or phone).

6. If joining by computer, **Conduct a WebEx test**: [https://www.webex.com/test-meeting.html](https://www.webex.com/test-meeting.html) prior to signing up to join the meeting to ensure your equipment will work as expected.

7. 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, July 18 from 5:30-6:30 pm with Mayor Newton and Councilmember Feinberg. 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](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**

7:10 PM  4. **Proclamation**

   A. **Proclamation Declaring July 17, 2022, as Mattie J.T. Stepanek Peace Day** (Mayor Newton)

7:15 PM  5. **Presentation**
A. Montgomery County Update on the Proposed Bus Depot and Restoration Facility on Seven Locks Road

8:15 PM 6. 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.

9:45 PM 7. Consent

A. Authorize the City Manager to Execute the Maryland Market Money MOU Between the Tri-County Council for Southern Maryland and the Mayor and Council Regarding the City of Rockville Farmers Market Eat Fresh Rockville Program

B. Authorization to Release and Extinguish an Existing Stormwater Management Easement on Parcel 23, Block a of the Wheel of Fortune Subdivision

C. Dispute the Reported Census 2020 Decennial Counts for Housing and Group Quarters Population

D. Authorization for the City Manager to Execute Modification Number Two to the Department of Natural Resources Grant Agreement Between the Mayor and Council of Rockville and the State of Maryland ("Modification #2) for the Mt. Vernon Stormwater Management Pond Retrofit and Urban Tree Canopy Enhancement Project

E. Authorization to Approve a License and Maintenance Agreement for Private Stormwater Management in the Public Rights-Of-Way Associated with Potomac Woods

F. Authorization to Approve a Grant of Public Improvements Easement Associated with Potomac Woods

G. Authorization to Approve a Grant of Storm Drain Easement Associated with Potomac Woods
H. Authorization to Approve a Temporary Storm Drain Easement Associated with Potomac Woods

I. Authorization to Approve a Grant of Water and Sewer Easement Associated with Potomac Woods

J. Authorization to Approve a Public Access Easement Agreement Associated with Potomac Woods

K. Authorization to Approve a Stormwater Management Easement and Stormwater Management Inspection and Maintenance Agreement Associated with Potomac Woods

L. Authorization to Approve a Stormwater Management Easement and Stormwater Management Inspection and Maintenance Agreement for a Temporary Parking Lot Associated with Potomac Woods

M. Award to Axon Enterprise, Inc. for the Purchase of Body-Worn and In-Car Camera Systems, Per Sourcewell Contract # 010720-AXN.

N. Authorization for the City Manager to Execute an Award Acceptance from the Maryland Department of Natural Resources FY23 Chesapeake and Atlantic Coastal Bays Trust Fund Grant for a $2,000,000 Grant to Offset Costs for the Croydon Creek Stream Restoration Project (SB16)

9:50 PM 8. Adoption of Ordinance to Approve Sectional Map Amendment MAP2022-00123, an Application to Rezone the Property at 406 Great Falls Road from R-90 to R-90 (HD - Historic District) in Order to Place the Property in a Historic District; Historic District Commission of Rockville, Applicant

10:20 PM 9. Introduction and Possible Adoption FY 2023 Budget Amendment (Amendment #1)

10:30 PM 10. Authorization to File a Zoning Text Amendment as Part I of an Interim Zoning Ordinance Update, to Allow for Floating Zones that Implement the Rockville 2040 Comprehensive Plan Recommendations

10:50 PM 11. Discussion and Possible Approval of a Charter for the Zoning Ordinance Rewrite Project
11:10 PM  12. Introduction and Possible Adoption of an Ordinance 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

11:30 PM  13. Review and Comment - Future Agendas
   A. Future Agendas

14. Old/New Business

11:45 PM  15. Adjournment

The Mayor and Council Rules and Procedures and Operating Guidelines establish procedures and practices for Mayor and Council meetings, including public hearing procedures. They are available at: http://www.rockvillemd.gov/mcguidelines.
Subject
Proclamation Declaring July 17, 2022 as Mattie J.T. Stepanek Peace Day

Recommendation
Staff recommends the Mayor and Council read and present to Dr. Jeni Stepanek, PhD

Discussion
Mattie J. T. Stepanek, who was a young poet and peacemaker hero, passed away on June 22, 2004, from a rare form of muscular dystrophy. Mattie's poems of peace and hope have touched millions of lives, and his "Heartsongs" continues to reach out to people of all ages around the world.

Mattie’s family chose to live in Rockville, Maryland, and Mattie loved his neighbors in the King Farm Community and his many friends throughout the City. Shortly after Mattie’s death, his friends and neighbors in King Farm established the Mattie J.T. Stepanek Foundation with the mission of spreading Mattie's message of hope and peace. Mattie's Foundation offers educational and recreational programs, activities, and resources that encourage peacemaking and support the understanding of peace for individuals and our world.

In 2014, a congressional resolution was passed to declare July 17 (Mattie’s birthday) as “National Peace Day” to honor Mattie’s life and peace legacy.

Mayor and Council History
Each year, the Mayor and Council declare July 17, as Mattie T.J. Stepanek Peace Day in the City of Rockville.

Public Notification and Engagement
The Mattie J. T. Stepanek Foundation will host a Mattie’s Peace Day Gathering in Maryland – save the date.

When: Sunday, July 17, 2022, 11:00 AM – 12:20 PM
Where: Mattie J. T. Stepanek Park, 1800 Picard Drive, Rockville, MD 20850
Attachments
WHEREAS, Mattie J.T. Stepanek was an American poet, ambassador, and advocate for peace in our world; and

WHEREAS, at the age of 3, Mattie started to write poetry, which he referred to as his "Heartsongs," enabling him to cope with a rare and fatal form of muscular dystrophy, a disease that also claimed the lives of his sister and two brothers; and

WHEREAS, the message contained in Mattie’s “Heartsongs” touched the lives of people around the world, reaching individuals of all ages, races, nationalities, faiths, abilities, and aspirations; and

WHEREAS, after his death on June 22, 2004, *Just Peace*, a collection of essays on peace and Mattie’s correspondence with former President Jimmy Carter, was published and awarded the Independent Publisher Gold Medal Award for the Outstanding Book of the Year in 2007 in the Peacemaker Category; and

WHEREAS, the Stepanek family chose to live in Rockville, and Mattie loved his City, neighbors, and friends; and

WHEREAS, on October 18, 2008, the City of Rockville honored Mattie J.T. Stepanek for his remarkable contributions to his community and to people all over the world by naming 26 acres of park in the King Farm community for him; and


NOW, THEREFORE, the Mayor and Council of the City of Rockville do hereby proclaim July 17, 2022, as Mattie Stepanek Peace Day and encourage all members of the community to recognize the many contributions of Mattie J.T. Stepanek by thinking gently, speaking gently, and living gently, the motto by which this courageous young man lived his life.

July 11, 2022
Subject
Montgomery County Update on the Proposed Bus Depot and Restoration Facility on Seven Locks Road (Notice Required)

Recommendation
This item is a presentation and discussion; no action requested.

Discussion
Representatives from Montgomery County will provide a presentation regarding future redevelopment plans for 1307, 1451, and 1541 Seven Locks Road near the current Montgomery County Detention Center (MCDC) at 1307 Seven Locks Road.

Site Information
The subject property is triangular bounded by Seven Locks Road to the west, I-270 to the east, and Wootton Parkway to the south. The tract is zoned MXT (Mixed-Use Transition) and owned entirely by Montgomery County. The original building at the Montgomery County Detention Center (MCDC) was built in 1961, with the high rise/tower and other modular units constructed later.

The Falls Ridge neighborhood is just across Seven Locks from the subject property. The Orchard Ridge neighborhood is across the Seven Locks/Wootton intersection to the southwest. Other established neighborhoods in the immediate area include Saddlebrook, Fallsbend, Fallsmead, Falls Orchard, Potomac Woods, and Potomac Springs.

MCDC is primarily responsible for the intake and law enforcement processing of adult male and female offenders arrested in Montgomery County which has a facility capacity to accommodate approximately 200 inmates. Over 13,000 offenders annually arrive at MCDC’s Central Processing Unit (CPU). The CPU conducts risk assessments, psychological and medical screenings, to determine the appropriate classification level of inmates. The facility also provides for the initial care, custody, and security of inmates for up to 72 hours prior to their transfer to the Montgomery County Correctional Facility (MCCF). At this County facility, bond hearings are conducted by the Maryland District Court Commissioners via closed circuit
television. The Office of the Public Defender determines eligibility of offenders for legal representation.

**County Plans**

Montgomery County has indicated that they have plans to:

1. Redevelop the site of MCDC and the former 1st District Police Station to provide a new Restoration Center (Completion in 2027);
2. Construction of a new Criminal Justice Center (Completion in 2029); and

The attached map shows the general area for these specific projects.

The County’s recommended FY 23 Capital Improvement Plan (CIP) lists several proposed projects that would affect the MCDC site. County Executive Mark Elrich’s budget memo states, “My Recommended CIP also includes funding to redevelop the site of [MCDC] and the former 1st District Police Station to provide a new Restoration Center, a new Criminal Justice Center (CJC), and to house a new Montgomery County Public Schools bus depot to replace the depot currently located on Crabbs Branch Way.”

**Detention Center Partial Demolition and Renovation** (1307 Seven Locks) – This proposed County project provides for the planning, design, and renovation/modification of MCDC for use primarily as a short-term holding and central processing facility. The project provides for demolition of dilapidated, out-of-operation structures including the high rise/tower, five vacant modular units, and the CIU pod, which is currently used by Health and Human Services (HHS). Prior to demolition, the existing utilities would be rerouted, and a new utility structure would be built. Renovations of other areas of the building are also proposed. This project has received funding under prior fiscal years and is in process.

**Restoration Center** (1541 Seven Locks) – According the project description, below, drawn from Montgomery County’s Department of General Services Web Page, the Restoration Center (RC) will provide a continuum of care for those in crisis related to mental health, substance use disorder and other types of crises, and will be operated by the Department of Health and Human Services or a contractor:

“The RC will provide a variety of Behavioral Health Services, to include triage, crisis stabilization, and warm hand off referrals to appropriate services for those experiencing mental health, substance use disorder, and/or other types of behavioral health crisis. It will provide an option to Police, Montgomery County Fire and Rescue, and community members and reduce the use of emergency rooms, hospitals, and jail detention. The Restoration Center will be staffed by a multidisciplinary team to include nursing staff, licensed mental health and addiction professionals, peer specialists, and resource
Navigators. The Center will operate 24/7/365 and will operate under a 100 percent admission ("No Wrong Door") policy.

The new RC building will be approximately 12,500 square feet. Parking will be provided as required. The site planning will be designed to allow the remainder of the site to house a future Department of Corrections and Rehabilitation Criminal Justice Complex. Design work is schedule to begin this summer and construction to begin in summer of 2024."

Criminal Justice Complex (1451 Seven Locks) - This proposed County project provides for the design and construction of a new Criminal Justice Complex (CJC) on the site of the former District One Police Station located at the north end of Seven Locks Road. The new facility would include a Central Processing/Detention component to support processing new arrestees and detaining remanded individuals and other related uses. The facility would be constructed in proximity to the proposed Restoration Center to maximize diversion and deflection opportunities. Below is a more detailed description drawn from Montgomery County’s Department of General Services Web Page:

“The Criminal Justice Complex (CJC) will replace the existing Montgomery County Detention Center (MCDC) on an adjacent site at the north end of Seven Locks Road and will house the functions currently in operation at MCDC. The Project will consist of the design and construction of a new maximum security facility to include a "Restoration Center" that will provide mental health assessments and treatment services. A vehicular sallyport and on-grade parking will also be accommodated on a site of approximately 6 acres out of a 28.2 acre parcel owned by the County.

Montgomery County operates a two-jail system. The Montgomery County Correctional Facility (MCCF) in Boyds provides long-term incarceration of inmates in the County. The primary function at the CJC will be to provide initial care, custody and security for inmates for up to 72 hours prior to transfer to MCCF. The maximum number of beds at the CJC will be 200. The CJC will serve the needs of the entire criminal justice system across a broad range of agencies at the County and State level. This will be a state-of-the-art criminal justice operation involving the following agencies: the Department of Correction and Rehabilitation, District Court Commissioners, County Police, Sheriff’s Office, Health and Human Services, Office of the Public Defender, other law enforcement and police agencies, and other related agencies.

The CJC will be the central processing location for all arrested offenders by law enforcement in Montgomery County, and as such, will serve as the entry and discharge point for over 16,000 persons arrested and detained annually in the County. Short-term detention services for men, women and juveniles will be provided, as well as support services to respond to the needs of the critical first 72 hours after arrest. This will involve health care screening, mental health evaluation, pre-trial screening and initial appearance hearings, prisoner classification for those not being released, and public defender services. This maximum security facility also will provide a significant location for the District Court of Maryland Commissioners' Office where judicial proceedings will be conducted 24 hours per day, 7 days per week, combining public access and security needs. Montgomery County Police warrants and fugitives units provide interrelated...
services on a 24 hours per day, 7 days per week basis, and require direct access to the central processing unit.”

MCPS and Ride-On Bus Depot and Maintenance Relocation – This proposed County project is part of the Smart Growth Initiative program and provides for a comprehensive feasibility study and planning for the relocation of the Montgomery County Public Schools (MCPS) Bus Depot from the County Service Park on Crabbs Branch Way. Previous plans to acquire several sites for MCPS bus parking facilities to accommodate displaced buses when the site is redeveloped have been put on hold until an agreement could be reached on a project plan. A search by the County for a replacement site for the MCPS bus depot and maintenance / fueling facility has identified the County-owned property housing the Montgomery County Detention Center (MCDC) as an appropriate location. The County also indicates that it intends to park a quantity of County Ride-On Buses at this site. This project could not begin until the Criminal Justice Center (CJC) replacing the MCDC and the Restoration Center projects on the site would be completed. Feasibility studies have received funding in prior fiscal years. Sources: https://www.montgomerycountymd.gov/COR/MCDC/index.html https://www2.montgomerycountymd.gov/mcgportalapps/Press_Detail.aspx?Item_ID=39859 https://apps.montgomerycountymd.gov/BASISCAPITAL/Common/ProjectMeta.aspx?ID=0&TYPE=PROJ

Current City Applications in Process
Several permit applications have been submitted by the County to the City for the MCDC site at 1307 Seven Locks Road for various items, such as the demolition of out-of-operation structures, interior demolition of remaining structures, interior renovations, and abandonment of water and sewer lines previously serving the demolished buildings.

The Historic District Commission (HDC) conducted an Evaluation of Significance review at their May 19, 2022, meeting. The Evaluation was for the demolition of seven out-of-use buildings. After the staff presentation, Greg Ossont, Deputy Director of the Montgomery County Department of General Services, answered questions from the Commissioners. Mr. Ossont explained that all the buildings are empty. He described how they intend to have a recycling rate of 95% to 98% of the materials. Because the property is the former site of the Montgomery County Poor Farm and Cemetery, the County is coordinating with National Capital Park and Planning Commission and their archaeologist to have someone on site in case any archaeological resources or human remains are found in the process of the demolition. If that happens, they will follow state regulations for handling such discoveries. Two members of the public, including Nancy Pickard of Peerless Rockville, gave testimony regarding the Poor Farm and the possibility of finding human remains. Ms. Pickard wanted to be clear that none of the other buildings at the Montgomery County Detention Center are included in the current Evaluation.
The HDC voted 4-0 to not recommend historic designation of the seven buildings. As an employee of Montgomery County, Commissioner Peter Fosselman did not participate in the Evaluation of Significance review. The HDC also passed two additional motions:

They voted to include a statement for the record that the Evaluation only covers the buildings proposed for demolition. It does not include any other buildings, the entire site, or the land beneath the buildings that are proposed for demolition. All future proposals for demolition at this site will require HDC Evaluations of Significance.

The HDC also voted to require Montgomery County to develop a mitigation plan to be enacted in the event human remains are discovered. The plan must include having an archaeological firm with experience in handling human remains on call, if any human remains are found. The applicant must notify the City of Rockville Historic Preservation staff if any artifacts or burial sites are discovered during the demolition process and must adhere to all State laws regarding the treatment of such artifacts and human remains.

**The City’s Role**

These current applications by the County are minor in nature and therefore do not require a site plan review per City code; however, any future plans for new buildings and new uses for the site will require a City site plan review, including a traffic study depending on the use of the site, followed by a Planning Commission review process. Montgomery County and other public sector development projects are subject to the Mandatory Referral process. According to State law (Section 3-205 of the Land Use Article), public agencies are required to submit projects for review and approval by the associated Planning Commission. The Commission must find that the proposed location, character, and extent of the project is consistent with the Comprehensive Plan. The City’s practice has been to process such an application as a Level 2 Site Plan, subject to review by the Planning Commission for the required findings. Per State law, if the Commission does not act on the application within 60 days, the application is deemed to be approved. In addition, the Montgomery County Council, the body having jurisdiction over financing of the project, may overrule the decision of the Planning Commission by a vote of at least two-thirds of its membership. No site plan for these proposed changes has yet been filed since the projects are proposed for a number of years from now.

**Mayor and Council History**

Representatives from Montgomery County provided an update on this item at the February 28, 2022, Mayor and Council meeting and requested a public update to the Mayor and Council on July 11 2022. Following the meeting, the Mayor and Council provided a list of follow-up questions to the representatives from the County. These questions and responses are provided as attachments.
Public Notification and Engagement

Though not required, a notice of the project and of tonight’s meeting was mailed to all property owners within 1,250 feet of the site.

Attachments
Attachment 5.A.a: Detention Center Site Layout (6_14_22) (PDF)
Attachment 5.A.b: Detention Center Land Use Map (PDF)
Attachment 5.A.c: Detention Center Zoning Map (PDF)
Attachment 5.A.d: MCDC Partial Demolition and Renovation FY22 Approved (PDF)
Attachment 5.A.e: MCDC Partial Demolition and Renovation FY23-28 (PDF)
Attachment 5.A.f: Bus Depot FY22 Capital Budget and Amended FY23-26 CIP (PDF)
Attachment 5.A.g: Bus Depot FY23-28 CE Rec. CIP (PDF)
Attachment 5.A.h: Memo to CM Katz 3-10-22 (PDF)
Attachment 5.A.i: Email to County March 11 (PDF)
Attachment 5.A.j: Demolition Memo to HDC (PDF)
Attachment 5.A.k: Restoration Center Presentation (PDF)

Rob DiSpirito, City Manager 7/5/2022
## Montgomery County Detention Center Partial Demolition and Renovation (P422102)

### Category
- Public Safety

### SubCategory
- Correction and Rehabilitation

### Planning Area
- Rockville

### Date Last Modified
- 06/15/20

### Administering Agency
- General Services

### Status
- Planning Stage

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### PROJECT DESCRIPTION

This project provides for the planning, design, and renovation/modification of the Montgomery County Detention Center (MCDC) for use primarily as a short-term holding and central processing facility. The original building was built in 1961 with the High Rise/Tower and other modular units constructed thereafter. The project provides for demolition of dilapidated out of operation structures including demolition of the High Rise/Tower, five vacant modular units and the CIU pod which is currently used by HHS. Prior to demolition,
the existing utilities will be rerouted, and a new utility structure will be built. HHS will be relocated from the CIU pod to a temporary location in the occupied building while renovation of their final location is completed. Renovation of other select areas of the building is included. The work will be done in phases due to the complexity of the project and the need to keep the main building operational throughout the project.

**LOCATION**

1307 Seven Locks Road, Rockville, Maryland 20854.

**ESTIMATED SCHEDULE**

Construction is expected to begin in early 2021.

**PROJECT JUSTIFICATION**

Council Resolution 13-356, passed by the Montgomery County Council in 1995, approved a two-jail system which includes the Montgomery County Correctional Facility (MCCF) located in Boyds and the Montgomery County Detention Center (MCDC) in Rockville. The current MCDC was the designated location for the intake and release of all inmates. Functions included the Central Processing Unit (CPU); the Maryland County District Court Commissioners; evaluation for pre-trial services, medical and mental health assessments; centralized records and storage; and DOCR training. The facility also provides beds for housing inmates during intake process. After many years of service, the building is no longer in good repair and does not meet all the current State and County requirements. To meet the requirements of the Council Resolution, MCDC needs to be replaced or renovated sufficiently in order to operate fully until a future new Criminal Justice Center can be constructed in its place. To provide an immediate response to these issues the project proposes a limited renovation of the buildings remaining after demolition of unused structures. As part of the renovation, and in order to continue to provide these services, specific changes will be implemented to meet current State and County requirements. In addition, a general refresh of spaces is needed to provide a conducive workspace for the staff for the immediate future. Demolition of five vacant modular structures and the partially occupied CIU pod will save maintenance and energy costs. Annual maintenance costs for this facility routinely reach and sometimes exceed $100,000.

**DISCLOSURES**

A pedestrian impact analysis will be performed during design or is in progress.

**COORDINATION**

Department of Correction and Rehabilitation, Department of General Services, Department of Health and Human Services, Department of Technology Services, Department of Police, Montgomery County Fire and Rescue Service, Sheriff's Office, District Court of Maryland, State of Maryland, City of Rockville, Washington Gas, and PEPCO
Montgomery County Detention Center Partial Demolition and Renovation

(P422102)

Category: Public Safety  
SubCategory: Correction and Rehabilitation  
Planning Area: Rockville  
Date Last Modified: 01/10/22  
Administering Agency: General Services  
Status: Under Construction

### EXPENDITURE SCHEDULE ($000s)

<table>
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<th>Cost Elements</th>
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<th>Est FY22</th>
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<td><strong>203</strong></td>
<td><strong>3,574</strong></td>
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<th>Est FY22</th>
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<th>Beyond 6 Years</th>
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### APPROPRIATION AND EXPENDITURE DATA ($000s)

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<th>Appropriation FY 24 Request</th>
<th>Cumulative Appropriation</th>
<th>Expenditure / Encumbrances</th>
<th>Unencumbered Balance</th>
<th>Year First Appropriation</th>
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<td>317</td>
<td>4,474</td>
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**PROJECT DESCRIPTION**

This project provides for the planning, design, and renovation/modification of the Montgomery County Detention Center (MCDC) for use primarily as a short-term holding and central processing facility. The original building was built in 1961 with the High Rise/Tower and other modular units constructed thereafter. The project provides for demolition of dilapidated out of operation structures including...
demolition of the High Rise/Tower, five vacant modular units and the CIU pod which is currently used by HHS. Prior to demolition, the existing utilities will be rerouted, and a new utility structure will be built. HHS will be relocated from the CIU pod to a temporary location in the occupied building while renovation of their final location is completed. Renovation of other select areas of the building is included. The work will be done in phases due to the complexity of the project and the need to keep the main building operational throughout the project.

**LOCATION**

1307 Seven Locks Road, Rockville, Maryland 20854

**ESTIMATED SCHEDULE**

Construction started in mid-2021 and is scheduled for completion in Fall 2022. Funding has moved into the six-year period due to modest project delays.

**PROJECT JUSTIFICATION**

Council Resolution 13-356, passed by the Montgomery County Council in 1995, approved a two-jail system which includes the Montgomery County Correctional Facility (MCCF) located in Boyds and the Montgomery County Detention Center (MCDC) in Rockville. The current MCDC was the designated location for the intake and release of all inmates. Functions included the Central Processing Unit (CPU); the Maryland County District Court Commissioners; evaluation for pre-trial services, medical and mental health assessments; centralized records and storage; and DOCR training. The facility also provides beds for housing inmates during intake process. After many years of service, the building is no longer in good repair and does not meet all the current State and County requirements. To meet the requirements of the Council Resolution, MCDC needs to be replaced or renovated sufficiently in order to operate fully until a future new Criminal Justice Center can be constructed in its place. To provide an immediate response to these issues the project proposes a limited renovation of the buildings remaining after demolition of unused structures. As part of the renovation, and in order to continue to provide these services, specific changes will be implemented to meet current State and County requirements. In addition, a general refresh of spaces is needed to provide a conducive workspace for the staff for the immediate future. Demolition of five vacant modular structures and the partially occupied CIU pod will save maintenance and energy costs. Annual maintenance costs for this facility routinely reach and sometimes exceed $100,000.

**COORDINATION**

Department of Correction and Rehabilitation, Department of General Services, Department of Health and Human Services, Technology and Enterprise Business Solutions, Department of Police, Montgomery County Fire and Rescue Service, Sheriff's Office, District Court of Maryland, State of Maryland, City of Rockville, Washington Gas, and PEPCO
MCPS Bus Depot and Maintenance Relocation

(P360903)

**Category**: General Government

**SubCategory**: County Offices and Other Improvements

**Planning Area**: Gaithersburg and Vicinity

**Date Last Modified**: 11/23/20

**Administering Agency**: General Services

**Status**: Ongoing

**Relocation Impact**: Yes

---

## EXPENDITURE SCHEDULE ($000s)

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<th>Rem FY20</th>
<th>Total 6 Years</th>
<th>FY 21</th>
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## FUNDING SCHEDULE ($000s)

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<th>Funding Source</th>
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<th>Thru FY20</th>
<th>Rem FY20</th>
<th>Total 6 Years</th>
<th>FY 21</th>
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<th>FY 23</th>
<th>FY 24</th>
<th>FY 25</th>
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<td><strong>TOTAL FUNDING SOURCES</strong></td>
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## APPROPRIATION AND EXPENDITURE DATA ($000s)

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## PROJECT DESCRIPTION

This project is part of the Smart Growth Initiative program and provides for a comprehensive feasibility study and planning for the relocation of the Montgomery County Public Schools Bus Depot from the County Service Park on Crabbs Branch Way. Previous plans to acquire several sites for MCPS bus parking facilities to accommodate displaced buses when the site is redeveloped have been put on hold until an agreement can be reached on a project plan. It also includes staff supervision, consultant costs, demolition of existing improvements, and environmental clean up of the east side of Crabbs Branch Way.

---

## LOCATION

East side of Crabbs Branch Way north of Shady Grove.
ESTIMATED SCHEDULE

Environmental clean up of the Maryland-National Capital Park and Planning Commission facilities occurred in FY17, and demolition was completed in FY19. A search for a replacement site for the MCPS bus depot and maintenance facility is underway.

PROJECT JUSTIFICATION

In order to implement the County's Shady Grove Sector Plan which would capitalize on the existing investment in mass transit by creating a transit-oriented development community, the County Service Park must be relocated. Relocation of the facilities at the County Service Park will enable the County to realize both the transit-oriented development intended for the area and address unmet needs. The County is faced with aging facilities that require extensive investment of funds to meet our needs. With the age of some of the facilities, the extent of the required investment must be weighed against the long-term ability of the facilities to satisfy current and future County needs. Plans and studies for this project include: M-NCPPC Shady Grove Sector Plan, approved by the Montgomery County Council, January 2006, adopted by the M-NCPPC, March 15, 2006; Montgomery County Property Use Study Updated Briefing to County Council, April 29, 2008 (based on Staubach Reports); Montgomery County Smart Growth Initiative Update to County Council, September 23, 2008.

OTHER

The project provides for the planning phase, clean-up, and demolition activities for the MCPS bus depot and maintenance facility. Final construction costs for a replacement MCPS bus depot and maintenance facility will be determined during the design development phase when a site is identified.

DISCLOSURES

A pedestrian impact analysis will be performed during design or is in progress.

COORDINATION

Department of General Services, Department of Transportation, Montgomery County Public Schools, Maryland-National Capital Park and Planning Commission, Department of Permitting Services, Department of Finance, Department of Technology Services, Office of Management and Budget, and Washington Suburban Sanitary Commission.
MCPS Bus Depot and Maintenance Relocation (P360903)

**EXPENDITURE SCHEDULE ($000s)**

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<th>Est FY22</th>
<th>Total 6 Years</th>
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<th>FY 24</th>
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**FUNDING SCHEDULE ($000s)**

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<td><strong>TOTAL FUNDING SOURCES</strong></td>
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**APPROPRIATION AND EXPENDITURE DATA ($000s)**

| Appropriation FY 23 Request            | -     |          |          |                |       |       |       |       |       |       |                |
| Appropriation FY 24 Request            | -     |          |          |                |       |       |       |       |       |       |                |
| Cumulative Appropriation               | 3,000 |          |          |                |       |       |       |       |       |       |                |
| Expenditure / Encumbrances             | 1,746 |          |          |                |       |       |       |       |       |       |                |
| Unencumbered Balance                   | 1,254 |          |          |                |       |       |       |       |       |       |                |

**PROJECT DESCRIPTION**

This project is part of the Smart Growth Initiative program and provides for a comprehensive feasibility study and planning for the relocation of the Montgomery County Public Schools Bus Depot from the County Service Park on Crabbs Branch Way. Previous plans to acquire several sites for MCPS bus parking facilities to accommodate displaced buses when the site is redeveloped have been put on hold until an agreement can be reached on a project plan. It also includes staff supervision, consultant costs, demolition of existing improvements, and environmental clean up of the east side of Crabbs Branch Way.
LOCATION
East side of Crabbs Branch Way north of Shady Grove.

ESTIMATED SCHEDULE
Environmental clean up of the Maryland-National Capital Park and Planning Commission facilities occurred in FY17, and demolition was completed in FY19. A search for a replacement site for the MCPS bus depot and maintenance facility has identified the County-owned property housing the current Montgomery County Detention Center (MCDC) and the former 1st District Police Station as an appropriate location. This project cannot begin until the Criminal Justice Center replacing the MCDC and the Restoration Center projects on the site are completed.

COST CHANGE
Funding in the Beyond 6 years is a placeholder for the construction of a new bus depot.

PROJECT JUSTIFICATION
In order to implement the County's Shady Grove Sector Plan which would capitalize on the existing investment in mass transit by creating a transit-oriented development community, the County Service Park must be relocated. Relocation of the facilities at the County Service Park will enable the County to realize both the transit-oriented development intended for the area and address unmet needs. The County is faced with aging facilities that require extensive investment of funds to meet our needs. With the age of some of the facilities, the extent of the required investment must be weighed against the long-term ability of the facilities to satisfy current and future County needs. Plans and studies for this project include: M-NCPPC Shady Grove Sector Plan, approved by the Montgomery County Council, January 2006, adopted by the M-NCPPC, March 15, 2006; Montgomery County Property Use Study Updated Briefing to County Council, April 29, 2008 (based on Staubach Reports); Montgomery County Smart Growth Initiative Update to County Council, September 23, 2008.

OTHER
The project provides for the planning phase, clean-up, and demolition activities for the MCPS bus depot and maintenance facility. Final construction costs for a replacement MCPS bus depot and maintenance facility will be determined during the design development phase.

DISCLOSURES
A pedestrian impact analysis will be performed during design or is in progress.

COORDINATION
Department of General Services, Department of Transportation, Montgomery County Public Schools, Maryland-National Capital Park and Planning Commission, Department of Permitting Services, Department of Finance, Department of Technology and Enterprise Business Solutions, Office of Management and Budget, and Washington Suburban Sanitary Commission.
CAO Decision Memorandum

March 10, 2022

TO: Councilmember Sidney Katz

FROM: David Dise, Director

Department of General Services

SUBJECT: MCDC Partial Demolition Plan

The purpose of this memorandum is to provide additional background and details related to the County project titled Montgomery County Detention Center Partial Demolition and Renovation Demolition and Renovation. The purpose of this project is to eliminate existing buildings that are no longer used, are functionally obsolete and vacated and require costly upkeep and maintenance while they remain. The project is not correlated, dependent, or in any other way connected to a reuse or redevelopment of the existing MCDC, or a possible future MCDC, or other use of the County-owned property.

This funded and permitted project provides for demolition of dilapidated and obsolete structures including the high-rise tower, five vacant modular units and an internal pod currently used by HHS. Prior to demolition, the existing utilities will be rerouted, and a new utility hub will be installed. HHS staff will be relocated from a pod to a temporary location within the remaining building while renovation of their final location is completed. Interior renovation of other select areas of the building is included.

As it relates to the demolition activity specifically, the County’s contractor will not use any explosives or implosion techniques. The buildings will be systematically deconstructed with scissors-like attachments on heavy equipment. The project is projected to attain a recycle rate of 95 – 98%.

No vibration or falling debris is anticipated as there are no explosives. Each building has been surveyed by the County’s environmental engineers and the buildings do not contain Regulated Asbestos Containing Material as defined by Maryland Department of Environment standards.

Noise will be that of normal construction generated by the heavy equipment and the hauling of material from the site. Noise levels fall within the decibel levels stipulated by public
regulation. The estimated number of hauling trips is 75 total over a period of months throughout the summer. The project hours will be 7AM to 5PM.

Images of the buildings slated for removal are below.
Details of the document content is not visible in the image.
12. What would be done to protect the safety of the Millenium Trail (used by many across Rockville) and pedestrian/bike safety for residents in the community?

Regarding the partial demolition, please provide:

1. Community advance notification of when the demolition will commence with signage visible for the Falls Ridge Community and along Wootton Parkway and Seven Locks Road.
2. The types of construction vehicles to be used.
3. What types of explosives will be used, if any?
4. When will the demolition take place (days/hours)?
5. What will be the potential impact to homes from debris and vibrations?
6. The details of exposure to hazardous materials such as asbestos.
7. The timing for this County project to be publicly posted. (Posting must include all CIP documents related to the Seven Locks Road campus: MCPS/RideOn Bus Depot and Maintenance Relocation; Montgomery County Detention Center Partial Demolition and Renovation; and Restoration Center).

Thank you for your timely assistance with this request.

Very Respectfully,

Rob

Robert DiSpirito

City Manager

For COVID-19 Information and resources, visit: www.montgomerycountymd.gov/COVID19
MEMO TO: Rockville Historic District Commission
FROM: Greg Ossont, Deputy Director
Montgomery County Department of General Services
SUBJECT: Partial Demolition - Montgomery County Detention Center

The purpose of this memorandum is to provide additional background and details related to the County project titled *Montgomery County Detention Center Partial Demolition and Renovation*. The purpose of this project is to eliminate existing buildings that are longer used, are functionally obsolete and vacated and require costly upkeep and maintenance while they remain. This project is not correlated, dependent, or in any other way connected to a reuse or redevelopment of the existing MCDC, or a possible future MCDC, or other use of the County-owned property.

The project provides for demolition of dilapidated and obsolete structures including the high-rise tower, five vacant modular units and an internal pod currently used by HHS. Prior to demolition, the existing utilities will be rerouted, and a new utility hub will be installed. HHS staff will be relocated from the pod to a temporary location within the remaining building while renovation of their final location is completed. Interior renovation of other select areas of the building is included.

Images of the buildings slated for removal are below.

As it relates to the demolition activity specifically, the County’s contractor will not use any explosives or implosion techniques. The buildings will be systematically deconstructed with scissors-like attachments on heavy equipment. The project is projected to attain a recycle rate of 95 – 98%.
No vibration or falling debris is anticipated as there are no explosives. Each building has been surveyed by the County’s environmental engineers and all Regulated Asbestos Containing Material will be removed as defined by Maryland Department of Environment standards prior to the removal of the buildings.

Noise will be that of normal construction generated by the heavy equipment and the hauling of material from the site. Noise levels fall within the decibel levels stipulated by public regulation. The estimated number of hauling trips is 75 total over a period of months throughout the summer. The project hours will be 7AM to 5PM.

I hope this information is helpful.
Attachment 5.A.j: Demolition Memo to HDC (4063 : Montgomery County Update on the Proposed Bus Depot and Restoration Facility on Seven
Attachment 5.Aj: Demolition Memo to HDC (4063: Montgomery County Update on the Proposed Bus Depot and Restoration Facility on Seven
Restoration Center: An Update

Rolando L. Santiago, PhD
Chief, Behavioral Health and Crisis Services
Department of Health and Human Services
Montgomery County, Maryland

Athena Morrow, Consultant

Virtual presentation delivered at City of Rockville Council meeting, July 11, 2022
Overview

- The Crisis Now Model
- The Reality Now
- Description of Restoration Center
- Key Planning Features
  - Discharge Planning
  - Transportation Plan
  - Criteria for Site Selection
- Current and Future Actions
The Crisis Now Model

- Montgomery County has been developing the Crisis Now Model over the last two years to divert persons experiencing a behavioral health crisis from emergency rooms and jails.

- The key components of the Crisis Now Model in Montgomery County include:
  - Coordinated crisis call centers (i.e., 911, National Suicide Prevention Lifeline - 988, Crisis Center Hotline, and 311)
  - Mobile crisis and outreach teams (MCOTs)
  - Stabilization facilities (e.g., Restoration Center)
  - Follow-up system of care services
The Reality Now: Service Gaps of Offenders Addressed by Restoration Center

- Offenders processed in Central Processing Unit (CPU) are being released on bond without having their behavioral needs addressed.
- Incarcerated individuals are being released on bond during all hours of day and night often without advance notice to service providers based in the jail.
- Offenders released in Court must come to the Detention Center to retrieve their property. They need transportation to their next destination.
- A portion of incarcerated individuals receive behavioral health assessments and discharge planning but many cycle through too rapidly for this planning process.
- Released individuals, sometimes in crisis, seek their own transportation and walk through the community to the nearest bus station on foot.
- The Restoration Center will be designed and staffed to address the behavioral health needs of these individuals by employing peers and a multidisciplinary team of medical, mental health, and substance use specialists with a variety of services described below.
Description: Purpose

- Stabilize persons experiencing a behavioral health crisis over the first 24 to 72 hours
- Divert persons in crisis from emergency rooms and jails
Description: Facility

- Staffed 24 hours/7 days a week/365 days of the year
- Triage and evaluation component
- Sobering station
- Stabilization unit
- Discharge planning - linkage & referrals
- Transportation options
Description: Triage and evaluation component

- Initial assessment of behavioral and medical needs to determine appropriate levels of intervention on a case-by-case basis.
- Five (5) recliners
- Supportive spaces: Triage room, observation room, interview room
Description: Sobering Station

- Persons under the influence of alcohol and other substances have a safe place to recover from the impact of the substances.
- Twenty (20) recliners
- Length of stay: Not to exceed 23 hours
- Key staff: Licensed medical professionals who can monitor patients for health concerns
Description: Stabilization Unit

- Provide persons experiencing a mental health or substance use crisis with emergency medical stabilization in a safe environment while waiting to be redirected to the most appropriate and least restrictive setting available in the community
  - Prevention and de-escalation of behaviors to decrease probability of inpatient hospitalization or incarceration
- Twenty (20) beds
- Length of stay: Not to exceed 48 hours
- Key staff: Multidisciplinary team to include a psychiatrist, nurse practitioner, licensed mental health staff, and peer support specialists
- Supportive spaces: Sensory/quiet room, dining and TV room
Discharge Planning - Linkage and Referrals

Discharge planning will occur in collaboration with community providers and begins upon admission, regardless of length of stay and consistent with the individual needs of each client.

Referrals and linkages to new or existing providers:

- Residential or outpatient treatment providers that include private nonprofit or for-profit service providers specializing in psychiatric, substance use or other behavioral health concerns
- Housing and homeless resources
- Entitlements
- County resources such as behavioral and human services
- Peer and other support services
- Hospitals (when medical or psychiatric needs meet the medical necessity criteria required for admission to a hospital setting)
Transportation Options

- All clients served by the Restoration Center will be evaluated for their transportation needs to their next destination and provided with a variety of options that will include the following:
  - Access to Uber, Lyft or Taxi to transport clients to their next destination outside of the Seven Locks neighborhood, when clinically appropriate.
  - Transport by peer specialists or other staff in facility-owned vehicle to another treatment facility as clinically indicated.
  - Transport by Montgomery County Police Department (MCPS) to the local hospital emergency department for those who are clinically appropriate for emergency evaluation petitions (EEP).
  - Transport by client-owned vehicle or by family or friends-owned vehicles to client’s next destination outside of the Seven Locks neighborhood, when available and clinically appropriate.
  - Transport by Montgomery County Fire and Rescue Services (MCFRS) for those with medical needs who require transport to the hospital emergency department.
Criteria for Site Selection

- **Alternative processing for clients at the site.** Police can drop-off at the Restoration Center clients who have committed minor offenses, as an alternative to taking them to the Central Processing Unit (CPU) for criminal processing. Those who are not agreeable to receiving treatment services can be taken to CPU for charging.

- **Access to services for court-released clients.** Offenders released from Court return unescorted to retrieve their property from the Detention Center. Upon retrieval of their property they can self-admit for behavioral health services and referral to appropriate resources.

- **Resources readily available to Detention Center staff for exiting inmates.** This would include Department of Health and Human Services (DHHS) and Department of Corrections and Rehabilitation (DOCR) clinical staff or case managers providing transition services to reentering inmates.

- **Resources available for clients being released from CPU.** Offenders released from CPU are frequently experiencing crises such as actively detoxing, not having access to medications, cannot return to their homes, needing behavioral health services that might have led to criminal behavior, lacking resources to travel to safe destinations. They would receive services.

- **Enhanced community outreach.** Staff available for behavioral health interventions for released inmates or other clients demonstrating concerning behaviors.

- **Easy centralized transportation access to community providers, family members and first responders.** The site is right off I-270, with ample parking.
Current Actions

What is being done now?

- Completed Program of requirements (POR) for a Restoration Center
- Incorporated the Restoration Center in the FY23 Capital Improvement Program (CIP)
- Nurturing relationships with partners through workgroup that meets regularly, Leadership Collaborative, building relationships with the State, across jurisdictions, and across the country
- Fundraising activities:
  - Obtained State funding through efforts by Maryland’s legislative delegation (FY23 - $12 million, FY24 - $5 million)
  - Submitted FY24 application for funds through the Capital Improvement Projects Grants and Loans of the Maryland Department of Health
Future Actions

What will happen in next 12 months?

- Engage in community conversations regarding the programming and functions of the Restoration Center
- Generate a Request for Proposal (RFP) to attract viable organizational candidates interested in operating the Restoration Center
- Continue to build partner relationships in the county, across the State, and nationally
- Collaborate closely with all interested parties such as City of Rockville and County leaders, DGS, MCPD, MCFRS, DOCR, the courts, hospitals, private service providers (e.g., treatment, housing, homeless services, benefits specialists, local charities)
Subject
Authorize the City Manager to Execute the Maryland Market Money MOU Between the Tri-County Council for Southern Maryland and the Mayor and Council Regarding the City of Rockville Farmers Market Eat Fresh Rockville Program

Recommendation
Staff recommends that the Mayor and Council authorize the City Manager to execute the MOU to continue the City's participation in the Maryland Market Money program.

Discussion
The Eat Fresh Rockville program at the Rockville Farmers Market was established in 2013 in conjunction with the Maryland Market Money program. This program provides a dollar-for-dollar match (up to a designated amount per customer, per market) to customers using federal nutrition benefits at the Market. These matching funds provide increased buying power to those experiencing food insecurity to be able to purchase quality and nutritious foods. With each market season, we see growth in need and popularity of this program.

The Eat Fresh Rockville program is funded in part by grant money provided by the Maryland Agricultural and Resource-Based Industry Development Corporation (MARBICO), Tri-County Council for Southern Maryland (TCCSMD), and the Southern Maryland Agricultural Development Commission (SMADC).

This agenda item is intended to authorize the City Manager to execute the MOU on behalf of the City to continue this beneficial partnership with MARBICO, TCCSMD, and SMADC.

Mayor and Council History
The Mayor and Council are receiving the request to authorize the City Manager to execute the Maryland Market Money MOU to continue the Eat Fresh Rockville program at the Rockville Farmers Market. The MOU has been reviewed and approved for legal sufficiency by the City Attorney’s Office.
Fiscal Impact
The Maryland Market Money program grant provides funding to support the Eat Fresh Rockville matching funds program. The City’s FY23 Eat Fresh Rockville budget is $40,000. The funding from the Maryland Market Money program is in addition to the City’s contribution.

Next Steps
The Rockville Recreation and Parks Department plans to continue the Eat Fresh Rockville program at the Rockville Farmers Market once the agreement is approved and executed.

Attachments
Attachment 7.A.a: FY23 Rockville FM MMM MOU_NDD - 6-14-22 (PDF)

Rob DiSpirito, City Manager 7/5/2022
MARYLAND MARKET MONEY PROGRAM
Memorandum of Understanding
Between
The Tri-County Council for Southern Maryland
And
the Mayor and Council of Rockville

WHEREAS, as of June 2020, the Maryland Market Money Program ("Program") has become a program of the Maryland Agricultural & Resource-Based Industry Development Corporation ("MARBIDCO");

WHEREAS, MARBIDCO is collaborating with the Tri-County Council for Southern Maryland ("TCCSMD"), through TCCSMD’s Southern Maryland Agricultural Development Commission ("SMADC"), to manage and facilitate the Program;

WHEREAS, MARBIDCO will act as the Program’s fiscal agent since it has the capacity to accept and distribute Maryland Market Money-designated funds;

WHEREAS, TCCSMD, through SMADC, will provide the day-to-day management of the Program;

WHEREAS, during the 2023 fiscal year, TCCSMD, through SMADC, will implement the eighth season of the Program, thus providing low-income Marylanders the opportunity to purchase more fresh, locally produced food from eligible food access points.

NOW, THEREFORE, this Memorandum of Understanding ("MOU"), between TCCSMD and the Mayor and Council of Rockville, which administers the Rockville Farmers Market ("Food Access Point") (collectively TCCSMD and Food Access Point shall be referred to as “Parties”), serves as a binding contract for the administration and implementation of the Program during the 2023 fiscal year. In consideration of the premises and the covenants herein contained, the adequacy and sufficiency of which are duly acknowledged by the parties, the Parties agree as follows:

A. PURPOSE & PROGRAM DESCRIPTION

In 2013, the Program was founded in order to provide a dollar-for-dollar match (up to a designated amount per customer per day) for each federal nutrition programs SNAP (Supplemental Nutrition Assistance Program), SFMNP (Senior Farmers Market Nutrition Program), WIC-FMNP (Women, Infants, and Children Farmers Market Nutrition Program), WIC-FVB (Special Supplemental Nutrition Assistance Program for Women, Infants, and Children Fruit and Vegetable Benefit, also known as eWIC), and as of 2020 P-EBT (Pandemic Electronic Benefits Transfer) to customers who spend their benefits at participating markets with at least three vendors, two of whom are agriculture producers in accordance with the Maryland Department of Agriculture's guidelines to be included in the state directory. Markets include, but are not limited to, pop-up markets, mobile markets, year-
round and seasonal markets. In 2022, Maryland Market Money expanded to include farm stands and Community Supported Agriculture (CSA) programs statewide.

The Program’s goal is threefold: 1) to increase the ability for households experiencing food insecurity to afford quality, nutritious foods, 2) to generate additional revenue for local agricultural producers, and 3) to make food access points accessible to residents of all income levels, thereby increasing their capacity to serve as inclusive community spaces. Participating food access points distribute matching dollars as determined by the contract holder and TCCSMD to all customers spending federal nutrition benefits. Customers may spend MMM on any SNAP-eligible foods available at the Food Access Point.

B. FUNDING ALLOCATION AND DISBURSEMENT POLICIES

TCCSMD will grant Program funds to the Food Access Point based on funding availability and needs. Funding granted to the Food Access Point may not cover total distribution needs for the entire season, and TCCSMD will only commit available Program funds for match provided. Should the Food Access Point have existing matching programs the Food Access Point understands that TCCSMD will only commit to fundraising and allocating Program dollars to food access points by calculating a projected need. The Food Access Point is solely responsible for reimbursing vendors if the Food Access Point continues to distribute matching funds above and beyond the budgeted amount or after Program granted funds run out. Any unspent Program funds at the end of the 2023 Fiscal season are to be returned to TCCSMD.

TCCSMD will consult with the Food Access Point prior to the start of the 2022 market season to identify a projected funding need for the season. Both TCCSMD and the Food Access Point must agree on this number and will collectively apply this number as their fundraising goal for the season. The Food Access Point is encouraged to contribute at least 10% of the Food Access Point’s matching budget through its own fundraising efforts. TCCSMD will assist the Food Access Point in the development of a direct-to-consumer-specific fundraising strategy as needed. TCCSMD is committed to providing the Food Access Point with the supplies and materials, as necessary, for program implementation within the identified and agreed-upon projected need for each access point.

TCCSMD, through its fiscal agent, will disburse allocated funds to the Food Access Point in monthly installments on the fiscal year schedule, starting July 2022. Failure to comply with the reporting requirements outlined in the “Data Collection and Reporting Policies” section of this MOU will result in stalled disbursements (see Section G: Accountability for more details). The Food Access Point shall receive funds via electronic transfer (TCCSMD’s preferred method of payment) and must provide banking information and a voided check at the time of signing this MOU. Disbursement will be sent in check form only if electronic transfer is not possible. An access point that has previously shared this information with TCCSMD may verify this information is the same in lieu of sending another voided check.
updated W-9 form will be needed each year, however, a 1099 will not be issued because the funds are considered grant funding.

The total amount of funding awarded to the Food Access Point will be announced via the budget (Exhibit A) prior to the start of the remainder of the fiscal year (July 2023), accompanied by the initial disbursement of the total awarded funds.

C. EXPENDITURE POLICIES

**Farmers Market Expenditure Policy**

The Farmers Market takes full responsibility for accurately reimbursing vendors at market who accept Program funds as currency. *TCCSMD is not responsible for any over-distribution of Program funds in the market and will not reimburse the Farmers Market if the funds distributed to shoppers by the Farmers Market exceeds the total Program funds TCCSMD granted to the Farmers Market.*

**Farm Stand or CSA Expenditure Policy**

The Farm Stand or CSA takes full responsibility for accurately reimbursing itself from Program funds. *TCCSMD is not responsible for any over-distribution of Program funds and will not reimburse the Farm Stand or CSA if the funds distributed to shoppers by the Farm Stand or CSA exceeds the total Program funds TCCSMD granted to the Farm Stand or CSA.*

D. OUTREACH AND PROMOTION POLICIES

TCCSMD will develop and distribute, to participating access points, signage such as banners that promote the use of federal nutrition benefits and the Program at the Food Access Point. The Food Access Point is responsible for displaying this signage on every event day, excluding those when inclement weather makes it impossible.

TCCSMD will develop and distribute materials promoting Food Access Points participating in the Program and their locations/times to potential customers across the state. TCCSMD will also develop and share other informational materials for the Food Access Point to use, such as but not limited to: a) a ‘how to use your benefits and Maryland Market Money information card; or b.) brochures. The Food Access Point may use these materials as they see fit as part of their outreach and promotion strategies.

E. DATA COLLECTION AND REPORTING POLICIES

TCCSMD will provide the Food Access Point with a standard method for collecting data. Prior to the start of the fiscal year, TCCSMD will train the Food Access Point’s staff/volunteers on the mandatory-data collection method. Similarly, TCCSMD will provide
the Food Access Point with a standard data collection form for reporting collected data, and
work with the Food Access Point’s staff to understand and effectively use the standard
method of reporting. The Food Access Point is required to report collected data via the
standard form to TCCSMD on a weekly schedule established prior to the start of the
following fiscal year. **The Food Access Point is required to submit complete final fiscal
year data via the standard reporting method by July 7th of the following fiscal year.**
Failure to report data timely throughout the year in the mandatory standard method
will result in stalled or discontinued funding until all data reporting is caught up to
date.

In case of an audit, Food Access Point may be required to furnish backup documentation to
prove data entry submitted through the standard method of reporting. TCCSMD will give
Food Access Point 30 days’ notice to provide such documentation.

F. ROLES AND RESPONSIBILITIES

i. TCCSMD’s Role and Responsibilities
TCCSMD shall take on the primary duty of implementing the Program by performing the
following:

- Conducting a pre-season meeting with Food Access Point staff to explain the
  Program, including: implementation at the food access point, data collection
  requirements, funding availability, and funding disbursement timeline.
- Conducting mid-season check-in and food access point visit with Food Access Point
  staff to review program implementation and adjust implementation processes as
  agreed upon by both TCCSMD and the Food Access Point.
- Conducting end-season meeting with Food Access Point staff to review program
  implementation for the season and adjust implementation processes for the
  following season as agreed upon by both TCCSMD and the Food Access Point.
- Offering an optional food access point opening day vendor training to each vendor at
  the food access point to explain the Program and federal nutrition benefit currency at
  Food Access Point.
- Granting funds to the Food Access Point to support the cost of the Program’s
  matching dollars based on need and jurisdiction of the Food Access Point.
- Providing technical assistance to the Food Access Point as it relates to the Program as
  needed throughout duration of season.
● Providing Program materials for the Food Access Point staff including: appropriate signage and instructions for displaying properly; documents explaining data collection requirements and reporting procedures, appropriate data collection tracking mechanisms, and fund development templates for raising Program funds at the market level, if applicable.

● Providing Food Access Point staff with Program currency and receipts for WIC FVB/eWIC and FMNP to be used at market, if applicable.

● As requested by the Food Access Point, providing Vendor Training Materials for each vendor at the food access point about the types of federal nutrition benefits programs and how they are accepted at Food Access Point, including Program funds, SNAP, eWIC, and FMNP, if applicable.

● If possible, all materials will be available in languages identified as appropriate by Food Access Point staff.

● Providing Food Access Point staff with access to data of Program distribution and redemption at food access point to avoid over-distribution of Program funds to customers.

● Providing Food Access Point staff access to end-season reporting of all Program related data identified as appropriate and necessary by Food Access Point staff.

● Providing Food Access Point at least 24 hours’ notice before visiting in an official capacity to take pictures, deliver and/or distribute collateral and/or training materials, or conduct a mid-season visit.

● Obtaining permission of Food Access Point at least 24 hours before holding press, outreach, or other events at access point.
ii. Food Access Point’s Role and Responsibilities

The Food Access Point agrees to take on the following duties:

- Using funds granted to Food Access Point solely for Program matching dollars, as outlined in the “Purpose” section of this MOU.
- Participating in both pre- and end-season meetings in-person or virtually to be trained in program implementation processes and to provide feedback regarding these processes.
- Displaying appropriate signage at the access point that promotes the use of federal nutrition benefits and explains the Program to food access point customers as outlined above in the “Outreach & Promotion” Section of this MOU and any other general outreach materials.
- Administering Program funds to all eligible customers each time event is held so long as there is funding available, excepting food access points which communicated to TCCSMD a demonstrated need to end matching early for one or multiple subsets of eligible customers.
- Training vendors as appropriate (verbal or written, in appropriate language) on how to provide customers with receipts for using FMNP, WIC FVB (“eWIC”), and SNAP vouchers at their stands, if applicable.
- Reimbursing vendors for Program eligible dollars received at market stands as outlined in the “Expenditure Policies” section of this MOU, if applicable.
- Allowing TCCSMD staff to visit Food Access Point to observe how the program is implemented at the access point.
- As requested by TCCSMD, returning any unspent matching funds as outlined in the “Funding Allocation Policies” section of this MOU.
- Develop and implement a fund development strategy to raise Program funds as outlined in the “Funding Allocation Policies” section of this MOU.
- Allow Program sponsors to table at Food Access Point, if requested.

- Providing TCCSMD with data in the format provided on a weekly basis in compliance with the data collection requirements & reporting procedures outlined in the “Data Collection & Reporting” section of this MOU.
- Providing TCCSMD with copies of food access point data collected at the food access point in electronic form in compliance with the auditing procedures outlined in the “Data Collection & Reporting” section of this MOU.
- All final data and copies MUST be submitted to TCCSMD by July 7, 2023 in order for the Food Access Point to be considered for funding in fiscal year 2024.
- Providing at least one anecdote or quote from a customer, farmers, or market staff member regarding the Program during the season (photos encouraged!)
- Notifying TCCSMD if/when administration of the Program changes during the season. This may include but is not limited to:
  - a change in the cap of matching dollars administered to individual customers, if applicable; or
  - a change in which customer or benefit type subsets receive Program funds at the access point.
- Notifying TCCSMD if/when Food Access Point is in need of additional program-related materials.
- Notifying TCCSMD if the Food Access Point is unable to carry out any of the responsibilities outlined in this section.

Find, hire, and manage Food Access Coordinator(s) to manage food access programming at the food access point who shall handle the administration of the program at market as outlined above in numbers 4-12. (Food Access Coordinator Stipends are determined as follows: $18 per hour x number of market days per season x number of working hours per week, as funding allows)

G. MONITORING & ACCOUNTABILITY

TCCSMD designates Heather Hulsey and Shelby Watson-Hampton as the MOU Monitors for this MOU. The MOU Monitors are the TCCSMD representatives for this MOU and are primarily responsible for the MOU’s administration functions, including issuing written direction, invoice approval, monitoring this MOU to ensure compliance with the terms and conditions of the MOU, and achieving completion of the MOU on budget, on time, and within scope. All contact between TCCSMD and the Food Access Point regarding all matters relative to this MOU shall be coordinated through the MOU Monitors. TCCSMD, at its sole discretion, may change its respective MOU Monitors with notice to the Food Access Point. Unless changed by TCCSMD, the following contact information shall be used for any notices or correspondence under this MOU:

- Heather Hulsey
  Maryland Market Money Program and Grants Manager
  Southern Maryland Agricultural Development Commission (SMADC)
TCCSMD relies on access points reporting Program data in regular intervals for a variety of reasons. First and foremost, TCCSMD is required to submit progress reports to the various funding institutions who support the Program, and providing accurate, timely reports is essential to maintaining the Program’s integrity and fundability in future years. Receiving regular, timely reports also enables TCCSMD to consistently monitor the Program budget throughout the season, which in turn provides the ability to ensure food access points are utilizing respective budgets wisely and in a way that avoids incurring unnecessary over-distribution. If an over-distribution is expected to occur, TCCSMD can use up-to-date data to help participating food access points plan management of these unexpected expenditures. Therefore, the Food Access Point will be held accountable in the following ways:

a. Data Collection & Reporting: The Food Access Point will be provided with the Google Forms Distribution and Redemption templates at the onset of the 2023 fiscal year. Failure to report required data within 7 days following the market date using the Google Forms Distribution and Redemption templates will be considered a violation of this agreement. Subsequent funding disbursements will not be fulfilled until data reporting is current.

b. General compliance: The Food Access Point is expected to comply with all of the responsibilities outlined in the “Food Access Point’s Role and Responsibilities” section of this MOU. Failure to comply with these outlined responsibilities will be considered a violation of this agreement.
   i. The first violation will result in a warning.
ii. The second violation will result in TCCSMD withholding monthly disbursement until violation has been addressed by the Food Access Point.

iii. The third violation will result in the Food Access Point being suspended from the Program for the following season.

TCCSMD’s goal is to improve institutional capacity and is therefore committed to working with food access points to find solutions that help avoid incurring multiple violations. In the case that a food access point is struggling to comply with Program requirements, TCCSMD will facilitate a food access point visit and mentoring session with either a TCCSMD staff person or agricultural system peer, whichever is preferred by the food access point in question.

H. CONTRACT PERIOD

This contract shall remain in effect for the duration until June 30, 2023. TCCSMD will prepare and issue new MOUs for the 2024 fiscal year by May 30, 2023. If a year-round/winter-season market has no funding available for winter of 2022-2023, TCCSMD requests that the Food Access Point continue submitting data to provide TCCSMD with the means to accurately assess and identify Program needs for year-round/winter programming.

I. VENDOR REIMBURSEMENT: LEGAL COMPLIANCE

**Farmers Market Legal Compliance**

Funds granted to the Farmers Market are to be used solely to provide Program matching funds to eligible customers at market. Once granted, the Farmers Market takes sole responsibility for administering Program funds to vendors as appropriate to reimburse them for the Program eligible dollars spent per vendor. Program funds shall be used only to purchase eligible items from vendors, as outlined in trainings and materials provided by TCCSMD. TCCSMD will take into account any unspent funds when allocating next year’s disbursement amounts.

**Farm Stand or CSA Legal Compliance**

Funds granted to the Farm Stand or CSA are to be used solely to provide Program matching funds to eligible customers at market. Once granted, the Farm Stand or CSA takes sole responsibility for administering Program funds to vendors as appropriate to reimburse them for the Program eligible dollars spent per vendor. Program funds shall be used only to purchase eligible items from access point, as outlined in trainings and materials provided by TCCSMD. TCCSMD will take into account any unspent funds when allocating next year’s disbursement amounts.

J. TERMINATION
TCCSMD or Food Access Point may terminate this MOU with thirty (30) days written notice, sent via certified mail. Upon termination by either TCCSMD or Food Access Point, Food Access Point shall immediately return any undistributed Program funds to TCCSMD.

K. DEFAULT; REMEDIES

A default shall consist of any breach by Food Access Point of any of Food Access Point’s covenants, agreements, warranties, representations, or certifications in this MOU. Upon the occurrence of any default of this MOU, TCCSMD shall have the right to terminate this Agreement by written notice to Food Access Point. In the event of termination, Food Access Point is obligated to repay any Program funds received under and not distributed in accordance with this MOU, or any portion thereof at the sole discretion of TCCSMD, to TCCSMD within 30 days of receipt by Food Access Point of written notice from TCCSMD of default and demand for repayment. In addition to the rights and remedies contained in this MOU, TCCSMD may at any time proceed to protect and enforce all rights available to TCCSMD by suit in equity, action at law, or by any other appropriate proceedings, which rights and remedies shall survive the termination of this MOU.

L. LIMITATION OF LIABILITY; INDEMNIFICATION

TCCSMD, the State of Maryland (“State”), and/or MARBIDCO may not be held responsible for any damages incurred as a direct or indirect result of the conditions outlined in this MOU, even if the damages or conditions were foreseeable. Food Access Point releases TCCSMD, the State, and/or MARBIDCO from, agrees that TCCSMD, the State, and/or MARBIDCO shall not have any liability for, and agrees to protect, indemnify and save harmless TCCSMD, the State, and/or MARBIDCO from and against, any and all liabilities, suits, actions, claims, demands, losses, expenses and costs of every kind and nature incurred by or asserted or imposed against TCCSMD, the State, and/or MARBIDCO as a result of or in connection with this MOU.

M. GOVERNING LAW

This MOU shall be construed and enforced in accordance with the laws of the State of Maryland. The Parties covenant and agree that venue of any dispute or controversy arising out of this MOU or the performance or nonperformance of the Parties’ obligations under this MOU shall lie exclusively in the courts of the State of Maryland.

N. DRUG AND ALCOHOL POLICY

In accordance with State Executive Order 01.01.1989.18, Food Access Point certifies that it shall make a good faith effort to maintain a workplace free of drug use and alcohol and drug abuse from its workplace during the term of the MOU.

O. NON-DISCRIMINATION IN EMPLOYMENT
Food Access Point shall operate under this Agreement so that no person, otherwise qualified, is denied employment or other benefits on the basis of race, color, religion, creed, age, sex, sexual orientation, gender identification, marital status, national origin, ancestry genetic information or any otherwise unlawful use of characteristics, or disability of a qualified individual with a disability unrelated in nature and extent so as to reasonably preclude the performance of the employment, or the individual’s refusal to submit to a genetic test or make available the results of a genetic test. Except in subcontracts for standard commercial supplies or raw materials, Food Access Point shall include a clause similar to this clause in all subcontracts. Food Access Point and each subcontractor shall post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.

P. AMENDMENTS

This MOU, or any part, may be amended from time to time only in writing executed by the Parties.

Q. COMPLIANCE WITH APPLICABLE LAWS

Food Access Point agrees to comply with all applicable federal, State, and local law, including laws relating to discrimination in employment, related in any way to this MOU and/or Food Access Point’s duties, obligations, and responsibilities under this MOU.

R. ATTORNEY’S FEES

If any administrative proceeding, legal action or other proceeding is brought for the construction, interpretation, or enforcement of this MOU or of any provision hereof, or because of any claim, dispute, alleged default, breach or other claim or cause of action in connection with this MOU, Parties agree that each party shall bear its own legal expenses and other costs of all kinds incurred in that action or proceeding. Any provision of law or of this MOU to the contrary notwithstanding, the Food Access Point hereby waives expressly and irrevocably any statutory or other right it has or may have to recover from TCCSMD, the State, and/or MARBIDCO legal expenses and other costs of all kinds that it may incur in such an action or proceeding with respect to this MOU.

S. NO WAIVER

Except as to matters expressly waived by a party as expressly provided elsewhere in this MOU, the failure of any party to insist upon or demand the prompt and punctual performance of any term or condition of this MOU, or the failure of any party to exercise any right or remedy provided in this MOU, by law or otherwise, on any one or more occasions shall not constitute a waiver of that or any other term, condition, right or remedy on that or any subsequent occasions.

T. SEVERABILITY
If this MOU in its entirety is declared or found to be illegal or unenforceable or void then both Parties shall be relieved of all obligations arising under this MOU and the Parties shall proceed as in the case of termination. If any provision of this MOU is declared or found to be illegal or unenforceable or void then both Parties shall be relieved of all obligations arising under such provision, but if the remainder of this MOU shall not be affected by such declaration or finding, then each such provision not so affected shall be enforced to the extent provided by law.

U. ENTIRE CONTRACT; COUNTERPARTS; SIGNATURES

This MOU, together with any exhibits incorporated by reference, represents the complete and final understanding of the Parties. No other understanding, oral or written, regarding the subject matter of this MOU, may be deemed to exist or to bind the Parties at the time of execution. This MOU may be executed in any number of duplicate originals or counterparts, each of which such duplicate originals or counterparts shall be deemed to be an original and all taken together shall constitute one and the same instrument. Signatures provided by facsimile or other electronic means, for example, and not by way of limitation, in Adobe .PDF sent by electronic mail, shall be deemed to be original signatures.

Accepted for Mayor and Council of Rockville:  

__________________________
Name: Robert DiSpirito
Title: City Manager

Accepted for TCCSMD:  

__________________________
Name: John F. Hartline
Title: Executive Director, TCCSMD

Approved as to form and legal sufficiency:

________________________________
William J. Chen, III
General Counsel, TCCSMD

Approved as to form and legal sufficiency:

________________________________
Nicholas D. Dumais
Senior Assistant City Attorney
Subject
Authorization to Release and Extinguish an Existing Stormwater Management Easement on Parcel 23, Block a of the Wheel of Fortune Subdivision

Recommendation
Authorize the City Manager to execute a document, in a form acceptable to the City Attorney and substantially similar to the draft document attached to this staff report, to release and extinguish a stormwater management easement recorded at Liber 14712, folio 179 in the Montgomery County Land Records in conjunction with the Potomac Woods redevelopment, subject to approval of new stormwater management easements and agreements.

Discussion
This item authorizes the City Manager to execute the release and extinguishment of an existing stormwater management (SWM) easement. The existing easement on the property located at Lot 23, Block A of the Wheel of Fortune subdivision, recorded in the Land Records of Montgomery County, Maryland at Liber 14712, folio 179, will no longer be necessary because the existing underground stormwater management system will be abandoned and removed to accommodate the proposed site redevelopment. Potomac Woods is a mixed-use, multi-phase project, approved by the Planning Commission at its August 11, 2021 meeting, consisting of 99 townhouse and 96 multifamily units (EYA/Finmarc), 213 senior housing units (Brightview), and retaining the existing 70,000 square foot fitness center with new construction of an associated parking garage (LifeTime Fitness).

The developer, Marsol Fortune Terrace, LLC, et. al., (Finmarc), will record a new Stormwater Management Easement and Inspection and Maintenance Agreement and a License and Maintenance Agreement for the proposed stormwater management systems, in accordance with the requirements of the development’s SWM Concept and the City’s SWM Ordinance, Chapter 19. The location of the existing easement is shown in Attachment A. The draft document is provided in Attachment B, “Release and Extinguishment of Stormwater Management Easement”.
Mayor and Council History
This is the first time this item has been brought before Mayor and Council.

Next Steps
Subject to recordation of new stormwater management easements and agreements for the Potomac Woods development, the City Manager will execute, on behalf of the Mayor and Council of Rockville, a document entitled “Release and Extinguishment of Stormwater Management Easement” in a form acceptable to the City Attorney and substantially similar to the draft document attached to this staff report. The executed document will be recorded in the Land Records of Montgomery County prior to the issuance of associated Public Works permits.

Attachments
Attachment A: Location of Existing SWM Easement
Attachment B: Release and Extinguishment of Stormwater Management Easement
Attachment C: Stormwater Management Easement and Stormwater Management Maintenance and Inspection Agreement (L. 14712, f. 179)

Attachments
Attachment 7.B.a: Attachment A_Existing SWM Easement (PDF)
Attachment 7.B.b: Attachment B_Release and Extinguishment of SWM Easement (PDF)
Attachment 7.B.c: Attachment C_Existing SWM Easement_L14712_F179 (PDF)

Rob DiSpirito, City Manager 7/5/2022
This drawing is intended to be used for reference and illustrative purposes only. This drawing is not a legally recorded plan, survey, or engineering schematic and it is not intended to be used as such. It is a compilation of records, information and data developed and maintained in various City offices. Map layers were created from different sources at different scales, and the actual or relative geographic position of any feature is only as accurate as the source information.

Disclaimer:

6/17/2022
smurphy
PW layout.mxd

Attachment A: Existing SWM Easement

SWM Easement (L.14712 F.179) to be extinguished

Packet Pg. 79
RELEASE AND EXTINGUISHMENT OF
STORMWATER MANAGEMENT EASEMENT

THIS RELEASE AND EXTINGUISHMENT OF STORMWATER MANAGEMENT EASEMENT (hereinafter referred to as the “Release and Extinguishment”) is made this ___ day of ________________, 202__, by the MAYOR AND COUNCIL OF ROCKVILLE, MARYLAND, a municipal corporation in the State of Maryland (hereinafter referred to as the “City”).

WITNESSETH:

WHEREAS, Marsol Fortune Terrace LLC, Dafink Fortune Terrace LLC, Sufink Fortune Terrace LLC, Solfam Fortune Terrace LLC, Fortune Terrace Investment LLC, and Tash Development, LLC (herein individually each and collectively referred to as “Owner”), are the owners of the property hereinafter referred to as the “Subject Property,” described as follows:

Parcel 23, Block A, as shown on a Plat of Subdivision recorded as Plat No. 11932 in the Land Records of Montgomery County, Maryland (the “Land Records”).

WHEREAS, the Owner’s predecessors in interest to the Subject Property granted a Stormwater Management Easement to the Mayor and City of Rockville by instrument dated February 7, 1997 and recorded in the Land Records at Liber 14712, folio 179 (the “SWM Easement”); and

WHEREAS, the SWM Easement was created for the benefit of the City to provide the City with access to a portion of the Subject Property for the purpose of installation, construction, reconstruction, maintenance, repair, operation and inspection of a stormwater management facility and appurtenances thereto within the easement area shown and described in the SWM Easement (“Easement Area’’); and

WHEREAS, the portion of the Subject Property on which the stormwater management facility was constructed is being redeveloped; as part of this redevelopment, new stormwater management facilities will be constructed to replace and supplement the existing stormwater management facility. New stormwater management easements will be recorded concurrently with the termination of the existing SWM Easement; and

WHEREAS, the City has determined that the SWM Easement is no longer necessary; and

WHEREAS, the SWM Easement to be released is described and shown on Exhibits “A” and “B” attached to and made a part of this Release and Extinguishment (the “Release Area”).

NOW, THEREFORE, in consideration of the above recitals, incorporated herein by reference, the City hereby releases to the Owner its rights to the Release Area created by the SWM
Easement, extinguishes all rights and interests in the Release Area, and further declares the SWM Easement null and void and of no further force or effect with respect to the Release Area.

Nothing herein shall be deemed to release or otherwise affect any other Easement or Right-of-Way that the Owner has recorded or may record in connection with the Subject Property.

IN WITNESS WHEREOF, the Mayor and Council of Rockville entered into this Release and Extinguishment on the day and year written above.

WITNESS:

MAYOR AND COUNCIL OF ROCKVILLE

By: ______________________________
Name: Robert DiSpirito
Title: City Manager
Date: ______________________________

Reviewed for legal sufficiency by:

Nicholas D. Dumais
Senior Assistant City Attorney

* * *
STATE OF MARYLAND

COUNTY OF __________________________

I HEREBY CERTIFY that on this _____ day of _________________, 202___, before me, a Notary Public for the State and County aforesaid, personally appeared _______________ ____________________________, who acknowledged himself/herself to be the ____________________________ of the Mayor and Council of Rockville, a municipal corporation, and that he/she, as ____________________________, being authorized to do so, executed the foregoing and annexed instrument on behalf of the corporation for the purposes therein contained, and acknowledged the same to be the act and deed of the corporation by signing the name of the Mayor and Council of Rockville by himself as ____________________________.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Release and Extinguishment

______________________________

Notary Public

My Commission Expires: ____________

[NOTARIAL SEAL]
EXHIBIT “A”

STORMWATER MANAGEMENT EASEMENT
EXHIBIT “B”
STORM WATER MANAGEMENT EASEMENT

STORM WATER MANAGEMENT INSPECTION AND MAINTENANCE AGREEMENT

MADE THIS 7th day of February 1997 by and between Allan J. Riley, Trustee for the Allan J. Riley Marital Trust, hereinafter referred to as the Owner, and Mayor and Council of Rockville, Maryland, a municipal corporation in the State of Maryland, hereinafter referred to as the "City".

PARCEL IDENTIFIER No. 1820676

WITNESSETH:

WHEREAS, the "Owner" is owner of the property, hereinafter referred to as the "subject property", described as follows:

Parcel of land acquired from Allan J. Riley by deed dated January 10th, 1994 and recorded among the Land Records of Montgomery County, Maryland, in Liber 12325 at Folio 710, and designated as part of Lot 23 Block A on Tax map GQ123.

WHEREAS, Owner desires to develop or redevelop all or portions of the subject property;

and

WHEREAS, prior to said developing or redeveloping, the Owner is required by Chapter 19 of the Rockville City Code to obtain a sediment control permit and to provide for certain storm water management; and

WHEREAS, the Owner has full authority to execute this storm water management easement and maintenance agreement so as to bind the subject property and all current and future owners and assigns.

NOW, THEREFORE, in compliance with the requirements of Chapter 19 and in consideration of the issuance by the City of a Sediment Control Permit and for other good and

Attachment 7.B.c: Attachment C_Existing SWM Easement_L14712_F179 (4185 : Authorization to Release and Extinguish an Existing
valuable consideration, the receipt of which is hereby acknowledged, the Owner does grant, covenant
and agree as follows:

**STORM WATER MANAGEMENT EASEMENT**

The Owner does hereby grant and convey to the City, its successors and assigns, forever and
in perpetuity, a storm water management easement and right-of-way described as follows:

Being a strip or parcel of land, hereinafter described in, through, over and across the property
acquired by the owner from Allan J. Riley by deed dated January 10th, 1994 and recorded among the
land records of Montgomery County, Maryland, in Liber 12325 Filio 710 and designated as part of
Lot 23 Block A on tax map GQ123.

Beginning for said strip or parcel of land at a point

South 81°41'57" East, 70.00 feet and South 8°18'03" West, 75.50 feet from the end of the
first or South 60°13'57" East, 548.45 feet line of the aforesaid deed, and running thence,

South 81°41'57" East, 32.00 feet to a point, thence

South 8°18'03" West, 46.00 feet to a point, thence

North 81°41'57" West, 32.00 feet to a point, thence

North 8°18'03" East, 46.00 feet to the place of beginning; containing 1472.00 square feet or 0.0338

of an acre of land.

The said easement and right-of-way is hereby intended to be granted and conveyed together
with all the rights, privileges, appurtenances, and advantages thereto belonging or appertaining to
their proper use and benefit forever by the City, its successors and assigns.

AND the Owner, for himself, his heirs, successors and assigns, covenants and agrees as
follows:

FIRST: that the Owner will never erect nor permit to be erected any building of structure of
any nature, whatsoever, or fill or excavate within said easement and right-of-way without the City's
prior written consent.
SECOND: that the City, its successors and assigns, shall at all times have the right, but is not under any circumstances obligated to exercise said right, of ingress and egress over, under, and through such easement for the purpose of installing, constructing, reconstructing, maintaining, repairing, inspecting and operating a storm water management facility and appurtenances thereto; said ingress and egress to be made generally across the property from any adjacent public road or right-of-way, or along such other lines as the owner may designate and as may be acceptable to the City.

THIRD: that the Owner will warrant specially said easement and will execute such further assurances thereof as may be requisite.

STORM WATER MANAGEMENT INSPECTION AND MAINTENANCE AGREEMENT

The Owner does hereby further covenant and agree as follows:

1. The Owner will construct a storm water management facility within the easement area described above and shall further provide for the quarterly inspection and necessary maintenance of said facility to insure that it is and remains in proper working condition in accordance with the approved design standards of applicable laws, rules and regulations. City approval of the storm water management aspects of the Sediment Control Plan for the subject property shall constitute the necessary consent to the construction of the facility within the easement area pursuant to paragraph FIRST of the above-described easement.

2. The City may, but is not obligated to, inspect the facility. If, after reasonable notice by the City, the Owner shall fail to construct, repair, maintain, or operate the facility in accordance with the approved design standards and with all applicable laws, rules and regulations, the City may, but is not obligated to, enter onto the facility and perform all necessary construction, repair, maintenance and/or operating work, and may assess the Owner for the cost of said work. Said assessment shall be a lien against the subject property and may be placed on the property tax bill as said property and collected as property taxes by the City. If properties other than the subject property are also served.
by the storm water management facility, the owner of all such property shall be jointly and severally liable for the cost of any and all work performed by the City. Pursuant to this paragraph, all said properties are jointly and severally subject to the imposition of liens pursuant to the provisions of this paragraph.

3. The Owner shall indemnify and save harmless the City and all its officers, employees, agents, and servants from any and all claims or damages of any kind to persons or property arising from the installation, construction, reconstruction, maintenance, repair, operation and use of the facility.

4. The Owner shall notify the City of the legal and/or equitable transfer of any of the Owner's responsibilities for the facility within thirty days of such transfer, and shall supply the City with a copy of any executed documents of said transfer. The Owner shall provide all subsequent owners, successors, assigns and any other party responsible for the maintenance of the facility with a copy of this easement and agreement and with accurate as-built construction plans detailing the facility and its appurtenances.

5. Neither this agreement nor the above mentioned easement in any way relieves the Owner of responsibility for providing storm water drainage in addition to the on-site storm water management facility as may be deemed necessary by the City or other appropriate agency.

6. The covenants and agreements contained herein shall run with the land and shall bind the Owner and his executors, administrators, successors and assigns.

AND, the Owner does further agree to record this storm water management easement and inspection and maintenance agreement in the Land Records of Montgomery County, Maryland, at the Owner's expense within ten days of the date hereof, and shall provide the City with documentary proof of recordation within five days of said recordation.
IN WITNESS WHEREOF, the owner has executed this Storm Water management Easement Maintenance Agreement as of this 7th day of Feb., 1997.

Allan J. Riley, Trustee
Allan J. Riley Marital Trust

State of: New York
County or City of: New York

On this 7th day of Feb., 1997 before me, the undersigned officer, Allan J. Riley *, personally appeared. Allan J. Riley of New York, New York, known to me (or satisfactorily proved) to be the Trustee for the Allan J. Riley Marital Trust, and acknowledged that he executed the foregoing instrument in said capacity therein stated for the purposes therein contained.

[notary seal *]

In witness whereof I hereunto set my hand and official seal.

Signature of Notary Joan J. Murray

Named typed or printed JOAN J. MURRAY
Notary Public, State of New York
No. 41-4990867
Qualified in Queens County
Commission Expires Jan. 13, 1988

Mail to:

ARBITRON Company
1151 D Seven Locks Rd
Rockville MD 20854
ATTN: Don King
Subject
Dispute the Reported Census 2020 Decennial Counts for Housing and Group Quarters Population

Recommendation
Staff recommends that the Mayor and Council authorize city staff to participate in the U.S. Census Bureau’s 2020 Census Question Resolution (2020 Census CQR) and the Post-Census Group Quarters Review (PCGQR) operation that allows municipalities to challenge the housing counts and the group quarters total population as reported by the 2020 Decennial Census program.

Discussion
Staff’s preliminary analysis indicates that the Census Bureau undercounted the housing units and group quarters in the city. In theory, the Decennial Census is an official count of the population. However, the 2020 Decennial Census population and household totals are significantly different than what the other jurisdictions across the metropolitan region have developed in their analyses. The total population and household numbers as reported by the Census for Rockville are lower than the City’s estimates, perhaps because the Census was conducted during the COVID-19 pandemic, which may have resulted in an undercount.

Per its 2020 Census Decennial program, the Census Bureau reported 27,953 housing units and a group quarters population of 951, for a total of 28,904 in the City of Rockville as of April 1, 2020. The total population for the City of Rockville as reported by the Decennial 2020 census was 67,117. Based upon the City’s most recent review of housing unit and population estimates, Rockville’s population in December 2021 was 70,620 with 30,031 housing units and group quarters. The 2020 Decennial Census counted the number of people living in the United States as of April 1, 2020. Per City records, from April 1, 2020 to December 2021, approximately 350 new housing units have been available for occupancy within city limits.

Staff believes the Census reported numbers are a result of an incomplete count of existing Rockville housing units and group quarter population. The challenge process will allow the City to analyze where the discrepancies are in the total counts. Per the Census, a group quarters is a place where people live or stay in a group living arrangement that is owned or managed by an
entity or organization providing housing and/or services for the residents. These services may include custodial or medical care as well as other types of assistance, and residency is commonly restricted to those receiving these services. This is not a typical household-type living arrangement. People living in group quarters are usually not related to each other. Group quarters include such places as college/university student housing, residential treatment centers, nursing/skilled-nursing facilities, group homes, correctional facilities, workers’ group living quarters, and job corps centers. The Montgomery County Detention Center at Seven Locks Road is an example of a group quarters within the city.

The 2020 Census Count Question Resolution Operation (CQR) is a process that allows municipalities the opportunity to review and challenge the 2020 housing unit counts. The 2020 Post-Census Group Quarters Review (PCGQR) provides municipalities the opportunity to review the group quarters population count. Both the CQR and PCGQR processes are underway, and the Census Bureau will accept challenges to the housing unit counts and the group quarter population counts until June of 2023.

By participating in the process, Rockville will be asking the Census Bureau to review the 2020 Census Decennial count of housing units and group quarters in the city based upon the information provided through our challenge. The 2020 Census CQR is focused on housing inventory and not the population count, thus there is not a process in place to challenge the population count. The 2020 Census CQR also allows for boundary revisions, however, upon preliminary review, the Census boundaries for Rockville appear to be accurate as they are reviewed by City staff regularly and corrections are provided as needed.

After review of housing units and group quarters at Census block levels, the City will submit evidence that supports any discrepancies. The Census staff will review the City’s request for housing enumeration, and

- If no processing errors are found, there will be no updates and the case is closed.
- If processing errors are found, they are addressed within Census Bureau records and systems. Census will issue error notices by September 2023. The data sets that are already published will not be revised, however corrected numbers will be in the “base data sets” used for annual population estimates – which informs budget and resource allocations, population, household and other demographic characteristics.

If the challenge is successful, the Census Bureau will also consider the revised number to provide for higher estimates as the Bureau moves forward through the decade until the next decennial Census.

**Mayor and Council History**

This is the first time that the Mayor and Council will be discussing the item
Fiscal Impact

According to the State of Maryland Census page, the distribution of billions of dollars in federal funds, as well as the allocation of state and local funds, are based on formulas that depend on population counts and socioeconomic measures (e.g. poverty and income) per Marylander over the course of the decade. A good count assures Marylanders of their fair share of funding for important and life-saving programs. Additionally, the decennial census provides key data to support decisions on where investments need to be made for transportation, schools, healthcare, job training, housing, daycare and public safety, among others.

According to a report by George Washington University, every person not counted equates to $1,821* in lost federal funding every year ($18,210 over ten years), until the next decennial census occurs in 2030.

*Source: George Washington University: Counting for Dollars 2020: The Role of the Decennial Census in the Geographic Distribution of Federal Funds.

Next Steps

Staff recommends that the Council vote on directing City staff to begin the process to review and challenge housing counts and the group quarters population counts as reported by the 2020 Decennial Census.

After completing the review needed to challenge the counts, staff will return to the Mayor and Council to share the results and request to approve the application that challenges the counts.
Subject
Authorization for the City Manager to Execute Modification Number Two to the Department of Natural Resources Grant Agreement Between the Mayor and Council of Rockville and the State of Maryland (“Modification #2) for the Mt. Vernon Stormwater Management Pond Retrofit and Urban Tree Canopy Enhancement Project

Recommendation
Staff recommends the Mayor and Council authorize the City Manager to execute Modification #2 for the Mt. Vernon Stormwater Management Pond Retrofit and Urban Tree Canopy Enhancement project.

Discussion
On April 23, 2020, The Mayor and Council and the State of Maryland, acting through the Department of Natural Resources (DNR), Chesapeake and Coastal Services, entered into a Chesapeake and Atlantic Coastal Bays 2010 Trust Fund Grant Agreement, as modified pursuant to Modification Number One on November 30, 2021 (the “Grant Agreement”) (Attachment A) to off-set costs for the Mt. Vernon Stormwater Management (SWM) Pond Retrofit and Urban Tree Canopy Enhancement CIP project in the amount of $350,000.

The Grant Agreement is currently set to end on June 30, 2022. Unfortunately, the project has run into unforeseen delays due to supply chain issues. The City applied for a second no cost grant agreement extension to modify and extend the term of the Grant Agreement to December 31, 2022, and adjust the schedule for the remaining scope of work. DNR approved the application and requested the City sign and return Modification #2 to the Department of Natural Resources Grant Agreement (Attachment B).

Mayor and Council History
This is the first time this item has been brought before the Mayor and Council.
**Fiscal Impact**
This is a no cost deadline extension and will have no fiscal impact.

**Next Steps**
If approved by the Mayor and Council, the City Manager will execute the attached Modification #2, subject to approval as to form and legal sufficiency by the City Attorney.

**Attachments**
Attachment 7.D.a: Attach A - Grant Agr and Modification One (PDF)
Attachment 7.D.b: Attach B _ DNR Trust Fund Grant Modification Two (PDF)

Rob DiSpirito, City Manager 7/5/2022
State of Maryland
Department of Natural Resources

Chesapeake & Atlantic Coastal Bays 2010 Trust Fund

Grant Agreement

This Grant Agreement, entered into this ______day of ________________,
20______ by and between the State of Maryland, Department of Natural Resources,
Tawes State Office Building, 580 Taylor Avenue, Annapolis, MD 21401 (hereinafter “Department”) and

City of Rockville
111 Maryland Avenue
Rockville, MD 20850
Federal Tax Identification #: 52-6001573
(hereafter “Grantee”).

WHEREAS, there is a Chesapeake & Atlantic Coastal Bays 2010 Trust Fund (“Trust Fund”), established with the purpose to provide financial assistance necessary to advance Maryland’s progress in meeting the goals established in the Chesapeake Bay Watershed Agreement for the restoration of the Chesapeake Bay and the Atlantic Coastal Bays and their tributaries by focusing limited financial resources on nonpoint source pollution control projects in all regions of the State of Maryland, as set forth in Annotated Code of Maryland, Natural Resources Article §8-2A-01 et seq.; and

WHEREAS, the Bay Cabinet agencies administer the Trust Fund in accordance with the Trust Fund final work and expenditure plans, including distribution of funds through grants to counties, bicounty agencies, municipalities, forest conservancy district boards, soil conservation districts, academic institutions, and nonprofit organizations that have a demonstrated ability to implement nonpoint source pollution control projects; and

WHEREAS, funding has been appropriated for the Trust Fund by the General Assembly for Fiscal Year 2020, to be disbursed in grants to certain entities, for the purposes set forth in Code, Natural Resources Article § 8-2A-01 et seq.; and

WHEREAS, the Grantee has been selected by the Bay Cabinet to receive such grant assistance from the Trust Fund, and the Grantee has agreed to the provisions contained herein;

NOW, THEREFORE, for and in consideration of the mutual covenants contained herein and the receipt of a Grant in the amount of three hundred fifty thousand dollars and zero cents ($350,000.00) the parties agree to the following provisions:

1. This Grant Agreement (hereafter “Agreement”) shall become effective on June 1, 2020 and shall expire without notice on October 31, 2021. This Agreement may be amended only by a writing signed by both parties.

2. Unless the Grantee is a unit of the Department of Natural Resources, the Grantee acknowledges that it is neither an agent nor an employee of the Department, but is an independent entity.
3. The Grantee shall be responsible for identifying and acquiring all supplies and materials necessary for performance of all work, and for withholding any taxes and social security payments due in relation to this Agreement. The Grantee is responsible for supervision of and the technical accuracy and coordination of all work pursuant to this Agreement as set forth in the attached Scope of Work. The Scope of Work is hereby incorporated into this Agreement and is made an integral part of this Agreement.

4. No work may be initiated under this Agreement until the Grantee has been instructed in writing to proceed by the Department. The Grantee shall prosecute all work continuously and diligently until the termination of this Agreement, and shall not sublet, assign, or transfer this Agreement or any portion thereof without prior written consent of the Department. Unless otherwise specified in writing, the Grantee agrees that all reports, drawings, studies, estimates, maps, and computations prepared by or for it under the terms of the Agreement shall be delivered upon request to, and become the property of, the Department upon termination or completion of the work.

5. (a) Funds paid to the Grantee under this Agreement shall be used only for the purposes set forth in this Agreement and the Scope of Work. The Grantee shall submit billings for the expenses authorized for the work under this Agreement in accordance with the payment schedule set forth in the attached Scope of Work. In the absence of a payment schedule, the Grantee shall submit billings for time periods ending March 31, June 30, September 30, and December 31 of each year. Each billing shall identify the progress made in relation to the schedule, and the amount of payment requested. The Grantee shall submit a final invoice no later than 30 days after the date of expiration of this Agreement set forth in Paragraph 1, above.

(b) The Grantee shall follow cost accounting practices acceptable to the Department. Payments will be made only for the costs authorized under in the Scope of Work. Billings shall be due and payable within 30 days of receipt by the Department. The Grantee agrees that no claims or charges for damages shall be made by it for any delays or hindrances from any cause during the term of this Agreement. Under no circumstances is the Department responsible for payment of any charges due to late payment of invoices.

6. The Grantee shall submit quarterly status/progress reports to the Department at the same time as the billing submissions required under Paragraph 5, above. Each status report shall contain the information required by Code, Natural Resources Article § 8-2A-04 (e) for work performed during that quarter. Payment of the costs identified in the billing submissions is contingent on the Department’s satisfaction with the Grantee’s progress in the work. At the end of the term of the Agreement, the Grantee shall submit a final report, as described in the Scope of Work.

7. In the performance of its activities with a Grant from the Trust Fund pursuant to this Agreement, the Grantee shall conform to Federal, State, and local laws and regulations and to the specifications contained in the attached Scope of Work. The Grantee shall obtain and maintain all licenses, permits, insurance, and government approvals, if any, necessary to the performance of its obligations under this Agreement. In the case of any sub-contract or sub-grant, the Grantee agrees to bind the subcontractor and every subcontractor agrees to be bound by all terms of this Agreement, unless the Grantee requests, and the Department agrees in writing, to amend this Agreement to modify or
waive one or more provisions. The Department retains the right, by written direction to the Grantee, to at any time make any change in the work within the general scope of the Agreement.

8. The Department shall have the right, during normal business hours, to enter upon and inspect the lands, equipment, records, and property owned or used by the Grantee in connection with this Grant, to determine the Grantee’s compliance with the terms and conditions of this Agreement. The Department retains the right to audit and inspect the records of the Grantee pertaining to this Grant for a period of 3 years after the conclusion of the Grant. Should the Department determine that Grant funds have been expended for activities outside the Scope of this Agreement, the Grantee, on demand by the Department, shall reimburse the Department for all such funds.

9. (a) Subject to the obligations and conditions set forth in this Agreement, title to equipment or personal property acquired with funds under this Agreement by the Grantee or a subgrantee will vest upon acquisition in the Grantee or subgrantee respectively. Title to real property will vest in the State. The Grantee and subgrantee shall maintain the equipment, and real and personal property, in good order, and shall employ adequate safeguards to prevent loss, damage, or theft of the property.

(b) For any item of real or personal property, including equipment, acquired with Grant funds which has an original per-unit fair market value of Five Thousand Dollars ($5,000) or more, the Grantee shall, at its own expense, and for the duration of this Agreement or for 5 years, whichever is less, obtain and maintain insurance. The insurance shall provide full protection for the Grantee and the State against loss, damage, or destruction of or to the property. The Grantee shall, on request, provide the Department with satisfactory evidence of its compliance with this requirement. In case of loss, theft, or damage of the insured property, proceeds of insurance required by this paragraph shall be applied towards replacement of the property or towards the partial or total repayment to the State of the Grant, in the sole discretion of the Department.

(c) Equipment shall be used by the Grantee or subgrantee for the project or work for which it was acquired as long as needed, whether or not the project or work continues to be supported by Trust Fund Grant funds.

(d) The Grantee or subgrantee may not use equipment acquired with Trust Fund Grant funds to provide services for a fee to compete with private companies that provide equivalent services, unless specifically allowed by federal or state law.

(e) When no longer needed for the project or work under this Agreement, the equipment may be used in other work or projects currently or previously supported by a State agency. The Grantee or subgrantee may acquire replacement equipment, and may use the original equipment to be replaced as a trade-in to offset the cost of the replacement equipment, subject to the approval of the Department.

10. (a) When no longer needed for the project or work under this Agreement or any other project currently or previously supported by a State agency, personal property and equipment, including replacement equipment, acquired under this Grant with a current per-unit fair market value of less than five thousand dollars ($5,000.00) may be retained, sold, or otherwise disposed of by the Grantee.

(b) When no longer needed for the project or work under this Agreement or any other project currently or previously supported by a State agency, equipment, including replacement equipment, acquired under this Grant with a current per-unit fair market value of five thousand dollars ($5,000.00) or more may be retained or sold, and any
proceeds from a disposition shall be applied to repay to the State a percentage of the portion of the Grant allocable to the property disposed of, unless the Grantee and the Department agree to other terms and conditions. The percentage shall be equal to the percentage of the unadjusted bases of the property that would remain if the property had been recover property placed in service after 1986 and if all allowable deductions had been taken up to the time of disposition under the Accelerated Cost Recovery System (ARCS) specified in the 26 U.S.C. § 168.

11. This Agreement shall be governed by the laws of the State of Maryland, and the parties hereby expressly agree that the courts of the State of Maryland shall have exclusive jurisdiction to decide any questions arising hereunder.

12. The Grantee agrees that it will not discriminate in any matter against an employee or applicant for employment because of sex, race, age, color, religion, creed, marital status, ancestry, national origin, or physical or mental handicap unrelated in nature and extent so as reasonably to preclude the performance of such employment; and Grantee agrees to include a provision similar to that contained herein in any subcontract except a subcontract for standard commercial supplies or raw materials; and to post and cause subcontractors to post in conspicuous places available to employees and applicants for employment, notices setting forth the substance of this paragraph.

13. The Grantee hereby represents and warrants that it and any subcontractor it hires is qualified to do business in the State of Maryland and that it will take such action as, from time to time hereafter, may be necessary to remain so qualified.

14. To the fullest extent permitted under applicable law, the Grantee shall indemnify and save harmless the State and the Department from and against all actions, liability, claims, suits, damages, cost or expenses of any kind which may be brought or made against the State or the Department arising out of or as a result of this Agreement. To the fullest extent permitted by law, the Grantee is responsible for all damage to life and property due to its activities, or those of its agents, employees, sub-grantees, or sub-contractors, arising out of or in connection with its performance under this Agreement until all services under this Agreement are declared accepted by the Department.

15. This agreement may be terminated in writing by either party upon thirty (30) days written notice to the other party. Service of any notice required under this Agreement shall be complete upon mailing of such notice, postage prepaid, to the appropriate representative of the party at the address listed in the Agreement.

16. Any disputes between the Department and the Grantee related to this Agreement shall be presented in writing by the party asserting the dispute, to the other party. The written statement shall set forth the nature and, if applicable, the monetary value of the dispute, and the facts on which the dispute is based. The parties agree that they will work diligently and in good faith to resolve any dispute, and that, pending the resolution of the dispute, the Grantee will proceed with the work under this Agreement.

17. The Department may instruct the Grantee to terminate the performance of work under this Agreement in whole, or from time to time in part, whenever the Department determines that such termination is in the best interest of the Department. The Department will pay all reasonable costs associated with the Grantee’s work under this Agreement.
18. If the Grantee fails to fulfill its obligations under this Agreement, or otherwise violates any provision of the Agreement, the Department may terminate the Agreement for default by issuing written notice to the Grantee. The notice shall specify the acts or omissions cited as cause for termination. All finished or unfinished work accomplished by the Grantee shall, at the Department’s option, become the Department’s property. The Department shall pay the Grantee fair and equitable compensation for any satisfactory work prior to the issuance of the notice of termination, less the amount of any set-off or damage caused by the Grantee’s breach of its obligations. The Grantee is liable after termination, and the Department retains the right to collect, any and all monies owed to the Department under this Grant.

19. This agreement embodies that whole agreement of the parties. There are no promises, conditions, or obligations referring to the subject matter, other than those contained herein or incorporated by reference.

20. The parties agree that the following named individuals are considered to be essential to the work being performed under this Agreement, and that they are designated as Key Personnel who shall be made available to the fullest extent required to carry out the work under this Agreement:

   Heather Gewandter  
   240-314-8873; hgewandter@rockvillemd.gov

Should any of these individuals become unavailable during the term of this Agreement, the Grantee shall assign personnel of equivalent capability to the work. Prior written approval of the Department is required for any substitution of key personnel, which approval may be denied at the Department’s sole discretion. If the Grantee is unable to provide substitute personnel acceptable to the Department, the Department may, at its option, terminate this Agreement, or require an equitable adjustment in the Grant to account for the loss of key personnel.

21. The parties designate the following named individuals as Agreement Representatives for the purpose of any notices required under this Agreement. The parties agree that each will promptly notify the other, in case of substitution of an Agreement Representative, or change in the Representative’s contact information.

   Ari Engelberg,  
   410-260-8734; ari.engelberg@maryland.gov

   Heather Gewandter  
   240-314-8873; hgewandter@rockvillemd.gov
This document may be executed in multiple counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument. Signatures, including notary signatures, provided by electronic means including, by way of example and not of limitation, facsimile, Adobe, PDF, and sent by electronic mail, or via an electronic signature program, shall be deemed to be original signatures.

IN WITNESS THEREOF, the parties have executed this Agreement by causing the same to be signed on the day and year first above written.

Sara Taylor-Ferrell
Witness

Robert DiSpirito
City Manager
City of Rockville

Matthew J. Fleming, Unit Director
Chesapeake & Coastal Service

STATE OF MARYLAND
DEPARTMENT OF NATURAL RESOURCES

Marianne E. Dise
Assistant Attorney General
Office of the Attorney General
Department of Natural Resources

April 2011
SCOPE OF WORK

Project Title: Mt. Vernon SWM Pond Retrofit and Urban Tree Canopy Enhancement

Budget:  
State (Trust Fund): $350,000.00  
Leveraged Funds: $818,000.00  
Total: $1,168,000.00

Funding Period: June 1, 2020 to October 31, 2021

Funding Recipient: City of Rockville

1. Abstract

The Mt. Vernon Pond retrofit will accelerate the recovery and restoration of natural resources through an existing stormwater management (SWM) pond retrofit and urban tree canopy enhancement project. This retrofit will increase water treatment for a 69.80-acre watershed (48.99 acres impervious) from 0.664 to 2.564 ac-ft. It will also restore 1.6 acres of urban tree canopy that are completely overrun by non-native and invasive (NNI) vines and are killing all the trees.

2. Background

The Mt. Vernon Pond Retrofit is located within the Cabin John Creek Watershed. The portion of Cabin John Creek Watershed which is within Rockville drains 3.6 square miles (2,281 acres) and encompasses part of downtown Rockville, the I-270 corridor, and residential communities, including Potomac Woods, North Farm, Hungerford, and New Mark Commons, and Woodmont Country Club. The Mt Vernon Pond is an in-line SWM facility that receives water from downtown Rockville including City Hall and the County Council building. The existing facility is a shallow wetland system providing water quality treatment (WQv) for the first quarter inch of runoff from a mixed-use development watershed (69.80-acre drainage area (48.99 acres impervious)). The Mt. Vernon SWM Facility currently provides 0.054 ac-ft within the permanent pool (due to sedimentation decreasing the treatment capacity of the as designed 0.664 ac-ft treatment volume).

Because of its shallow, wetland design and the large amount of runoff received by the facility, the wetland is very difficult to maintain, as evidenced by the decrease in treatment volume. Due to the frequency of maintenance, the wetland was prioritized in the City’s Capital Improvement Program. The City will take this opportunity to maximize water quality treatment, maintain wetland habitat, create an easier to maintain design, and
improve 1.6 acres of urban tree canopy. As part of the retrofit, WQv and Cpv will be provided to the MEP within the footprint of the existing facility.

The proposed design converts the Mt. Vernon wetland into an extended detention wet pond, while avoiding reclassification of the embankment, increasing the treatment volume and reducing the potential for flooding the roadway. The design features prominent high and low marsh wetland areas that will maximize pollutant removal efficiencies and provide habitat for native faunal species, while utilizing deep ponding areas to increase treatment volume to MEP. This design realizes the community’s preference for an attractive, yet maintainable enhancement to their neighborhood, while satisfying the City’s objective to meet Total Maximum Daily Load (TMDL) requirements and improve the health of the Chesapeake Bay. Drawdown and water balance computations demonstrate that the benches will remain sufficiently wet throughout drought conditions to sustain diverse herbaceous species.

A forebay is proposed to collect and retain sediment. Access to the forebay will be provided via the proposed drivable grass SWM access road. A low retaining wall is required to ensure the cross slope of the SWM access road is safely traversable. Riprap channel protection is proposed at the forebay inflows, headwalls and submerged berm separating the forebay and main cell. A low flow device is proposed to maintain the permanent pool elevations and reduce the potential of clogging. No modifications are proposed to the existing facility hydraulics, including the weir structure, to ensure that the embankment classification is not altered; however, the existing eight-inch low flow orifice at elevation 372.20 will be relocated to the center of the concrete weir wall to accommodate the proposed design. The retrofit design will provide 1.42 acre-feet of WQv within the permanent pool and will provide an additional 1.14 acre-feet of WQv via extended detention.

Urban Canopy Restoration
Upstream for the Mt Vernon SWM pond is approximately 1.6 acres of forested stream buffer. The entire forested area is overrun with Non-Native Invasive (NNI) plant species – predominately vines. Left as is, the entire forested area would not survive. As part of this project, the City will remove the NNIs, replant a diverse, native tree stand and actively manage regrowth of NNI for a minimum of 5 years.

3. Objectives, Responsibilities, and Deliverables
The City of Rockville is solely responsible for implementing this project and the objectives are as follows:

- Improve WQv treatment; to provide 2.564 ac-ft of water quality treatment capacity.
- Help meet TMDL goals for the Chesapeake Bay;
- Ease existing maintenance burden (deepening the middle of the pond) and improve maintenance access;
- Remove NNIs and replant impacted urban tree canopy with bio diverse mix of native trees and shrubs; and
- Develop a community amenity.
The City of Rockville will be claiming the reduction credits generated by this pond retrofit. The City of Rockville reports all progress towards achieving TMDL goals via the Montgomery County WIP two-year milestone submissions. The City will also report implementation of these projects to MDE via its NPDES phase II annual report. This project furthers the following Chesapeake Watershed Agreement goals:

Vital Habitat – The Mt. Vernon Pond Retrofit will remove a cattail monoculture and create upland and lowland mash habitat. Additionally, it will plant approximately 39 native trees of 12 different species, 53 shrubs of 8 different species, and 20 species of wetland plants in high, low, and deep marsh habitats.

Water Quality – The Mt.Vernon Pond Retrofit is specifically designed to help meet Bay TMDL water quality goals.

Toxic Contaminants – the Mt. Vernon Pond Retrofit will increase the water quality treatment capacity of the pond, and, therefore, and toxic contaminants that have sediment like properties have a greater chance of capture.

4. Performance & Compliance Monitoring Strategy
The City does not plan to perform before and after water quality monitoring. The City will get as-built plans for the project, and calculate pollutant load reductions in Field Doc and/or CAST upon project completion. As described in the long-term protection plan below, the City will carry-out five years of maintenance after construction to ensure there are no major stability issues.

5. Maintenance & Inspection Plan
Metrics of project success include proper installation of design, maintained function of the design long-term (stable stream and maintained SWM facility), and survival of trees in stream buffer area. The City of Rockville assigns a dedicated construction management inspector to these projects during construction. Additionally, the City hires the design-engineering firm to be on-site and inspect during construction. The project is located on City-owned parkland that provides long-term protection of the site.

The City has stringent environmental regulations to protect stream valley buffers and forests in the long-term. The City will carry out five years of maintenance after construction that incorporates plant augmentation and invasive plant control for both projects. Mt. Vernon pond will receive annual structural inspections. If issues are identified, they will be address via the City’s established SWM facility maintenance program. The programs current funding is almost $380,000 annually. Mt. Vernon pond will also be monitored for forebay dredging issues, which would be addressed via the annual maintenance program. Larger-scale maintenance dredging projects will be accomplished through the established CIP program.
### 6. Project List

<table>
<thead>
<tr>
<th>Project Title</th>
<th>Description</th>
<th>Location (lat/long)</th>
<th>2012 Leg district</th>
<th>Status (Design/Planning, Permit, Construction)</th>
<th>Estimated Cost</th>
<th>*Est. Reductions</th>
<th>Deliverables (linear feet stream, acres wetland, treated impervious, etc.)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mt. Vernon SWM Pond Retrofit and Urban Tree Canopy Enhancement</td>
<td>The Mt. Vernon SWM pond retrofit will increase water treatment on 69.80 acres (48.99 impervious) from .664 to 2.564 ac-ft. It will also restore 1.6 acres of urban tree canopy.</td>
<td>39.07867, -77.14900</td>
<td>17</td>
<td>02140207 Design/Planning/Permitting</td>
<td>TF: $350,000 Leveraged: $818,000 Total: $ 1,168,000</td>
<td>111.67 lbs N; 15.72 lbs P; 30.67 tons Sed/TSS</td>
<td>48.99 acres of impervious area treated. 1.6 acres of urban tree canopy enhanced.</td>
</tr>
</tbody>
</table>
7. Timeline (include design, permitting, construction)

<table>
<thead>
<tr>
<th>Mt. Vernon Pond Retrofit</th>
<th>2020</th>
<th>2021</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Project Tasks</strong></td>
<td>6</td>
<td>7</td>
</tr>
<tr>
<td></td>
<td>8</td>
<td>9</td>
</tr>
<tr>
<td></td>
<td>10</td>
<td>11</td>
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<tr>
<td></td>
<td>12</td>
<td>1</td>
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<tr>
<td></td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td></td>
<td>4</td>
<td>5</td>
</tr>
<tr>
<td></td>
<td>6</td>
<td>7</td>
</tr>
<tr>
<td></td>
<td>8</td>
<td>9</td>
</tr>
<tr>
<td></td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>Assessment/Staging/Planning</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Procurement</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Erosion and Sediment Control</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Grading/Construction</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td></td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td></td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Planting</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Demobilization</td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

**Reporting/Documentation Requirements:**

Quarterly reports will be required to assure projects are on task to meet milestone target dates. Recipients will be asked to briefly report on project status, budgets, and identification of problems or other concerns. Reports will be due to Ari Engelberg (ari.engelbeg@maryland.gov; 410.260.8734) and/or an appointed designee in line with the following schedule:

<table>
<thead>
<tr>
<th>Time Frame</th>
<th>Due Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>June 1, 2020-September 30, 2020</td>
<td>October 15, 2020</td>
</tr>
<tr>
<td>October 1, 2020 – December 31, 2020</td>
<td>December 31, 2020</td>
</tr>
<tr>
<td>January 1, 2021 – March 31, 2021</td>
<td>April 15, 2021</td>
</tr>
<tr>
<td>April 1, 2021 – June 30, 2021</td>
<td>July 15, 2020</td>
</tr>
<tr>
<td>July 1, 2020 – October 31, 2021</td>
<td>October 31, 2021 (FINAL)</td>
</tr>
</tbody>
</table>

Invoices with appropriate back-up documentation shall be submitted for the same time frames noted above unless prepaid expenses are approved.

**Prepaid Expenses**

Prepayment of expenses will be considered based on documentation of immediate need by the Grantee. All requests must be accompanied by a detailed list of proposed expenditures and shall include original correspondence from contractors to document requested prepayment. If provision of prepaid expenses is approved, receipts and back-up documentation must be submitted on a calendar-month basis. With exception of the final report and final invoice, calendar-month reports and prepayment back-up documentation is due by the 15th of the following month. (e.g. March 1, 2015-March 31, 2015 information is due April 15, 2015.) The Grantee will certify in the monthly report what work has been completed in relation to the approved scope of work. If contractor invoices do not include a term of work, the Grantee will certify the term of work. The Grantee will provide proof of payment to include date paid and check number (or voucher number).
Documentation and all proof of payment for the prepaid expenses must be submitted prior to submitting any further requests for prepayment or reimbursement. Failure to provide adequate back-up documentation for a prepayment will result in delays/reductions to future reimbursements.

A **final report** will be required at the end of the project period to provide a detailed summary of the outcomes/results, lessons learned, impact of the funding and next steps. This report should cover activities conducted over the entire project period and should be suitable for printing and sharing through media outlets (i.e. success story). **Photo documentation is required.**

The funding recipient shall not incur costs or obligate funds for any purpose pertaining to the operation of the project beyond the end date stipulated in the grant. The final invoice with appropriate back-up documentation shall be submitted to the Chesapeake and Coastal Service no later than **thirty days** after the end date of the grant.

**BUDGET**

**(June 1, 2020 to October 31, 2021)**

After Grantee has been paid an amount equal to ninety percent (90%) of the funds initially allocated and approved for this grant, the Department of Natural Resources may withhold from payment an amount of not more than ten percent (10%) of the total grant amount, until satisfactory completion and submission by Grantee of all tasks described under this agreement.

<table>
<thead>
<tr>
<th>Category</th>
<th>State</th>
<th>Documented Match</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personnel</td>
<td>$0.00</td>
<td>$0.00</td>
<td>$0.00</td>
</tr>
<tr>
<td>Fringe Benefits</td>
<td>$0.00</td>
<td>$0.00</td>
<td>$0.00</td>
</tr>
<tr>
<td>Travel approx. @ $0.56/mi.</td>
<td>$0.00</td>
<td>$0.00</td>
<td>$0.00</td>
</tr>
<tr>
<td>Field Supplies</td>
<td>$0.00</td>
<td>$0.00</td>
<td>$0.00</td>
</tr>
<tr>
<td>Supplies - Office Supplies</td>
<td>$0.00</td>
<td>$0.00</td>
<td>$0.00</td>
</tr>
<tr>
<td>Contractual1</td>
<td>$350,000.00</td>
<td>$0.00</td>
<td>$350,000.00</td>
</tr>
<tr>
<td>Other</td>
<td>$0.00</td>
<td>$0.00</td>
<td>$0.00</td>
</tr>
<tr>
<td>Administration (1.5%)</td>
<td>$0.00</td>
<td>$0.00</td>
<td>$0.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$350,000.00</td>
<td>$0.00</td>
<td>$350,000.00</td>
</tr>
</tbody>
</table>

1**Contractual:*** All requested funding will be used to reimburse the City on contractor costs for project construction. The cost estimates are based on the Draft Final Engineers Estimate for construction and completion.

Page 6 of 10
inspection services, and actual design costs, which totals $1,168,000.00. The trust fund will be used to finance the water quality related components of the project (e.g. more extensive plantings with the goal of higher quality aquatic and shoreline habitat).

<table>
<thead>
<tr>
<th>Description</th>
<th>Unit</th>
<th>Est QTY</th>
<th>Est Unit Price</th>
<th>Total</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Class I Riprap</td>
<td>SY</td>
<td>300</td>
<td>$150.00</td>
<td>$45,000.00</td>
<td></td>
</tr>
<tr>
<td>Class II Riprap</td>
<td>SY</td>
<td>140</td>
<td>$225.00</td>
<td>$31,500.00</td>
<td></td>
</tr>
<tr>
<td>Wetland Soil Media</td>
<td>SY</td>
<td>950</td>
<td>$25.00</td>
<td>$23,750.00</td>
<td></td>
</tr>
<tr>
<td>Herbaceous Plugs</td>
<td>EA</td>
<td>2500</td>
<td>$7.00</td>
<td>$17,500.00</td>
<td></td>
</tr>
<tr>
<td>Herbaceous Quarts</td>
<td>EA</td>
<td>50</td>
<td>$15.00</td>
<td>$750.00</td>
<td></td>
</tr>
<tr>
<td>Woody Vegetation: Shrub</td>
<td>EA</td>
<td>53</td>
<td>$100.00</td>
<td>$5,300.00</td>
<td></td>
</tr>
<tr>
<td>Woody Vegetation: Tree</td>
<td>EA</td>
<td>39</td>
<td>$325.00</td>
<td>$12,675.00</td>
<td></td>
</tr>
<tr>
<td>Maintenance of Stream Flow and site dewatering System</td>
<td>LS</td>
<td>1</td>
<td>$60,000.00</td>
<td>$7,007.00</td>
<td>The engineers cost estimate for this item is $60,000. Only $7,007.00 will be reimbursed under this grant.</td>
</tr>
<tr>
<td>Unclassified excavation and grading</td>
<td>LS</td>
<td>1</td>
<td>206,518.00</td>
<td>206,518.00</td>
<td>This represents the engineer's estimated cost for 79.43% of the excavation/grading line item. 79.43% is the amount of excavation/grading associated with the retrofit portion of the project. 20.57% is the percentage of this item needed to restore the facility to its pre-retrofitted condition.</td>
</tr>
</tbody>
</table>

*Upon bid receipt/selection, the City of Rockville will submit contractor’s costs for construction to DNR for review and acceptance. Restoration materials (e.g. plant types) and item costs will likely change once contract goes out to bid.

**Leveraged Funds:**
The City of Rockville will be providing $818,000.00 in leveraged funds to the project. The leveraged funding will provide project design, project inspection, and construction costs not funded by the grant. These leveraged funds demonstrate local commitment to the project and will be a component of the Final Report; however, these funds will not be documented through invoices.
The *City of Rockville* procurement guidelines and procedures will be followed.

**Signage, Publications, Videos and Acknowledgment of Grant Funding**

In promotion of projects funded through the Chesapeake & Atlantic Coastal Bays Trust Fund (Trust Fund), grant recipients will acknowledge the Trust Fund on all signage, publications, videos, and other promotional materials. A State logo shall be present on materials created to promote projects funded through the Trust Fund. The appropriate logo can be obtained through the DNR Project Manager (Ari Engelberg: ari.engelbeg@maryland.gov).

Sample language for signage and other promotional materials: “This project was funded completely or in part by the Maryland’s Chesapeake & Atlantic Coastal Bays Trust Fund. For more information, visit [http://dnr.maryland.gov/ccs/Pages/funding/trust-fund.aspx](http://dnr.maryland.gov/ccs/Pages/funding/trust-fund.aspx).”

**Guidelines for Proper Invoicing**

Grantees shall submit, generally on a quarterly basis, all invoices and match (if applicable) to the Chesapeake and Coastal Service. **Time period on each invoice shall coincide with time period on backup documentation.** The format of the invoice shall mimic the format of the budget in this scope of work to the greatest extent possible. Each invoice shall include a summary sheet that breaks down expenditures by budget category. The summary sheet should include a salary and fringe breakdown to include grade/step, position, and number of hours worked multiplied by the appropriate hourly pay rate. Also, include all necessary backup documentation that will serve as verification for all expenditures listed on the summary sheet. The grant tracking number will be noted on all invoices. Examples of acceptable documentation for expenditures are listed below.

Appeals for advancement of funds, for the purpose of mobilizing implementation of the project components, will be considered on a project by project basis when need is determined by the Department. All requests must be accompanied by a detailed list of proposed expenditures as well as documented need by contractor to have funding “upfront”. If provision of upfront funds is approved, receipts for all purchases are required within 60 days of purchase. Failure to provide adequate back-up documentation for funding advancement will result in delays/reductions to future reimbursement requests. Examples of acceptable back-up documentation include but are not limited to the following:

<table>
<thead>
<tr>
<th>Category</th>
<th>Backup Documentation Needed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Salaries</td>
<td>Copies of signed time sheets with project hours noted with <strong>proof of payment.</strong></td>
</tr>
<tr>
<td>Communication (phone bills, postage)</td>
<td>Copies of phone bills. Documentation for postage should include copies of receipts.</td>
</tr>
</tbody>
</table>
Travel
Copies of validated bills, invoices and receipts that are related to your travel must be provided along with proof of payment.

Supplies/Equipment
Copies of canceled checks or check numbers, receiving reports showing that merchandise was received, cash register receipts, or FS18 signed by a Fiscal Officer.

For corporate card purchases, each cardholder shall provide the standard DNR “Activity Log,” bank memo statement and receipts for recording each transaction (purchase and/or credit) made with each corporate purchasing card which must include the following:

- transaction date,
- merchant name,
- description of item purchased (including quantity),
- account (PCA code) to be charged if different from that assigned to the card,
- and amount of purchase.

Contractual Services
Copies of bills or invoices with receipts or FS18 signed by a Fiscal Officer. Also, copies of cleared checks or copies of check numbers and/or credit card transactions.

Administration
No backup documentation is required for administrative expenses, but should be calculated at 1.5% of direct costs per invoice period.

Match
Match, if applicable, shall be labeled as match and shall be documented in the same format as direct charges. Match shall be paid out at the same general rate as the Grant share. Match information shall be provided with each invoice submission for direct charges.

Modifications to the Scope of Work

The budget, scope of work, or schedule can be modified using the following guidelines and conditions:

1. Project managers may shift up to ten percent (10%) of their total project funds from one existing line-item (e.g. supplies, travel, etc.) to another, as long as it doesn’t substantively modify the project’s goals, objectives, milestones or deliverables.
2. Prior approval from the DNR Agreement Representative is required to:
   (a) Modify the project budget by more than ten percent (10%); OR
   (b) Add a new line-item to the existing budget (e.g., add equipment or subcontractor to the budget); OR
   (c) Provide a no-cost extension; OR
   (d) Change the project’s goals, objectives, milestones or deliverables.
14-20-2766 TRF 01
GRANT NUMBER

Modification Number One

to

Department of Natural Resources
Grant Agreement

entered into this ___30th___ day of ___November___, 2021__.

between the

State of Maryland

Department of Natural Resources

and

City of Rockville

Pursuant to the terms of the Grant Agreement, dated April 23, 2020 between the State of Maryland acting through the Department of Natural Resources, Chesapeake & Coastal Service, and City of Rockville regarding provision of assistance in the Mt. Vernon SWM Pond Retrofit and Urban Tree Canopy Enhancement, the Grant Agreement is amended to incorporate the following changes. The purpose of this Modification is to provide a no-cost extension through June 30, 2022.

In the event of any conflict or incongruity between the provisions of this amendment and any of the provisions of said Grant Agreement as heretofore amended, the provisions of this amendment shall in all respects govern and control.
1. - GRANT AMOUNT:

The budget of this Grant Agreement shall not be modified. No additional funds are being provided to the Grantee.

2. - TERM:

The term of this Grant Agreement shall be from May 1, 2020 through June 30, 2022.

3. - SCOPE OF WORK:

The Scope of Work of this Grant Agreement is modified per Attachment A.

IN WITNESS WHEREOF, the parties have executed this Amendment by causing the same to be signed on the day and year first above written.

This document may be executed in multiple counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument. Signatures, including notary signatures, provided by electronic means including, by way of example and not of limitation, facsimile, Adobe, PDF, and sent by electronic mail, or via an electronic signature program, shall be deemed to be original signatures.

GRANTEES

__________________________
Sara Taylor-Ferrell

__________________________
Robert DiSpirito, City Manager
City of Rockville

__________________________
Matthew J. Fleming, Director
Chesapeake & Coastal Service

11/12/2021
3. SCOPE OF WORK

The Scope of Work is modified as noted using strikethroughs and bold-faced type:

ATTACHMENT A

Timeline

<table>
<thead>
<tr>
<th>Mt. Vernon Pond Retrofit</th>
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Reporting/Documentation Requirements

Progress reports shall be submitted through the DNR CCS Grants Gateway management portal (https://webportalapp.com/sp/home/grants_gateway) to assure that projects are on task to meet milestone target dates. Each report must document project and budget status and identify any problems or other concerns. The reports will be submitted in line with the following schedule:

<table>
<thead>
<tr>
<th>Time Frame</th>
<th>Due Date</th>
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</thead>
<tbody>
<tr>
<td>June 1, 2020-September 30, 2020</td>
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<td>July 15, 2020</td>
</tr>
<tr>
<td>July 1, 2021 – September 30, 2021</td>
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<tr>
<td>October 1, 2021-December 31, 2021</td>
<td>January 15, 2022 additional</td>
</tr>
<tr>
<td>January 1, 2022- March 31, 2022</td>
<td>April 15, 2022 additional</td>
</tr>
<tr>
<td>April 1, 2022 – June 30, 2022</td>
<td>June 30, 2022 (FINAL) additional</td>
</tr>
</tbody>
</table>

Invoices with appropriate back-up documentation shall be submitted for the same time frames noted above unless prepaid expenses are approved.

All other information remains unchanged.
Modification Number Two
to
Department of Natural Resources
Grant Agreement

entered into this _______ day of ____________, 20___.

between the
State of Maryland
Department of Natural Resources
and
City of Rockville

Pursuant to the terms of the Grant Agreement, dated April 23, 2020 between the State of Maryland acting through the Department of Natural Resources, Chesapeake & Coastal Service, and City of Rockville regarding provision of assistance in the Mt. Vernon SWM Pond Retrofit and Urban Tree Canopy Enhancement, the Grant Agreement is amended to incorporate the following changes. The purpose of this Modification is to provide a no-cost extension through December 31, 2022.

In the event of any conflict or incongruity between the provisions of this amendment and any of the provisions of said Grant Agreement as heretofore amended, the provisions of this amendment shall in all respects govern and control.
1. - GRANT AMOUNT:

The budget of this Grant Agreement shall not be modified. No additional funds are being provided to the Grantee.

2. - TERM:

The term of this Grant Agreement shall be from **May 1, 2020** through **December 31, 2022**.

3. - SCOPE OF WORK:

The Scope of Work of this Grant Agreement is modified per Attachment A.

IN WITNESS WHEREOF, the parties have executed this Amendment by causing the same to be signed on the day and year first above written.

This document may be executed in multiple counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument. Signatures, including notary signatures, provided by electronic means including, by way of example and not of limitation, facsimile, Adobe, PDF, and sent by electronic mail, or via an electronic signature program, shall be deemed to be original signatures.

GRANTEE

__________________________

WITNESS

Robert DiSpirito, City Manager
City of Rockville

STATE OF MARYLAND

DEPARTMENT OF NATURAL RESOURCES

__________________________

WITNESS

Christine Conn, Acting Director
Chesapeake & Coastal Service

Page 2 of 4
3. SCOPE OF WORK

The Scope of Work is modified as noted using strikethroughs and bold-faced type:

ATTACHMENT A

Modification # 2
Scope of Work

**Timeline**

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<tr>
<th>Mt.Vernon Pond Retrofit</th>
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</tr>
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<td>Erosion and Sediment Control</td>
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<tr>
<td>Demobilization</td>
<td>x x x x</td>
<td>x x</td>
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Page 3 of 4
Reporting/Documentation Requirements

Progress reports shall be submitted through the DNR CCS Grants Gateway management portal (https://webportalapp.com/sp/home/grants_gateway) to assure that projects are on task to meet milestone target dates. Each report must document project and budget status and identify any problems or other concerns. The reports will be submitted in line with the following schedule:

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Invoices with appropriate back-up documentation shall be submitted for the same time frames noted above unless prepaid expenses are approved.

All other information remains unchanged.
Subject
Authorization to Approve a License and Maintenance Agreement for Private Stormwater Management in the Public Rights-Of-Way Associated with Potomac Woods

Recommendation
Authorize the City Manager to execute a License and Maintenance Agreement between the Mayor and Council of Rockville and Marsol Fortune Terrace, LLC, et. al., in a form acceptable to the City Attorney and substantially similar to the draft document attached to this staff report, for private stormwater management facilities in the proposed public rights-of-way for the Potomac Woods redevelopment.

Discussion
This item authorizes the City Manager to approve a revocable License and Maintenance Agreement associated with the Potomac Woods redevelopment. The mixed-use, multi-phase project, approved by the Planning Commission at its August 11, 2021 meeting, consists of 99 townhouse and 96 multifamily units (EYA/Finmarc), 213 senior housing units (Brightview), and retains the existing 70,000 square foot fitness center with new construction of an associated parking garage (LifeTime Fitness). The developer, Marsol Fortune Terrace, LLC, et. al., (Finmarc), proposes to install one underground structural vault and 47 environmental site design (ESD) stormwater management (SWM) facilities within the proposed public rights-of-way (ROW) to mitigate the stormwater quality impacts to Cabin John Creek caused by the development.

In addition to the SWM facilities located within the public rights-of-way, Finmarc also proposes to install three underground structural vaults, 25 ESD SWM facilities and a green roof throughout the community on private parcels. The locations of the proposed stormwater management are shown on Attachment A. The draft document is provided in Attachment B, “License and Maintenance Agreement – Private Stormwater Management System”. A separate agreement (“Stormwater Management Easement and Stormwater Management Inspection and Maintenance Agreement”) and request for Mayor and Council consent will be made for private stormwater management facilities located on private property.

In accordance with the project’s Site Plan and SWM Concept, private SWM facilities are proposed in the public ROW because other on-site SWM measures were precluded within this
urban setting due to lack of available land. The numerous micro-scale ESD facilities spread throughout the development will help to mitigate the impacts to receiving streams by promoting groundwater “recharge,” filtering the stormwater, and “uptake” of the nutrients by the vegetation.

Finmarc and its successors and assigns, which will ultimately be the homeowner’s association, will maintain the ESD SWM facilities because they provide SWM for the community. A significant component of the ESD maintenance is maintaining the landscaping for both function and aesthetics. Permission to locate the ESD SWM facilities in the public rights-of-way and the terms for their maintenance require a license and maintenance agreement between Finmarc and the City. The Planning Commission approval of this development plan is conditioned on recordation of this License and Maintenance Agreement in the Land Records of Montgomery County.

**Mayor and Council History**

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

**Next Steps**

The City Manager will execute, on behalf of the Mayor and Council of Rockville, a document entitled “License and Maintenance Agreement – Private Stormwater Management System” in a form acceptable to the City Attorney and substantially similar to the draft document attached to this staff report. The executed Agreement will be recorded in the Land Records of Montgomery County prior to the issuance of associated Public Works permits.

**Attachments**

Attachment A: Locations of Proposed Stormwater Management
Attachment B: License and Maintenance Agreement – Private Stormwater Management System

**Attachments**

Attachment 7.E.a: Attachment A_Proposed Stormwater Management (PDF)
Attachment 7.E.b: Attachment B_License and Maintenance Agreement - Private SWM System(PDF)
Attachment 7.E.a: Attachment A, Proposed Stormwater Management (4186: Authorization to Approve a...
LICENSE AND MAINTENANCE AGREEMENT
Private Stormwater Management System

THIS LICENSE AND MAINTENANCE AGREEMENT (the “Agreement”) is made this ______ day of __________________, 2022, by and among the MAYOR AND COUNCIL OF ROCKVILLE, a Maryland municipal corporation (hereinafter referred to as the “City”) and MARSOL FORTUNE TERRACE LLC, a Maryland limited liability company (“Marsol”), DAFINK FORTUNE TERRACE LLC, a Maryland limited liability company (“Dafink”), SUFINK FORTUNE TERRACE LLC, a Maryland limited liability company (“Sufink”), SOLFAM FORTUNE TERRACE LLC, a Maryland limited liability company (“Solfam”), FORTUNE TERRACE INVESTMENT LLC, a Maryland limited liability company (“FTI”), and TASH DEVELOPMENT, LLC, a Delaware limited liability company (“Tash”) (Marsol, Dafink, Sufink, Solfam, FTI and Tash are herein individually each and collectively referred to as “Finmarc” or “Owner”), their successors and assigns.

RECITALS:

R1. Finmarc is the owner of those certain parcels together with all improvements thereon, legally and particularly described as ______________________, as established in that certain plat (the “Plat”) recorded as Plat No. ___________ among the land records of Montgomery County, Maryland (the “Finmarc Property”), a copy of which plat is attached hereto as Exhibit A.

R2. The Finmarc Property is part of a development known as the “Potomac Woods” project (“Project”) in the City of Rockville pursuant to the terms and provisions of Site Plan Application #STP2020-00399, dated September 14, 2021 (the “Site Plan”).

R3. The Site Plan for the Project and other development permits and approvals, as each of them may be amended or modified (collectively, the “Site Plan Approval”) has been issued for the development of the Subject Property and the Project.

R4. The Site Plan Approval includes a condition that the streets to be constructed on the Finmarc Property must be dedicated as public rights-of-way. The Plat includes the dedication of the rights-of-way for ______________ Streets to satisfy that condition. The ______________ Streets rights-of-way are referred to in this Agreement as the “City Property.”

R5. Certain stormwater management facilities are planned to be located within the City Property to serve the Project as approved by the Site Plan Approval (“Private Stormwater Management System”). The Private Stormwater Management System consists of the improvements listed in Exhibit B, attached hereto. The improvements located within the City Property that are not part of the Private Stormwater Management System are also listed on Exhibit B.
R6. The City requires a license and maintenance agreement to be entered into between the City and the Owner governing the rights and obligations to construct, inspect, operate, maintain, repair, and replace the Private Stormwater Management System for the benefit of the Finmarc Property for the life of the development on the Plat as part of the Site Plan Approval within the rights-of-way of public streets under the terms set forth in this Agreement. The City further requires stormwater management easements and maintenance agreements providing access and other rights in the City to private stormwater facilities on the Finmarc Property immediately adjoining the right-of-way and connected to the Private Stormwater Management System under terms set forth in those certain Stormwater Management Easement and Stormwater Management Inspection and Maintenance Agreements of same date herewith between the City and Finmarc.

R7. In reliance on this Agreement to permit the Private Stormwater Management System to be located within the City Property to service the Finmarc Property for the life of the development on the Plat as part of the Site Plan Approval, Owner is proceeding to implement the Site Plan Approval, and its lenders and partners are proceeding to lend and invest money to construct the Project.

NOW, THEREFORE, for the purpose of complying with the Site Plan Approval, in compliance with the requirements of Chapter 19, in consideration of the issuance by the City of a Stormwater Management Permit and the foregoing recitals and attached exhibits, each of which are incorporated in and made a substantive part of this Agreement, the sum of One Dollar ($1.00), and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City hereby grants and declares, and the Owner and City hereby covenant and agree, as follows:

1. Private Stormwater Management System License. Subject to the reservations and conditions set forth in Paragraph 6 below, the City hereby grants, establishes, and declares to Owner, its successors and assigns, a revocable license in, through, over, and across the area shown as “Stormwater Management License Area” on the plan attached as Exhibit C (“Stormwater Management License Area”), for the purpose of construction, operation, inspection, housekeeping, maintenance, repair, restoration, and replacement of Private Stormwater Management System to serve the Project on the Finmarc Property and proposed Rights-of-Way, together with a right of entry for all proper purposes associated with such construction, operation, inspection, housekeeping, maintenance, repair and replacement and together with all the rights, privileges, appurtenance, and advantages thereto belonging or appertaining to their proper use and benefit by Owner, its successors and assigns.

The Owner, without the prior written consent of the City, will neither perform nor permit upon or within the Stormwater Management License Area: (i) removal or alteration of the Private Stormwater Management System, (ii) the erection or installation of any structure, building or other improvements, (iii) the excavation or filling of land, or (iv) the installation of trees, shrubs, or other landscaping, unless shown on the issued Stormwater Management Permit or other City issued permit. The Owner will not block access in the right-of-way without the prior written consent of the City by permit or otherwise.

2. Obligation for Construction of Private Stormwater Management System. In the event the Site Plan Approval is implemented on the Finmarc Property, and all necessary permits
and bonds have been obtained and posted, Owner shall be responsible to construct the Private Stormwater Management System in accordance with City permits within the Stormwater Management License Area and shall further provide for annual inspection and necessary maintenance of the Private Stormwater Management System to ensure that it is and remains in proper working condition in accordance with the approved design standards of applicable laws, rules, and regulations. City issuance of the Stormwater Management Permit for the Private Stormwater Management System shall constitute necessary consent for the construction of the Private Stormwater Management System within the Stormwater Management License Area. All costs associated with such construction shall be borne solely by Owner. Owner and/or its contractors shall be responsible for all warranty repair and replacement work arising out of the initial construction.

3. Maintenance Agreement After Construction. Upon satisfactory completion of construction of the Private Stormwater Management System as determined by final inspection and release of any bonds, Owner shall be responsible for inspecting and maintaining the Private Stormwater Management System in a good state of repair in accordance with Chapter 19, City Code and in a safe and orderly condition. The Owner shall not be responsible for the inspection or maintenance of the improvements excluded from the Private Stormwater Maintenance System as listed in Exhibit B. The Owner’s responsibilities for maintenance and inspection of the Private Stormwater Management System are limited to the items set forth in Exhibit C, attached hereto. The City will be responsible for the maintenance and inspection items set forth in Exhibit D, attached hereto. Owner’s housekeeping, maintenance, inspection, operation, repair and replacement responsibilities as set forth in Exhibit C are limited to only the Private Stormwater Management System under this Agreement. If the City damages the Private Stormwater Management System in the course of maintaining the City’s public infrastructure within the footprint of the Private Stormwater Management System, then Owner shall be responsible for repairing the damage to the Private Stormwater Management System, unless such damage is the result of the gross negligence or intentional misconduct of the City or its agents, employees or contractors.

Owner shall notify the City in writing, c/o the Director of Public Works, seventy-two (72) hours prior to performing any inspection, maintenance, repair, or replacement of any improvements in the Stormwater Management License Area, except for regularly occurring landscaping and maintenance of the above-grade portions of the Private Stormwater Management System. Appropriate Department of Public Works permits will be required for such work. Provided, however, that Owner shall not be required to notify the City or obtain a permit in advance in cases where emergency repairs to protect the public safety are required. Owner shall be required, however, to obtain a permit for the emergency repairs, as required by the Department of Public Works, after such emergency repairs are made. Failure of Owner to properly perform its responsibilities to inspect, maintain, repair and/or replace the Private Stormwater Management System as required by the City Code and as set forth in Exhibit C may result in the City seeking any remedy afforded by State law and City Code, as well as issuance of a City citation and fine. The obligations and remedies set forth in this paragraph are in addition to other obligations and remedies contained in this Agreement. In no event, however, shall Owner be liable for any indirect, consequential or punitive damages for any breach, default or other matter related to this Agreement or the Private Stormwater Management System.
4. **Clean-Up and Restoration.** Upon the completion of any work by Owner and/or its contractors in the Stormwater Management License Area, the entity performing the work shall remove any construction debris and shall restore the City Property to a condition as close to its condition prior to performance of the work as is reasonably possible and as approved by the City. In addition, if any damage is caused by Owner, its contractors or agents, to the City Property at any time during the term of this Agreement, Owner shall immediately notify the City of the damage, and shall repair such damage according to a schedule as determined by the Department of Public Works. Should Owner not perform the work within the time determined by the Director of the Department of Public Works, the City may, in its sole discretion, perform the necessary work and shall bill Owner for the reasonable cost of said work. Owner must reimburse the City for said costs within sixty (60) days of the date of said bill delivered to Owner with supporting documentation, or in accord with any alternative payment schedule that may be agreed upon in writing by the City and Owner. Subject to the provisions of Paragraph 7 below, in the event that Owner fails to timely reimburse the City for said costs, such costs shall constitute a lien, collectible in the same manner as City property taxes, or in such other manner permitted by law. Such reimbursement obligations shall survive termination of this Agreement.

5. **City Rights.** The City may, but is not obligated to, inspect the Private Stormwater Management System. The City shall have the right, in its sole discretion but without obligation, to provide emergency repairs to the Private Stormwater Management System when public safety is at risk. Notice of the City’s performance of emergency repairs shall be provided as soon as reasonably practicable. Owner shall reimburse the City for the reasonable costs of emergency repairs performed by the City within sixty (60) days of delivery of an invoice with supporting documentation for such repair, or in accord with any alternative payment schedule that may be agreed upon in writing by the City and Owner.

If, after reasonable notice by the City, the Owner shall fail to properly perform its responsibilities as set forth in Exhibit C to construct, inspect, maintain, repair, replace, or operate the Private Stormwater Management System in accordance with the approved design standards, with all applicable laws, rules and regulations, the City may, but is not obligated to, access the Private Stormwater Management System and perform all necessary inspection, construction, repair, replacement, maintenance, and/or operating work, and may assess the Owner for the cost of the work. Notice of the failure to adequately inspect, maintain, operate, repair, replace and/or restore the Private Stormwater Management System to City standards after initial construction shall be provided to Owner with at least thirty (30) days or such reasonable period of time to obtain a permit and commence a cure. If the Private Stormwater Management System is not adequately inspected, maintained, operated, repaired or restored to City standards within such stated cure period, then the City shall deliver a notice of City’s intention to perform work after ten (10) days at the Owner’s expense. Owner shall reimburse the City for the reasonable costs of work performed by the City within sixty (60) days of delivery of an invoice with supporting documentation for such work or in accord with any alternative payment schedule that may be agreed upon in writing by the City and Owner. Subject to the provisions of Paragraph 7 below, if Owner fails to timely reimburse the City, the costs shall be a lien against the Finmarc Property and may be placed on the property tax bill and collected in the same manner as property taxes by the City or in any other manner permitted by law. Such reimbursement obligations shall survive the termination of this Agreement.
The City shall have the right to improve, inspect, maintain, repair, or replace the public streets rights-of-way, including within the Stormwater Management License Area, and it may do so at any time with no notice to Owner except where such City activities will, or have the potential to, impact, interfere, obstruct, and/or damage the Private Stormwater Management System.

6. **Ownership and Insurable Interest.** Notwithstanding who constructed and installed the Private Stormwater Management System, upon its completion, the ownership of, the insurable interest in, and responsibility to replace, the Private Stormwater Management System shall be held by the Owner, and its successors and assigns.

7. **Binding Effect.** All provisions of this Agreement, including the benefits and burdens, shall touch, concern, and run with the land and be binding upon and inure to the benefit of the Owner and the City, and their respective successors and assigns. Notwithstanding anything to the contrary in this Paragraph 7 or elsewhere in this Agreement, at such time as the homeowners association for the Finmarc Property (the “HOA”) is legally created, the HOA shall be solely responsible for (i) maintaining, inspecting, operating, repairing and replacing the Private Stormwater Management System, (ii) reimbursing the City for any costs incurred pursuant to Sections 4 and 5 of this Agreement, as applicable, and (iii) performing all other obligations and liabilities of the Owner under this Agreement. The obligations set forth in this Agreement shall be included in the governing documents of the HOA, and only the real property owned by the HOA and/or Finmarc (or any successor developer of the Finmarc Property) shall be subject to a lien for failure to pay any costs which may be due and payable by the Owner under this Agreement from and after the HOA is established. In no event shall any owners of the individual lots and dwelling units thereon be responsible for the performance of the obligations of the Owner under this Agreement, nor shall any of the costs described under Sections 4 and 5 be assessed against, or become a lien upon, such homeowner's individual or dwelling unit. Prior to the legal creation of the HOA, the Owner shall remain liable for all obligations under this Agreement. Owner shall give the City prompt written notice at such time as the HOA is legally created, with contact information for the HOA.

8. **Limitations with Respect to Finmarc.** The obligations and liabilities of Finmarc shall apply with respect to the period during which Finmarc owns an interest in any part of the Finmarc Property which utilizes the Stormwater Management License Area. When Finmarc ceases to own an interest in the Finmarc Property, or with respect to any part thereof, the obligations and liabilities thereafter accruing shall be the obligations of the successors in ownership or interest of Finmarc as to such whole or part (excluding third party homebuyers per Paragraph 7 above).

9. **Limitations with Respect to the City.** The obligations and liabilities of the City shall apply with respect to the period during which the City owns an interest in the City Property. When the City ceases to own an interest in the City Property, the obligations and liabilities thereafter accruing shall be the obligations of the successors in ownership or interest of the City.

10. **Revocation.** The City acknowledges that the Private Stormwater Management System: (i) is an integral part of the Project, (ii) satisfies certain required State and City stormwater management regulations and permits; (iii) that in reliance on this Agreement, Owner is proceeding to implement the Site Plan Permits, its lenders and partners are proceeding to lend and invest
money to construct the Property; (iv) that the cost of initial construction of the public streets and 
the Private Stormwater Management System is significant; and (v) that the Project is a benefit to 
the City and the general public; and therefore, although this License is a revocable license and not 
an easement because the Private Stormwater Management System will lie within a dedicated 
public right-of-way, it is the intention of the City that this be a long term license to service the 
Finmarc Property so long as the Project improvements thereon operate in accordance with the Site 
Plan Approval, and shall not be revoked except as expressly provided in this paragraph.

The City may revoke this Agreement and remove, abandon, or cause to cease functioning, 
the Private Stormwater Management System improvements located in the Stormwater 
Management License Area only under the following circumstances: (1) if the City determines that 
the Private Stormwater Management System is, or is likely to become, an immediate safety hazard 
due to Owner’s material breach of this Agreement, and/or (2) Owner repeatedly breaches in a 
material way and fails to cure such breaches within a reasonable cure period (such period to be 
determined by the City in its sole discretion as prescribed in its written notice of breach) or other 
additional period agreed to by the City; and then only after one hundred twenty (120) days’ notice 
to Owner, and if appealed, exhaustion of any public and court appeal process. During such one 
hundred twenty (120) days’ notice to Owner, the City shall have the right, in its sole discretion, to 
inspect, operate, maintain, repair, restore, and/or replace the Private Stormwater Management 
System and shall bill the Owner for the reasonable costs incurred. In the event that Owner fails to 
timely reimburse the City for such costs, such costs shall constitute a lien, collectible in the same 
manner as City property taxes, or in such other manner permitted by law. Such reimbursement 
obligations shall survive termination of this Agreement.

In the event the City revokes this Agreement and/or removes the Private Stormwater 
Management System as permitted under this Agreement, Owner shall reimburse the City for all 
reasonable costs associated with the removal and area restoration within sixty (60) days after 
receipt of an invoice with supporting documentation for such costs. In the event that Owner fails 
to timely reimburse the City for such costs, such costs shall constitute a lien, collectible in the same 
manner as City property taxes, or in such other manner permitted by law. Such reimbursement 
obligations shall survive termination of this Agreement.

Monetary defaults are expressly not material breaches giving rise to the remedy of 
revocation as the City has enforcement rights for collection of monies through the judicial system, 
liens and tax collection.

11. **Indemnification.** Owner shall indemnify and save harmless the City and all of its 
oficers, contractors, employees, agents, representatives, servants, and assigns from any and all 
liability, loss, damages, claims, causes of action, judgments, and expenses, including reasonable 
attorney’s fees, in connection with Owner’s performance and the performance of its contractors, 
employees, agents, officers, and servants, of its responsibilities, or failure to perform its 
responsibilities, under this Agreement, except for any liability or claims for damage caused by the 
gross negligence or willful misconduct of the City. In no event, however, shall Owner be liable 
for any indirect, consequential or punitive damages. Any liability on the part of the City shall be 
subject to the limitations and immunities provided by law, including without limitation, the Local 
Government Tort Claims Act, Section 5-303(a) of the Courts and Judicial Proceedings Article of 
the Maryland Code.
12. **Insurance.** Prior to the City’s release of all bonds for the construction of the Private Stormwater Management System, Owner shall provide the City with evidence of insurance coverage for the Stormwater Management License Area naming the City as an insured party so as to protect the City against any and all claims for personal and property injuries, including death, arising solely from Owner’s use of the Stormwater Management License Area for the Private Stormwater Management System, in the amount of One Million Dollars ($1,000,000.00) per occurrence. At the request of the City, but at least annually, Owner shall provide the City with a certificate and endorsement evidencing that the insurance required herein is in effect.

13. **Notice of Transfer.** The Owner shall notify the City of the legal and/or equitable transfer of any of the Owner’s responsibilities for the Private Stormwater Management System within thirty (30) days of such transfer, and shall supply the City with a copy of any executed documents of said transfer, including contact information for a representative of the transferee. The Owner shall provide all subsequent owners, successors, and any other party responsible for the maintenance of the Private Stormwater Management System with a copy of this License and Maintenance Agreement with accurate as-built construction plans detailing the Private Stormwater Management System and its appurtenances.

14. **Remedies.** The remedies set forth herein are not exclusive. In addition to any other remedy available to the Owner and/or the City for breach of this License and Maintenance Agreement, Owner and/or the City shall have the right to bring an action for legal or equitable relief, and/or municipal citations necessary to enforce the provisions of this agreement. In no event, however, shall Owner be liable for any indirect, consequential or punitive damages.

15. **Other Improvements.** Nothing in this Agreement shall be deemed to authorize Owner to install any additional improvements in the Stormwater Management License Area without the approval of, and appropriate permits from, the City. The City and Owner acknowledge that notwithstanding the foregoing, a condition of the Site Plan Approval and Permits is that Owner is responsible for the initial construction of ________________ Street and nothing herein modifies or limits the rights and obligations under the Site Plan Approval and Permits.

16. **Notices.** Any notice required to be given by this Agreement shall be in writing and shall be sent by hand delivery (with signed receipt), commercial overnight courier (which requires a signed receipt), or certified mail – return receipt requested to the following:

If to the City:
Director of Public Works
Rockville City Hall
111 Maryland Avenue
Rockville, Maryland 20850

With a copy to:
City Attorney
Rockville City Hall
111 Maryland Avenue
Rockville, Maryland 20850

G2174/000003:4859-2328-4233.v3
If to the Owner:

David B. Fink
Marc F. Solomon
Finmarc Management, Inc.
7200 Wisconsin Avenue, Suite 1100
Bethesda, MD  20814

With a copy to:

Jason Sereno
EYA
4800 Hampden Lane, Suite 300
Bethesda, Maryland  20814

And a copy to:

Scott C. Wallace, Esq.
Miles & Stockbridge P.C.
11 N. Washington Street, Suite 700
Rockville, MD  20850

Either party may change its address by written notice to the other party in the manner described above. If Owner transfers the Finmarc Property to a successor developer, such new Owner shall promptly notify the City of the Owner’s new address. In addition, at such time as the Owner transfers its obligations under this Agreement to the HOA, the HOA shall promptly notify the City of its address for notice purposes.

17. **No Waiver.** No restriction, condition, obligation, or provision of this License and Maintenance Agreement shall be deemed to have been abrogated or waived by reason of any failure or failures to enforce the same.

18. **Modifications.** This License and Maintenance Agreement shall not be modified or amended except by an instrument duly executed by Owner and the City, or their respective successors, which instrument shall be recorded among the Land Records.

19. **Severability.** The terms and provisions of this Agreement are severable and in the event that any term or provision is invalid or unenforceable for any reason, the remaining terms and provisions hereof shall remain in full force and effect.

20. **Effective Date and Applicable Law.** This License and Maintenance Agreement shall be construed and enforced in accordance with the laws of the State of Maryland, and shall be effective upon recordation among the Land Records.

21. **Stormwater Management Responsibilities.** This License and Maintenance Agreement does not relieve the Owner of responsibility for providing stormwater drainage in
addition to the Private Stormwater Management System as may be deemed necessary by the City or other appropriate agency.

22. **Authorization and Consents.** Owner hereby certifies that there are no suits, liens, leases, mortgages or trust affecting the Finmarc Property, other than those for which the holder in interest has signed this document or otherwise consented in writing, to this License and Maintenance Agreement. Owner further certifies that all parties with an interest in the Finmarc Property necessary to give full effect to this License and Maintenance Agreement have signed, or otherwise consented in writing to, this document.

23. **Recordation.** Owner agrees to record this License and Maintenance Agreement in the land records of Montgomery County, Maryland, at the Owner’s expense within ten (10) days of the date of this Agreement and shall provide the City with documentary proof of recordation within five (5) days of said recordation.

24. **Assignment.** Owner shall not assign this Agreement or its rights hereunder, without the prior written consent of the City, except that this Agreement may be assigned by Owner to any subsequent owner of the Finmarc Property or to any property owners association with respect to the Finmarc Property without City’s consent.

[SIGNATURE PAGES FOLLOW]
IN WITNESS WHEREOF, this License and Maintenance Agreement has been executed and sealed by the parties on the day and year indicated above.

WITNESS

MAYOR AND COUNCIL OF ROCKVILLE

________________________  By: __________________________

_________________, City Manager

Reviewed for legal sufficiency by:

____________________________
Nicholas D. Dumais
Senior Assistant City Attorney

STATE OF MARYLAND

COUNTY OF MONTGOMERY

I HEREBY CERTIFY that on this _____ day of _______________, 2022, before me, a Notary Public in and for the jurisdiction aforesaid, personally appeared ____________________, known to me (or satisfactorily proven) to be the City Manager of the MAYOR AND COUNCIL OF ROCKVILLE, a municipal corporation in the State of Maryland, in such capacity and being authorized so to do, executed the foregoing License and Maintenance Agreement for the purposes therein contained.

IN WITNESS WHEREOF, I have set my hand and official seal.

____________________________
Notary Public

My Commission Expires:_______________

[NOTARIAL SEAL]
IN WITNESS WHEREOF, this License and Maintenance Agreement has been executed and sealed by the parties on the day and year indicated above.

WITNESS:  

OWNER:  

MARSOL FORTUNE TERRACE LLC

By:    
Name:    
Title:    

DAFINK FORTUNE TERRACE LLC

By:    
Name:    
Title:    

SUFINK FORTUNE TERRACE LLC

By:    
Name:    
Title:    

SOLFAM FORTUNE TERRACE LLC

By:    
Name:    
Title:    

FORTUNE TERRACE INVESTMENT LLC

By:    
Name:    
Title:    

TASH DEVELOPMENT, LLC

By:    
Name:    
Title:    

G2174/000003/4859-2328-4233.v3
STATE OF: __________________________
COUNTY OF: __________________________

I HEREBY CERTIFY that on this _____ day of ____________, 2022, before the undersigned, a Notary Public in and for the State and County aforesaid, personally appeared Marc F. Solomon, known to me (or satisfactorily proven) to be the Manager of Marsol Fortune Terrace LLC, a Maryland limited liability company, being authorized so to do, executed the foregoing instrument on behalf of the aforesaid company for the purposes therein.

IN TESTIMONY WHEREOF, I have caused the seal of the court to be affixed, or have affixed my official seal, this _____ day of __________________, 2022.

________________________________________
Notary Public

My Commission Expires: ________________

[NOTARIAL SEAL]

* * *

STATE OF: __________________________
COUNTY OF: __________________________

I HEREBY CERTIFY that on this _____ day of ____________, 2022, before the undersigned, a Notary Public in and for the State and County aforesaid, personally appeared David B. Fink, known to me (or satisfactorily proven) to be the Manager of Dafink Fortune Terrace LLC, a Maryland limited liability company, being authorized so to do, executed the foregoing instrument on behalf of the aforesaid company for the purposes therein.

IN TESTIMONY WHEREOF, I have caused the seal of the court to be affixed, or have affixed my official seal, this _____ day of __________________, 2022.

________________________________________
Notary Public

My Commission Expires: ________________

[NOTARIAL SEAL]

* * *
STATE OF: ____________________  *

COUNTY OF: ____________________  *

I HEREBY CERTIFY that on this ____ day of _____________, 2022, before the undersigned, a Notary Public in and for the State and County aforesaid, personally appeared Susan H. Fink, known to me (or satisfactorily proven) to be the Manager of Sufink Fortune Terrace LLC, a Maryland limited liability company, being authorized so to do, executed the foregoing instrument on behalf of the aforesaid company for the purposes therein.

IN TESTIMONY WHEREOF, I have caused the seal of the court to be affixed, or have affixed my official seal, this ____ day of ________________, 2022.

__________________________  Notary Public
My Commission Expires: ________________

[NOTARIAL SEAL]

* * *

STATE OF: ____________________  *

COUNTY OF: ____________________  *

I HEREBY CERTIFY that on this ____ day of ________________, 2022, before the undersigned, a Notary Public in and for the State and County aforesaid, personally appeared Marc F. Solomon, known to me (or satisfactorily proven) to be the Manager of Solfam Fortune Terrace LLC, a Maryland limited liability company, being authorized so to do, executed the foregoing instrument on behalf of the aforesaid company for the purposes therein.

IN TESTIMONY WHEREOF, I have caused the seal of the court to be affixed, or have affixed my official seal, this ____ day of ________________, 2022.

__________________________  Notary Public
My Commission Expires: ________________

[NOTARIAL SEAL]

* * *
STATE OF: ____________________  *
COUNTY OF: ____________________  *

I HEREBY CERTIFY that on this _____ day of _______________, 2022, before the undersigned, a Notary Public in and for the State and County aforesaid, personally appeared ____________________________________________, known to me (or satisfactorily proven) to be the ______________________ of Fortune Terrace Investment LLC, a Maryland limited liability company, being authorized so to do, executed the foregoing instrument on behalf of the aforesaid company for the purposes therein.

IN TESTIMONY WHEREOF, I have caused the seal of the court to be affixed, or have affixed my official seal, this _____ day of __________________, 2022.

Notary Public

My Commission Expires: ________________

[NOTARIAL SEAL]

STATE OF: ____________________  *
COUNTY OF: ____________________  *

I HEREBY CERTIFY that on this _____ day of _______________, 2022, before the undersigned, a Notary Public in and for the State and County aforesaid, personally appeared ____________________________________________, known to me (or satisfactorily proven) to be the ______________________ of Tash Development, LLC, a Delaware limited liability company, being authorized so to do, executed the foregoing instrument on behalf of the aforesaid company for the purposes therein.

IN TESTIMONY WHEREOF, I have caused the seal of the court to be affixed, or have affixed my official seal, this _____ day of __________________, 2022.

Notary Public

My Commission Expires: ________________

[NOTARIAL SEAL]
EXHIBIT “B”

PRIVATE STORMWATER MANAGEMENT SYSTEM

### Improvements and Facilities Included in the Private Stormwater Management System

<table>
<thead>
<tr>
<th>Improvement</th>
<th>Underground Bayfilter Stormwater Vault</th>
<th>Micro Bio (Box)</th>
<th>Micro Bio (Graded)</th>
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<tbody>
<tr>
<td>Concrete Vault</td>
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<tr>
<td>Bayfilter Cartridge</td>
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<td>Solid Lid Access</td>
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<tr>
<td>PVC Outlet Manifold</td>
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<tr>
<td>Inlet Pipe W/ Flap Valve</td>
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<tr>
<td>Dry Util Sleeve</td>
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<tr>
<td>Vertical Drain Down</td>
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<tr>
<td>PVC Outlet Manifold</td>
<td>Overflow Structure/ Cleanout</td>
<td>Overflow Structure/ Cleanout</td>
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<tr>
<td>Dry Util Sleeve</td>
<td>Fall Protection (if necessary)</td>
<td>Filter Fabric</td>
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<tr>
<td>Vertical Drain Down</td>
<td>Storm Drain Pipe to Wall</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Improvement</th>
<th>Conveyance Inlets (Precast or Nyloplast)</th>
<th>Conveyance Inlets (Precast or Nyloplast)</th>
<th>Conveyance Inlets (Precast or Nyloplast)</th>
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<tbody>
<tr>
<td>HP Pipe</td>
<td>HP Pipe</td>
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<td>HP Pipe Endsections</td>
<td>HP Pipe Endsections</td>
<td>HP Pipe Endsections</td>
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<tr>
<td>Flowsplit Inlet</td>
<td>Riprap</td>
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</tbody>
</table>

### Improvements and Facilities Excluded from the Private Stormwater Management System

<table>
<thead>
<tr>
<th>Improvement</th>
<th>Underground SWM Vault</th>
<th>Micro Bio (Box)</th>
<th>Storm Drain Pipe from Overflow Structure to Wall</th>
<th>Storm Drain Pipe from Wall Penetration to Street</th>
<th>Other Utility Crossings</th>
<th>Adjoining Street Trees</th>
</tr>
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<tbody>
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</tbody>
</table>
EXHIBIT “C”

Owner’s Maintenance Responsibilities

1. Mow turf grass in facility area.
2. Remove and properly dispose of trash and debris.
3. Replace any dead or diseased plants. If specific plants are not surviving, more appropriate species should be used. Any substitution must be from the City of Rockville “Recommended Plant List for Bioretention Facilities.” Watering may be required during prolonged dry periods. Irrigation lines are not permitted within the facility.
4. Prune woody plant material as needed.
5. Split and replant perennial plant material as applicable.
6. Rake mulched areas to maintain a loose, friable layer. Supplement mulch quarterly, 3” total depth of mulch, which includes decomposed material. Rake new mulch into decomposed material to maintain a loose, friable layer.
7. Inspect inflow and outflow points (biweekly, March - November; or monthly, December - February). Remove and properly dispose of debris, silts, sediment and trash from inflow points, within facility or obstructing outflow, accumulation should not exceed one inch. Stabilize any disturbed areas with seed and biodegradable erosion control matting. For small bare patches, seeding in the spring or fall is preferred.
8. Review contributing drainage area for bare areas or erosion. Repair bare areas or erosion as needed. Stabilize any significantly disturbed areas with seed and biodegradable erosion control matting.
9. Perform cursory wet weather dewatering inspection after each significant rain event. Remove blockages as needed and ensure no standing water after a 48 hour period.
10. Repair or restore Fall Protection (safety rail, fence, etc.).
EXHIBIT “D”

City of Rockville’s Maintenance Responsibilities

1. Determine if Aesthetic Maintenance has been being performed as required. Aesthetic maintenance shall include mowing, weeding, mulching, raking, removal of debris, replacement of landscaping, restoration and repair of existing features including grass, lawn, walkways, trails, fencing, signs, walls and repair due to erosion. Notify the Owner if the Aesthetic Maintenance has been unacceptable or if there are adjustments that are required to meet the Owner’s maintenance obligations.

2. Determine if Functional Maintenance actions are required. Functional maintenance shall include mowing of grass once a year, removal of debris or sediment build up that result in clogging or loss of function, life cycle maintenance including replacement of pipes, structures, clogged filters, damaged or inoperable valves, stairs, trash racks and other appurtenances, and repair to the structural integrity of earthen embankments, outfalls and access roads. Functional Maintenance will be based on the results of the City's Inspection, perform Functional Maintenance as needed to insure proper function of the facility. Functional Maintenance will include any actions needed to repair or restore the operational function of the facility.

3. Remediation or replacement of pipes and structures directly related to the facilities, if applicable. Items: Overflow Structure (Precast or Nyloplast), Underdrain, Cleanouts, Filter Fabric, Outfall Pipe (RCP or HDPE).


5. Remediation or replacement of other appurtenances, if applicable. Items: Conveyance Inlets (Precast or Nyloplast), Pipe, Pipe End Sections, Riprap.

6. Remediation to ensure structural integrity, if applicable. Items: Concrete Walls (Precast or Cast-In-place), Fall Protection (safety rail, fence, etc.).

7. Replace any plants removed due to remediation or replacement of facility items.
ATTORNEY’S CERTIFICATION

I HEREBY CERTIFY that the within instrument has been prepared by or under the supervision of the undersigned attorney.

Date: ____________________________  ____________________________

INFORMATION FOR RECORDING:

Record Legal Description: ____________________________

Parties:

________________________________________

________________________________________

________________________________________

Parcel Identification No.: ____________________________

________________________________________

AFTER RECORDATION, PLEASE MAIL TO:

Scott C. Wallace, Esquire
Miles & Stockbridge P.C.
11 N. Washington Street, Suite 700
Rockville, MD  20850
Subject
Authorization to Approve a Grant of Public Improvements Easement Associated with Potomac Woods

Recommendation
Authorize the City Manager to execute a Public Improvement Easement between the Mayor and Council of Rockville and Marsol Fortune Terrace, LLC, et. al., in a form acceptable to the City Attorney and substantially similar to the draft document attached to this staff report.

Discussion
This item authorizes the City Manager to approve a Public Improvement Easement associated with the Potomac Woods redevelopment. The mixed-use, multi-phase project, approved by the Planning Commission at its August 11, 2021 meeting, consists of 99 townhouse and 96 multifamily units (EYA/Finmarc), 213 senior housing units (Brightview), and retains the existing 70,000 square foot fitness center with new construction of an associated parking garage (LifeTime Fitness). In accordance with the project’s Site Plan, the developer, Marsol Fortune Terrace, LLC, et. al., (Finmarc), is required to grant a minimum 1-foot Public Improvement Easement (PIE) adjacent to Fortune Terrace public right-of-way.

The purpose of the Easement is to provide the area necessary for the City to access, maintain, repair, replace, inspect and use public sidewalks that abut and encroach private property. The additional one foot that is typically provided behind the sidewalk allows for excavation and form construction. The location of the easement is shown on Attachment A. The draft document is provided in Attachment B, “Grant of Public Improvements Easement”.

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

The City Manager will execute, on behalf of the Mayor and Council of Rockville, a document entitled “Public Improvement Easement” in a form acceptable to the City Attorney and substantially similar to the draft document attached to this staff report. The executed Easement will be recorded in the Land Records of Montgomery County prior to the issuance of associated Public Works permits.

**Attachments**

Attachment A: Location of Public Improvements Easement  
Attachment B: Grant of Public Improvements Easement

**Attachments**

Attachment 7.F.a: Attachment A_PIE  (PDF)  
Attachment 7.F.b: Attachment B_Grant of Public Improvements Easement  (PDF)

Rob DiSpirito, City Manager  
7/5/2022
 variable width (min. 1-foot) Public Improvement Easement

6-foot dedication for Fortune Terrace right-of-way

attachment A PIE (4184: Authorization to Approve a Grant of Public Improvements)

Public Improvement Easement

Packet Pg. 144
GRANT OF PUBLIC IMPROVEMENTS EASEMENT

THIS GRANT OF PUBLIC IMPROVEMENTS EASEMENT is made this _____ day of ____________, 2022, by and among MARSOL FORTUNE TERRACE LLC, a Maryland limited liability company (“Marsol”), DAFINK FORTUNE TERRACE LLC, a Maryland limited liability company (“Dafink”), SUFINK FORTUNE TERRACE LLC, a Maryland limited liability company (“Sufink”), SOLFAM FORTUNE TERRACE LLC, a Maryland limited liability company (“Solfam”), FORTUNE TERRACE INVESTMENT LLC, a Maryland limited liability company (“FTI”), and TASH DEVELOPMENT, LLC, a Delaware limited liability company (“Tash”) (Marsol, Dafink, Sufink, Solfam, FTI and Tash are herein individually each and collectively referred to as “Grantor”), and THE MAYOR AND COUNCIL OF ROCKVILLE, MARYLAND, a municipal corporation of the State of Maryland (the “City”).

WITNESSETH:

WHEREAS, the Grantor is the owner of certain real property located within Rockville, Maryland more particularly described on Exhibit A attached hereto and made a part hereof (the “Subject Property”); and

WHEREAS, the Grantor desires to develop the Subject Property in accordance with the terms and conditions of Site Plan No. STP2020-00399 dated September 14, 2021 (the “Approvals”); and

WHEREAS, Grantor intends to subdivide the Subject Property pursuant to the Approvals, and as a condition of said subdivision, the City requires certain easements for public improvements within the Subject Property; and

WHEREAS, it is the desire and intent of the Grantor to hereby establish across the Subject Property easements for the construction, maintenance, and use of a public sidewalk (collectively, the “Public Improvements”).

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and for the purpose of complying with the Approvals, the Grantor and the City hereby agree as follows:

1. The foregoing recitals are incorporated herein and made a part hereof.

2. The Grantor hereby establishes, dedicates, and grants in perpetuity for the benefit of the City, its successors, transferees and assigns, and for the benefit of the public at large, non-exclusive easement over, across and through those portions of the Subject Property depicted on Exhibit B attached hereto and made a part hereof (the “PIE Easement Areas”) for the maintenance, repair, replacement, inspection and use of the Public Improvements.

3. The Grantor hereby further grants the City an easement and right of passage on, through, over, under and across the PIE Easement Areas for purposes of inspecting the Public Improvements and performing any necessary repairs, maintenance or reconstruction thereto.
4. The foregoing grants are made subject to the following terms, restrictions, and conditions:

A. Except as necessary or desirable in connection with construction of the Public Improvements, the Grantor shall not otherwise construct, nor permit to be constructed, any building or structure within the PIE Easement Areas without first obtaining the City's written permission.

B. The Grantor shall obtain all required permits and approvals for the installation of the Public Improvements (the “Permits”) and post all required bonds. The Grantor shall install the Public Improvements within the PIE Easement Areas consistent with the City standards and in accordance with the Permits.

C. Following the release of all Permits and bonds, it shall be City’s responsibility to inspect, maintain, repair and replace the Public Improvements as necessary.

D. The Grantor reserves the right to grant such other easements, rights or privileges to such other persons or entities for the installation and repair of utilities, or for any other legal purpose, so long as such purposes do not substantially or materially interfere with the easements, obligations, understandings, and agreements established herein, and provided that all applicable City permits and approvals are first obtained.

5. The Grantor hereby certifies that there are no suits, liens, leases, mortgages or trusts affecting the Subject Property, other than those for which the holder in interest has signed this document or otherwise consented in writing to this Grant of Public Improvements Easement. The Grantor further certifies that all parties with an interest in the Subject Property necessary to give full effect to this Grant of Public Improvements Easement have signed, or otherwise consented in writing, to this document.

6. All correspondence directed to the City may be sent c/o the Director of Public Works, copy to the Director of Planning and the City Attorney, at City Hall, 111 Maryland Avenue, Rockville, Maryland 20850-2364. All correspondence directed to the Grantor may be sent to:

David B. Fink
Marc F. Solomon
Finmarc Management, Inc.
7200 Wisconsin Avenue, Suite 1100
Bethesda, MD 20814

With copies to:

Jason Sereno
EYA
4800 Hampden Lane, Suite 300
Bethesda, MD 20814
And:

Scott C. Wallace, Esq.
Miles & Stockbridge P.C.
11 N. Washington Street, Suite 700
Rockville, MD 20850

7. The Grantor will warrant specially the PIE Easement granted herein and will execute such further assurances as may be requisite.

8. This Grant of Public Improvements Easement shall be governed by, and construed and enforced in accordance with, the laws of the State of Maryland.

9. All provisions of this Grant of Public Improvements Easement, including the benefits and burdens, shall touch, concern and run with the land, and shall inure to the benefit of and be binding upon the Grantor, the City, and each of their respective successors, transferees and assigns. In the event of a transfer by the Grantor of its interest in the Subject Property, the Grantor shall have no further liability under this Grant of Public Improvements Easement.

10. The Grantor does hereby agree to record this Grant of Public Improvements Easement in the Land Records of Montgomery County, Maryland at the Grantor's expense within ten (10) days following full execution of this instrument, and shall provide the City with documentary proof of recordation within five (5) days following said recordation.

[SIGNATURE PAGES FOLLOW]
IN WITNESS WHEREOF, the parties have executed this Declaration of Public Improvements Easement under seal on the date first written above.

GRANTOR:

MARSOL FORTUNE TERRACE LLC

By: _________________________________
Name: Marc F. Solomon
Title: Manager

DAFINK FORTUNE TERRACE LLC

By: _________________________________
Name: David B. Fink
Title: Manager

SUFINK FORTUNE TERRACE LLC

By: _________________________________
Name: Susan H. Fink
Title: Manager

SOLFAM FORTUNE TERRACE LLC

By: _________________________________
Name: Marc F. Solomon
Title: Manager

FORTUNE TERRACE INVESTMENT LLC

By: _________________________________
Name: _______________________________
Title: _______________________________

[SIGNATURE PAGE Follows]
TASH DEVELOPMENT, LLC

By: ____________________________
Name: __________________________
Title: __________________________

WITNESS:

THE MAYOR AND COUNCIL OF
ROCKVILLE, MARYLAND

______________________________
Print Name: ______________________

By: ____________________________
Name: __________________________
Title: __________________________

Reviewed for legal sufficiency by:

______________________________
Nicholas D. Dumais
Senior Assistant City Attorney

* * *

STATE OF: ________________

COUNTY OF: ________________

I HEREBY CERTIFY that on this _____ day of ________________, 2022, before the
undersigned, a Notary Public in and for the State and County aforesaid, personally appeared Marc
F. Solomon, known to me (or satisfactorily proven) to be the Manager of Marsol Fortune Terrace
LLC, a Maryland limited liability company, being authorized so to do, executed the foregoing
instrument on behalf of the aforesaid company for the purposes therein.

IN TESTIMONY WHEREOF, I have caused the seal of the court to be affixed, or have
affixed my official seal, this _____ day of ________________, 2022.

______________________________
Notary Public

My Commission Expires: ________________
I HEREBY CERTIFY that on this _____ day of ________________, 2022, before the undersigned, a Notary Public in and for the State and County aforesaid, personally appeared David B. Fink, known to me (or satisfactorily proven) to be the Manager of Dafink Fortune Terrace LLC, a Maryland limited liability company, being authorized so to do, executed the foregoing instrument on behalf of the aforesaid company for the purposes therein.

IN TESTIMONY WHEREOF, I have caused the seal of the court to be affixed, or have affixed my official seal, this _____ day of ________________, 2022.

__________________________
Notary Public

My Commission Expires: ________________

[NOTARIAL SEAL]

* * *

I HEREBY CERTIFY that on this _____ day of ________________, 2022, before the undersigned, a Notary Public in and for the State and County aforesaid, personally appeared Susan H. Fink, known to me (or satisfactorily proven) to be the Manager of Sufink Fortune Terrace LLC, a Maryland limited liability company, being authorized so to do, executed the foregoing instrument on behalf of the aforesaid company for the purposes therein.

IN TESTIMONY WHEREOF, I have caused the seal of the court to be affixed, or have affixed my official seal, this _____ day of ________________, 2022.

__________________________
Notary Public
My Commission Expires: _________________

[NOTARIAL SEAL]

* * *

STATE OF: _________________ *

COUNTY OF: _________________ *

I HEREBY CERTIFY that on this ___ day of _____________, 2022, before the undersigned, a Notary Public in and for the State and County aforesaid, personally appeared Marc F. Solomon, known to me (or satisfactorily proven) to be the Manager of Solfam Fortune Terrace LLC, a Maryland limited liability company, being authorized so to do, executed the foregoing instrument on behalf of the aforesaid company for the purposes therein.

IN TESTIMONY WHEREOF, I have caused the seal of the court to be affixed, or have affixed my official seal, this ___ day of _________________, 2022.

__________________________________
Notary Public

My Commission Expires: _________________

[NOTARIAL SEAL]

* * *

STATE OF: _________________ *

COUNTY OF: _________________ *

I HEREBY CERTIFY that on this ___ day of _____________, 2022, before the undersigned, a Notary Public in and for the State and County aforesaid, personally appeared ______________________, known to me (or satisfactorily proven) to be the ______________________ of Fortune Terrace Investment LLC, a Maryland limited liability company, being authorized so to do, executed the foregoing instrument on behalf of the aforesaid company for the purposes therein.

IN TESTIMONY WHEREOF, I have caused the seal of the court to be affixed, or have affixed my official seal, this ___ day of _________________, 2022.
My Commission Expires: ________________

[NOTARIAL SEAL]

* * *

STATE OF: ________________ *

* *

COUNTY OF: ________________ *

I HEREBY CERTIFY that on this _____ day of ________________, 2022, before the undersigned, a Notary Public in and for the State and County aforesaid, personally appeared _________________________, known to me (or satisfactorily proven) to be the _________________________ of Tash Development, LLC, a Delaware limited liability company, being authorized so to do, executed the foregoing instrument on behalf of the aforesaid company for the purposes therein.

IN TESTIMONY WHEREOF, I have caused the seal of the court to be affixed, or have affixed my official seal, this _____ day of ________________, 2022.

______________________________

Notary Public

My Commission Expires: ________________

[NOTARIAL SEAL]

* * *

STATE OF: ________________ *

* *

COUNTY OF: ________________ *

I hereby certify that on this _____ day of ________________, 2022, before the subscriber, a Notary Public in and for the State and County aforesaid, personally appeared _________________________, known to me (or satisfactorily proven) to be the person described in the foregoing instrument, who did acknowledge that he/she, having been properly authorized, executed the same on behalf of the Mayor and Council of Rockville, Maryland in the capacity therein stated and for the purposes therein contained.

Witness my hand and official seal this _____ day of ________________, 2022.
My commission expires: _______________

[NOTARIAL SEAL]

Return original instrument to:

Scott C. Wallace, Esq.
Miles & Stockbridge P.C.
11 N. Washington Street, Suite 700
Rockville, MD 20850
EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

All of that certain parcel of land situated in the City of Rockville, Montgomery County, Maryland and described as follows:

...
EXHIBIT B

PLAN SHOWING PUBLIC IMPROVEMENTS EASEMENT AREAS
Subject
Authorization to Approve a Grant of Storm Drain Easement Associated with Potomac Woods

Recommendation
Authorize the City Manager to execute a Storm Drain Easement between the Mayor and Council of Rockville and Marsol Fortune Terrace, LLC, et. al., in a form acceptable to the City Attorney and substantially similar to the draft document attached to this staff report.

Discussion
This item authorizes the City Manager to approve a Storm Drain Easement associated with the Potomac Woods redevelopment. The mixed-use, multi-phase project, approved by the Planning Commission at its August 11, 2021 meeting, consists of 99 townhouse and 96 multifamily units (EYA/Finmarc), 213 senior housing units (Brightview), and retains the existing 70,000 square foot fitness center with new construction of an associated parking garage (LifeTime Fitness). The developer, Marsol Fortune Terrace, LLC, et. al., (Finmarc), is required to provide public storm drains and obtain Public Works approvals and permits in accordance with the City’s Stormwater Management Ordinance, Chapter 19, and Public Improvements Ordinance, Chapter 21.

The developer is required to provide easements for all public storm drains in areas not dedicated as right-of-way (ROW). The easement gives the City rights to access the easement area for the purpose of installing, constructing, reconstructing, maintaining, repairing, operating, and inspecting City-owned storm drainage infrastructure. The location of the easement is shown on Attachment A. The draft document is provided in Attachment B, “Grant of Storm Drain Easement”.

Mayor and Council History
This is the first time this item has been brought before the Mayor and Council.
Next Steps
The City Manager will execute, on behalf of the Mayor and Council of Rockville, a document entitled “Grant of Storm Drain Easement” in a form acceptable to the City Attorney and substantially similar to the draft document attached to this staff report. The executed Easement will be recorded in the Land Records of Montgomery County prior to the issuance of associated Public Works permits.

Attachments
Attachment A: Location of Storm Drain Easement
Attachment B: Grant of Storm Drain Easement

Attachments
Attachment 7.G.a: Attachment A_Storm Drain Easement (PDF)
Attachment 7.G.b: Attachment B_Grant of Storm Drain Easement (PDF)

Rob DiSpirito, City Manager 7/5/2022
This drawing is intended to be used for reference and illustrative purposes only. This drawing is not a legally recorded plan, survey, or engineering schematic and it is not intended to be used as such. This drawing is a compilation of records, information and data maintained in various City offices. Map layers were created from different sources at different scales, and the actual or relative geographic position of any feature is only as accurate as the source information.
GRANT OF STORM DRAIN EASEMENT

THIS GRANT OF STORM DRAIN EASEMENT is made this ______ day of ____________________, 20___, by and among MARSOL FORTUNE TERRACE LLC, a Maryland limited liability company (“Marsol”), DAFINK FORTUNE TERRACE LLC, a Maryland limited liability company (“Dafink”), SUFINK FORTUNE TERRACE LLC, a Maryland limited liability company (“Sufink”), SOLFAM FORTUNE TERRACE LLC, a Maryland limited liability company (“Solfam”), FORTUNE TERRACE INVESTMENT LLC, a Maryland limited liability company (“FTI”), and TASH DEVELOPMENT, LLC, a Delaware limited liability company (“Tash”) (Marsol, Dafink, Sufink, Solfam, FTI and Tash are herein individually each and collectively referred to as “Grantor”), and THE MAYOR AND COUNCIL OF ROCKVILLE, MARYLAND, a municipal corporation organized under the laws of the State of Maryland (the “City”).

WHEREAS, the Grantor is the owner of certain real property located within Rockville, Maryland, more particularly described on Exhibit A, attached hereto and made a part hereof (the “Subject Property”); and

WHEREAS, the Grantor desires to develop the Subject Property in accordance with the terms and conditions of Site Plan No. STP2020-00399 dated September 14, 2021 (the “Approvals”); and

WHEREAS, Grantor intends to subdivide the Subject Property pursuant to the Approvals, and as a condition of said subdivision, the City requires a certain easement for storm drains within the Subject Property.

WITNESSETH: That in consideration of the sum of Ten Dollars ($10.00) paid by the City, the receipt of which is hereby acknowledged, the Grantor does hereby grant and convey to the City, its successors and assigns, a storm drainage easement described and shown on Exhibits B and C attached hereto and made a part hereof (the “Storm Drain Easement Areas”).

TO HAVE AND TO HOLD said Storm Drain Easement Areas, together with the rights and privileges to their proper use and benefit forever by the City, its successors and assigns.

AND the Grantor, for itself and its successors and assigns, covenants and agrees with the City, its successors and assigns, as follows:

FIRST: that Grantor, (a) without the prior written consent of the City or (b) unless provided for in any issued permit or approval for improvements on the Storm Drain Easement Areas, will neither perform nor permit upon or within the above-described Storm Drain Easement Areas: (i) the erection or installation of any structure, building or other improvements (excluding fences, benches, specialty pavers, landscaping and trash/recycling cans), (ii) the excavation or filling of land, or (iii) the installation of trees.

SECOND: that the City, its successors and assigns, shall at all times have a non-exclusive right of ingress and egress to said Storm Drain Easement Areas for the purpose of installing, constructing, reconstructing, maintaining, repairing, operating, and inspecting the Storm Drain
System (as hereinafter defined), the right of ingress and egress to be made from any public road or public right-of-way adjacent to or in close proximity to the Storm Drain Easement Area, or along such other lines as the Grantor may designate and as may be acceptable to the City, but in no event shall the right of entry exist across any privately owned lots on which dwelling units are constructed or are intended to be constructed.

THIRD: Subject to the provisions of paragraph EIGHTH below, the Grantor shall be responsible for the repair, replacement, or reinstallation of any fence in the Storm Drain Easement Areas should the City need to access the Storm Drain Easement Areas to inspect, maintain, repair or replace the Storm Drain System, except to the extent any such repair, replacement or reinstallation arises out of the willful misconduct or gross negligence of the City, its agents, contractors and/or employees.

FOURTH: that all underground storm drain pipes and appurtenances which are installed pursuant to this Grant of Storm Drain Easement in the Storm Drain Easement Areas (collectively, the “Storm Drain System”) shall be and remain the property of the City, its successors, and assigns.

FIFTH: that, without the prior written consent of the City, Grantor shall not use any Storm Drain Easement Area, nor permit any Storm Drain Easement Area to be used, in any manner that interferes with the free and unobstructed use thereof by the City and its representatives for the purposes contained herein.

SIXTH: that Grantor hereby certifies that there are no suits, liens, leases, mortgages, or trusts affecting the Subject Property, other than those for which the holder in interest has signed these documents or otherwise consented in writing to this Grant of Storm Drain Easement. Grantor further certifies that all parties with an interest in the Subject Property necessary to give full effect to this Grant of Storm Drain Easement have signed or consented in writing to this document.

SEVENTH: that Grantor will warrant specially said Storm Drain Easement and will execute such further assurances thereof as may be requisite.

EIGHTH: the City shall undertake all reasonable measures to restore the Storm Drain Easement Areas to their original condition (including, without limitation, by repairing and replacing any sidewalk, curb, pavement and landscaping disturbed by the City’s repair and maintenance work) whenever the City undertakes repairs and maintenance in accordance herewith.

NINTH: this Storm Drain Easement (including all terms, covenants, and agreements contained herein) shall run with the title to the Subject Property and shall bind the Grantor and her/his/its executors, administrators, successors, and assigns.
WITNESS: hand and seal the day and year first hereinabove written.

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<thead>
<tr>
<th>WITNESS:</th>
<th>OWNER:</th>
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<tr>
<td>MARSOL FORTUNE TERRACE LLC</td>
<td>By: ____________________________</td>
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<td>Name: ____________________________</td>
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<td>DAFINK FORTUNE TERRACE LLC</td>
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<td>SUFINK FORTUNE TERRACE LLC</td>
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<td>SOLFAM FORTUNE TERRACE LLC</td>
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<td>FORTUNE TERRACE INVESTMENT LLC</td>
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<td>TASH DEVELOPMENT, LLC</td>
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<td>Name: ____________________________</td>
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<td>Title: ____________________________</td>
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</table>
WITNESS:                    CITY:
THE MAYOR AND COUNCIL OF ROCKVILLE, MARYLAND

Print Name:______________________  By:______________________________
Name:____________________________  Title:____________________________

Reviewed for legal sufficiency by:

______________________________
Nicholas D. Dumais
Senior Assistant City Attorney

* * *

STATE OF: ________________  *
COUNTY OF: ________________  *

I HEREBY CERTIFY that on this _____ day of ________________, 2022, before the undersigned, a Notary Public in and for the State and County aforesaid, personally appeared Marc F. Solomon, known to me (or satisfactorily proven) to be the Manager of Marsol Fortune Terrace LLC, a Maryland limited liability company, being authorized so to do, executed the foregoing instrument on behalf of the aforesaid company for the purposes therein.

IN TESTIMONY WHEREOF, I have caused the seal of the court to be affixed, or have affixed my official seal, this _____ day of ________________, 2022.

______________________________
Notary Public

My Commission Expires: ____________

[NOTARIAL SEAL]

* * *
STATE OF: ________________

COUNTY OF: ________________

I HEREBY CERTIFY that on this _____ day of ____________, 2022, before the undersigned, a Notary Public in and for the State and County aforesaid, personally appeared David B. Fink, known to me (or satisfactorily proven) to be the Manager of Dafink Fortune Terrace LLC, a Maryland limited liability company, being authorized so to do, executed the foregoing instrument on behalf of the aforesaid company for the purposes therein.

IN TESTIMONY WHEREOF, I have caused the seal of the court to be affixed, or have affixed my official seal, this _____ day of __________________, 2022.

______________________________
Notary Public

My Commission Expires: ____________

[NOTARIAL SEAL]

* * *

STATE OF: ________________

COUNTY OF: ________________

I HEREBY CERTIFY that on this _____ day of ____________, 2022, before the undersigned, a Notary Public in and for the State and County aforesaid, personally appeared Susan H. Fink, known to me (or satisfactorily proven) to be the Manager of Sufink Fortune Terrace LLC, a Maryland limited liability company, being authorized so to do, executed the foregoing instrument on behalf of the aforesaid company for the purposes therein.

IN TESTIMONY WHEREOF, I have caused the seal of the court to be affixed, or have affixed my official seal, this _____ day of __________________, 2022.

______________________________
Notary Public

My Commission Expires: ____________

[NOTARIAL SEAL]

* * *
STATE OF:  _____________________ *
COUNTY OF:  _____________________ *

I HEREBY CERTIFY that on this _____ day of _____________, 2022, before the undersigned, a Notary Public in and for the State and County aforesaid, personally appeared Marc F. Solomon, known to me (or satisfactorily proven) to be the Manager of Solfam Fortune Terrace LLC, a Maryland limited liability company, being authorized so to do, executed the foregoing instrument on behalf of the aforesaid company for the purposes therein.

IN TESTIMONY WHEREOF, I have caused the seal of the court to be affixed, or have affixed my official seal, this _____ day of _________________, 2022.

______________________________
Notary Public

My Commission Expires: ________________

[NOTARIAL SEAL]

** **

STATE OF:  _____________________ *
COUNTY OF:  _____________________ *

I HEREBY CERTIFY that on this _____ day of _____________, 2022, before the undersigned, a Notary Public in and for the State and County aforesaid, personally appeared ______________________________________________________, known to me (or satisfactorily proven) to be the ______________________ of Fortune Terrace Investment LLC, a Maryland limited liability company, being authorized so to do, executed the foregoing instrument on behalf of the aforesaid company for the purposes therein.

IN TESTIMONY WHEREOF, I have caused the seal of the court to be affixed, or have affixed my official seal, this _____ day of _________________, 2022.

______________________________
Notary Public

My Commission Expires: ________________

[NOTARIAL SEAL]

** **
STATE OF: __________________________  *
COUNTY OF: __________________________  *

I HEREBY CERTIFY that on this _____ day of _____________, 2022, before the undersigned, a Notary Public in and for the State and County aforesaid, personally appeared ________________________________________, known to me (or satisfactorily proven) to be the ______________________ of Tash Development, LLC, a Delaware limited liability company, being authorized so to do, executed the foregoing instrument on behalf of the aforesaid company for the purposes therein.

IN TESTIMONY WHEREOF, I have caused the seal of the court to be affixed, or have affixed my official seal, this _____ day of __________________, 2022.

______________________________
Notary Public

My Commission Expires: ____________

[NOTARIAL SEAL]

* * *

STATE OF: __________________________  *
COUNTY OF: __________________________  *

I hereby certify that on this _____ day of _____________, 2022, before the subscriber, a Notary Public in and for the State and County aforesaid, personally appeared ________________________________________, known to me (or satisfactorily proven) to be the person described in the foregoing instrument, who did acknowledge that he/she, having been properly authorized, executed the same on behalf of The Mayor and Council of Rockville, Maryland in the capacity therein stated and for the purposes therein contained.

Witness my hand and official seal this _____ day of _____________, 2022.

______________________________
Notary Public

My commission expires: ____________

[NOTARIAL SEAL]
Return original instrument to:
Scott C. Wallace, Esq.
Miles & Stockbridge P.C.
11 N. Washington Street, Suite 700
Rockville, MD 20850
EXHIBIT A

LEGAL DESCRIPTION OF SUBJECT PROPERTY
EXHIBIT C

LEGAL DESCRIPTION OF EASEMENT
Subject
Authorization to Approve a Temporary Storm Drain Easement Associated with Potomac Woods

Recommendation
Authorize the City Manager to execute a Temporary Storm Drain Easement between the Mayor and Council of Rockville and Marsol Fortune Terrace, LLC, et. al., in a form acceptable to the City Attorney and substantially similar to the draft document attached to this staff report.

Discussion
This item authorizes the City Manager to approve a Temporary Storm Drain Easement associated with the Potomac Woods redevelopment. The mixed-use, multi-phase project, approved by the Planning Commission at its August 11, 2021 meeting, consists of 99 townhouse and 96 multifamily units (EYA/Finmarc), 213 senior housing units (Brightview), and retains the existing 70,000 square foot fitness center with new construction of an associated parking garage (LifeTime Fitness). The developer, Marsol Fortune Terrace, LLC, et. al., (Finmarc), is required to provide public storm drains and obtain Public Works approvals and permits in accordance with the City’s Stormwater Management Ordinance, Chapter 19, and Public Improvements Ordinance, Chapter 21.

The developer is required to provide easements for all public storm drains in areas not dedicated as right-of-way (ROW). The easement gives the City rights to access the easement area for the purpose of installing, constructing, reconstructing, maintaining, repairing, operating, and inspecting City-owned storm drainage infrastructure. A temporary easement is necessary because the development project will be constructed in phases and although the future ROW will not be dedicated at the time of initial construction, the storm drain infrastructure is required for the site’s drainage and operation. The temporary easement shall automatically terminate upon dedication of the future public street by record plat and the City’s acceptance of the public infrastructure. The location of the easement is shown on Attachment A. The draft document is provided in Attachment B, “Grant of Temporary Storm Drain Easement”.
Mayor and Council History
This is the first time this item has been brought before the Mayor and Council.

Next Steps
The City Manager will execute, on behalf of the Mayor and Council of Rockville, a document entitled “Grant of Temporary Storm Drain Easement” in a form acceptable to the City Attorney and substantially similar to the draft document attached to this staff report. The executed Easement will be recorded in the Land Records of Montgomery County prior to the issuance of associated Public Works permits.

Attachments
Attachment A: Location of Temporary Storm Drain Easement
Attachment B: Grant of Temporary Storm Drain Easement

Attachments
Attachment 7.H.a: Attachment A_Temp Storm Drain Easement (PDF)
Attachment 7.H.b: Attachment B_Grant of Temporary Storm Drain Easement (PDF)
This drawing is intended to be used for reference and illustrative purposes only. This drawing is not a legally recorded plan, survey, or engineering schematic and it is not intended to be used as such. It is created through the compilation of records, information, and data developed and maintained in various City offices. Map layers were created from different sources at different scales, and the actual or relative geographic position of any feature is only as accurate as the source information.
GRANT OF TEMPORARY STORM DRAIN EASEMENT

THIS GRANT OF TEMPORARY STORM DRAIN EASEMENT ("Temporary Easement") is made this ______ day of ____________________, 20___, by and among MARSOL FORTUNE TERRACE LLC, a Maryland limited liability company ("Marsol"), DAFINK FORTUNE TERRACE LLC, a Maryland limited liability company ("Dafink"), SUFINK FORTUNE TERRACE LLC, a Maryland limited liability company ("Sufink"), SOLFAM FORTUNE TERRACE LLC, a Maryland limited liability company ("Solfam"), FORTUNE TERRACE INVESTMENT LLC, a Maryland limited liability company ("FTI"), and TASH DEVELOPMENT, LLC, a Delaware limited liability company ("Tash") (Marsol, Dafink, Sufink, Solfam, FTI and Tash are herein individually each and collectively referred to as "Grantor"), and THE MAYOR AND COUNCIL OF ROCKVILLE, MARYLAND, a municipal corporation organized under the laws of the State of Maryland (the "City").

WHEREAS, the Grantor is the owner of certain real property located within Rockville, Maryland, more particularly described on Exhibit A, attached hereto and made a part hereof (the "Subject Property"); and

WHEREAS, the Grantor desires to develop the Subject Property in accordance with the terms and conditions of Site Plan No. STP2020-00399 dated September 14, 2021 (the "Approvals"); and

WHEREAS, Grantor intends to subdivide the Subject Property pursuant to the Approvals, and as a condition of said subdivision, the City requires a certain temporary easement for storm drains within the Subject Property.

WITNESSETH: That in consideration of the sum of Ten Dollars ($10.00) paid by the City, the receipt of which is hereby acknowledged, the Grantor does hereby grant and convey to the City, its successors and assigns, a temporary storm drainage easement described and shown on Exhibits B and C, attached hereto and made a part hereof (the "Storm Drain Easement Area") for purposes of installing and operating a private storm drain system (the "System").

TO HAVE AND TO HOLD said Storm Drain Easement Area, together with the rights and privileges to their proper use and benefit by the City, its successors and assigns.

AND the Grantor, for itself and its successors and assigns, covenants and agrees with the City, its successors and assigns, as follows:

FIRST: that Grantor, (a) without the prior written consent of the City or (b) unless provided for in any issued permit or approval for improvements on the Storm Drain Easement Area, will neither perform nor permit upon or within the above-described Storm Drain Easement Area: (i) the erection or installation of any structure, building or other improvements (excluding fences), (ii) the excavation or filling of land, or (iii) the installation of trees.

SECOND: that the City, its successors and assigns, shall at all times have a non-exclusive right of ingress and egress to said Storm Drain Easement Area for the purpose of installing, constructing, reconstructing, maintaining, repairing, operating, and inspecting the
System, the right of ingress and egress to be made from any public road or public right-of-way adjacent to or in close proximity to the Storm Drain Easement Area, or along such other lines as the Grantor may designate and as may be acceptable to the City, but in no event shall the right of entry exist across any privately owned lots on which dwelling units are constructed or are intended to be constructed.

THIRD: subject to the provisions of paragraph SEVENTH below, the Grantor shall be responsible for the repair, replacement, or reinstalation of any fence in the Storm Drain Easement Area should the City need to access the Storm Drain Easement Area to inspect, maintain, repair or replace the System, except to the extent any such repair, replacement or reinstalation arises out of the willful misconduct or gross negligence of the City, its agents, contractors and/or employees.

FOURTH: that, without the prior written consent of the City, Grantor shall not use any Storm Drain Easement Area, nor permit any Storm Drain Easement Area to be used, in any manner that interferes with the free and unobstructed use thereof by the City and its representatives for the purposes contained herein.

FIFTH: that Grantor hereby certifies that there are no suits, liens, leases, mortgages, or trusts affecting the Storm Drain Easement Area, other than those for which the holder in interest has signed these documents or otherwise consented in writing to this Temporary Easement. Grantor further certifies that all parties with an interest in the Storm Drain Easement Area necessary to give full effect to this Temporary Easement have signed or consented in writing to this document.

SIXTH: that Grantor will warrant specially said Temporary Easement and will execute such further assurances thereof as may be requisite.

SEVENTH: the City shall undertake all reasonable measures to restore the Storm Drain Easement Area to its original condition (including, without limitation, by repairing and replacing any sidewalk, curb, pavement and landscaping disturbed by the City’s repair and maintenance work) whenever the City undertakes repairs and maintenance in accordance herewith.

EIGHTH: this Temporary Easement (including all terms, covenants, and agreements contained herein) shall run with the title to the Subject Property and shall bind the Grantor and her/his/its executors, administrators, successors, and assigns.

NINTH: that this Temporary Easement and right-of-way shall automatically terminate and be extinguished and be of no further effect upon: (1) the removal of all impervious area associated with the temporary parking lot; or (2) approval of the stormwater management construction drawing, bond and permit for the future/ultimate conditions (showing the temporary parking lot removed). In the event that the facility becomes permanently installed, a standard storm drain easement must be recorded.
WITNESS: hand and seal the day and year first hereinabove written.

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<thead>
<tr>
<th>WITNESS:</th>
<th>GRANTOR:</th>
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<tbody>
<tr>
<td></td>
<td>MARSOL FORTUNE TERRACE LLC</td>
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<td>By: ___________________</td>
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<td>Name: ___________________</td>
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<td>DAFINK FORTUNE TERRACE LLC</td>
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<td>SUFINK FORTUNE TERRACE LLC</td>
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WITNESS: ____________________________

CITY: _______________________________

THE MAYOR AND COUNCIL OF ROCKVILLE, MARYLAND

Print Name: __________________________

By: _________________________________

Name: _______________________________

Title: ________________________________

Reviewed for legal sufficiency by:

Nicholas D. Dumais
Senior Assistant City Attorney

* * *

STATE OF: __________________________

COUNTY OF: _________________________

I HEREBY CERTIFY that on this _____ day of _____________, 2022, before the undersigned, a Notary Public in and for the State and County aforesaid, personally appeared Marc F. Solomon, known to me (or satisfactorily proven) to be the Manager of Marsol Fortune Terrace LLC, a Maryland limited liability company, being authorized so to do, executed the foregoing instrument on behalf of the aforesaid company for the purposes therein.

IN TESTIMONY WHEREOF, I have caused the seal of the court to be affixed, or have affixed my official seal, this _____ day of _____________, 2022.

______________________________
Notary Public

My Commission Expires: ______________

[NOTARIAL SEAL]

* * *
STATE OF: ________________  *
COUNTY OF: ________________  *

I HEREBY CERTIFY that on this ___ day of ________________, 2022, before the undersigned, a Notary Public in and for the State and County aforesaid, personally appeared David B. Fink, known to me (or satisfactorily proven) to be the Manager of Dafink Fortune Terrace LLC, a Maryland limited liability company, being authorized so to do, executed the foregoing instrument on behalf of the aforesaid company for the purposes therein.

IN TESTIMONY WHEREOF, I have caused the seal of the court to be affixed, or have affixed my official seal, this ____ day of __________________, 2022.

______________________________  
Notary Public

My Commission Expires: ________________

[NOTARIAL SEAL]

* * *

STATE OF: ________________  *
COUNTY OF: ________________  *

I HEREBY CERTIFY that on this ___ day of ________________, 2022, before the undersigned, a Notary Public in and for the State and County aforesaid, personally appeared Susan H. Fink, known to me (or satisfactorily proven) to be the Manager of Sufink Fortune Terrace LLC, a Maryland limited liability company, being authorized so to do, executed the foregoing instrument on behalf of the aforesaid company for the purposes therein.

IN TESTIMONY WHEREOF, I have caused the seal of the court to be affixed, or have affixed my official seal, this ____ day of __________________, 2022.

______________________________  
Notary Public

My Commission Expires: ________________

[NOTARIAL SEAL]

* * *
STATE OF: ____________________  *

COUNTY OF: ____________________  *

I HEREBY CERTIFY that on this _____ day of ________________, 2022, before the undersigned, a Notary Public in and for the State and County aforesaid, personally appeared Marc F. Solomon, known to me (or satisfactorily proven) to be the Manager of Solfam Fortune Terrace LLC, a Maryland limited liability company, being authorized so to do, executed the foregoing instrument on behalf of the aforesaid company for the purposes therein.

IN TESTIMONY WHEREOF, I have caused the seal of the court to be affixed, or have affixed my official seal, this _____ day of __________________, 2022.

________________________________
Notary Public

My Commission Expires: ______________

[NOTARIAL SEAL]

*   *   *

STATE OF: ____________________  *

COUNTY OF: ____________________  *

I HEREBY CERTIFY that on this _____ day of ________________, 2022, before the undersigned, a Notary Public in and for the State and County aforesaid, personally appeared ____________________, known to me (or satisfactorily proven) to be the ____________________ of Fortune Terrace Investment LLC, a Maryland limited liability company, being authorized so to do, executed the foregoing instrument on behalf of the aforesaid company for the purposes therein.

IN TESTIMONY WHEREOF, I have caused the seal of the court to be affixed, or have affixed my official seal, this _____ day of ________________, 2022.

________________________________
Notary Public

My Commission Expires: ______________

[NOTARIAL SEAL]

*   *   *
STATE OF: ____________________  *
COUNTY OF: ____________________ *

I HEREBY CERTIFY that on this _____ day of ________________, 2022, before the undersigned, a Notary Public in and for the State and County aforesaid, personally appeared ______________________________, known to me (or satisfactorily proven) to be the __________________ of Tash Development, LLC, a Delaware limited liability company, being authorized so to do, executed the foregoing instrument on behalf of the aforesaid company for the purposes therein.

IN TESTIMONY WHEREOF, I have caused the seal of the court to be affixed, or have affixed my official seal, this _____ day of ____________________, 2022.

____________________________
Notary Public

My Commission Expires: ____________

[NOTARIAL SEAL]

*  *  *

STATE OF: ____________________ *
COUNTY OF: ____________________ *

I hereby certify that on this _____ day of ________________, 2022, before the subscriber, a Notary Public in and for the State and County aforesaid, personally appeared ______________________________, known to me (or satisfactorily proven) to be the person described in the foregoing instrument, who did acknowledge that he/she, having been properly authorized, executed the same on behalf of The Mayor and Council of Rockville, Maryland in the capacity therein stated and for the purposes therein contained.

Witness my hand and official seal this _______day of ________________, 2022.

____________________________
Notary Public

My commission expires: ____________

[NOTARIAL SEAL]
Return original instrument to:
Scott C. Wallace, Esq.
Miles & Stockbridge P.C.
11 N. Washington Street, Suite 700
Rockville, MD 20850
EXHIBIT A
LEGAL DESCRIPTION OF SUBJECT PROPERTY
EXHIBIT B
LEGAL DESCRIPTION OF EASEMENT
EXHIBIT C

LEGAL DESCRIPTION OF EASEMENT
Subject
Authorization to Approve a Grant of Water and Sewer Easement Associated with Potomac Woods

Recommendation
Authorize the City Manager to execute a Water and Sewer Easement between the Mayor and Council of Rockville and Marsol Fortune Terrace, LLC, et. al., in a form acceptable to the City Attorney and substantially similar to the draft document attached to this staff report.

Discussion
This item authorizes the City Manager to approve a Water and Sewer Easement associated with the Potomac Woods redevelopment. The mixed-use, multi-phase project, approved by the Planning Commission at its August 11, 2021 meeting, consists of 99 townhouse and 96 multifamily units (EYA/Finmarc), 213 senior housing units (Brightview), and retains the existing 70,000 square foot fitness center with new construction of an associated parking garage (LifeTime Fitness). The developer, Marsol Fortune Terrace, LLC, et. al., (Finmarc), is required to provide public water and sewer and obtain Public Works approvals and permits in accordance with the City’s Water and Sewer Ordinance, Chapter 24.

In accordance with the project’s Site Plan and Water and Sewer Authorization, the developer is required to provide easements for all public water and sewer mains in areas not dedicated as right-of-way (ROW). The easement gives the City rights to access the easement area for the purpose of installing, constructing, reconstructing, maintaining, repairing, operating, and inspecting City-owned water and sewer infrastructure. The locations of the easement are shown on Attachment A. The draft document is provided in Attachment B, “Grant of Water and Sewer Easement”.

Mayor and Council History
This is the first time this item has been brought before the Mayor and Council.
Next Steps
The City Manager will execute, on behalf of the Mayor and Council of Rockville, a document entitled “Grant of Water and Sewer Easement” in a form acceptable to the City Attorney and substantially similar to the draft document attached to this staff report. The executed Easement will be recorded in the Land Records of Montgomery County prior to the issuance of associated Public Works permits.

Attachments
Attachment A: Locations of Water and Sewer Easements
Attachment B: Grant of Water and Sewer Easement

Attachments
Attachment 7.I.a: Attachment A_Water Sewer Easement (PDF)
Attachment 7.I.b: Attachment B_Grant of Water and Sewer Esmt (PDF)
Attachment A
Water and Sewer Easement

This drawing is intended to be used for reference and illustrative purposes only. This drawing is not a legally recorded plan, nor engineering schematic and it is not intended to be used as such. Accuracy is a compilation of records, information and data developed and created for various purposes at different scales and the actual or relative geographic position of any feature is not intended to be exact.
GRANT OF WATER AND SEWER EASEMENT

THIS GRANT OF WATER AND SEWER EASEMENT is made this _______ day of __________________, 20__, by and among MARSOL FORTUNE TERRACE LLC, a Maryland limited liability company (“Marsol”), DAFINK FORTUNE TERRACE LLC, a Maryland limited liability company (“Dafink”), SUFKIN TERRACE LLC, a Maryland limited liability company (“Sufink”), FORTUNE TERRACE INVESTMENT LLC, a Maryland limited liability company (“FTI”), and TASH DEVELOPMENT, LLC, a Delaware limited liability company (“Tash”) (Marsol, Dafink, Sufink, Solfam, FTI and Tash are herein individually each and collectively referred to as “Grantor”), and THE MAYOR AND COUNCIL OF ROCKVILLE, MARYLAND, a municipal corporation organized under the laws of the State of Maryland (the “City”).

WHEREAS, the Grantor is the owner of certain real property located within Rockville, Maryland, more particularly described on Exhibit A, attached hereto and made a part hereof (the “Subject Property”); and

WHEREAS, the Grantor desires to develop the Subject Property in accordance with the terms and conditions of Site Plan No. STP2020-00399 dated September 14, 2021 (the “Approvals”); and

WHEREAS, Grantor intends to subdivide the Subject Property pursuant to the Approvals, and as a condition of said subdivision, the City requires a certain easement for water and sewer infrastructure within the Subject Property.

WITNESSETH: That in consideration of the sum of Ten Dollars ($10.00) paid by the City, the receipt of which is hereby acknowledged, the Grantor does hereby grant and convey to the City, its successors and assigns, a water and sewer easement described and shown on Exhibit B attached hereto and made a part hereof (the “Easement Area”).

TO HAVE AND TO HOLD said easement together with the rights and privileges to their proper use and benefit forever by the City, its successors and assigns.

AND the Grantor, for itself and its successors and assigns, covenants and agrees with the City, its successors and assigns, as follows:

FIRST: that Grantor will never erect nor permit to be erected any building or structure of any nature whatsoever nor fill or excavate within the Easement Area without the City’s written consent;

SECOND: that the City, its successors and assigns, shall at all times have a right of ingress and egress to said Easement Area for the purpose of installing, constructing, reconstructing, maintaining, repairing, operating, and inspecting the water main and the
sewer main within the Easement Area, the right of ingress and egress to the said ingress and egress to be made generally from any adjacent public road or public right-of-way adjacent to or in close proximity to the Easement Area, or along such other lines as the Grantor may designate and as may be acceptable to the City, but in no event shall the right of entry exist across any privately owned lots on which dwelling units are constructed or are intended to be constructed; and

THIRD: that in the exercise of its rights in the paragraph above, the City will perform all work in a good and workmanlike manner and will undertake all necessary measures to restore the Easement Area to its original condition; and

FOURTH: that Grantor will warrant specially said easement and will execute such further assurances thereof as may be requisite; and

FIFTH: that Grantor hereby certifies that there are no suits, liens, leases, mortgages, or trusts affecting the Easement Area, other than those for which the holder in interest has signed these documents or otherwise consented in writing to this easement. Grantor further certifies that all parties with an interest in the Easement Area necessary to give full effect to this easement have signed or consented in writing to this document; and

SIXTH: This easement (including all terms, covenants, and agreements contained herein) shall run with the title to the Easement Area and shall bind the Grantor and its executors, administrators, successors, and assigns.

WITNESS: hands and seals the day and year first hereinabove written.

WITNESS:  

OWNER:  

MARSOL FORTUNE TERRACE LLC

By: ________________________________  
Name: ________________________________  
Title: ________________________________

DAFINK FORTUNE TERRACE LLC

By: ________________________________  
Name: ________________________________  
Title: ________________________________

SUFINK FORTUNE TERRACE LLC

By: ________________________________  
Name: ________________________________  
Title: ________________________________
Name: __________________________
Title: __________________________

SOLFAM FORTUNE TERRACE LLC

By: __________________________
Name: __________________________
Title: __________________________

FORTUNE TERRACE INVESTMENT LLC

By: __________________________
Name: __________________________
Title: __________________________

TASH DEVELOPMENT, LLC

By: __________________________
Name: __________________________
Title: __________________________

WITNESS:

THE MAYOR AND COUNCIL OF ROCKVILLE, MARYLAND

Print Name: __________________________
Name: __________________________
Title: __________________________

Reviewed for legal sufficiency by:

___________________________
Nicholas D. Dumais
Senior Assistant City Attorney
STATE OF: ___________________________ *
COUNTY OF: ____________________________ *

I HEREBY CERTIFY that on this _____ day of ____________, 2022, before
the undersigned, a Notary Public in and for the State and County aforesaid, personally
appeared Marc F. Solomon, known to me (or satisfactorily proven) to be the Manager of
Marsol Fortune Terrace LLC, a Maryland limited liability company, being authorized so to
do, executed the foregoing instrument on behalf of the aforesaid company for the purposes
therein.

IN TESTIMONY WHEREOF, I have caused the seal of the court to be affixed, or
have affixed my official seal, this _____ day of __________________, 2022.

____________________________________
Notary Public

My Commission Expires: ______________

[NOTARIAL SEAL]

* * *

STATE OF: ___________________________ *
COUNTY OF: ____________________________ *

I HEREBY CERTIFY that on this _____ day of ____________, 2022, before
the undersigned, a Notary Public in and for the State and County aforesaid, personally
appeared David B. Fink, known to me (or satisfactorily proven) to be the Manager of Dafink
Fortune Terrace LLC, a Maryland limited liability company, being authorized so to do,
executed the foregoing instrument on behalf of the aforesaid company for the purposes
therein.

IN TESTIMONY WHEREOF, I have caused the seal of the court to be affixed, or
have affixed my official seal, this _____ day of __________________, 2022.

____________________________________
Notary Public

My Commission Expires: ______________

[NOTARIAL SEAL]
STATE OF: ____________________ *
COUNTY OF: ____________________ *

I HEREBY CERTIFY that on this _____ day of ________________, 2022, before the undersigned, a Notary Public in and for the State and County aforesaid, personally appeared Susan H. Fink, known to me (or satisfactorily proven) to be the Manager of Sufink Fortune Terrace LLC, a Maryland limited liability company, being authorized so to do, executed the foregoing instrument on behalf of the aforesaid company for the purposes therein.

IN TESTIMONY WHEREOF, I have caused the seal of the court to be affixed, or have affixed my official seal, this _____ day of ________________, 2022.

__________________________________
Notary Public

My Commission Expires: _______________

[NOTARIAL SEAL]

* * *

STATE OF: ____________________ *
COUNTY OF: ____________________ *

I HEREBY CERTIFY that on this _____ day of ________________, 2022, before the undersigned, a Notary Public in and for the State and County aforesaid, personally appeared Marc F. Solomon, known to me (or satisfactorily proven) to be the Manager of Solfam Fortune Terrace LLC, a Maryland limited liability company, being authorized so to do, executed the foregoing instrument on behalf of the aforesaid company for the purposes therein.

IN TESTIMONY WHEREOF, I have caused the seal of the court to be affixed, or have affixed my official seal, this _____ day of ________________, 2022.

__________________________________
Notary Public

My Commission Expires: _______________
STATE OF:  
COUNTY OF:  

I HEREBY CERTIFY that on this _____ day of _______ ________, 2022, before the undersigned, a Notary Public in and for the State and County aforesaid, personally appeared ________________________________, known to me (or satisfactorily proven) to be the ____________________ of Fortune Terrace Investment LLC, a Maryland limited liability company, being authorized so to do, executed the foregoing instrument on behalf of the aforesaid company for the purposes therein.

IN TESTIMONY WHEREOF, I have caused the seal of the court to be affixed, or have affixed my official seal, this _____ day of __________________, 2022.

[NOTARIAL SEAL]

My Commission Expires: ________________

[NOTARIAL SEAL]

STATE OF:  
COUNTY OF:  

I HEREBY CERTIFY that on this _____ day of _______ ________, 2022, before the undersigned, a Notary Public in and for the State and County aforesaid, personally appeared ________________________________, known to me (or satisfactorily proven) to be the ____________________ of Tash Development, LLC, a Delaware limited liability company, being authorized so to do, executed the foregoing instrument on behalf of the aforesaid company for the purposes therein.

IN TESTIMONY WHEREOF, I have caused the seal of the court to be affixed, or have affixed my official seal, this _____ day of __________________, 2022.

[NOTARIAL SEAL]

My Commission Expires: ________________
I hereby certify that on this __________ day of ________________, 2022, before the subscriber, a Notary Public in and for the State and County aforesaid, personally appeared _______________ ________________________________, known to me (or satisfactorily proven) to be the person described in the foregoing instrument, who did acknowledge that he/she, having been properly authorized, executed the same on behalf of the Mayor and Council of Rockville, Maryland in the capacity therein stated and for the purposes therein contained.

Witness my hand and official seal this _______ day of ______________, 2022.

_____________________________________
Notary Public

My commission expires: ________________

[NOTARIAL SEAL]

Return original instrument to:

Scott C. Wallace, Esq.
Miles & Stockbridge P.C.
11 N. Washington Street, Suite 700
Rockville, MD 20850
Subject
Authorization to Approve a Public Access Easement Agreement Associated with Potomac Woods

Recommendation
Authorize the City Manager to execute a Public Access Easement between the Mayor and Council of Rockville and Marsol Fortune Terrace, LLC, et. al., in a form acceptable to the City Attorney and substantially similar to the draft document attached to this staff report.

Discussion
This item authorizes the City Manager to approve a Public Access Easement associated with the Potomac Woods redevelopment. The mixed-use, multi-phase project, approved by the Planning Commission at its August 11, 2021 meeting, consists of 99 townhouse and 96 multifamily units (EYA/Finmarc), 213 senior housing units (Brightview), and retains the existing 70,000 square foot fitness center with new construction of an associated parking garage (LifeTime Fitness). In accordance with the project’s Site Plan, the developer, Marsol Fortune Terrace, LLC, et. al., (Finmarc), is required to grant a Public Access Easement (PAE) across the entire width of the privately maintained alleys that serve a portion of the proposed townhouses.

The purpose of the Easement is to provide vehicular and pedestrian ingress and egress through the property from the public rights-of-way for the benefit of the City and general public. The owner shall be responsible for maintaining, repairing and replacing the alleys and for keeping them clear of mud, debris, ice, snow and other obstructions. The locations of the proposed easements are shown on Attachment A. The draft document is provided in Attachment B, “Public Access Easement Agreement”.

Mayor and Council History
This is the first time this item has been brought before the Mayor and Council.
Next Steps
The City Manager will execute, on behalf of the Mayor and Council of Rockville, a document entitled “Public Access Easement Agreement” in a form acceptable to the City Attorney and substantially similar to the draft document attached to this staff report. The executed Easement will be recorded in the Land Records of Montgomery County prior to the issuance of associated Public Works permits.

Attachments
Attachment A: Locations of Public Access Easements
Attachment B: Public Access Easement Agreement

Attachments
Attachment 7.J.a: Attachment A_PAE (PDF)
Attachment 7.J.b: Attachment B_Public Access Easement Agmt (PDF)

Rob DiSpirito, City Manager 7/5/2022
Attachment 7.J.a: Attachment A_PAE (4180) : Authorization to Approve a Public Access Easement

This drawing is intended to be used for reference and illustrative purposes only. This drawing is not a legally recorded plan, survey, or engineering schematic and it is not intended to be used as such. It is a compilation of records, information and data developed and maintained by various City offices. Map layers were created from different sources at different scales, and the actual or relative geographic position of any feature is only as accurate as the source information.

Attachment A
Public Access Easement

Utilities_v2.1
Packet Pg. 196

DATE: 6/10/22
smurphy
PUBLIC ACCESS EASEMENT AGREEMENT
Potomac Woods – Private Alleys

THIS PUBLIC ACCESS EASEMENT AGREEMENT (this “Agreement”) is
made as of the _______ day of __________________, 2022, by and among MARSOL
FORTUNE TERRACE LLC, a Maryland limited liability company (“Marsol”),
DAFINK FORTUNE TERRACE LLC, a Maryland limited liability company (“Dafink”),
SUFINK FORTUNE TERRACE LLC, a Maryland limited liability company (“Sufink”),
SOLFAM FORTUNE TERRACE LLC, a Maryland limited liability company (“Solfam”),
FORTUNE TERRACE INVESTMENT LLC, a Maryland limited liability
company (“FTI”), and TASH DEVELOPMENT, LLC, a Delaware limited liability
company (“Tash”) (Marsol, Dafink, Sufink, Solfam, FTI and Tash are herein individually
each and collectively referred to as “Grantor”), to and for the benefit of THE MAYOR
AND COUNCIL OF ROCKVILLE, MARYLAND, a municipal corporation in the State
of Maryland (hereinafter referred to as the “City” or the “Grantee”).

RECITALS:

R1. Grantor is the fee simple owner of certain real property together with all
improvements thereon legally and particularly described on Exhibit A and depicted on
Exhibit B (the “Subject Property”) as established in that certain plat entitled
______________________, recorded as Plat No. ___________ (as amended, the “Plat”)
among the Land Records of Montgomery County, Maryland (the “Land Records”),
which is subject to the Site Plan (as hereinafter defined) approving redevelopment of the Subject
Property as described in greater detail below;

R2. The Subject Property is part of a development known as “Potomac Woods” (the
“Project”) in the City of Rockville pursuant to the terms and provisions of a Level II Site
Plan Development Application STP2020-00399 (the “Site Plan”);

R3. The Site Plan and other development permits and approvals, as each of them may
be amended or modified from time to time (collectively, “Development Approvals”) have
been or may be issued for the redevelopment of the Subject Property and the Project;

R4. The Development Approvals authorize development of up to 96 multi-family
units, 99 townhouses, 213 mid-rise senior housing units, and a fitness facility with a
structured parking garage;

R5. The Development Approvals provide for private alleys to serve a portion of the
approved townhouses (the “Private Alleys”); and

R6. Pursuant to the Development Approvals, Grantor must grant to the City Public
Access Easements for the Private Alleys.
NOW, THEREFORE, in consideration of the recitals which are incorporated herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor hereby establishes, grants and conveys with respect to the Subject Property and Grantee accepts the following grant of access easements upon the terms and conditions provided herein. The easements are hereby intended to be granted and conveyed together with all the rights, privileges, appurtenance, and advantages thereto belonging or appertaining to its proper use and benefit forever by the City, its successors and assigns, and the public.

A. **Public Access Easements for Private Alleys.** Grantor does hereby grant and convey, subject to the Grantor’s reserved rights set forth in Section B below, the following limited, nonexclusive access easements ("Public Access Easements") in, on, along, over, across, and through the Private Alleys as shown on Exhibit C and described on Exhibit D attached hereto and incorporated herein by reference herein (the “Easement Areas”) unto the Grantee, its successors and assigns, forever and in perpetuity, for the purpose of vehicular and pedestrian ingress and egress from the public rights-of-way in and adjacent to the Project.

B. **Grantor’s Reserved Rights.** The Grantor hereby retains and reserves for itself and its designees, successors, and assigns, the non-exclusive right: (a) to locate, survey, construct, maintain, inspect, operate, protect, repair, alter, replace, establish, lay, install, test, substitute, renew, reconstruct, restore, abandon and remove: paving, surface improvements, and subsurface facilities within the Easement Areas in accordance with the Development Approvals and the terms of this Agreement, (b) to vehicular ingress and egress and on-street parking on, over, across and through the Easement Areas in accordance with the Development Approvals, (c) for all activities necessary for construction and maintenance of, and compliance with, the Development Approvals and any applicable law or regulations, (d) for construction activities in conjunction with the construction of the improvements on the Easement Areas or adjacent properties subject to the Site Plan, in accordance with the Development Approvals, and the right to use, enjoy, maintain, repair, replace, and operate such improvements for any purpose permitted by applicable law, (e) for crossing of utility and communication laterals and connections in accordance with the Development Approvals, (f) for penetrations with utility lines, manholes and access panels required to service the underground utilities, storm water facilities, communication, and other infrastructure facilities at locations reasonably acceptable to the City and Grantor, (g) for signage and overhead canopy projections that are subject to permits approved and issued by the City and/or the Development Approvals, (h) to install underground sheeting, shoring and tie-backs and to conduct such excavation and construction below the Easement Areas as is necessary in connection with construction of the Project, so long as such purposes do not materially interfere with the Public Access Easements and use thereof by the public pursuant to the terms of this Agreement, (i) to grant such other easements, rights or privileges to such person or entities for the installation and repair of utilities and services as Grantor may reasonably elect, so long as such purposes do not materially interfere with the Public Access Easements and use thereof by the public pursuant to the terms of this Agreement, and provided that all applicable City permits and
approvals are first obtained, and (j) for any other reasonable purpose not inconsistent with the rights granted hereunder, provided that all applicable City permits and approvals are first obtained and that all activities are in accordance with the Development Approvals.

C. **Limited Rights of the General Public.** The Grantee has the right, permanently or temporarily, in its sole discretion at any time to designate the general public as an authorized user of the Grantee’s access rights over all or any parts of the Easement Areas. Except as expressly limited in this Agreement, the Easement Areas must be available for use and enjoyment by the general public during all times when the Grantee designates the general public as an authorized user of the Easement Areas.

D. **Obligation for Construction of Improvements.** In the event the Development Approvals are implemented for the Project, and subject to the limitation in Section J below restricting transfer of initial construction obligations to condominium regimes, the Grantor shall be responsible for constructing the improvements within the Easement Areas for the Private Alleys in accordance with the Development Approvals. Notwithstanding the foregoing, the Grantor shall have the right to delegate the Grantor’s obligations and responsibilities under this Section D to a Developer (such “Developer” meaning the responsible party, which may be an affiliate of Grantor, on permits to construct and complete the improvements set forth in the Development Approvals), provided that such delegation shall not, as between the Grantor and the City, relieve the Grantor from liability for such obligations and responsibilities with respect to construction of the improvements within the Easement Areas for the Private Alleys.

E. **Obligation for Maintenance of Improvements.** Upon their completion and acceptance by the City as being in accordance with the Development Approvals, Grantor shall be responsible for maintaining, repairing and replacing the paving within the Easement Areas and for keeping such Easement Areas clear of mud, debris, ice, snow and other obstructions. Notwithstanding the foregoing, the Grantor shall have the right to delegate the Grantor’s obligations and responsibilities under this Section E to an entity representing the owners of property within the Project, provided that such delegation shall not, as between the Grantor and the City, relieve Grantor from liability for the obligations and responsibilities pursuant to this Section E except as provided in Section J below. The City will not accept the improvements for the Private Alleys within the Easement Areas for maintenance by the City unless the right-of-way is dedicated.

F. The Grantee’s rights to the Public Access Easements are non-exclusive and for the stated limited purposes.

G. Grantee understands and acknowledges that fee title to the Easement Areas is and shall remain in the Grantor, and that this Agreement confers on Grantee no rights of ownership or control of the Easement Areas, except as otherwise specifically provided herein. Unless specifically and expressly identified as such in this
Agreement, there are no “third party beneficiaries” of this Agreement. The Public Access Easements may be modified or terminated with respect to the Grantor and the Grantee by the agreement of the Grantor and the Grantee hereunder and no third party approval thereof shall be required. Although members of the general public are entitled to use the Public Access Easements pursuant to the terms of this Agreement, no person or entity other than Grantee shall be entitled to enforce or seek to enforce this Agreement against Grantor or shall be deemed to be a third party beneficiary of this Agreement or to have otherwise derived any rights under this Agreement.

H. Nothing contained in this Agreement shall be deemed to be a gift or dedication of any part of the Easement Areas or any adjacent properties to the general public. Any public use or purpose of the Easement Areas shall be limited to those expressly permitted in this Agreement. The Grantor shall have the right from time to time to close all or any portion of the Easement Areas and any adjacent properties to the general public for construction, maintenance, repairs, replacements, inspections, and in order to prevent a dedication thereof or the accrual of any rights in any person or entity not expressly granted rights hereunder, but such closing shall not unreasonably interfere, subject to the provisions hereunder, with the use and enjoyment by the Grantee of the Public Access Easements and other rights hereby created and shall be in accordance with the Development Approvals and applicable law.

I. No rights are granted under this Agreement to Grantee to enter or be or do anything inside or beneath, in or above the building(s) or other improvements constructed at any time on the Easement Areas or adjacent properties.

J. The Grantor and each successor owner of the Easement Areas shall be bound by this Agreement only during its respective periods of fee simple ownership of the Easement Areas or portion thereof, it being expressly intended that there shall be no continuing liability except for acts or omissions arising during such respective periods of ownership. If any of the Easement Areas are subjected to a condominium regime at any time in the future, after completion by the Developer and acceptance by the City of the improvements required by the Development Approvals within the Public Access Easements, the Grantee agrees to look solely to the council of unit owners of such condominium regime for all rights and benefits under this Agreement and agrees further that no owner(s) of an individual condominium unit in such condominium regime shall have any personal liability under this Agreement and that all liability of the Grantor and its successors and assigns shall be limited to their right, title and interest in the Easement Areas.

K. To the extent permitted by law, the easements established herein may be relocated to another portion of any property in which Grantor has fee simple or leasehold interests by a written modification of this Agreement signed by the Grantor and the City, or their successors and assigns.
L. All references in this Agreement to Grantee and its successors and assigns. All references in this Agreement to Grantor shall be deemed references to the Grantor and its successors and assigns as the then owner of the Easement Areas.

M. The Grantor will warrant specially the Public Access Easements and will execute such further assurances as may be reasonably necessary for and requested in writing by Grantee.

N. Grantor hereby certifies that to Grantor’s knowledge, as of the date of this Agreement, there are no suits or liens affecting the Easement Areas that would affect Grantor’s conveyance of the Public Access Easements in accordance with this Agreement and of which the Grantor has received written notice, and there are no recorded leases, mortgages or trusts affecting the Easement Areas, other than those of record and/or for which the holder in interest has signed or otherwise consented in writing to this Agreement. Grantor further certifies that all parties with an interest in the Easement Areas necessary to give full effect to this Agreement have signed, or consented in writing to, this document.

O. Grantor agrees to record (or to cause to be recorded) this Agreement among the Land Records at Grantor’s expense and shall provide the City with documentary proof of recordation within ten (10) days after receipt of the recorded copy of this Agreement.

P. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Maryland without regard to conflict of laws principles.

TO HAVE AND TO HOLD unto the City, its successors and assigns forever, this grant of Public Access Easements (including all terms, conditions and restrictions contained herein) shall be binding upon the successors and assigns of the Grantor and shall constitute a covenant running with the land.

[SIGNATURE PAGES FOLLOW]
IN WITNESS WHEREOF, the undersigned Grantor has executed and delivered this Agreement as of the date first written above.

GRANTOR:

MARSOL FORTUNE TERRACE LLC

By: _________________________________
   Name: Marc F. Solomon
   Title: Manager

DAFINK FORTUNE TERRACE LLC

By: _________________________________
   Name: David B. Fink
   Title: Manager

SUFINK FORTUNE TERRACE LLC

By: _________________________________
   Name: Susan H. Fink
   Title: Manager

SOLFAM FORTUNE TERRACE LLC

By: _________________________________
   Name: Marc F. Solomon
   Title: Manager

FORTUNE TERRACE INVESTMENT LLC

By: _________________________________
   Name: _____________________________
   Title: _____________________________

TASH DEVELOPMENT, LLC

By: _________________________________
   Name: _____________________________
   Title: _____________________________
WITNESS:

GRANTEE:

THE MAYOR AND COUNCIL OF ROCKVILLE, MARYLAND

Print Name: ____________________________
Name: ____________________________
Title: ____________________________

By: ____________________________

Reviewed for legal sufficiency by:

___________________________
Nicholas D. Dumais
Senior Assistant City Attorney

* * *

STATE OF: ____________________________ *
COUNTY OF: ____________________________ *

I HEREBY CERTIFY that on this _____ day of ___________ , 2022, before the undersigned, a Notary Public in and for the State and County aforesaid, personally appeared Marc F. Solomon, known to me (or satisfactorily proven) to be the Manager of Marsol Fortune Terrace LLC, a Maryland limited liability company, being authorized so to do, executed the foregoing instrument on behalf of the aforesaid company for the purposes therein.

IN TESTIMONY WHEREOF, I have caused the seal of the court to be affixed, or have affixed my official seal, this _____ day of ___________ , 2022.

___________________________
Notary Public

My Commission Expires: ________________

[NOTARIAL SEAL]

* * *

Packet Pg. 203
STATE OF: __________________________ *  
COUNTY OF: __________________________ *

I HEREBY CERTIFY that on this _____ day of ____________, 2022, before the undersigned, a Notary Public in and for the State and County aforesaid, personally appeared David B. Fink, known to me (or satisfactorily proven) to be the Manager of Dafink Fortune Terrace LLC, a Maryland limited liability company, being authorized so to do, executed the foregoing instrument on behalf of the aforesaid company for the purposes therein.

IN TESTIMONY WHEREOF, I have caused the seal of the court to be affixed, or have affixed my official seal, this _____ day of ________________, 2022.

________________________________________
Notary Public

My Commission Expires: ________________

[NOTARIAL SEAL]

* * *

STATE OF: __________________________ *
COUNTY OF: __________________________ *

I HEREBY CERTIFY that on this _____ day of ____________, 2022, before the undersigned, a Notary Public in and for the State and County aforesaid, personally appeared Susan H. Fink, known to me (or satisfactorily proven) to be the Manager of Sufink Fortune Terrace LLC, a Maryland limited liability company, being authorized so to do, executed the foregoing instrument on behalf of the aforesaid company for the purposes therein.

IN TESTIMONY WHEREOF, I have caused the seal of the court to be affixed, or have affixed my official seal, this _____ day of ________________, 2022.

________________________________________
Notary Public

My Commission Expires: ________________

[NOTARIAL SEAL]

* * *
STATE OF: __________________________

COUNTY OF: _________________________

I HEREBY CERTIFY that on this _____ day of ____________, 2022, before the undersigned, a Notary Public in and for the State and County aforesaid, personally appeared Marc F. Solomon, known to me (or satisfactorily proven) to be the Manager of Solfam Fortune Terrace LLC, a Maryland limited liability company, being authorized so to do, executed the foregoing instrument on behalf of the aforesaid company for the purposes therein.

IN TESTIMONY WHEREOF, I have caused the seal of the court to be affixed, or have affixed my official seal, this _____ day of __________________, 2022.

____________________________________
Notary Public

My Commission Expires: ________________

[NOTARIAL SEAL]

* * *

STATE OF: __________________________

COUNTY OF: _________________________

I HEREBY CERTIFY that on this _____ day of ____________, 2022, before the undersigned, a Notary Public in and for the State and County aforesaid, personally appeared _________________________, known to me (or satisfactorily proven) to be the ______________________ of Fortune Terrace Investment LLC, a Maryland limited liability company, being authorized so to do, executed the foregoing instrument on behalf of the aforesaid company for the purposes therein.

IN TESTIMONY WHEREOF, I have caused the seal of the court to be affixed, or have affixed my official seal, this _____ day of __________________, 2022.

____________________________________
Notary Public

My Commission Expires: ________________

[NOTARIAL SEAL]
STATE OF: _____________________  *
COUNTY OF: _____________________  *

I HEREBY CERTIFY that on this _____ day of _______ _______, 2022, before the undersigned, a Notary Public in and for the State and County aforesaid, personally appeared ______________________________, known to me (or satisfactorily proven) to be the ______________________ of Tash Development, LLC, a Delaware limited liability company, being authorized so to do, executed the foregoing instrument on behalf of the aforesaid company for the purposes therein.

IN TESTIMONY WHEREOF, I have caused the seal of the court to be affixed, or have affixed my official seal, this _____ day of ________________, 2022.

________________________________
Notary Public

My Commission Expires: ______________

[NOTARIAL SEAL]

STATE OF: _____________________  *
COUNTY OF: _____________________  *

I hereby certify that on this _____ day of ________________, 2022, before the subscriber, a Notary Public in and for the State and County aforesaid, personally appeared ______________________________, known to me (or satisfactorily proven) to be the person described in the foregoing instrument, who did acknowledge that he/she, having been properly authorized, executed the same on behalf of The Mayor and Council of Rockville, Maryland in the capacity therein stated and for the purposes therein contained.

Witness my hand and official seal this _______ day of ________________, 2022.

________________________________
Notary Public

My Commission Expires: ______________

[NOTARIAL SEAL]
ATTORNEY’S CERTIFICATION

I HEREBY CERTIFY that the within instrument has been prepared by or under the supervision of the undersigned attorney.

___________________________________________
Scott C. Wallace

INFORMATION FOR RECORDING:

Record Legal Description: ________________________________
Record Plat: ________________________________

Parties:

Marsol Fortune Terrace LLC
Dafink Fortune Terrace LLC
Sufink Fortune Terrace LLC
Solfam Fortune Terrace LLC
Fortune Terrace Investment LLC
Tash Development, LLC
c/o David B. Fink
Marc F. Solomon
Finmarc Management, Inc.
7200 Wisconsin Avenue, Suite 1100
Bethesda, MD  20814

Mayor and Council of Rockville
111 Maryland Avenue
Rockville, MD  20850

AFTER RECORDATION, PLEASE RETURN TO:

Scott C. Wallace, Esquire
Miles & Stockbridge P.C.
11 N. Washington Street, Suite 700
Rockville, MD  20850
EXHIBIT A

Subject Property / Easement Areas Legal Description

[Attached]
EXHIBIT B

Subject Property / Easement Areas Sketch

[Attached]
EXHIBIT C

Private Alleys
EXHIBIT D

Description of Private Alleys
Subject
Authorization to Approve a Stormwater Management Easement and Stormwater Management Inspection and Maintenance Agreement Associated with Potomac Woods

Recommendation
Authorize the City Manager to execute a Stormwater Management Easement and Stormwater Management Inspection and Maintenance Agreement between the Mayor and Council of Rockville and Marsol Fortune Terrace, LLC, et. al., in a form acceptable to the City Attorney and substantially similar to the draft document attached to this staff report.

Discussion
This item authorizes the City Manager to approve a Stormwater Management Easement and Inspection and Maintenance Agreement associated with the Potomac Woods redevelopment. The mixed-use, multi-phase project, approved by the Planning Commission at its August 11, 2021 meeting, consists of 99 townhouse and 96 multifamily units (EYA/Finmarc), 213 senior housing units (Brightview), and retains the existing 70,000 square foot fitness center with new construction of an associated parking garage (LifeTime Fitness). The developer, Marsol Fortune Terrace, LLC, et. al., (Finmarc), is required to provide for stormwater management (SWM) and covenant its long-term inspection, maintenance and protection in accordance with the City’s SWM Ordinance, Chapter 19.

The easement and maintenance agreement gives the City rights to access, inspect and assume structural operation and maintenance should the owner otherwise fail to perform its responsibilities to do so. The City may, but is not obligated to, perform all necessary construction, repair, maintenance and/or operating work, and may assess the owner for incurred costs.

The development project will be constructed in phases and, therefore, may require recordation of additional SWM easements for facilities proposed in future phases. The recitals, conditions and language of each easement will be identical to the City’s standard Stormwater Management Easement and Stormwater Management Inspection and Maintenance Agreement.
The locations of the proposed stormwater management are shown on Attachment A. The draft document for the preliminary construction phase (LifeTime Fitness) is provided in Attachment B, “Stormwater Management Easement and Stormwater Management Inspection and Maintenance Agreement”. A separate agreement (“License and Maintenance Agreement”) and request for Mayor and Council consent will be made for private stormwater management facilities located in public right-of-way.

**Mayor and Council History**

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

**Next Steps**

The City Manager will execute, on behalf of the Mayor and Council of Rockville, a document entitled “Stormwater Management Easement and Stormwater Management Inspection and Maintenance Agreement” in a form acceptable to the City Attorney and substantially similar to the draft document attached to this staff report. The executed Easement and Agreement will be recorded in the Land Records of Montgomery County prior to the issuance of associated Public Works permits.

**Attachments**

Attachment A: Locations of Proposed Stormwater Management
Attachment B: Stormwater Management Easement and Stormwater Management Inspection and Maintenance Agreement

**Attachments**

Attachment 7.K.a: Attachment A_Proposed Stormwater Management (PDF)
Attachment 7.K.b: Attachment B_SWM Esmt and SWM Inspection Maint Agmt (PDF)
STORMWATER MANAGEMENT EASEMENT AND
STORMWATER MANAGEMENT INSPECTION AND MAINTENANCE AGREEMENT

(Life Time Lot)

Made this ______ day of __________________, 2022, by and among MARSOL
FORTUNE TERRACE LLC, a Maryland limited liability company (“Marsol”), DAFINK FORTUNE
TERRACE LLC, a Maryland limited liability company (“Dafink”), SUFINK FORTUNE TERRACE
LLC, a Maryland limited liability company (“Sufink”), SOLFAM FORTUNE TERRACE LLC, a
Maryland limited liability company (“Solfam”), FORTUNE TERRACE INVESTMENT LLC, a
Maryland limited liability company (“FTI”), and TASH DEVELOPMENT, LLC, a Delaware limited
liability company (“Tash”) (Marsol, Dafink, Sufink, Solfam, FTI and Tash are herein individually
each and collectively referred to as “Owner”), for the benefit of the MAYOR AND COUNCIL OF
ROCKVILLE, MARYLAND, a municipal corporation in the State of Maryland, hereinafter referred
to as the “City.”

WITNESSETH:

WHEREAS, the Owner is owner of the property, hereinafter referred to as the “Subject
Property,” described as follows:

Parcel 23, Block A, as shown on a Plat of Subdivision recorded as Plat
No. 11932 in the Land Records of Montgomery County, Maryland (the
“Land Records”).

WHEREAS, Owner desires to develop or redevelop all or portions of the Subject Property; and

WHEREAS, prior to said developing or redeveloping, the Owner is required by Chapter 19 of
the Rockville City Code to provide for certain stormwater management and to obtain sediment control
and stormwater management permits (collectively the “Stormwater Management Approvals”); and

WHEREAS, pursuant to the Stormwater Management Approvals, the Owner is required to
construct stormwater management facilities on the Subject Property (the “Stormwater Management
System” or “System”) and enter into an agreement with the City regarding the maintenance and
inspection of the System, including the grant of an easement to the City for such purposes; and

WHEREAS, the Owner has full authority to execute this Stormwater Management Easement
and Stormwater Management Inspection and Maintenance Agreement so as to bind the Subject
Property and all current and future owners and assigns.

NOW, THEREFORE, in compliance with the requirements of Chapter 19 and in consideration
of the issuance by the City of the Stormwater Management Approvals and for other good and valuable
consideration, the receipt and sufficiency of which is hereby acknowledged, the Owner does grant,
covenant and agree as follows:

1
STORMWATER MANAGEMENT EASEMENT

The Owner does hereby grant and convey to the City, its successors and assigns, forever and in perpetuity, a Stormwater Management Easement described as follows:

A portion of Parcel 23, Block A, as shown on a Plat of Subdivision recorded as Plat No. 11932 in the Land Records of Montgomery County, Maryland (the “Land Records”).

Said Stormwater Management Easement more particularly shown on the attached Exhibits _______________, which is attached hereto and incorporated herein by reference. Said Stormwater Management Easement is hereby intended to be granted and conveyed together with all the rights, privileges, appurtenances, and advantages thereto belonging or appertaining to their proper use and benefit forever by the City, its successors and assigns.

AND the Owner, for itself and the Owner’s heirs, administrators, successors, and assigns, covenants and agrees as follows:

FIRST: That the Owner, without the prior written consent of the City, will neither perform nor permit upon or within the above described Stormwater Management Easement: (i) removal or alteration of the Stormwater Management System constructed within the Stormwater Management Easement, (ii) the erection or installation of any structure, building or other improvements, (iii) the excavation or filling of land, or (iv) the installation of trees, shrubs, or other landscaping (excluding grass) unless shown on the Stormwater Management Approvals.

SECOND: That the City, its successors and assigns, shall at all reasonable times have the right, but is not under any circumstances obligated to exercise said right, of ingress and egress along, over, under, thru, to and from such Stormwater Management Easement for the purpose of installing, constructing, reconstructing, maintaining, repairing, inspecting and/or operating the System and appurtenances thereto; said ingress and egress to be made generally across the Subject Property from any adjacent public road or right-of-way, or along such other lines as the Owner may designate and as may be acceptable to the City and the Owner’s obligation under this paragraph; and

THIRD: That the Owner will warrant specially said Stormwater Management Easement, and will execute such further assurances thereof as may be requisite.
STORMWATER MANAGEMENT
INSPECTION AND MAINTENANCE AGREEMENT

The Owner does hereby further covenant and agree as follows:

1. The Owner will construct the System within the Stormwater Management Easement described above and shall further provide for the quarterly inspection and necessary maintenance of said System to ensure that it is and remains in proper working condition in accordance with the approved design standards of applicable laws, rules and regulations. City issuance of the Stormwater Management Approvals for the Subject Property shall constitute the necessary consent for the construction of the System within the Stormwater Management Easement pursuant to paragraph FIRST above.

2. The City may, but is not obligated to, inspect the System. If, after reasonable notice by the City, the Owner shall fail to construct, repair, maintain, or operate the System in accordance with the approved design standards and with all applicable laws, rules and regulations, the City may, but is not obligated to, enter onto the Subject Property and access the System and perform all necessary construction, repair, maintenance and/or operating work, and may assess the Owner for the cost of said work including penalties. Said assessment shall be a lien against the Subject Property and may be placed on the property tax bill of said property and collected in the same manner as property taxes by the City. If properties other than the Subject Property are also served by the System, the owner(s) of all such property shall be jointly and severally liable for the any cost of associated with any and all work performed by the City. All said properties are jointly and severally subject to the imposition of liens pursuant to the provisions of this paragraph.

3. The Owner shall indemnify and hold harmless the City and all its officers, employees, agents, and servants from any and all claims or damages of any kind to persons or property arising from the installation, construction, reconstruction, maintenance, repair, operation and/or use of the System.

4. The Owner shall notify the City of the legal and/or equitable transfer of any of the Owner's responsibilities for the System within thirty (30) days of such transfer, and shall supply the City with a copy of any executed documents of said transfer. The Owner shall provide all subsequent owners, successors, assigns and any other party responsible for the maintenance of the System with a copy of this Stormwater Management Easement and Stormwater Management Inspection and Maintenance Agreement with accurate as-built construction plans detailing the System and its appurtenances.

5. This Stormwater Management Easement and Stormwater Management Inspection and Maintenance Agreement does not in any way relieve the Owner of responsibility for providing stormwater drainage in addition to the on-site System as may be deemed necessary by the City or other appropriate agency.

6. All provisions of this Agreement, including the benefits and burdens, shall touch, concern, and run with the land and be binding upon and inure to the benefit of the Owner and the City, and their respective successors and assigns. Notwithstanding anything to the contrary in this Agreement, at such time as the homeowners association for the development proposed on the Subject
Property (the “HOA”) is legally created, the HOA shall be solely responsible for (i) maintaining, inspecting, operating, repairing and replacing the System, (ii) reimbursing the City for any costs incurred pursuant to Sections 4 and 5 of this Agreement, as applicable, and (iii) performing all other obligations and liabilities of the Owner under this Agreement. The obligations set forth in this Agreement shall be included in the governing documents of the HOA, and only the real property owned by the HOA and/or Owner (or any successor developer of the Subject Property) shall be subject to a lien for failure to pay any costs which may be due and payable by the Owner under this Agreement from and after the HOA is established. In no event shall any owners of the individual lots and dwelling units thereon be responsible for the performance of the obligations of the Owner under this Agreement, nor shall any of the costs described under Section 2 be assessed against, or become a lien upon, such homeowner's individual or dwelling unit. Prior to the legal creation of the HOA, the Owner shall remain liable for all obligations under this Agreement. Owner shall give the City prompt written notice at such time as the HOA is legally created, with contact information for the HOA.

7. Owner hereby certifies that there are no suits, liens, leases, mortgages, or trusts affecting the Subject Property, other than those for which the holder in interest has signed this document or otherwise consented in writing, to this Stormwater Management Easement and Stormwater Management Inspection and Maintenance Agreement. Owner further certifies that all parties with an interest in the Subject Property necessary to give full effect to this Stormwater Management Easement and Stormwater Management Inspection and Maintenance Agreement have signed, or otherwise consented in writing to, this document.

AND, the Owner does further agree to record this Stormwater Management Easement and Stormwater Management Inspection and Maintenance Agreement in the land records of Montgomery County, Maryland, at the Owner's expense within ten (10) days of the date hereof, and shall provide the City with documentary proof of recordation within five (5) days of said recordation.

[SIGNATURE PAGES FOLLOW]
IN WITNESS WHEREOF, the Owner has executed this Stormwater Management Easement and Stormwater Management Inspection and Maintenance Agreement as of this ______ day of _______________________, 2022.

WITNESS:  

OWNERS:

MARSOL FORTUNE TERRACE LLC

By: __________________________
Name: _________________________
Title: __________________________

DAFINK FORTUNE TERRACE LLC

By: __________________________
Name: _________________________
Title: __________________________

SUFINK FORTUNE TERRACE LLC

By: __________________________
Name: _________________________
Title: __________________________

SOLFAM FORTUNE TERRACE LLC

By: __________________________
Name: _________________________
Title: __________________________

FORTUNE TERRACE INVESTMENT LLC

By: __________________________
Name: _________________________
Title: __________________________

TASH DEVELOPMENT, LLC

By: __________________________
Name: _________________________
Title: __________________________
WITNESS:

CITY:

MAYOR AND COUNCIL OF ROCKVILLE, MARYLAND

Print Name: __________________________
Name: __________________________
Title: __________________________

Reviewed for legal sufficiency by:

Nicholas D. Dumais
Senior Assistant City Attorney

* * *

STATE OF: ________________ *
COUNTY OF: ________________ *

I HEREBY CERTIFY that on this _____ day of ________________, 2022, before the undersigned, a Notary Public in and for the State and County aforesaid, personally appeared Marc F. Solomon, known to me (or satisfactorily proven) to be the Manager of Marsol Fortune Terrace LLC, a Maryland limited liability company, being authorized so to do, executed the foregoing instrument on behalf of the aforesaid company for the purposes therein.

IN TESTIMONY WHEREOF, I have caused the seal of the court to be affixed, or have affixed my official seal, this _____ day of ________________, 2022.

______________________________
Notary Public

My Commission Expires: _____________

[NOTARIAL SEAL]

* * *
STATE OF: ____________________  *
          *
COUNTY OF: ____________________  *

I HEREBY CERTIFY that on this _____ day of _________________, 2022, before the
undersigned, a Notary Public in and for the State and County aforesaid, personally appeared David B.
Fink, known to me (or satisfactorily proven) to be the Manager of Dafink Fortune Terrace LLC, a
Maryland limited liability company, being authorized so to do, executed the foregoing instrument on
behalf of the aforesaid company for the purposes therein.

IN TESTIMONY WHEREOF, I have caused the seal of the court to be affixed, or have affixed
my official seal, this _____ day of _________________, 2022.

________________________________________
Notary Public

My Commission Expires: ________________

[NOTARIAL SEAL]

*  *  *

STATE OF: ____________________  *
          *
COUNTY OF: ____________________  *

I HEREBY CERTIFY that on this _____ day of _________________, 2022, before the
undersigned, a Notary Public in and for the State and County aforesaid, personally appeared Susan H.
Fink, known to me (or satisfactorily proven) to be the Manager of Sufink Fortune Terrace LLC, a
Maryland limited liability company, being authorized so to do, executed the foregoing instrument on
behalf of the aforesaid company for the purposes therein.

IN TESTIMONY WHEREOF, I have caused the seal of the court to be affixed, or have affixed
my official seal, this _____ day of _________________, 2022.

________________________________________
Notary Public

My Commission Expires: ________________

[NOTARIAL SEAL]

*  *  *
STATE OF: ______________________ *
COUNTY OF: ____________________ *

I HEREBY CERTIFY that on this _____ day of ____________, 2022, before the undersigned, a Notary Public in and for the State and County aforesaid, personally appeared Marc F. Solomon, known to me (or satisfactorily proven) to be the Manager of Solfam Fortune Terrace LLC, a Maryland limited liability company, being authorized so to do, executed the foregoing instrument on behalf of the aforesaid company for the purposes therein.

IN TESTIMONY WHEREOF, I have caused the seal of the court to be affixed, or have affixed my official seal, this _____ day of __________________, 2022.

__________________________
Notary Public

My Commission Expires: ____________

[NOTARIAL SEAL]

* * *

STATE OF: ______________________ *
COUNTY OF: ____________________ *

I HEREBY CERTIFY that on this _____ day of ____________, 2022, before the undersigned, a Notary Public in and for the State and County aforesaid, personally appeared ______________________, known to me (or satisfactorily proven) to be the ______________ of Fortune Terrace Investment LLC, a Maryland limited liability company, being authorized so to do, executed the foregoing instrument on behalf of the aforesaid company for the purposes therein.

IN TESTIMONY WHEREOF, I have caused the seal of the court to be affixed, or have affixed my official seal, this _____ day of __________________, 2022.

__________________________
Notary Public

My Commission Expires: ____________

[NOTARIAL SEAL]

* * *
STATE OF: __________________________  *

COUNTY OF: __________________________  *

I HEREBY CERTIFY that on this _____ day of __________________, 2022, before the undersigned, a Notary Public in and for the State and County aforesaid, personally appeared __________________________________________________________, known to me (or satisfactorily proven) to be the ______________________ of Tash Development, LLC, a Delaware limited liability company, being authorized so to do, executed the foregoing instrument on behalf of the aforesaid company for the purposes therein.

IN TESTIMONY WHEREOF, I have caused the seal of the court to be affixed, or have affixed my official seal, this _____ day of __________________, 2022.

________________________________________
Notary Public

My Commission Expires: ________________

[NOTARIAL SEAL]

* * *

STATE OF: __________________________  *

COUNTY OF: __________________________  *

I hereby certify that on this _____ day of __________________, 2022, before the subscriber, a Notary Public in and for the State and County aforesaid, personally appeared __________________________________________________________, known to me (or satisfactorily proven) to be the person described in the foregoing instrument, who did acknowledge that he/she, having been properly authorized, executed the same on behalf of the Mayor and Council of Rockville, Maryland in the capacity therein stated and for the purposes therein contained.

Witness my hand and official seal this _____ day of __________________, 2022.

________________________________________
Notary Public

My commission expires: ________________

[NOTARIAL SEAL]

Return original instrument to:
Scott C. Wallace, Esq.
Miles & Stockbridge P.C.
11 N. Washington Street, Suite 700
Rockville, MD  20850
Subject
Authorization to Approve a Stormwater Management Easement and Stormwater Management Inspection and Maintenance Agreement for a Temporary Parking Lot Associated with Potomac Woods

Recommendation
Authorize the City Manager to execute a Stormwater Management Easement and Stormwater Management Inspection and Maintenance Agreement between the Mayor and Council of Rockville and Marsol Fortune Terrace, LLC, et. al., in a form acceptable to the City Attorney and substantially similar to the draft document attached to this staff report, if certain conditions are met.

Discussion
This item authorizes the City Manager to approve a Stormwater Management Easement and Inspection and Maintenance Agreement associated with a temporary parking lot for the Potomac Woods redevelopment. The mixed-use, multi-phase project, approved by the Planning Commission at its August 11, 2021 meeting, consists of 99 townhouse and 96 multifamily units (EYA/Finmarc), 213 senior housing units (Brightview), and retains the existing 70,000 square foot fitness center with new construction of an associated parking garage (LifeTime Fitness). The developer, Marsol Fortune Terrace, LLC, et. al., (Finmarc), is required to provide for stormwater management (SWM) and covenant its long-term inspection, maintenance and protection in accordance with the City’s SWM Ordinance, Chapter 19.

The easement and maintenance agreement gives the City rights to access, inspect and assume structural operation and maintenance should the owner otherwise fail to perform its responsibilities to do so. The City may, but is not obligated to, perform all necessary construction, repair, maintenance and/or operating work, and may assess the owner for incurred costs.

An easement is necessary because the development project will be constructed in phases and will include a temporary surface parking lot to serve the fitness center which proposes to remain in operation throughout construction. In accordance with the City’s SWM Ordinance, the construction of impervious area, albeit temporary, is subject to SWM requirements. The
Department of Public Works will approve and permit construction drawings for temporary SWM facilities to treat the temporary parking lot, however, these facilities may never be installed assuming the parking lot is eventually removed. The locations of the stormwater management are shown on Attachment A. The draft document is provided in Attachment B, “Stormwater Management Easement and Stormwater Management Inspection and Maintenance Agreement (Temporary Parking Lot)”.

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

**Next Steps**
The developer will execute a document entitled “Stormwater Management Easement and Stormwater Management Inspection and Maintenance Agreement (Temporary Parking Lot)” in a form acceptable to the City Attorney and substantially similar to the draft document attached to this staff report. Staff will withhold execution and recordation of the easement until a time at which installation of the temporary SWM facilities proves necessary. If installation of these facilities is not necessary, the easement shall remain unrecorded on the condition that either: (1) all impervious area associated with the temporary parking lot is removed; and/or (2) the SWM construction drawings, bond and permit for the future/ultimate conditions (showing the temporary parking lot removed) are approved by Public Works.

**Attachments**
Attachment A: Locations of Temporary Stormwater Management
Attachment B: Stormwater Management Easement and Stormwater Management Inspection and Maintenance Agreement (Temporary Parking Lot)

**Attachments**
Attachment 7.L.a: Attachment A_Temp Stormwater Management (PDF)
Attachment 7.L.b: Attachment B_Temporary SWM Esmt and SWM Inspection Maint Agmt (PDF)
STORMWATER MANAGEMENT EASEMENT AND
STORMWATER MANAGEMENT INSPECTION AND MAINTENANCE AGREEMENT

(Temporary Parking Lot)

Made this ______ day of __________________, 2022, by and among MARSOL FORTUNE TERRACE LLC, a Maryland limited liability company (“Marsol”), DAFINK FORTUNE TERRACE LLC, a Maryland limited liability company (“Dafink”), SUFINK FORTUNE TERRACE LLC, a Maryland limited liability company (“Sufink”), SOLFAM FORTUNE TERRACE LLC, a Maryland limited liability company (“Solfam”), FORT UNE TERRACE INVESTMENT LLC, a Maryland limited liability company (“FTI”), and TASH DEVELOPMENT, LLC, a Delaware limited liability company (“Tash”) (Marsol, Dafink, Sufink, Solfam, FTI and Tash are herein individually each and collectively referred to as “Owner”), for the benefit of the MAYOR AND COUNCIL OF ROCKVILLE, MARYLAND, a municipal corporation in the State of Maryland, hereinafter referred to as the “City.”

WITNESSETH:

WHEREAS, the Owner is owner of the property, hereinafter referred to as the “Subject Property,” described as follows:

Parcel 23, Block A, as shown on a Plat of Subdivision recorded as Plat No. 11932 in the Land Records of Montgomery County, Maryland (the “Land Records”).

WHEREAS, Owner desires to develop or redevelop all or portions of the Subject Property; and

WHEREAS, prior to said developing or redeveloping, the Owner is required by Chapter 19 of the Rockville City Code to provide for certain stormwater management and to obtain sediment control and stormwater management permits (collectively the “Stormwater Management Approvals”); and

WHEREAS, pursuant to the Stormwater Management Approvals, the Owner is required to construct stormwater management facilities on the Subject Property (the “Stormwater Management System” or “System”) and enter into an agreement with the City regarding the maintenance and inspection of the System, including the grant of an easement to the City for such purposes; and

WHEREAS, the Owner has full authority to execute this Stormwater Management Easement and Stormwater Management Inspection and Maintenance Agreement so as to bind the Subject Property and all current and future owners and assigns.

NOW, THEREFORE, in compliance with the requirements of Chapter 19 and in consideration of the issuance by the City of the Stormwater Management Approvals and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Owner does grant, covenant and agree as follows:
STORMWATER MANAGEMENT EASEMENT

The Owner does hereby grant and convey to the City, its successors and assigns, forever and in perpetuity, a Stormwater Management Easement described as follows:

A portion of Parcel 23, Block A, as shown on a Plat of Subdivision recorded as Plat No. 11932 in the Land Records of Montgomery County, Maryland (the “Land Records”).

Said Stormwater Management Easement more particularly shown on the attached Exhibits _________. which is attached hereto and incorporated herein by reference. Said Stormwater Management Easement is hereby intended to be granted and conveyed together with all the rights, privileges, appurtenances, and advantages thereto belonging or appertaining to their proper use and benefit forever by the City, its successors and assigns.

AND the Owner, for itself and the Owner’s heirs, administrators, successors, and assigns, covenants and agrees as follows:

FIRST: That the Owner, without the prior written consent of the City, will neither perform nor permit upon or within the above described Stormwater Management Easement: (i) removal or alteration of the Stormwater Management System constructed within the Stormwater Management Easement, (ii) the erection or installation of any structure, building or other improvements, (iii) the excavation or filling of land, or (iv) the installation of trees, shrubs, or other landscaping (excluding grass) unless shown on the Stormwater Management Approvals.

SECOND: That the City, its successors and assigns, shall at all reasonable times have the right, but is not under any circumstances obligated to exercise said right, of ingress and egress along, over, under, thru, to and from such Stormwater Management Easement for the purpose of installing, constructing, reconstructing, maintaining, repairing, inspecting and/or operating the System and appurtenances thereto; said ingress and egress to be made generally across the Subject Property from any adjacent public road or right-of-way, or along such other lines as the Owner may designate and as may be acceptable to the City and the Owner’s obligation under this paragraph; and

THIRD: That the Owner will warrant specially said Stormwater Management Easement, and will execute such further assurances thereof as may be requisite.
STORMWATER MANAGEMENT
INSPECTION AND MAINTENANCE AGREEMENT

The Owner does hereby further covenant and agree as follows:

1. The Owner will construct the System within the Stormwater Management Easement described above and shall further provide for the quarterly inspection and necessary maintenance of said System to ensure that it is and remains in proper working condition in accordance with the approved design standards of applicable laws, rules and regulations. City issuance of the Stormwater Management Approvals for the Subject Property shall constitute the necessary consent for the construction of the System within the Stormwater Management Easement pursuant to paragraph FIRST above.

2. The City may, but is not obligated to, inspect the System. If, after reasonable notice by the City, the Owner shall fail to construct, repair, maintain, or operate the System in accordance with the approved design standards and with all applicable laws, rules and regulations, the City may, but is not obligated to, enter onto the Subject Property and access the System and perform all necessary construction, repair, maintenance and/or operating work, and may assess the Owner for the cost of said work including penalties. Said assessment shall be a lien against the Subject Property and may be placed on the property tax bill of said property and collected in the same manner as property taxes by the City. If properties other than the Subject Property are also served by the System, the owner(s) of all such property shall be jointly and severally liable for the any cost of associated with any and all work performed by the City. All said properties are jointly and severally subject to the imposition of liens pursuant to the provisions of this paragraph.

3. The Owner shall indemnify and hold harmless the City and all its officers, employees, agents, and servants from any and all claims or damages of any kind to persons or property arising from the installation, construction, reconstruction, maintenance, repair, operation and/or use of the System.

4. The Owner shall notify the City of the legal and/or equitable transfer of any of the Owner's responsibilities for the System within thirty (30) days of such transfer, and shall supply the City with a copy of any executed documents of said transfer. The Owner shall provide all subsequent owners, successors, assigns and any other party responsible for the maintenance of the System with a copy of this Stormwater Management Easement and Stormwater Management Inspection and Maintenance Agreement with accurate as-built construction plans detailing the System and its appurtenances.

5. This Stormwater Management Easement and Stormwater Management Inspection and Maintenance Agreement does not in any way relieve the Owner of responsibility for providing stormwater drainage in addition to the on-site System as may be deemed necessary by the City or other appropriate agency.

6. All provisions of this Agreement, including the benefits and burdens, shall touch, concern, and run with the land and be binding upon and inure to the benefit of the Owner and the City, and their respective successors and assigns. Notwithstanding anything to the contrary in this Agreement, at such time as the homeowners association for the development proposed on the Subject

G2174/000003/4872-2830-1350.v1
Property (the “HOA”) is legally created, the HOA shall be solely responsible for (i) maintaining, inspecting, operating, repairing and replacing the System, (ii) reimbursing the City for any costs incurred pursuant to Sections 4 and 5 of this Agreement, as applicable, and (iii) performing all other obligations and liabilities of the Owner under this Agreement. The obligations set forth in this Agreement shall be included in the governing documents of the HOA, and only the real property owned by the HOA and/or Owner (or any successor developer of the Subject Property) shall be subject to a lien for failure to pay any costs which may be due and payable by the Owner under this Agreement from and after the HOA is established. In no event shall any owners of the individual lots and dwelling units thereon be responsible for the performance of the obligations of the Owner under this Agreement, nor shall any of the costs described under Section 2 be assessed against, or become a lien upon, such homeowner's individual or dwelling unit. Prior to the legal creation of the HOA, the Owner shall remain liable for all obligations under this Agreement. Owner shall give the City prompt written notice at such time as the HOA is legally created, with contact information for the HOA.

7. Owner hereby certifies that there are no suits, liens, leases, mortgages, or trusts affecting the Subject Property, other than those for which the holder in interest has signed this document or otherwise consented in writing, to this Stormwater Management Easement and Stormwater Management Inspection and Maintenance Agreement. Owner further certifies that all parties with an interest in the Subject Property necessary to give full effect to this Stormwater Management Easement and Stormwater Management Inspection and Maintenance Agreement have signed, or otherwise consented in writing to, this document.

AND, the Owner does further agree to record this Stormwater Management Easement and Stormwater Management Inspection and Maintenance Agreement in the land records of Montgomery County, Maryland, at the Owner's expense within ten (10) days of the date hereof, and shall provide the City with documentary proof of recordation within five (5) days of said recordation.

[SIGNATURE PAGES FOLLOW]
IN WITNESS WHEREOF, the Owner has executed this Stormwater Management Easement and Stormwater Management Inspection and Maintenance Agreement as of this _______ day of ____________________, 2022.

WITNESS:

OWNER:

MARSOL FORTUNE TERRACE LLC

By: ______________________
Name: ______________________
Title: ______________________

DAFINK FORTUNE TERRACE LLC

By: ______________________
Name: ______________________
Title: ______________________

SUFINK FORTUNE TERRACE LLC

By: ______________________
Name: ______________________
Title: ______________________

SOLFAM FORTUNE TERRACE LLC

By: ______________________
Name: ______________________
Title: ______________________

FORTUNE TERRACE INVESTMENT LLC

By: ______________________
Name: ______________________
Title: ______________________

TASH DEVELOPMENT, LLC

By: ______________________
Name: ______________________
Title: ______________________
WITNESS:

CITY:

MAYOR AND COUNCIL OF ROCKVILLE, MARYLAND

Print Name: ____________________________
Name: ____________________________
Title: ____________________________

Reviewed for legal sufficiency by:

______________________________
Nicholas D. Dumais
Senior Assistant City Attorney

* * *

STATE OF: ____________________________ *
COUNTY OF: ____________________________ *

I HEREBY CERTIFY that on this _____ day of ________________, 2022, before the undersigned, a Notary Public in and for the State and County aforesaid, personally appeared Marc F. Solomon, known to me (or satisfactorily proven) to be the Manager of Marsol Fortune Terrace LLC, a Maryland limited liability company, being authorized so to do, executed the foregoing instrument on behalf of the aforesaid company for the purposes therein.

IN TESTIMONY WHEREOF, I have caused the seal of the court to be affixed, or have affixed my official seal, this _____ day of ________________, 2022.

______________________________
Notary Public

My Commission Expires: ______________

[NOTARIAL SEAL]

* * *
STATE OF: __________________________  *
COUNTY OF: __________________________  *

I HEREBY CERTIFY that on this _____ day of ____________, 2022, before the undersigned, a Notary Public in and for the State and County aforesaid, personally appeared David B. Fink, known to me (or satisfactorily proven) to be the Manager of Dafink Fortune Terrace LLC, a Maryland limited liability company, being authorized so to do, executed the foregoing instrument on behalf of the aforesaid company for the purposes therein.

IN TESTIMONY WHEREOF, I have caused the seal of the court to be affixed, or have affixed my official seal, this _____ day of ____________, 2022.

____________________________________
Notary Public
My Commission Expires: ________________
[NOTARIAL SEAL]

*   *   *

STATE OF: __________________________  *
COUNTY OF: __________________________  *

I HEREBY CERTIFY that on this _____ day of ____________, 2022, before the undersigned, a Notary Public in and for the State and County aforesaid, personally appeared Susan H. Fink, known to me (or satisfactorily proven) to be the Manager of Sufink Fortune Terrace LLC, a Maryland limited liability company, being authorized so to do, executed the foregoing instrument on behalf of the aforesaid company for the purposes therein.

IN TESTIMONY WHEREOF, I have caused the seal of the court to be affixed, or have affixed my official seal, this _____ day of ____________, 2022.

____________________________________
Notary Public
My Commission Expires: ________________
[NOTARIAL SEAL]

*   *   *
STATE OF: __________________________  *
COUNTY OF: __________________________  *

I HEREBY CERTIFY that on this ____ day of _____________, 2022, before the undersigned, a Notary Public in and for the State and County aforesaid, personally appeared Marc F. Solomon, known to me (or satisfactorily proven) to be the Manager of Solfam Fortune Terrace LLC, a Maryland limited liability company, being authorized so to do, executed the foregoing instrument on behalf of the aforesaid company for the purposes therein.

IN TESTIMONY WHEREOF, I have caused the seal of the court to be affixed, or have affixed my official seal, this ____ day of _____________, 2022.

______________________________
Notary Public

My Commission Expires: ____________

[NOTARIAL SEAL]

* * *

STATE OF: __________________________  *
COUNTY OF: __________________________  *

I HEREBY CERTIFY that on this ____ day of _____________, 2022, before the undersigned, a Notary Public in and for the State and County aforesaid, personally appeared ____________________, known to me (or satisfactorily proven) to be the ________________ of Fortune Terrace Investment LLC, a Maryland limited liability company, being authorized so to do, executed the foregoing instrument on behalf of the aforesaid company for the purposes therein.

IN TESTIMONY WHEREOF, I have caused the seal of the court to be affixed, or have affixed my official seal, this ____ day of _____________, 2022.

______________________________
Notary Public

My Commission Expires: ____________

[NOTARIAL SEAL]

* * *
STATE OF: __________________________   *

COUNTY OF: __________________________   *

I HEREBY CERTIFY that on this _____ day of ____________, 2022, before the undersigned, a Notary Public in and for the State and County aforesaid, personally appeared __________________________, known to me (or satisfactorily proven) to be the ______________________ of Tash Development, LLC, a Delaware limited liability company, being authorized so to do, executed the foregoing instrument on behalf of the aforesaid company for the purposes therein.

IN TESTIMONY WHEREOF, I have caused the seal of the court to be affixed, or have affixed my official seal, this _____ day of ______________, 2022.

Notary Public

My Commission Expires: ______________

[NOTARIAL SEAL]

* * *

STATE OF: __________________________   *

COUNTY OF: __________________________   *

I hereby certify that on this _____ day of ______________, 2022, before the subscriber, a Notary Public in and for the State and County aforesaid, personally appeared __________________________, known to me (or satisfactorily proven) to be the person described in the foregoing instrument, who did acknowledge that he/she, having been properly authorized, executed the same on behalf of the Mayor and Council of Rockville, Maryland in the capacity therein stated and for the purposes therein contained.

Witness my hand and official seal this _____ day of ______________, 2022.

Notary Public

My commission expires: ______________

[NOTARIAL SEAL]

Return original instrument to:
Scott C. Wallace, Esq.
Miles & Stockbridge P.C.
11 N. Washington Street, Suite 700
Rockville, MD  20850
Subject
Award to Axon Enterprise, Inc. for the Purchase of Body-Worn and In-Car Camera Systems, Per Sourcewell Contract # 010720-AXN.

Recommendation
Staff recommends that the Mayor and Council award Sourcewell Contract # 010720-AXN for the purchase and installation of body-worn and in-car camera systems to Axon Enterprise, Inc. of Scottsdale, AZ for the upgrade and replacement of the police departments current body-worn and in-car camera systems in the amount of $1,307,358.90. This total amount is to be paid in equal payments over a five-year contract period.

Discussion
The Rockville City Police Department (RCPD), along with agencies across the nation, are certainly in one of the most challenging times in the history of American policing. Modern policing is transparent and accountable through being publicly open in our actions, our policies, practices, discipline, and training methods. One of the many ways of achieving this transparency is through the use of body-worn and in-car camera systems. These camera systems are a tool used to improve evidentiary outcomes and enhance the safety of and improve interactions between officers and the public. Body-worn and in-car camera systems have proven time and time again to be an important tool to assist broader law enforcement, problem solving and community engagement strategies. The use of high-quality body-worn and in-car camera systems is an integral part of the RCPD’s work as a progressive and forward leaning department.

The Rockville City Police Department currently manages and maintains a camera system that is outdated and insufficient for our needs. This system has reached its five-year life span and is in need of replacement. It is imperative the police body-worn and in-car camera systems function at the highest quality and have the lowest incidents of failure, while allowing for seamless integration with our public safety partners. Recent legal requirements demand the highest quality of video and have increased the amount of requested video footage to be disseminated to the public and other public safety entities. The Axon body-worn and in-car camera systems meet and surpass our needs for the highest quality product, while maintaining seamless integration with our public safety partners.
The scope of this project will be a complete replacement of the body-worn and in-car camera system with the migration to the Axon product, utilizing cloud-based storage and redaction assistant software. Axon, which is utilized by all of our surrounding law enforcement partners, will allow licensing for our partners, including the State’s Attorney’s Office. Axon will provide on-site technicians to install all hardware and back-end systems. Additionally, Axon provides training and 24/7 support through customer success managers to assist with any customer and IT service needs. During the five-year contract period, there will be two camera replacements, allowing for the most up-to-date product to be in the hands of officers throughout the contract period.

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<th>IN CAR FLEET</th>
<th>TOTAL</th>
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<td>$628,638.79</td>
<td>$1,307,358.94</td>
</tr>
</tbody>
</table>

The migration to the Axon body-worn and in-car camera system product will enhance the abilities of the Rockville City Police Department to provide the highest level of service to the residents and visitors to the City of Rockville.

**Mayor and Council History**

This project was approved by Mayor & Council for inclusion in the FY23 budget.

**Procurement**

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

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

In accordance with Section 17-71(b) of the Rockville City Code, Cooperative Procurement, the City may contract with any contractor who offers goods, services, insurance, or construction on the same terms as provided to other State or local governments or agencies thereof, who have arrived at those terms through a competitive procurement procedure similar to the procedures used by the City.
Axon Enterprise, Inc. is a non-Minority, Female, Disabled or Veterans (non-MFD-V) business.

**Fiscal Impact**
The FY 2023 Adopted Budget includes $262,000 in the Police Department for body worn and in-car camera replacements. Ongoing costs for years two through five are included in the City’s financial forecasts and are subject to appropriation by the Mayor and Council.

**Next Steps**
Upon Mayor and Council approval, the Procurement Division will forward the contract, secure insurance and issue a Purchase Order to Axon Enterprise, Inc.

Rob DiSpirito, City Manager 7/5/2022
Subject
Authorization for the City Manager to Execute an Award Acceptance from the Maryland Department of Natural Resources FY23 Chesapeake and Atlantic Coastal Bays Trust Fund Grant for a $2,000,000 Grant to Offset Costs for the Croydon Creek Stream Restoration Project (SB16)

Recommendation
Staff recommends that the Mayor and Council authorize the City Manager to execute an Award Acceptance from the Maryland Department of Natural Resources (DNR) FY23 Chesapeake and Atlantic Coastal Bays Trust Fund Grant program for a $2,000,000 grant award to offset cost for the Croydon Creek Stream Restoration Project (SB16).

Discussion
On June 23, 2022, city staff was informed by the Maryland Department of Natural Resources (DNR) that our Chesapeake and Atlantic Coastal Bays Trust Fund Grant application for the Croydon Creek Stream Restoration Project (SB16) was approved for $2,000,000 in FY 2023. Our grant application included a 50% cost share and the grant requires the project to begin in FY 2023.

The project is funded by the Stormwater Management fund. This project designs and constructs stream restoration at the Croydon Creek and Calvin Park Tributary to Rock Creek. These streams have highly eroded stream banks that are significant sources of sediment. Stream restoration will reduce sediment to improve water quality within the watershed and ultimately the Chesapeake Bay.

As the first step to accept the grant award, DNR requested the City indicate acceptance through the online grant portal no later than Friday, July 29, 2022 (Attachment A). DNR will then coordinate with staff to draft a scope of work and grant agreement.

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

Public Works will be working with Finance to evaluate the best options for funding the balance of this project ahead of the timeline originally established. The adopted FY 2023 Capital Improvements Plan shows the Croydon Creek/Calvin Park Tributary Stream Restoration (SB16) project receiving $4.6 million of bond proceeds in FY 2024. Finance will evaluate whether the reduced project funding needs will require bond funding in FY 2023.

**Next Steps**

If given authorization by Mayor and Council, the City Manager will execute the online Award Acceptance. Staff will then coordinate with DNR to develop the scope of work and grant agreement.

**Attachments**

Attachment 7.N.a: Attach A_Online Award Acceptance Croydon Creek Stream Restoration Grant (PDF)

Rob DiSpirito, City Manager 7/5/2022
Award Acceptance

Funding Program

Chesapeake & Atlantic Coastal Bays Trust Fund

Amount of Award

$ 2,000,000

CCS Project Manager

Ari Engelberg; ari.engelberg@maryland.gov; 410.260.8734

This will be the DNR lead contact for your funded proposal.

Grant Number

14-23-3088 TRF 15

List of Sites/Tasks Approved: Only the listed sites/tasks are approved for this grant. Each site/task is marked as approved or denied in the application.

Croyden Creek Stream Restoration

Please read all of the following terms of award and Accept or Decline. If you decline any conditions, the award will not be issued. This award acceptance
verifies your intent to accept the award and is the first step in the award process. Your assigned project manager will contact you to draft the scope of work and grant agreement or contract to officially begin work.

Funder comments and/or award contingencies

Comment/Contingency Acknowledgement *

- I have read the funder comments and/or contingencies associated with the award.
- No comments or conditions presented

1. This funding offer was awarded for the costs associated with the project(s) identified above. These funds shall be used to implement the project(s) as described in your proposal, the details of which will be transferred into your scope of work, and may not be transferred or re-assigned to other projects. Final budget items are subject to approval by the Issuing Officer and must comply with funding legislation and allowable costs. Some proposed budget items may not be approved in the award budget. *

   - Accept
   - Decline

2. This project(s) was selected for funding based on several metrics and program criteria. Substantial changes to the project(s) that would change these metrics will not be permitted during the grant development process. If substantial changes are required, DNR reserves the right to revise or revoke this funding offer. *

   - Accept
   - Decline

3. No work may begin until the grant has been fully executed. The project(s) must adhere to the timeline included in the grant’s scope of work. Significant deviations from the schedule must be discussed with your assigned DNR grant manager. If the project(s) does not adhere to the schedule, DNR may choose to reprogram these funds to other projects that are ready to proceed. *

   - Accept
   - Decline
4. Unless otherwise authorized by DNR, all payments under this grant will be made on a reimbursable basis upon submission of proper backup documentation. Reimbursement requests are processed quarterly. Ten percent of the award will not be reimbursed until the final report, showing proof of satisfactory project completion, has been accepted by DNR. *

- Accept
- Decline

5. Progress reports must be submitted on a quarterly basis and are a prerequisite for reimbursement processing. Incomplete or poorly written reports will be returned to you for revision, and reimbursement requests will not be processed until the revised report is re-submitted and accepted. A final report and “success story” (if applicable) must be submitted on the final day of the grant term. *

- Accept
- Decline

6. Any changes to the grant agreement or scope of work that you request during the grant term must first be discussed with your assigned DNR Project Manager, who will provide you a Modification Request Form if appropriate. Any requested changes will be reviewed in terms of their impact on the metrics used to evaluate the project(s) when it was proposed. Substantial changes to the project(s) that would change these metrics will not be permitted. *

- Accept
- Decline

7. You must secure sufficient funds to cover all project costs not financed by DNR. If you are unable to obtain the necessary funds you must immediately notify your project manager that the project is unable to proceed. If grant agreements and/or contracts are not executed by December 31 of the award year, DNR reserves the right to re-allocate the funds. *

- Accept
- Decline

8. You shall report the work implemented through this project(s) to the appropriate agency (or agencies) so that the project(s) is counted towards the local Watershed Implementation Plan and Chesapeake Bay TMDL. If there are no plans for applying the generated credits to the statewide TMDL, please inform your DNR grant manager. Generated credits cannot be banked, used to meet compensatory mitigation requirements, or otherwise sold for profit. *

- Accept
- Decline
Organization Federal ID Number (EIN)

Is the Key Personnel/Principal Investigator different from Applicant profile? *

- Yes
- No

Award Acceptance *

- I understand the terms above and accept the award on behalf of the applicant organization.
- Our organization declines the award.

Digital Signature (type name) *

Date *

Grantee comments
Subject
Adoption of Ordinance to Approve Sectional Map Amendment MAP2022-00123, an Application to Rezone the Property at 406 Great Falls Road from R-90 to R-90 (HD - Historic District) in Order to Place the Property in a Historic District; Historic District Commission of Rockville, Applicant

Recommendation
Staff recommends that the Mayor and Council adopt the proposed ordinance to grant Map Amendment Application MAP2022-00123, for the rezoning of a portion of the property at 406 Great Falls Road from R-90 to R-90 (HD - Historic District).

UPDATE
The Mayor and Council introduced the ordinance to designate a part of the property, known generally as Lot 1 and as described as Option 2 below, at the meeting on June 27, 2022. At this same meeting, a motion was made to waive the required layover period so that the Mayor and Council could act on the ordinance at the meeting. The motion failed for the lack of a second. Because of this, the Mayor and Council needed to postpone action and place the decision and possible approval of the ordinance on the July 11th meeting agenda.

The Mayor and Council held a Discussion and Instructions session on June 6, during which the following options were discussed:

a) **Option 1** – Direct staff to draft an ordinance to apply the Historic District designation to both lots. With this option, the owner would need to go through the Historic District Commission Certificate of Approval review process for modifications to the existing house, as well as for the construction of a new house on the separate lot. The evaluation of the new house by the HDC would be to ensure that it would be compatible with the existing house, but would otherwise be less rigorous review than would be required for a designated historic structure.

b) **Option 2** – Direct staff to draft an ordinance that would designate only the existing house and its associated lot. With this option, a new house on the second lot would not be required to be reviewed by the HDC. The owner would need to submit plans and
obtain a building permit after meeting all City code requirements. Building permits are reviewed and approved by staff.

c) **Option 3** – Direct staff to develop a resolution to deny the application, resulting in the historic designation of 406 Great Falls Road (the entire property – both lots) not occurring. With this option, the owner could proceed with modifications to or demolition of the existing house and modify or build a new house on the property without the need for review and approval by the HDC.

Staff recommended Option 1, based on the finding that the property meets two of the criteria for historic designation, as outlined in the HDC Statement of Significance. Designation of the entire property, including the second lot, would ensure that the property will continue to represent an established visual feature in the neighborhood. The HDC would then have an opportunity to review any potentially new home on the buildable second lot, should that occur, to ensure that the historic character of the existing home and property is retained via approval of appropriate massing, design elements and appropriate placement on the second lot.

On June 6, the Mayor and Council voted 4-0, with Mayor Newton absent due to a rescual from the item, to reopen the public record for oral testimony on the available options for rezoning. Ingrid Chua and Joel Martinez, property owners, both testified against designation, noting the financial hardship imposed as well as stating that they had not intended to build on the second lot. Nancy Pickard, Executive Director of Peerless Rockville and nominator of the property for historic designation, spoke in favor of designating the entire parcel. Douglas Lunenfeld, resident of 723 Anderson Avenue, and Erin Girard, attorney for the property owners, spoke against designation. The public record was then closed.

Councilmember Ashton moved, seconded by Councilmember Myles, that an After Action Report be prepared for the historic designation process as it has applied to this property, in order to increase efficiency and look for opportunities to improve communication protocols that would enhance the HDC Map Amendment process. The motion carried by a vote of 3-1, with Councilmember Pierzchala opposed.

The Mayor and Council discussed a number of topics and asked several questions of staff. One question was regarding the designation of two other similar properties in Rockville, 11 Wall Street and 149 South Adams Street. As noted in the evaluation of historic significance, the house at 406 Great Falls Road utilizes the Sears, Roebuck and Co. Catalog “Belmont” design. The Belmont model was the brick counterpart to the wood frame “Lynnhurst”. There is a Sears “Belmont” at 11 Wall Street (c. 1933), and a Sears “Lynnhurst” at 149 South Adams Street (c. 1931). The house at 11 Wall Street was designated historic in 1974 when the West Montgomery Avenue Historic District was created. The house at 149 South Adams Street was designated historic in 2007 after being nominated for designation by its owner. Both of these houses retain a high degree of integrity. Although the subject house at 406 Great Falls Road is listed in the Rockville Historic Buildings Catalogue as a good example of a Tudor Revival House,
it does not retain the same high level of integrity that the other two properties do, given the documented changes that have occurred over the years.

After the discussion, Councilmember Pierzchala moved, seconded by Councilmember Myles, to direct staff to prepare a resolution that would deny the application, which was defeated by a vote of 1-3. Councilmember Pierzchala then moved to direct staff to prepare an ordinance that would place the entire property in the Historic District, which also failed.

After further discussion, the Mayor and Council voted 3-1, with Councilmember Pierzchala opposed, to direct staff to bring back a draft ordinance granting Sectional Map Amendment MAP2022-00123 in part, to rezone only the existing house and its associated lot at 406 Great Falls Road from R-90 to R-90 (HD), in order to place the home and its associated lot in a historic district. The draft ordinance is included as Attachment A.

The following information was included in the staff report for the agenda items on April 25 and June 6.

**Background**

**Nomination for Local Historic Designation**
On June 8, 2021, Peerless Rockville Historic Preservation, Ltd. (Peerless Rockville), a non-profit organization that focuses on historic preservation in Rockville, submitted a Nomination of Property for Local Historic Designation application for 406 Great Falls Road. The owners of the property are Joel Martinez and Ingrid Chua, who purchased it in January 2021.

**Previous Evaluations**
In November 2005, staff evaluated both 406 Great Falls Road and 408 Great Falls Road for historic significance. According to the staff recommendation dated November 10, 2005, “The Historic Preservation Staff recommends that the HDC find 406 and 408 Great Falls Road eligible for designation as a local historic district”. The owner’s attorney submitted a letter on November 16, 2005 requesting the evaluation be postponed until the December meeting. The HDC did not review the properties, and therefore, did not vote on staff’s recommendation to designate 406 and 408 Great Falls Road. According to the Statement of Significance in the 2005 Maryland Historical Trust inventory form that accompanied the staff report, “The house at 406 Great Falls Road is a late example of revival-style period architectural design. The original environmental setting is intact, as is its massing and its footprint. There have been some alterations including the replacement of several windows, most notably the triplets on the first and second floors on the front facade, and the enclosure of the side porch (which is reversible). 406 and 408 Great Falls Road are remnants of the large and elaborate Rockville Heights subdivision, being built on originally platted lots in the 1930’s. The Nicholson homes are historic markers of the Rockville Heights subdivision, before it was resubdivided and developed with split levels and ranch style homes. These two properties are associated with the Nicholson and Trail
families, both large and prominent families, each with a long presence in Rockville and Montgomery County.”

In May 2007, staff concluded that the property be understood as an established visual feature of the neighborhood, which would meet Architectural and Design Significance criteria e), but did not recommend historic designation. An Evaluation of Significance was conducted with respect to this property at the May 17, 2007 HDC meeting. At that meeting, the HDC voted not to recommend designation based on its determination that the building lacked architectural integrity, a connection with the 1890 Rockville Heights subdivision, and a connection with people who made a significant contribution to the city.

In 2020, the property owner at that time, Libra Investments, LLC, filed an application to demolish the house at 406 Great Falls Road. Current photos of the house were submitted with the application. However, no information or structural report regarding the building’s condition was included. Rockville’s Zoning Ordinance requires that any proposed demolition be considered for historic designation. As a result, staff conducted research and analysis on the property as preparation for the HDC to conduct an Evaluation of Significance for the meeting of November 19, 2020. Based on the findings, staff recommended that the property met the criteria for historic designation. Upon learning about the recommendation, the previous owner withdrew the application for the Evaluation of Significance on November 17, 2020.

Staff was contacted by a local architect on December 1, 2020 to inquire about 406 Great Falls Road, and the possibility for changes to the property. The architect said that he had been contacted by the potential owner, Joel Martinez. Staff informed the architect about the recent report recommending historic designation of the property. On December 2, 2020, similar information was relayed to the owner’s current architect, Craig Moloney when he inquired about the property. According to the deed, the current owners, Joel G. Martinez and Ingrid L. Chua, purchased 406 Great Falls Road from Libra Investments, LLC, on January 4, 2021.

Because of the 2007 review and HDC decision, an attorney for the current owners (Jody Kline of the Law Office of Miller, Miller & Canby) sent a letter to the City, asserting that “…the Nomination of Property for Local Historic Designation for 406 Great Falls Road should be dismissed and further processing of the Nomination be discontinued....” The core reason stated is that “The subject property has previously been evaluated for historic designation and the Historic District Commission reached a conclusion that the property did not warrant designation as a single site historic district. The HDC’s May 17, 2007 decision is a binding precedent under the principles of stare decisis, and fairness, the Nomination should be dismissed.”

Staff discussed the implications of the 2007 HDC decision and consulted with the City Attorney’s Office. The determination was made that the 2007 HDC decision is not binding and that the current case should move forward for the Evaluation of Significance.
HDC Evaluation of Significance – December 16, 2021

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

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

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

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

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

1) Embodies distinctive characteristics of a type, period, or method of construction.
5. Represents a significant architectural, design, or landscape entity in the city.

The HDC therefore recommended, by a vote of 2-0-1 (indicating two affirmatives and one abstention), that the property should be designated historic.

The HDC accordingly authorized the filing of a Sectional Map Amendment to place the property
in the Historic District (HD) overlay zone, which was submitted on December 21, 2021.

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

At its January 12, 2022 meeting, the Planning Commission reviewed the HDC’s recommendation, including all of the material that had been submitted to the HDC. One of the owners, Ingrid Chua, spoke against historic designation of the property, as did a new attorney for the owners, Erin E. Girard of Miles and Stockbridge; Kathryn M. Kuranda; and Craig Moloney. Ms. Girard also submitted written testimony.

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

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

Commissioner Tyner made the following motion, seconded by Commissioner Nunez, that “Based on staff’s listed findings, I move that the Planning Commission find that the proposed Sectional Map Amendment MAP2022-00123, to change the zoning of 406 Great Falls Road from R-90 to R-90 HD, if approved by the Mayor and Council, is consistent with the Comprehensive Plan and with the purpose of the historic designation zone within the Zoning Ordinance, and that these findings be forwarded to the Mayor and Council.” The motion passed by a vote of 4-0.

**THE PROPERTY – 406 GREAT FALLS ROAD**

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

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

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

The house utilizes the Sears, Roebuck and Co. Catalog Belmont design. The Belmont, which was introduced in 1931-32, was the brick counterpart to the Lynnhurst, which was introduced in 1930. There are a few versions of the Sears kit houses in Rockville, including the Sears Belmont at 11 Wall Street (c.1933), and the Sears Lynnhurst at 149 South Adams Street (c.1931). Both Rockville examples also have side porches. The subject house at 406 Great Falls Road is listed in the Rockville Historic Buildings Catalogue as a good example of a Tudor Revival House. The house at 11 Wall Street was designated historic in 1974, and the house at 149 South Adams Street was designated historic in 2007.

Site History

The subject property at 406 Great Falls Road is located in the Rockville Heights subdivision, which was platted in 1890 with large lots, parks, and picturesque roads, similar to garden suburbs being built nationwide. Many of the platted lots remained vacant until well into the twentieth century. Development increased in the 1930s, and this area was annexed into the City of Rockville in 1937, with subsequent annexations of the remaining portions of Rockville Heights in 1939 and 1941. The subject house, and the house at 408 Great Falls Road, were constructed on multiple lots within Rockville Heights, contributing to the “estate” character of the properties and the neighborhood. The surrounding neighborhood currently features housing development that spans many decades.

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

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

**Ownership History**

James Nicholson married Mary Trail in 1906. The houses at 406 and 408 Great Falls Road were built for their sons, William and James Jr., around the time of their marriages. The subject house at 406 Great Falls Road was built for William and Amelia, and 408 Great Falls Road was built for James Jr. and Elizabeth by local builder Brawner Harding. According to the Maryland State Department of Assessments and Taxation (SDAT), 406 Great Falls Road was built in 1945. However, according to the MHT Maryland Inventory of Historic Properties (MIHP) form, 406 Great Falls Road was built c.1935. William and Amelia F. Nicholson acquired the land by deed from their widowed mother in October 1941, as did his brother James Jr., and his wife, Elizabeth. Both houses were apparently constructed before the land was deeded to each brother.

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

The Mayor and Council held a public hearing for this Map Amendment on April 25, 2022. The property owners, Joel Martinez and Ingrid Chua, provided testimony and a PowerPoint presentation to the Mayor and Council in opposition to historic designation. In addition to the owners, speakers included the owner’s attorney, Erin Girard, who also provided a PowerPoint Presentation; Kathryn Kuranda, architectural historian at R. Christopher Goodwin and Associates, inc.; and Craig Moloney, architect at CEM Design. All three expressed reasons why the property no longer had architectural integrity and did not warrant historic designation. Erin Girard also submitted written testimony.

Nancy Pickard of Peerless Rockville Historic Preservation, Ltd., provided written testimony, and also read a statement into the record that discussed the reasons the property should be designated as historic.

Four community members gave testimony via WebEx regarding this matter. Three were in support and one was against historic designation. Two written testimony submissions were received from community members prior to the April 25, 2022, public hearing. The Mayor and Council agreed to keep the public record open until the close of business on Monday, May 9, 2022.

Councilmember Myles submitted a list of questions to staff prior to the April 25th Public Hearing. Some of the concerns included:

1. Why the property is being considered for historic designation again after it didn't meet criteria in 2007;
2. Could the current owner separate the lot and build behind the current home;
3. Was the screen porch original or an addition and would the enclosure be allowed today; and
4. If designated, can the owner make changes to the size and exterior of the house.

At the April 25th public hearing, the Mayor and Council asked staff questions regarding the property and the process by which it was recommended. The Mayor and Council agreed to submit additional questions to staff as needed. Following the Mayor and Council meeting on April 25th, staff has only received written questions from Councilmember Ashton.

The Mayor and Council held a Discussion and Instructions session on the application on June 6th, during which staff presented options that the Mayor and Council may consider, because the 406 Great Falls Road property, which was created by deed in 1941, contains two buildable lots – one lot that contains the existing house and a separate lot located behind it. The lot outlined in red is the 406 Great Falls Road lot that was created by deed. The other lot lines within the deeded lot are the record lot lines that were created as part of the Rockville Heights plat that was recorded in 1890. The rear lot (Lot 2) has been determined to be a buildable lot, given that
it is a remaining part of a record lot that contains more than 30,000 square feet, more than the 9,000 square-foot minimum lot area in the R-90 Zone. Because the lot does not have street frontage, vehicular and utility access must be assured before any permit issuance. The owner may do this by placing a permanent access easement from Lot 2 to Great Falls Road. Since the owner owns these lots, this action can be accomplished.

It has been the City’s longstanding practice to honor lots and lot lines that were created by recordation of a plat of subdivision in the County land records. Historically, there were several large subdivisions platted in the 1890s or just after that did not achieve buildout, leaving lots that were created but not built on. These include not only Rockville Heights but also Beall’s subdivision and West End Park, among others. In many cases, subsequent landowners created new lots by deed and completely ignored the lots previously created by plat, as occurred in this case.

After discussion, the Mayor and Council voted 3-1, with Councilmember Pierzchala opposed, to direct staff to bring back a draft ordinance granting Sectional Map Amendment MAP2022-00123 in part, to rezone only the existing house and its associated lot at 406 Great Falls Road from R-90 to R-90 (HD) in order to place the home and its associated lot in a historic district.

PUBLIC NOTIFICATION AND ENGAGEMENT

The City Clerk / Director of Council Operations met all noticing requirements for the April 25th public hearing. First-class mail notifications were sent as stipulated in the City Code more than 15 days in advance of the public hearing, and advertisements were placed in the Washington Post on April 7th and April 14th. Staff has also notified the many interested parties by email of the public hearing, including neighborhood associations, the property owner and representatives, Peerless Rockville, and those who testified during the HDC and/or Planning Commission reviews.

For the June 6 meeting, City staff sent written notice to property owners, residents and civic associations within 750 feet of the subject property on May 20. The notice included an explanation and graphics related to the options presented in this report. Additional notices were mailed on May 27, 2022 in anticipation of the Mayor and Council reopening the public record and accepting oral public testimony on June 6th. Staff also announced this opportunity for public testimony through direct emails, listservs, NextDoor, Facebook, Twitter, and posting on the City website.

The HDC held their Evaluation of Significance on December 16, 2021. Noticing requirements of Section 25.05.03 of the Zoning Ordinance were met for that meeting. The posting of the required sign on the property occurred two weeks prior to the December HDC Meeting, and postcard notices were also sent out two weeks prior to the meeting. Staff also reached out and spoke directly with the President of the West End Citizens Association (WECA) to inform him of the upcoming HDC Evaluation of Significance for this property.
All noticing requirements from Section 25.05.03 of the Zoning Ordinance were met as required for the January 12, 2022 Planning Commission meeting.

**BOARDS AND COMMISSIONS REVIEW**

Reviews by the Historic District Commission and the Planning Commission are discussed above.

**NEXT STEPS**

If the Mayor and Council adopt the ordinance, staff will update the official Zoning Map and any other documents to reflect the Historic District Overlay Zone on this property.

**Attachments**

Attachment 8.a: 406 Great Falls Ordinance _ver 2 w exhibit  (PDF)

\[Signature\]

Rob DiSpirito, City Manager  
7/5/2022
ORDINANCE: To grant, in part, Sectional Map Amendment Application MAP2022-00123, to rezone the portion of the property at 406 Great Falls Road identified as Part of Lot 1, Block 11 of the Rockville Heights subdivision, including the existing house, from R-90 to R-90 (HD – Historic District)

WHEREAS, on June 8, 2021, Peerless Rockville Historic Preservation, Ltd. (“Peerless Rockville”), a non-profit organization that focuses on historic preservation in the City of Rockville, filed an application nominating the property located at 406 Great Falls Road in the City of Rockville, which property is further identified as Tax Parcel 629 in the subdivision known as “Rockville Heights” and contains 68,358 square feet of land, more or less, (the “Subject Property”) for historic designation pursuant to Rockville City Code § 25.14.01.d; and

WHEREAS, at a duly noticed public meeting held on December 16, 2021, the Rockville Historic District Commission (the “Historic District Commission”) evaluated the Subject Property for historic, architectural, and cultural significance and, by an affirmative vote of two of the three commissioners present, with one commissioner abstaining, found that the Subject Property met the criteria for local historic designation and initiated the filing of a sectional map amendment to place the Subject Property in the City’s historic district zone pursuant to Rockville City Code §§ 25.06.01.c.1(b) and 25.14.01.d.3 (the “Application”); and

WHEREAS, at a duly noticed public meeting held on January 12, 2022, the Rockville Planning Commission reviewed the Application pursuant to Rockville City Code § 25.06.01.g and found that the Application was consistent with the Comprehensive Plan of the City of Rockville, Maryland and with the purpose of the historic district zone in Rockville City Code § 25.12.01.a; and
WHEREAS, pursuant to Rockville City Code § 25.06.01, the Mayor and Council of Rockville (the “Mayor and Council”) gave notice that a public hearing on said application would be held by the Mayor and Council in the Council Chambers in Rockville and virtually on the 25th day of April 2022, at 7:00 p.m., or as soon thereafter as it may be heard, at which parties in interest and citizens would have an opportunity to be heard, which notice was published in accordance with the requirements of Land Use Article of the Annotated Code of Maryland; and

WHEREAS, on the April 25, 2022, the said application came on for hearing at the time and place provided for in said advertisement; and

WHEREAS, after consideration of the full administrative record in these proceedings, the Mayor and Council has determined that the existing home on the Subject Property and the portion of the Subject Property on which the existing home is located, more particularly described as Part of Lot 1, Block 11 of the Rockville Heights subdivision, as shown in the exhibit attached hereto and incorporated herein, is historically significant; and

WHEREAS, in support of its determination, the Mayor and Council makes the following findings:

The Subject Property is located in the Rockville Heights subdivision, which was platted in 1890 with large lots, parks, and picturesque roads, similar to garden suburbs built nationwide. Many of the platted lots remained vacant until well into the twentieth century. Development increased in the 1930s, and this area was annexed into the City of Rockville in 1937, with subsequent annexations of the remaining portions of Rockville Heights in 1939 and 1941.

Located within the boundaries of the Rockville Heights subdivision, the Subject Property spans several parts of lots and parcels created by deed after the original subdivision of Rockville Heights. However, the existing home on the Subject Property was built within the boundaries of
the subdivision’s original Lot 1 of Block 11. The Subject Property also contains a part of the original Lot 2 of Block 11, which remains a separate buildable lot, connected to Great Falls Road by a narrow parcel of land also within the boundaries of the Subject Property.

The existing home on the Subject Property is a brick, one- and one-half story house constructed circa 1945. The house is listed in the Rockville Historic Buildings Catalogue as a good example of a Tudor Revival House. The house embodies many of the distinctive characteristics found in the Tudor Revival style, including a steeply pitched side-gabled roof intersected by a steeply pitched front gable roof, brick first-story walls with a dormer, a massive chimney with decorative brick crown and chimney pots, a rounded arch doorway with decorative brick detailing, and original multi-lite windows. Not only does the home exhibit the characteristics of an historically significant style of residential development in Rockville, it also utilizes the Sears, Roebuck and Co. Catalog Belmont design, which was introduced in 1931-32. Such designs represent a historically significant period of residential construction in the United States, and there are few versions of the Sears kit houses remaining in Rockville.

The existing home clearly embodies distinctive characteristics of a type, period, or method of construction and is architecturally significant. While changes have been made to the house since its original construction, the house retains a relatively high degree of integrity and most of the chief architectural features identifying it as both a historic Tudor Revival house and one utilizing a traditional kit home design.

The existing home also represents an established visual feature of the neighborhood and the City because of its physical characteristics and landscape components. The home sits significantly above the level of Great Falls Road, an early gateway into Rockville that remains a significant transportation artery. As such, it has been a prominent visible feature of the
neighborhood and the City for nearly eighty years. The house’s prominence is enhanced by the expansive front yard, resulting in a significant, historical environmental setting. While the Historic District Commission recommended the historic designation of the entire Subject Property, only Part of Lot 1, on which the house sits, appreciably contributes to the home’s status as an established visual feature. Much of the remainder of the Subject Property remains difficult to see or is otherwise too far removed from the public right of way. Historic designation of only the existing house and Part of Lot 1, but not the remainder of the Subject Property, is also consistent with maintaining the original development pattern created by the late-nineteenth century Rockville Heights subdivision, which contemplated another home constructed on what is now Part of Lot 2; and

WHEREAS, the Mayor and Council further finds that historic designation of Part of Lot 1 and the existing house is consistent with the purposes of the historic district zone in Rockville City Code § 25.14.01.a and the public purpose of historic preservation in the State of Maryland as established in § 8-102 of the Land Use Article of the Maryland Annotated Code. Preserving the existing home and its environmental setting will preserve a site and structure reflecting elements of the City’s architectural history, thereby promoting the preservation and appreciation of the home and its environmental setting, stabilizing and improving property values in the historic district, fostering civic beauty, and promoting the general welfare of the Rockville community; and

WHEREAS, the Mayor and Council further finds that it is appropriate to place Part of Lot 1, Block 11 and the existing house on the Subject Property, containing 26,308 square feet of land, more or less, in the Historic District.
NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF ROCKVILLE, MARYLAND, that the application of the Historic District Commission, Sectional Map Amendment Application MAP2022-00123, requesting the reclassification of the property located at 406 Great Falls Road in the City of Rockville, which property is further identified as Parcel 629 in the subdivision known as “Rockville Heights” and contains 68,358 square feet of land, more or less, be, and the same is hereby, granted in part, and the portion of said property including the existing home and Part of Lot 1, Block 11, containing 26,308 square feet of land, more or less, is hereby included in and made a part of the Historic District.

I hereby certify that the foregoing is a true and correct copy of an Ordinance adopted by the Mayor and Council at its meeting of June 27, 2022.

Sara Taylor-Ferrell, City Clerk
Subject
Introduction and Possible Adoption FY 2023 Budget Amendment (Amendment #1)

Recommendation
Staff recommends that the Mayor and Council introduce the attached ordinance to amend Ordinance #08-22 to appropriate funds and levy taxes for Fiscal Year 2023 (Budget Amendment #1).

If the Mayor and Council wish to proceed with adoption of the ordinance at the same meeting, the ordinance should first be introduced and then a motion should be made to waive the layover period. If the motion to waive the layover period is approved by an affirmative vote of four or more members of the Mayor and Council, a motion to adopt the ordinance may then proceed.

Change in Law or Policy
In accordance with the City Charter, since the budget ordinance is adopted at the fund level, a change in the appropriated amount of any fund requires action by the Mayor and Council. The vehicle for such action is an amendment to the budget ordinance. The proposed ordinance, Attachment A, would amend the FY 2023 budget. The FY 2023 budget was adopted by the Mayor and Council on May 9, 2022.

Discussion
The proposed ordinance, Attachment A, would amend the FY 2023 budget. This amendment recognizes the items that are described in this agenda report and detailed on Attachment B. Attachment C is an updated Financial Summaries page (page 63 of the FY 2023 adopted budget).

Appropriation of One-Time Operating Items from Special Funding Sources
At the budget worksession on April 25, 2022, the Mayor and Council provided direction on funding several one-time needs with American Rescue Plan Act (ARPA) funds, FY 2022 Supplemental Tax Duplication (TD) revenue, and excess reserves above the level required by
the City’s Financial Management Policies. Table 1 summarizes the items funded and specifies the supporting funding source.

### TABLE 1: One-Time Operating Items from Special Funding Sources

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<tr>
<th>One-time Item</th>
<th>ARPA Funding</th>
<th>Supplemental TD</th>
<th>Excess Reserves</th>
</tr>
</thead>
<tbody>
<tr>
<td>1% Retiree Cost of Living Increase (General Fund only)</td>
<td>-</td>
<td>-</td>
<td>573,620</td>
</tr>
<tr>
<td>Fall Protection Solutions for the Swim &amp; Fitness Center</td>
<td>30,500</td>
<td>44,500</td>
<td>-</td>
</tr>
<tr>
<td>Energy Efficient Lighting for City Hall</td>
<td>106,700</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Replacement of Police Tasers</td>
<td>-</td>
<td>155,500</td>
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<td>Replacement of Wooden Fire Escape at the Mansion</td>
<td>-</td>
<td>-</td>
<td>90,000</td>
</tr>
<tr>
<td>Continuity of Operations and Emergency Planning</td>
<td>-</td>
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<td>-</td>
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<tr>
<td>Human Services Needs Assessment</td>
<td>-</td>
<td>-</td>
<td>83,000</td>
</tr>
<tr>
<td>Bank On Rockville</td>
<td>292,500</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>RHE Water Submeters</td>
<td>58,250</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td><strong>Total:</strong></td>
<td><strong>$487,950</strong></td>
<td><strong>$380,000</strong></td>
<td><strong>$746,620</strong></td>
</tr>
</tbody>
</table>

This amendment appropriates $487,950 of the City’s total $9.6 million ARPA allocation. To date, including the amount appropriated by this amendment, the City has appropriated $7.6 million of its total allocation, leaving $2 million remaining for Mayor and Council direction. The amounts funded by FY 2022 Supplemental Tax Duplication revenue and excess reserves were committed to these uses with the adoption of the FY 2023 budget ordinance.

**Use of Unassigned Reserves**

The FY 2022 budget included $270,000 to redesign the City’s website, and $40,000 for a contract to develop a strategic plan to centralize the City’s grants process and maximize future grant management efforts. Due to staffing shortages and turnover during FY 2022, these solicitations were close but not quite received and initiated in time to complete the procurement process before the end of FY 2022. As a result, that funding returns to the General Fund’s unassigned reserve balance as of July 1, 2022. This amendment re-appropriates that funding in FY 2023 to allow staff to award these contracts and begin work on these tasks in early FY 2023.

**Other Grant-Funded Additions**

This amendment includes a $55,000 grant from Maryland Energy Administration (MEA) that complements the energy-efficient lighting projects that the Mayor and Council directed be completed using $106,700 in ARPA funds. (Note: The ARPA funding is shown in Table 1.) This grant funding, combined with the ARPA funds, will allow for the replacement of over 550 light
fixtures on the 1st and 3rd floors of City Hall, as well as thermostat upgrades and window film to enhance the building’s energy efficiency.

Additionally, this amendment recognizes an increase of $25,231 in the existing grant for the City’s Linkages to Learning program.

Other Funds
During the FY 2023 budget process, the Mayor and Council directed staff to include a 1% cost of living adjustment (COLA) for retirees. The General Fund portion of this COLA was committed via the FY 2023 budget ordinance and is shown in Table 1. The portion allocated to other funds totals $133,223 (see funding split in Attachment B) for a total of $706,842 across all funds.

Mayor and Council History
This is the first budget amendment for FY 2023. The FY 2023 budget was adopted by the Mayor and Council on May 9, 2022.

Fiscal Impact
The following operating fund(s) will be adjusted if this budget amendment is adopted.

<table>
<thead>
<tr>
<th>Operating Fund</th>
<th>Adopted Budget</th>
<th>7/11/2022 Amendment</th>
<th>Amended Budget</th>
</tr>
</thead>
<tbody>
<tr>
<td>General</td>
<td>$93,320,400</td>
<td>$1,904,801</td>
<td>$95,225,201</td>
</tr>
<tr>
<td>Water</td>
<td>14,259,800</td>
<td>-</td>
<td>14,259,800</td>
</tr>
<tr>
<td>Sewer</td>
<td>16,292,000</td>
<td>-</td>
<td>16,292,000</td>
</tr>
<tr>
<td>Refuse</td>
<td>8,450,510</td>
<td>33,622</td>
<td>8,484,132</td>
</tr>
<tr>
<td>Parking</td>
<td>2,403,470</td>
<td>-</td>
<td>2,403,470</td>
</tr>
<tr>
<td>Stormwater Mgmt.</td>
<td>6,352,650</td>
<td>31,176</td>
<td>6,383,826</td>
</tr>
<tr>
<td>RedGate Golf</td>
<td>101,480</td>
<td>-</td>
<td>101,480</td>
</tr>
<tr>
<td>Special Activities</td>
<td>1,421,110</td>
<td>-</td>
<td>1,421,110</td>
</tr>
<tr>
<td>CDBG</td>
<td>263,000</td>
<td>-</td>
<td>263,000</td>
</tr>
<tr>
<td>Speed Camera</td>
<td>1,501,000</td>
<td>-</td>
<td>1,501,000</td>
</tr>
<tr>
<td>Debt Service</td>
<td>4,471,500</td>
<td>-</td>
<td>4,471,500</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$148,836,920</strong></td>
<td><strong>$1,969,599</strong></td>
<td><strong>$150,806,519</strong></td>
</tr>
</tbody>
</table>

The following Capital Improvements Program (CIP) fund(s) will be adjusted if this budget amendment is adopted:

TABLE 3: FY 2023 CIP Budget by Fund
<table>
<thead>
<tr>
<th>CIP Fund</th>
<th>Adopted Budget</th>
<th>7/11/2022 Amendment</th>
<th>Amended Budget</th>
</tr>
</thead>
<tbody>
<tr>
<td>Capital Projects</td>
<td>$45,472,530</td>
<td>$ -</td>
<td>$45,472,530</td>
</tr>
<tr>
<td>Water</td>
<td>16,837,475</td>
<td>-</td>
<td>16,837,475</td>
</tr>
<tr>
<td>Sewer</td>
<td>8,354,136</td>
<td>-</td>
<td>8,354,136</td>
</tr>
<tr>
<td>Refuse</td>
<td>533,345</td>
<td>-</td>
<td>533,345</td>
</tr>
<tr>
<td>Parking</td>
<td>45,000</td>
<td>-</td>
<td>45,000</td>
</tr>
<tr>
<td>Stormwater Mgmt.</td>
<td>11,560,385</td>
<td>-</td>
<td>11,560,385</td>
</tr>
<tr>
<td>Special Activities</td>
<td>2,576,205</td>
<td>-</td>
<td>2,576,205</td>
</tr>
<tr>
<td>Speed Camera</td>
<td>1,803,517</td>
<td>-</td>
<td>1,803,517</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$87,182,593</strong></td>
<td>$ -</td>
<td><strong>$87,182,593</strong></td>
</tr>
</tbody>
</table>

**Attachments**

Attachment 9.a: AttachA_BudgetOrdinance_July (PDF)
Attachment 9.b: AttachB_AmendmentDetail_July (PDF)
Attachment 9.c: AttachC_FinancialSummaries_July (PDF)

Rob DiSpirito, City Manager 7/5/2022
ORDINANCE NO. 08-22

ORDINANCE: To Amend Ordinance 08-22 To Appropriate Funds and Levy Taxes for Fiscal Year 2023.

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

SECTION I - ANNUAL OPERATING APPROPRIATIONS

There are hereby appropriated for the fiscal year beginning July 1, 2022, and ending June 30, 2023, out of the revenues accruing to the City for the purpose of operations, the several amounts hereinafter listed under the column designated "Amounts Appropriated":

<table>
<thead>
<tr>
<th>FUNDS</th>
<th>AMOUNTS APPROPRIATED</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Fund</td>
<td>[$93,320,400] $95,225,201</td>
</tr>
<tr>
<td>Water Fund</td>
<td>$14,259,800</td>
</tr>
<tr>
<td>Sewer Fund</td>
<td>$16,292,000</td>
</tr>
<tr>
<td>Refuse Fund</td>
<td>[$8,450,510] $8,484,132</td>
</tr>
<tr>
<td>Parking Fund</td>
<td>$2,403,470</td>
</tr>
<tr>
<td>Stormwater Management Fund</td>
<td>[$6,352,650] $6,383,826</td>
</tr>
<tr>
<td>RedGate Golf Course Fund</td>
<td>$101,480</td>
</tr>
<tr>
<td>Special Activities Fund</td>
<td>$1,421,110</td>
</tr>
<tr>
<td>Community Development Block Grant</td>
<td>$263,000</td>
</tr>
<tr>
<td>Speed Camera Fund</td>
<td>$1,501,000</td>
</tr>
<tr>
<td>Debt Service Fund</td>
<td>$4,471,500</td>
</tr>
<tr>
<td>Town Center Management District Fund</td>
<td>$0</td>
</tr>
</tbody>
</table>

The "Amounts Appropriated" by this section totaling [$148,836,920] $150,806,519 shall be for the annual operating expenses of the departments and agencies of the City and shall be disbursed pursuant to the City Charter and the City Code, under the supervision of the City Manager.
SECTION II - CAPITAL PROJECTS APPROPRIATIONS

There is hereby appropriated out of the revenues accruing to the City for the purpose of capital improvements, the several amounts hereinafter listed under the column designated "Amounts Appropriated":

<table>
<thead>
<tr>
<th>FUNDS</th>
<th>AMOUNTS APPROPRIATED</th>
</tr>
</thead>
<tbody>
<tr>
<td>Capital Projects Fund</td>
<td>$45,472,530</td>
</tr>
<tr>
<td>Water Fund</td>
<td>$16,837,475</td>
</tr>
<tr>
<td>Sewer Fund</td>
<td>$8,354,136</td>
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<tr>
<td>Refuse Fund</td>
<td>$533,345</td>
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<tr>
<td>Parking Fund</td>
<td>$45,000</td>
</tr>
<tr>
<td>Stormwater Management Fund</td>
<td>$11,560,385</td>
</tr>
<tr>
<td>Special Activities Fund</td>
<td>$2,576,205</td>
</tr>
<tr>
<td>Speed Camera Fund</td>
<td>$1,803,517</td>
</tr>
<tr>
<td>Town Center Management District Fund</td>
<td>$0</td>
</tr>
</tbody>
</table>

The "Amounts Appropriated" by this section totaling $87,182,593 shall be for improvement projects and shall be disbursed pursuant to the City Charter and the City Code, under the supervision of the City Manager.

SECTION III - GENERAL LEVY

There is hereby levied against all assessable real property within the corporate limits of the City a tax at the rate of twenty-nine and two-tenths cents ($0.292) on each $100 of assessable value of said property. There is also hereby levied, against all assessable personal property within the corporate limits of the City, a tax at the rate of eighty and one-half cents ($0.805) on each $100 of assessable value of said property. These taxes are hereby levied in order, together
with other available revenues and funds of the City government, to provide funds for the "Amounts Appropriated" as set forth in the foregoing Section I. The tax levies herein provided in this section shall not apply to property in the City of Rockville to the extent that such property is not subject to taxes as provided in any valid and binding annexation agreement.

SECTION IV – TOWN SQUARE PARKING DISTRICT LEVY

There is hereby levied against all non-exempt real property within the Town Square Parking District a tax at the rate of thirty-three cents ($0.33) on each $100 of assessable value of said property. These taxes are hereby levied in order, together with other available revenues and funds of the City government, to provide funds for the “Parking Fund” as listed in the “Amounts Appropriated” in Section I.

SECTION V – TOWN SQUARE STREET AND AREA LIGHTING DISTRICT LEVY

There is hereby levied against all non-exempt real property within the Town Square Street and Area Lighting District a tax at the rate of zero cents ($0.00) on each $100 of assessable value of said property. These taxes are hereby levied in order, together with other available revenues and funds of the City government, to provide funds for the “Town Center Management District Fund” as listed in the “Amounts Appropriated” in Section I.

SECTION VI – TOWN SQUARE COMMERCIAL DISTRICT LEVY

There is hereby levied against all commercial real property within the Town
Square Commercial District a tax at the rate of zero cents ($0.00) on each $100 of assessable value of said property. These taxes are hereby levied in order, together with other available revenues and funds of the City government, to provide funds for the “Town Center Management District Fund” as listed in the “Amounts Appropriated” in Section I.

SECTION VII – RESERVES

There is hereby committed $1,126,620 in General Fund unassigned fund balance to support the following operating budget items: $573,620 for the provision of a 1% cost of living adjustment for retirees, $44,500 for fall protection solutions for the Swim and Fitness Center, $155,500 for replacement police tasers, $90,000 for replacement of a wooden fire escape at the Glenview Mansion, $180,000 for consultant funding for continuity of operations and emergency planning, and $83,000 for a human services needs assessment.]

NOTE: [Brackets] indicate 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 Operations
## OPERATING

<table>
<thead>
<tr>
<th>Revenues</th>
<th>Expenditures</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>ARPA funds as directed April 25, 2022</td>
<td>Energy Efficient Lighting for City Hall</td>
<td>106,700</td>
</tr>
<tr>
<td></td>
<td>Bank On Rockville</td>
<td>292,500</td>
</tr>
<tr>
<td></td>
<td>RHE submeters</td>
<td>58,250</td>
</tr>
<tr>
<td>Committed reserves (from Tax Dup. Supplement)</td>
<td>Fall Protection Solutions for the Swim &amp; Fitness Center</td>
<td>75,000</td>
</tr>
<tr>
<td></td>
<td>Continuity of Operations and Emergency Planning</td>
<td>180,000</td>
</tr>
<tr>
<td></td>
<td>Replacement of Police Tasers</td>
<td>155,500</td>
</tr>
<tr>
<td>Committed reserves</td>
<td>1% Retiree Cost of Living Increase (General Fund only)</td>
<td>573,620</td>
</tr>
<tr>
<td>Use of unassigned reserves</td>
<td>Replacement of Wooden Fire Escape at the Mansion</td>
<td>90,000</td>
</tr>
<tr>
<td></td>
<td>Human Services Needs Assessment</td>
<td>83,000</td>
</tr>
<tr>
<td>MEA grant for City Hall energy efficiency project</td>
<td>City Hall energy efficiency project (grant funded)</td>
<td>55,000</td>
</tr>
<tr>
<td>Linkages to Learning grant increase</td>
<td>Re-appropriation of funds: Website Redesign</td>
<td>270,000</td>
</tr>
<tr>
<td></td>
<td>Re-appropriation of funds: Grants Management Consultant</td>
<td>40,000</td>
</tr>
<tr>
<td></td>
<td>Addition to Reserves</td>
<td>(100,000)</td>
</tr>
<tr>
<td>Committed reserves</td>
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<td></td>
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<tr>
<td></td>
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</tr>
<tr>
<td></td>
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<td>(100,000)</td>
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<tr>
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<td></td>
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<td>83,000</td>
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</tr>
<tr>
<td>Linkages to Learning grant increase</td>
<td>Re-appropriation of funds: Website Redesign</td>
<td>270,000</td>
</tr>
<tr>
<td></td>
<td>Re-appropriation of funds: Grants Management Consultant</td>
<td>40,000</td>
</tr>
<tr>
<td></td>
<td>Addition to Reserves</td>
<td>(100,000)</td>
</tr>
</tbody>
</table>

## FY 2023 Budget Amendment #1 - July 11, 2022

<table>
<thead>
<tr>
<th>OPERATING</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expenditures</td>
<td>Expenditures</td>
</tr>
<tr>
<td>ARPA funds as directed April 25, 2022</td>
<td>Energy Efficient Lighting for City Hall</td>
</tr>
<tr>
<td>Bank On Rockville</td>
<td>292,500</td>
</tr>
<tr>
<td>RHE submeters</td>
<td>58,250</td>
</tr>
<tr>
<td>Committed reserves (from Tax Dup. Supplement)</td>
<td>Fall Protection Solutions for the Swim &amp; Fitness Center</td>
</tr>
<tr>
<td>Continuity of Operations and Emergency Planning</td>
<td>180,000</td>
</tr>
<tr>
<td>Replacement of Police Tasers</td>
<td>155,500</td>
</tr>
<tr>
<td>Committed reserves</td>
<td>1% Retiree Cost of Living Increase (General Fund only)</td>
</tr>
<tr>
<td>Replacement of Wooden Fire Escape at the Mansion</td>
<td>90,000</td>
</tr>
<tr>
<td>Human Services Needs Assessment</td>
<td>83,000</td>
</tr>
<tr>
<td>Use of unassigned reserves</td>
<td>Re-appropriation of funds: Website Redesign</td>
</tr>
<tr>
<td>Re-appropriation of funds: Grants Management Consultant</td>
<td>40,000</td>
</tr>
<tr>
<td>Addition to Reserves</td>
<td>(100,000)</td>
</tr>
<tr>
<td>Committed reserves</td>
<td>1% Retiree Cost of Living Increase (General Fund only)</td>
</tr>
<tr>
<td>Replacement of Wooden Fire Escape at the Mansion</td>
<td>90,000</td>
</tr>
<tr>
<td>Human Services Needs Assessment</td>
<td>83,000</td>
</tr>
<tr>
<td>Use of unassigned reserves</td>
<td>Re-appropriation of funds: Website Redesign</td>
</tr>
<tr>
<td>Re-appropriation of funds: Grants Management Consultant</td>
<td>40,000</td>
</tr>
<tr>
<td>Addition to Reserves</td>
<td>(100,000)</td>
</tr>
</tbody>
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## WATER

<table>
<thead>
<tr>
<th>Revenues</th>
<th>Expenses</th>
</tr>
</thead>
<tbody>
<tr>
<td>No change.</td>
<td>1% Retiree Cost of Living Increase (Water Fund only)</td>
</tr>
<tr>
<td></td>
<td>Addition to reserves</td>
</tr>
<tr>
<td>TOTAL</td>
<td>TOTAL</td>
</tr>
</tbody>
</table>

## SEWER

<table>
<thead>
<tr>
<th>Revenues</th>
<th>Expenses</th>
</tr>
</thead>
<tbody>
<tr>
<td>No change.</td>
<td>1% Retiree Cost of Living Increase (Sewer Fund only)</td>
</tr>
<tr>
<td></td>
<td>Addition to reserves</td>
</tr>
<tr>
<td>TOTAL</td>
<td>TOTAL</td>
</tr>
</tbody>
</table>

## REFUSE

<table>
<thead>
<tr>
<th>Revenues</th>
<th>Expenses</th>
</tr>
</thead>
<tbody>
<tr>
<td>Use of reserves</td>
<td>1% Retiree Cost of Living Increase (Refuse Fund only)</td>
</tr>
<tr>
<td>TOTAL</td>
<td>TOTAL</td>
</tr>
</tbody>
</table>

## PARKING

<table>
<thead>
<tr>
<th>Revenues</th>
<th>Expenses</th>
</tr>
</thead>
<tbody>
<tr>
<td>No change.</td>
<td>1% Retiree Cost of Living Increase (Parking Fund only)</td>
</tr>
<tr>
<td></td>
<td>Addition to reserves</td>
</tr>
<tr>
<td>TOTAL</td>
<td>TOTAL</td>
</tr>
</tbody>
</table>

## SWM

<table>
<thead>
<tr>
<th>Revenues</th>
<th>Expenses</th>
</tr>
</thead>
<tbody>
<tr>
<td>Use of reserves</td>
<td>1% Retiree Cost of Living Increase (SWM Fund only)</td>
</tr>
<tr>
<td>TOTAL</td>
<td>TOTAL</td>
</tr>
</tbody>
</table>

## SPEED

<table>
<thead>
<tr>
<th>Revenues</th>
<th>Expenses</th>
</tr>
</thead>
<tbody>
<tr>
<td>No change.</td>
<td>1% Retiree Cost of Living Increase (Speed Cam. Fund only)</td>
</tr>
<tr>
<td></td>
<td>Addition to reserves</td>
</tr>
<tr>
<td>TOTAL</td>
<td>TOTAL</td>
</tr>
</tbody>
</table>
## Governmental Funds

<table>
<thead>
<tr>
<th>General</th>
<th>Special Activities</th>
<th>CDBG</th>
<th>Speed Camera</th>
<th>Debt Service</th>
<th>Water</th>
<th>Sewer</th>
<th>Refuse</th>
<th>Parking</th>
<th>SWM</th>
<th>RedGate</th>
<th>Total Operating</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Revenue</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Property Taxes</td>
<td>45,950,000</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>124,000</td>
<td>-</td>
</tr>
<tr>
<td>Other Gov't.</td>
<td>29,119,801</td>
<td>-</td>
<td>263,000</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>319,000</td>
<td>-</td>
</tr>
<tr>
<td>Fines/Forfeiture</td>
<td>1,353,000</td>
<td>-</td>
<td>-</td>
<td>1,500,000</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>434,980</td>
<td>-</td>
</tr>
<tr>
<td>Use Money/Prop.</td>
<td>1,294,190</td>
<td>1,135,630</td>
<td>-</td>
<td>1,000</td>
<td>22,000</td>
<td>87,510</td>
<td>1,000</td>
<td>7,500</td>
<td>2,500</td>
<td>31,100</td>
<td>-</td>
</tr>
<tr>
<td>Charges for Serv.</td>
<td>7,446,000</td>
<td>30,000</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>13,491,700</td>
<td>15,973,450</td>
<td>6,656,500</td>
<td>224,820</td>
<td>5,729,780</td>
<td>-</td>
</tr>
<tr>
<td>Licenses/Permits</td>
<td>3,336,630</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>525,730</td>
<td>-</td>
</tr>
<tr>
<td>Other Revenue</td>
<td>5,388,960</td>
<td>85,750</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>328,430</td>
<td>317,550</td>
<td>18,100</td>
<td>198,170</td>
<td>7,500</td>
<td>31,100</td>
</tr>
<tr>
<td><strong>Total Revenue</strong></td>
<td>93,888,581</td>
<td>1,251,380</td>
<td>263,000</td>
<td>1,501,000</td>
<td>22,000</td>
<td>13,907,640</td>
<td>16,292,000</td>
<td>6,682,100</td>
<td>1,303,470</td>
<td>6,315,750</td>
<td>1,400</td>
</tr>
<tr>
<td><strong>Transfers In</strong></td>
<td>-</td>
<td>169,730</td>
<td>-</td>
<td>-</td>
<td>4,400,000</td>
<td>352,160</td>
<td>-</td>
<td>50,300</td>
<td>1,100,000</td>
<td>-</td>
<td>6,072,190</td>
</tr>
<tr>
<td><strong>Total Resources</strong></td>
<td>93,888,581</td>
<td>1,421,110</td>
<td>263,000</td>
<td>1,501,000</td>
<td>4,422,000</td>
<td>14,259,800</td>
<td>16,292,000</td>
<td>6,734,200</td>
<td>2,403,470</td>
<td>6,315,750</td>
<td>1,400</td>
</tr>
<tr>
<td><strong>Use of Reserves</strong></td>
<td>1,336,620</td>
<td>-</td>
<td>-</td>
<td>49,500</td>
<td>-</td>
<td>1,751,732</td>
<td>68,076</td>
<td>100,080</td>
<td>-</td>
<td>-</td>
<td>3,306,008</td>
</tr>
<tr>
<td><strong>Total ($)</strong></td>
<td>95,225,201</td>
<td>1,421,110</td>
<td>263,000</td>
<td>1,501,000</td>
<td>4,471,500</td>
<td>14,259,800</td>
<td>16,292,000</td>
<td>8,484,132</td>
<td>2,403,470</td>
<td>6,383,826</td>
<td>101,480</td>
</tr>
</tbody>
</table>

## Expenses

| Personnel | 58,238,350 | - | - | 133,176 | - | 4,200,398 | 2,093,708 | 3,565,342 | 291,232 | 2,904,186 | - | 71,426,392 |
| Operating | 18,181,791 | 564,220 | 263,000 | 682,360 | - | 2,312,700 | 4,152,240 | 2,282,690 | 113,480 | 1,180,330 | - | 29,732,811 |
| Capital Outlay | 2,830,290 | 287,500 | - | - | - | 666,600 | 948,040 | 873,000 | - | 8,250 | - | 5,613,680 |
| Administrative | - | - | - | 179,200 | - | 1,410,500 | 608,400 | 1,218,400 | 129,300 | 797,300 | - | 4,343,100 |
| Other | 3,254,740 | 233,100 | - | - | - | 3,609,700 | 5,334,950 | 531,900 | 173,530 | 1,484,260 | 100,600 | 14,722,780 |
| **Total Oper. Exp.** | 82,505,171 | 1,084,820 | 263,000 | 994,736 | - | 12,199,898 | 13,137,338 | 8,471,332 | 707,542 | 6,374,326 | 100,600 | 125,838,763 |
| Principal | - | - | - | - | - | 3,705,400 | - | - | - | - | - | 3,705,400 |
| Interest | - | - | - | - | - | 1,050,000 | 1,219,305 | 12,800 | 715,900 | 9,500 | 880 | 3,774,485 |
| CIP Transfer | 7,000,000 | - | - | - | - | - | - | - | - | - | - | 7,000,000 |
| Transfers Out | 5,720,030 | - | - | - | - | 352,160 | - | - | - | - | - | 6,072,190 |
| **Total Use** | 95,225,201 | 1,084,820 | 263,000 | 994,736 | 4,471,500 | 13,249,898 | 14,708,803 | 8,484,132 | 1,423,442 | 6,383,826 | 101,480 | 146,390,838 |
| Add. to Reserves | - | 336,290 | - | 506,264 | - | 1,009,902 | 1,583,197 | 980,028 | - | - | - | 4,415,681 |
| **Total ($)** | 95,225,201 | 1,421,110 | 263,000 | 1,501,000 | 4,471,500 | 14,259,800 | 16,292,000 | 8,484,132 | 2,403,470 | 6,383,826 | 101,480 | 150,806,519 |
Subject
Authorization to File a Zoning Text Amendment as Part I of an Interim Zoning Ordinance Update, to Allow for Floating Zones that Implement the Rockville 2040 Comprehensive Plan Recommendations

Recommendation
If acceptable, staff recommends that the Mayor and Council authorize the proposed Interim Zoning Text Amendment.

Change in Law or Policy
The Zoning Text Amendment (ZTA) proposes the following modifications to the Rockville Zoning Ordinance:

- Section 25.06.01, Zoning Map Amendments, establishing submission requirements for a request to implement a floating zone on a property.

Discussion
At the February 7, 2022 meeting, the Mayor and Council discussed near-term measures intended to implement the 2040 Comprehensive Plan. During this discussion, the Mayor and Council supported staff moving forward with an interim Zoning Ordinance update. This report and associated ZTA is Part 1 of 2 for the Interim Zoning Ordinance Update. Originally, both the proposed floating zone and the removal of commercial uses from the MXT zone were grouped together. Due to the significance of both items and to process them more effectively, these items were split into two parts. Part 1 is a discussion of a ZTA related to floating zones.

Because staff expects that a Zoning Ordinance rewrite will take a minimum of 18 months to complete after a consultant is hired, staff recommends an interim Zoning Ordinance update that implements certain recommended changes in a shorter period of time. Of particular importance are parcels in Rockville that do not, under current zoning, permit the type of
development recommended by the Plan; and other areas that permit development and/or a set of uses that are no longer supported under the Plan. The benefits of this interim ordinance update would be to allow development that is supported by the Plan to move forward in advance of the Zoning Ordinance rewrite.

Under this optional process, an applicant may apply for a development proposal that is consistent with the Plan. This process would include community input, as with all development projects, with the final decision by the Mayor and Council. The proposed optional process for the Mayor and Council to consider would require the applicant to provide additional benefits to the City such as more open space, affordable housing, and other positive aspects.

While developing this text amendment, staff determined that there are certain development standards for nonresidential and mixed-use projects that contain no flexibility for minor modifications or administrative adjustments, as they exist in the residential zones. Staff believes this should be changed ahead of the Zoning Ordinance Rewrite to address infill and redevelopment projects. Details on each of the proposed changes to the ordinance are provided as follows:

**Article 14 – Special Zones, to create a new Section 25.14.25, Interim Comprehensive Plan Floating Zones**

The Rockville 2040 Comprehensive Plan Land Use Policy Map recommends changes in land use in certain areas that will require the creation of new zones. These new zones are proposed to be implemented as part of the Zoning Ordinance Rewrite. Because the rewrite of the Zoning Ordinance will require an extended process to achieve, this amendment will create floating zones that allow for the implementation of the changes in land use that the new zones will bring about in the near term, without the creation of the new zones or the map amendment that would be required to fully implement the new Comprehensive Plan.

Creating floating zones is a two-step process. The first step is the development and adoption of floating zone regulations, which do not initially apply to any particular property, but merely designate a zone that permits certain uses that would be allowed if the zone were applied to a property. The second step is the actual change of the zone that is accomplished by applying the floating zone to a property via the Floating Zone Map Amendment process. As proposed, the implementation of a floating zone would also include the approval of a development project for the property in the form of a Project Plan application submitted, reviewed and acted on concurrently with the Floating Zone Map Amendment application.

In most cases, floating zones are anticipated to be proposed when a project does not fit into the existing zoning on a property, but would comply with the land use recommendations in the Comprehensive Plan. To avoid “spot zoning” (zoning small parcels of land for uses that differ from the surrounding area), the regulations generally contain development standards and permitted uses that can be applied to more than one site.
For this floating zone amendment, there are three medium-to-high density residential and three mixed-use land use categories identified in the Comprehensive Plan that would be activated by the implementation of a floating zone. Since these proposed zones are only conceptual in describing the future land use goals and are not actual zoning districts with a complete description of uses, setbacks, lot coverage, maximum height regulations and other such standards, an equivalent zoning category must be referenced.

**Description of land use categories from the Rockville 2040 Comprehensive Plan to be implemented using floating zones**

The RA (Residential Attached) land use as described in the Comprehensive Plan includes a variety of residential attached units. The Land Use Policy Map applies the Residential Attached (RA) land use designation to areas of the city where there are existing attached residential housing types, such as duplexes and townhomes, as well as new areas where there are currently single-unit detached homes, yet attached housing types are also included. For the most part, these new areas are existing residential blocks on the edges of neighborhoods, with pedestrian access to high-capacity transit, including Metrorail and planned Bus Rapid Transit (BRT) lines. This change in the land use plan will allow for a market-driven transition to residential attached construction types.

The housing types allowed in the **Residential Attached (RA)** land use category include:

- Single-unit detached homes;
- Duplexes;
- Triplexes;
- Fourplexes;
- Townhouses/row houses; and
- Small apartment buildings with up to six units, though some RA areas only allow up to four-unit apartments.

These housing types can be accommodated on existing residential lots, or through assembly of lots. The scale of this residential construction should be in keeping with its context and potential as related to transit infrastructure and other amenities.

The **RM - Residential Multiple Unit** land use is mapped for apartment or condominium buildings, which are defined as construction types with shared corridors and entrances. The density of units and size of the building is regulated by the standards in the Zoning Ordinance. RM areas exclude detached and attached types of construction.

**RF - Residential Flexible** includes a mix of townhouses, rowhouses, and apartment buildings, as well as detached houses. It is applied to sites where the mix of allowed residential types is flexible and established during the review of a development proposal. Small-scale commercial uses are a potential option if integrated into the residential development.
CRM - Commercial and Residential Mix expresses the City’s interest in retaining and introducing commercial uses in specific locations mixed with multiple unit residential and/or residential attached types. The mix can be horizontal, with stand-alone commercial next to apartment buildings on a site; or the mix can be vertical, with commercial on the ground floor and apartments above. In some locations, the Plan indicates where commercial is strongly preferred along a street frontage.

SRM - Service Industrial and Residential Mix is mapped in areas where service industrial use is the primary use, but a mix of residential, commercial, office, and other uses is also allowed.

OCRM - Office, Commercial and Residential Mix is the most flexible category, allowing a wide choice in office, commercial, and residential uses. Uses such as research & development, breweries, distilleries, and small manufacturing may be appropriate if they do not adversely impact surrounding properties. In some locations, the Plan indicates where commercial is strongly preferred along a street frontage.

The following tables illustrate the residential and mixed-use land use categories that are recommended in the Comprehensive Plan, and their equivalent zone that already exists in the code, modified to reflect the new land use category. Equivalent zoning categories are existing zoning categories in the Rockville Zoning Ordinance with similar intent to the proposed land use categories described in the Comprehensive Plan.

<table>
<thead>
<tr>
<th>Residential Categories</th>
<th>Equivalent Zoning Category</th>
</tr>
</thead>
<tbody>
<tr>
<td>Land Use Description from Comp. Plan</td>
<td>Residential Medium Density RMD-15</td>
</tr>
<tr>
<td>Residential Attached (RA)</td>
<td>Residential Medium Density RMD-15</td>
</tr>
<tr>
<td>Residential Multiple Unit (RM)</td>
<td>Residential Medium Density RMD-25</td>
</tr>
<tr>
<td>Residential Flexible (RF)</td>
<td>Residential Medium Density RMD-15</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Mixed-Use Categories</th>
<th>Equivalent Zoning Category</th>
</tr>
</thead>
<tbody>
<tr>
<td>Land Use Description from Comp. Plan</td>
<td>Mixed Use Corridor Transition (MXCT)</td>
</tr>
<tr>
<td>Commercial and Residential Mix (CRM)</td>
<td>Mixed Use Business (MXB)</td>
</tr>
<tr>
<td>Office, Commercial and Residential Mix (OCRM)</td>
<td>Mixed Use Employment</td>
</tr>
<tr>
<td>Service Industrial and Residential Mix (SRM)</td>
<td>Mixed Use Employment</td>
</tr>
</tbody>
</table>
To understand how the floating zone text is drafted and would be implemented, staff developed the process below, by which an application for a floating zone would be applied. It is important to note that the floating zone relies on a Project Plan as a companion application. The floating zone process involves more than just designating a new zone for a property, as it must include a development plan that is reviewed as a Project Plan.

1. A Floating Zone Map Amendment application is submitted with a request for a land use from one of the categories listed above in the chart, which becomes the basis for the Interim Comprehensive Plan Floating Zone. In addition to the application for an Interim Comprehensive Plan Floating Zone, an application for Project Plan must accompany the Map Amendment. A site plan to implement the Project Plan and Map Amendment may also be submitted concurrently, such that all three applications may be reviewed by the Planning Commission at the same time.

2. The Planning Commission will make a recommendation to Mayor and Council on the floating zone Map Amendment and Project Plan request.

3. The site plan may be considered by the Planning Commission at this time, but it cannot receive preliminary or conditional approval yet. Once the Mayor and Council approve both the related Map Amendment and Project Plan applications, the Planning Commission may act on the site plan, when it is back before them.

4. The Mayor and Council will conduct a public hearing on both the Map Amendment and Project Plan applications, review the recommendation from the Planning Commission and any other testimony and decide on the application.

5. If approved by the Mayor and Council, the new floating zone, based on the land use designation from the Comprehensive Plan, will be placed upon the rezoned property.

6. If the applications are approved by the Mayor and Council, the applicant can proceed to submit a site plan or preliminary plan before the Planning Commission for review. If the site plan has received preliminary review by the Commission, final action may take place soon after the Mayor and Council’s action.

7. The above allows for a streamlined process for development applications that implement the Comprehensive Plan; however, the applicant is required to provide for additional public benefits as part of the process.

Section 25.06.01, Zoning Map Amendments.

To effectuate the change desired by the floating zones listed above, Section 25.06.01 must be amended to allow a process for floating zones. This amendment codifies how an Interim Comprehensive Plan Floating Zones provision will be reviewed by the Mayor and Council and the required findings. While an Interim Comprehensive Plan Floating Zone application is processed like a local map amendment, the floating zone does have different criteria and standards. A particular difference is that unlike a map amendment request, a request for floating zone is required to be accompanied by a project plan with the submission of an application.
**Mayor and Council History**

Although the Mayor and Council have discussed the implementation of the Comprehensive Plan land use recommendations previously, this is the first time that this item is before the Mayor and Council.

**Public Notification and Engagement**

If authorized for filing, City staff will embark on a public notification effort in consultation with the Public Information Office so that the public is fully aware of these proposed changes.

**Boards and Commissions Review**

If authorized for filing, the Text Amendment will be forwarded to the Planning Commission, which may provide a recommendation to the Mayor and Council prior to the public hearing.

**Next Steps**

If the Mayor and Council authorizes this text amendment, the next step would be for the Planning Commission to review these amendments and make a recommendation to the Mayor and Council. When the text amendments return to Mayor and Council, a public hearing would be required prior to a decision.

**Attachments**

Attachment 10.a: Draft Interim Comp Plan Text Amendment - Floating Zones (PDF)

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Rob DiSpirito, City Manager 7/5/2022
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.

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

Section 25.03.02 – Words and Terms Defined

* * *

Interim comprehensive plan floating zone means a zone that complies with the Rockville 2040 Comprehensive Plan land use goals and policies and that may be implemented by a floating zone map amendment.

* * *

Map amendment means a change in the zoning designation(s) of a property or area as depicted on the zoning map for the City. A map amendment may be one (1) of the following:

1. Comprehensive map amendment means a zoning action affecting the entire City that may rezone some or all areas of the City and reconfirm the zoning in other areas of the City.

2. Local map amendment means a change of zoning, normally sought by a property owner or other person having a proprietary interest in the property to be affected by the amendment. A local map amendment can include more than one (1) tract of land. Land can be combined for the purpose of rezoning. All portions of the property rezoned must be classified in one (1) zone or two (2) alternative zones.

3. Sectional map amendment means a zoning action affecting a section of the City. A sectional map amendment is a type of comprehensive amendment as defined by Maryland case law.

4. Floating zone map amendment means a map amendment implementing an interim comprehensive plan floating zone.

* * *
SECTION 2. Amend Article 6, “Procedures for Map and Zoning Text Amendments, Variances, and Administrative Actions” as follows:

Section 25.06.01. Zoning Map Amendments.

b. Types of applications. An application may be filed for any of the following types of amendment to the zoning map:
   
   1. Local amendment. A local map amendment covering a single tract of land, all portions of which are proposed to be classified in one (1) or more zones;
   
   2. Sectional amendment. A sectional map amendment covering a section of the City, portions of which may be proposed to be classified in different zones; or
   
   3. Comprehensive amendment. A comprehensive map amendment covering the entire City, portions of which may be proposed to be classified in different zones.

   4. Floating zone map amendment. A floating zone map amendment covering a single tract of land, all portions of which are proposed to be classified in one (1) or more interim comprehensive plan floating zones.

c. Applications.

   1. Authority to file.

      (a) Local map amendment and floating zone map amendment. An application for a local map amendment or a floating zone map amendment may be filed by any governmental agency or by a person with a financial, contractual, or proprietary interest in the property to be affected by the proposed amendment.

      * * *

   d. Local amendment applications.

      1. Limitation on successive applications. The City Clerk must not accept for filing any application for a local amendment to the zoning map if the application is for the reclassification of the whole or any part of land, the reclassification of which has been approved or denied by the Mayor and Council on its merits within twelve (12) months prior to the date of the application for filing.

      2. Limitation on amendments to applications. After acceptance for filing, an application for a local amendment to the zoning map may not be amended so as to increase the area proposed to be reclassified or to change the zone or alternate zones requested to any other zone.

   e. Floating zone map amendment applications.
1. **Submission requirements.** In addition to any submission requirements pursuant to Section 25.06.01.c.2, a floating zone map amendment application must include:

   (a) the current and proposed zone;

   (b) a statement explaining how the proposed development, including the proposed zone, satisfies the criteria to grant the application under Section 25.06.01.e.2; and

   (c) a project plan application in accordance with Section 25.07.01.

2. **Required findings.** A floating zone map amendment application may be approved only if the Mayor and Council finds that the application:

   (a) is consistent with the Plan and implements the Land Use Policy Map and applicable description of the land use category found in the Rockville 2040 Comprehensive Plan as adopted by the Mayor and Council on August 2, 2021;

   (b) satisfies the intent and standards of the proposed zone and meets all other applicable requirements of this Chapter;

   (c) provides one or more public benefits that enhance or contribute to the objectives of the Plan and are proportionate to the scale of the proposed development; and

   (d) is compatible with existing and approved adjacent development.

**Public notification of pending application.**

1. **Notification requirements.** Notice required under this section must be given in accordance with the provisions of the notice requirements found in Section 25.05.03.

2. **Newspaper notification.** Publication in a newspaper of general circulation is required prior to a hearing in accordance with the requirements of State law.

3. **Sign required.** In the case of a local amendment or a floating zone map amendment, the owners of the subject property must post a sign or signs in accordance with the provisions of subsection 25.05.03.d.

4. **Written notification to property owners.** At least fifteen (15) days prior to the hearing on any application for a local, floating zone, or sectional amendment to the zoning map, the applicant in the case of a local amendment, and the City Clerk in the case of a sectional amendment, must send written notice of such hearing by first class mail in the following manner:

   (a) **Local amendment.** In the case of a local amendment, each owner of property subject to the map amendment application at the mailing address on the current tax assessment list, and also the property location address, if addresses are different on the tax roll, and civic associations and homeowner’s associations within seven hundred fifty (750) feet of the subject property.
(b) *Floating zone map amendment.* In the case of a floating zone map amendment, each owner of property subject to the map amendment application at the mailing address on the current tax assessment list, and also the property location address, if addresses are different on the tax roll, and all property owners, residents, civic associations and homeowner’s associations within one thousand five hundred (1,500) feet. A public hearing on a floating zone map amendment application may be combined with the public hearing on the accompanying project plan application; if the public hearings are combined, the written notice requirements in this subsection shall be deemed to satisfy the written notice requirements for the project plan under Section 25.07.03.a.

(cb) *Sectional amendment.* In the case of a sectional amendment, each owner of property subject to the map amendment application at the mailing address on the current tax assessment list, and also the property location address, if addresses are different on the tax roll, and civic associations and homeowner’s associations within seven hundred fifty (750) feet of any property within such area.

(dc) *Comprehensive amendment.* In the case of a comprehensive City-wide map amendment, mailed notice is not required.

gf. **Access to application files.** Access to application files under this section is subject to the provisions found in section 25.05.05.

hg. **Referring application to the Planning Commission.** Within five (5) days after acceptance of any application under this section, the City Clerk must transmit a copy of the application to the Planning Commission. The Commission may submit a written recommendation which will be placed in the application file by the Clerk and become a part of the record on the application.

jh. **Hearing on application.** No application made under this section may be granted unless a public hearing has been held on the application by the Mayor and Council in accordance with the requirements of State law.

ji. **Action on application.**

1. An application may be granted by ordinance or denied, dismissed, or allowed to be withdrawn by resolution of the Mayor and Council.

2. An application may be dismissed if the Mayor and Council finds that it does not comply with any procedural requirements of this chapter or other applicable law.

kj. **Withdrawal of application.** An application for a local map amendment for which a public hearing has been conducted may be withdrawn only with the approval of the Mayor and Council. The Mayor and Council may decline to permit the withdrawal and decide the application on its merits or may permit withdrawal subject to any reasonable condition including but not limited to, the imposition of a time limitation within which no subsequent application may be filed, the limitation not to exceed three (3) years.

lk. **Notification of decision and appeal.**

1. Notification of decisions must be in accordance with section 25.05.06.
2. Appeals. Any person aggrieved by any decision of the Mayor and Council made on a map amendment application may appeal the same to the Circuit Court for the County. Such appeal must be taken according to the Maryland Rules as set forth in Title 7, Chapter 200.

3. The time limitation for appeals will run from the date of the ordinance or resolution adopted by the Mayor and Council.

* * *

SECTION 3. Amend Article 7, “Procedures for Site Plans, Project Plans, Special Exceptions and Other Permits” as follows:

Sec. 25.07.07. - Project Plan Review.

An application for a site plan review with 16 or more points, as determined in Section 25.07.02.b above, an application qualifying as a Project Plan under Section 25.07.02.b.4 above, an application filed with a floating zone map amendment, or an application for a Champion Project as defined in Article 3, is processed as a project plan review and is subject to the following provisions:

* * *

SECTION 4. Amend Article 14, “Special Zones” as follows:

Amend the Table of Contents as follows:

Article 14 – Special Zones

* * *


a. Purpose. The purposes of the interim comprehensive plan floating zones are to:

1. Provide for alternative development options to the development standards under existing zones.

2. Implement the land use recommendations of the Rockville 2040 Comprehensive Plan prior to adoption of the Rockville 2040 Comprehensive Map Amendment.

3. Enhance the economic, aesthetic, and environmental character of the City through unique developments that conform with the land use recommendations of the Rockville 2040 Comprehensive Plan.

4. Incentivize development that advances the recommendations of the Rockville 2040 Comprehensive Plan land use goals by providing a cohesive, participatory, and expedient development review process for designated Comprehensive Plan Developments.
5. To permit the implementation of the goals of the Rockville 2040 Comprehensive Plan consistent with adequate public facilities.

6. Provide and allow for flexibility and creative residential and non-residential development of building placement and design, lot layout and size, and properties with physical site constraints that is compatible with the surrounding neighborhood.

b. Implementation. The interim comprehensive plan floating zones are intended to provide an alternative to development under the existing zones. To obtain a floating zone, an applicant must obtain approval of a floating zone map amendment under Section 25.06.01.

c. Residential interim comprehensive plan floating zones.

1. There are three (3) residential interim comprehensive plan floating zones:

   (a) Residential Attached – Interim Comprehensive Plan Floating Zone (RA-ICPFZ)

   (b) Residential Multiple Unit – Interim Comprehensive Plan Floating Zone (RM-ICPFZ)

   (c) Residential Flexible – Interim Comprehensive Plan Floating Zone (RF-ICPFZ)

2. Development standards.

   (a) Except as modified in this subsection, the use restrictions and development standards of the residential interim comprehensive plan floating zones shall be the same as their respective equivalent zones.


      (ii) The Residential Multiple Unit – Interim Comprehensive Plan Floating Zone (RM-ICPFZ) equivalent zone is Residential Medium Density RMD-25.


   (b) For all residential interim comprehensive plan floating zones, the development standards of the equivalent zones are modified as follows:

      (i) no minimum tract area;

      (ii) no minimum tract frontage; and
(iii) maximum lot coverage is increased by 50% over the maximum lot coverage of the applicable equivalent zone.

d. **Mixed-use interim comprehensive plan floating zones.**

1. There are three (3) mixed-use interim comprehensive plan floating zones:

   (a) Commercial and Residential Mix – Interim Comprehensive Plan Floating Zone (CRM-ICPFZ)

   (b) Office, Commercial, and Residential Mix – Interim Comprehensive Plan Floating Zone (OCRM-ICPFZ)

   (c) Service, Industrial, and Residential Mix – Interim Comprehensive Plan Floating Zone (SIRM-ICPFZ)

2. **Development standards.**

   (a) Except as modified in this subsection, the use restrictions and development standards of the mixed-use interim comprehensive plan floating zones shall be the same as their respective equivalent zones.

      (i) The Commercial and Residential Mix – Interim Comprehensive Plan Floating Zone (CRM-ICPFZ) equivalent zone is Mixed Use Corridor Transition (MXCT).

      (ii) The Office, Commercial, and Residential Mix – Interim Comprehensive Plan Floating Zone (OCRM-ICPFZ) equivalent zone is Mixed Use Business (MXB).

      (iii) The Service, Industrial, and Residential Mix – Interim Comprehensive Plan Floating Zone (SIRM-ICPFZ) equivalent zone is Mixed Use Employment (MXE).

e. **Aesthetic standards.** Any development within an interim comprehensive plan floating zone must comply with the following aesthetic standards:

   (a) **Façades and massing.**

      (i) Buildings shall be designed in a way that avoids massive scale and uniform and impersonal appearance and provides visual interest consistent with the community’s identity, character, and scale. Building design shall provide attractive, well-proportioned orientation to the public realm of streets, plazas, and parks. Building walls greater than one hundred (100) feet long must include projections, recessions, or other treatments sufficient to reduce the unbroken massing of the façade along all sides of the building facing public streets.

      (ii) Any façade facing a public street must include windows, arcades, awnings, or other acceptable features along at least
sixty (60) percent of the building length. Arcades and other weather protection features must be of sufficient depth and height to provide a light-filled and open space along the building frontage. Architectural treatment, similar to that provided to the front façade must be provided to the sides and rear of the building to mitigate any negative view from any location off-site and any public area (e.g., parking lots, walkways, etc.) on site.

(iii) Buildings must include architectural features that contribute to visual interest at the pedestrian scale and reduce the massive aesthetic effect by breaking up the building wall along those sides fronting on public streets with color, texture change, wall offsets, reveals, or projecting ribs.

(b) **Roofs.** Roof design must provide variations in rooflines where appropriate and add interest to, and reduce the massive scale of, large buildings. Roof features should complement the architectural and visual character of adjoining neighborhoods. Roofs should include two (2) or more roof planes. Parapet walls must be architecturally treated to avoid a plain, monotonous look. For energy-saving purposes, roof design should also include a light color surface or be planted with vegetation.

(c) **Material.**

1. Construction materials such as tilt-up concrete, smooth-faced concrete block, prefabricated steel panels, and other similar materials are not permitted unless the exterior surface is covered or clad with another material.

2. There shall be an arrangement, usage, composition, mix and variety of material.

(d) **Items allowed not facing a public street.** The following items are only allowed either on sides not facing a public street or in the rear yard:

1. Window and wall air conditioners;

2. Electric utility meters;

3. Air conditioning compressors; and

4. Irrigation and pool pumps;

This provision does not apply to single unit detached, semi-detached, attached or townhouse dwellings.

(e) **Entryways.** Commercial building design must include design elements which clearly indicate to customers where the entrances are located, and which add aesthetically pleasing character to buildings by providing highly visible customer entrances.
(f) **Screening of mechanical equipment.** Mechanical equipment must be screened to mitigate noise and views in all directions. If roof-mounted, the screen must be designed to conform architecturally to the design of the building either with varying roof planes or with parapet walls. A wood fence or similar treatment is not acceptable.

2. **Public benefits.**

(a) Any interim comprehensive plan floating zone must provide a public benefit that enhance or contribute to the objectives of the Plan and that are proportionate to the scale of the proposed development. Public benefits may include, but are not limited to, streetscape improvements, wayfinding, and environmental building efficiency standards.
Subject
Discussion and Possible Approval of a Charter for the Zoning Ordinance Rewrite Project

Recommendation
Staff recommends that the Mayor and Council review and discuss the Charter, ask any pertinent questions and provide edits as needed prior to approval.

Discussion

The Mayor and Council, the City Manager, staff, residents, and various other stakeholders are keenly interested in the implementation of the City’s Rockville 2040 Comprehensive Plan. Initiating and completing a Zoning Ordinance Rewrite is a must for implementing the Plan. Completing a Zoning Ordinance Update will more effectively manage growth, preserve key environmental and historic areas, and promote the types of housing and jobs that are recommended in the Plan Elements and the Planning Areas. A consultant will be needed to support staff in carrying out this multi-faceted project, which is expected to take a minimum of 18-24 months from the kickoff meeting. A zoning consultant will bring best practices to the City not only on policy issues that many jurisdictions are facing, but also on organization and display so that the code is user-friendly and understandable to all customers.

This multi-department project will require an agreed-upon plan to unify staff in dedicating the time and working effectively together to successfully complete the Ordinance Rewrite. This Project Charter, a roadmap for completing this initiative, describes who, what, when, where, why, and how the City will complete this important project. Staff is requesting that the Mayor and Council review and, with revisions as needed, endorse the Project Charter.

Project Charter

The first step to initiate this project is to establish a “plan to do the project” or a Project Charter. This document contains information on:

1. Reason and purpose, and outcomes for the project;
2. Organizational structure with roles, responsibilities, decision-making authority, and project assignments;
3. Description of the community outreach and engagement strategy;
4. Reasonable schedules for project components; and
5. An implementation and monitoring plan.

Components of the Project Charter

The following section contains excerpts from the Project Charter (see Attachment A). The Charter provides more detail on the process that will be used, and the roles and responsibilities of staff and others.

Purpose of the Ordinance Rewrite:

- Implement many of the recommended actions within the adopted 2040 Comprehensive Plan;
- Accomplish FAST initiative (Faster, Accountable, Smarter, and Transparent – Improving the Development Review and Permitting Process);
- Incorporate planning and zoning best practices that have become common in the field of urban planning and in other similarly-situated communities;
- Create a modern ordinance that can accommodate the changing living, working, and lifestyles of the 21st century; and
- Create a user-friendly, accessible, and well-organized document that provides appropriate graphics and information links to aid in its understanding.

In keeping with one of the City’s values, it is important that the process of developing a rewrite of the Zoning Ordinance be understandable, fair, and provide information that is accessible to the public in order to create a truly transparent process. This process must maintain trust with the citizens and customers we serve.

Project Name:

With the importance of this significant project for the City of Rockville and the future land initiatives, the name of the project is the “Zoning Ordinance Rewrite” (ZOR).

Organizational Structure

The organizational structure is composed of:

1. **Mayor and Council (M&C)** – The Mayor and Council has made ZOR a significant priority initiative for the City. The M&C must be kept informed of staff efforts and progress. The M&C will approve and adopt the new ordinance and zoning map. The Mayor and Council must ultimately decide the appropriate balance needed to respect both public
and private interests when developing a new ordinance, including process changes. The Mayor and Council will also provide overall guidance and direction on policy and changes.

2. **City Manager (Rob DiSpirito)** – The City Manager provides overall direction to the Executive Team and Project Manager at key points throughout the project. The Manager is also one of the M&C’s main contacts regarding this project.

3. **Executive Team** – This team is composed of the Director of Community Planning and Development Services Ricky Barker, Director of Public Works Craig Simoneau, Chief of Zoning Jim Wasilak, Deputy Zoning Administrator Seth Rivard, and John Foreman, Development Services Manager. This team is responsible for the development and execution of the Project Charter, making executive decisions for the Project Team when appropriate, providing overall communication to staff within their departments, providing resources, encouragement, and support for staff working on ZOR. The Executive Team, in conjunction with the City Manager, will provide direction on recommendations and the work plan, and will consult extensively with the City Attorney’s Office. This Team will also play a critical role in establishing an effective process for making key decisions among competing objectives. This Team will also provide quarterly progress reports to the Mayor and Council.

4. **Project Manager (PM)** – The project manager is the Chief of Zoning, Jim Wasilak, accountable to the Executive Team and the City Manager to ensure that the Project Charter is implemented, progress reports are provided, and adherence to the project timeline. Jim will promote engagement, collaboration, and accountability among the Project Teams. He is also accessible and available to each Team and Team Leaders for support, guidance, and direction.

5. **Project Teams** – ZOR is a city-wide project and will require specific work teams to develop sections of the ordinance based on staff expertise. Topics include subjects such as transportation, sustainability (including our forestry ordinance requirements), and Planning Areas implementation. Each Project Team will have a team leader and be composed of team members from the necessary departments, as is needed. Team Leaders are responsible for leading the team to develop recommended text, complete the review of proposed drafts, collecting the agreed-upon edits, and providing feedback to the Executive Team and Consultants. It is important for each team to take a fresh and creative look at the current situation and achieve the best recommendations. These recommendations are not limited and should include innovative concepts and best practices.

6. **Zoning Ordinance Rewrite Consultants** – The development of a new Zoning Ordinance will require an intensive amount of time compiling public input, reviewing, and developing innovative and best practices, and incorporating graphic design into a new proposed Zoning Ordinance. A Request for Proposals (RFP) will be developed for the
retaining of services of a consultant that will assist with writing of the new zoning ordinance. In addition to the Procurement Division, the RFP responses will be reviewed and assessed by a selection team.

7. **Planning Commission and Other Boards and Commissions** - The Planning Commission will play a key role in reviewing important recommendations to ensure that the document adheres to the implementation recommendations in the Plan. Additional boards and commissions such as the Board of Appeals, Recreation and Parks Advisory Board and the Environmental Commission will also be involved as we develop draft sections of the ordinance. Many of these bodies will also be involved with the adoption process.

3. **Community Outreach and Engagement Strategy**

The outreach and engagement strategy to develop the Rockville 2040 Comprehensive Plan process was successful. Some of the reasons for success include active engagement with the public, including but not limited to, stakeholder groups, civic and homeowner associations, developers, businesses, and other interested parties. Staff recommends that we learn from this success and incorporate a similar engagement process with ZOR. This outreach process will include:

- Kickoff meetings to inform and to listen.
- Numerous community meetings on topic areas throughout the process.
- Planning area meetings with associated community associations.
- Surveys and 24-hour feedback opportunities through Engage Rockville.
- Opportunities for public to review the draft ordinance before final submission to the Planning Commission and subsequently, Mayor and Council, for planned public hearings and work sessions.

Feedback received from each outreach effort will be used to ensure that the new ordinance reflects the needs and desires of the citizens and other community stakeholders. Specifically, staff wants to ensure that residents feel that their recommendations included in the Plan are being effectively implemented. This feedback will be used to ensure that the recommended ordinance changes address topics and issues identified by the public. This public engagement strategy will support the Planning Commission and Mayor and Council in their decision-making process. Provided in the “Process” section of this Charter is a detailed overview of the community outreach and engagement roadmap.

Staff will develop an extensive communication plan to use the most effective strategies that yield the most opportunities for engagement. The Executive Team will join with the Office of Communication and Engagement during the process.

4. **Zoning Ordinance Rewrite Schedule**
As stated previously, ZOR take a minimum of 18 to 24 months from its commencement. Once a consultant is retained, a more detailed schedule will need to be developed to ensure that project deadlines are met, expectations managed, and to be accountable for results. The overall schedule should be endorsed by the Mayor and Council. The schedule should include milestones to ensure that the process of rewriting the ordinance is achieved. Should higher-than-anticipated levels of participation occur, adjustments to the timeline may need to be explored. If the scope and schedule need to be modified, the Mayor and Council will need to consider the impacts on the timeline, budget, and our resource capacity.

5. Process

Provided in the attachment is a general overview of the process from drafting the Request for Proposals (RFP) to the adoption of a new Zoning Ordinance and Map, with significant milestones and opportunities for public input noted. The schedule is at a high level, with each section roughly corresponding to a quarter of the year. While this process highlights the general order of how the rewrite of the ordinance will occur during this process, the consultants and staff will develop a detailed schedule for review and approval before work commences.

6. Implementation and Monitoring Plan

The long-term success of this project depends upon the effectiveness of adhering to the project timeline and ensuring that there is a robust public process. With the overview shown above and the more detailed schedule to be presented by the consultants, we will be able to monitor our schedule and ensure we meet the implementation deadline. It will be important to monitor the schedule and provide justification if additional changes are needed.

Monitoring of ZOR will not end with the adoption of a new Zoning Ordinance. Once the new ordinance is implemented and utilized on a regular basis, there will be effects that were not anticipated. This may result in the need for zoning text amendments to address those circumstances that could not have been expected without daily use of the ordinance. Implementing any necessary changes is a commitment to the citizens, Mayor and Council, and other stakeholders, that the City of Rockville has a Zoning Ordinance that achieves the desired outcomes and provides for a fair and equitable process for all.

Mayor and Council History
The Mayor and Council have discussed Zoning Ordinance implementation previously, but not this Charter.

Public Notification and Engagement
A public engagement process will be an integral part of the Zoning Ordinance rewrite process.
Next Steps
Based on the feedback received from Mayor and Council, staff will make the necessary adjustments to the Project Charter.

Attachments
Attachment 11.a: Zoning Ordinance Rewrite Charter (6-28-22 draft) (PDF)

Rob DiSpirito, City Manager 7/5/2022
Comprehensive Rewrite of Rockville’s Zoning Ordinance

Project Charter

Introduction

The Mayor and Council, the City Manager, staff, residents, and various other stakeholders are keenly interested in the implementation of the City’s Rockville 2040 Comprehensive Plan. Initiating and completing a Zoning Ordinance Rewrite is a must for implementing the Plan. Completing a Zoning Ordinance Update will more effectively manage growth, preserve key environmental and historic areas, and promote the types of housing and jobs that are recommended in the Plan Elements and the Planning Areas. A consultant will be needed to support staff in carrying out this multi-faceted project, which is expected to take a minimum of 18-24 months from the kickoff meeting. A zoning consultant will bring best practices to the City not only on policy issues that many jurisdictions are facing, but also on organization and display so that the code is user-friendly and understandable to all customers.

This multi-department project will require an agreed-upon plan to unify staff in dedicating the time and working effectively together to successfully complete the Ordinance Rewrite. This Project Charter, a roadmap for completing this initiative, describes who, what, when, where, why, and how the City will complete this important project. Staff is requesting that the Mayor and Council review and, with revisions as needed, endorse the Project Charter.

Project Charter

The first step to initiate this project is to establish a “plan to do the project” or a Project Charter. This document contains information on:

1. Reason and purpose, and outcomes for the project;
2. Organizational structure with roles, responsibilities, decision-making authority, and project assignments;
3. Description of the community outreach and engagement strategy;
4. Reasonable schedules for project components; and
5. An implementation and monitoring plan.

1. Reason and Purpose

The recently adopted Rockville 2040 Comprehensive Plan establishes new land use vision and policy guidance for future development with respect to the rights and expectations of the public, private business, and other stakeholders. As a result, the current Zoning Ordinance requires a thorough review and update to ensure that the Plan and Zoning Ordinance are aligned. While many of the zones established in the 2009 Rockville Zoning Ordinance are anticipated to remain, there are other necessary changes needed to the ordinance. Below expresses the reason and purpose to rewrite the 2009 Zoning Ordinance:
• Implement many of the recommended actions within the adopted Rockville 2040 Comprehensive Plan;
• Accomplish the FAST initiative (Faster, Accountable, Smarter and Transparent - Improving the Development Review and permitting Process);
• Incorporate planning and zoning best practices that have become common in the field of urban planning and in other similarly-situated communities;
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Project Name:

With the importance of this significant project for the City of Rockville and the future land use initiatives, the name of the project is the “Zoning Ordinance Rewrite” (ZOR).

2. Organizational Structure

The organizational structure is composed of:

• Mayor and Council (M&C) – The Mayor and Council has made ZOR a significant priority initiative for the City. The M&C must be kept informed of staff efforts and progress. The M&C will approve and adopt the new ordinance and zoning map. The Mayor and Council must ultimately decide the appropriate balance needed to respect both public and private interests when developing a new ordinance, including process changes. The Mayor and Council will also provide overall guidance and direction on policy and changes.

• City Manager (Rob DiSpirito) – The City Manager provides overall direction to the Executive Team and Project Manager at key points throughout the project. The Manager is also one of the M&C’s main contact regarding this project.

• Executive Team – This team is composed of the Director of Community Planning and Development Services, Ricky Barker, Director of Public Works, Craig Simoneau, Chief of Zoning Jim Wasilak, Deputy Zoning Administrator Seth Rivard, and John Foreman, Development Services Manager. This team is responsible for the development and execution of the Project Charter, making executive decisions for the Project Team when appropriate, providing overall communication to staff within their departments, providing resources, encouragement, and support for staff working on ZOR. The Executive Team, in conjunction with the City Manager, will provide direction on recommendations and the work plan and will consult extensively with the City Attorney’s Office. This Team will also play a critical role in establishing an effective process for making key decisions among competing objectives. This Team will also provide quarterly progress reports to the Mayor and Council.

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implemented, progress reports are provided, and adherence to the project timeline. Jim will promote engagement, collaboration, and accountability among the Project Teams. He is also accessible and available to each Team and Team Leaders for support, guidance, and direction.

- **Project Teams** – ZOR is a city-wide project and will require specific work teams to develop sections of the ordinance based on staff expertise. Topics include subjects such as, transportation, sustainability (including our forestry ordinance requirements), and Planning Areas implementation. Each Project Team will have a team leader and be composed of team members from the necessary departments as is needed. Team Leaders are responsible for leading the team to develop recommended text, complete the review of proposed drafts, collecting the agreed upon edits, and providing feedback to the Executive Team and Consultants. It is important for each team to take a fresh and creative look at the current situation and achieve the best recommendations. These recommendations are not limited and should include innovative concepts and best practices.

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- **Planning Commission and Other Boards and Commissions** - The Planning Commission will play a key role in reviewing important recommendations to ensure that the document adheres to the implementation recommendations in the Plan. Additional boards and commissions such as the Board of Appeals, Recreation and Parks Advisory Board and the Environmental Commission will also be involved as we develop draft sections of the ordinance. Many of these bodies will also be involved with the adoption process.

3. **Community Outreach and Engagement Strategy**

The outreach and engagement strategy to develop the Rockville 2040 Comprehensive Plan process was successful. Some of the reasons for success include active engagement with the public, including but not limited to, stakeholder groups, civic and homeowner associations, developers, businesses, and other interested parties. Staff recommends that we learn from this success and incorporate a similar engagement process with ZOR. This outreach process will include:

- Kickoff meetings to inform and to listen
- Numerous community meetings on topic areas throughout the process
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Feedback received from each outreach effort will be used to ensure that the new ordinance reflects the needs and desires of the citizens and other community stakeholders. Specifically, staff wants to ensure that residents feel that their recommendations included in the Plan are being effectively implemented. This feedback will be used to ensure that the recommended ordinance changes
address topics and issues identified by the public. This public engagement strategy will support the Planning Commission and Mayor and Council in their decision-making process. Provided in the “Process” section of this Charter, is a detailed overview of the community outreach and engagement roadmap.

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4. Zoning Ordinance Rewrite Schedule

As stated previously, ZOR take a minimum of 18 to 24 months of its commencement. Once a consultant is retained, a more detailed schedule will need to be developed to ensure project deadlines are met, expectations managed, and be accountable for results. The overall schedule should be endorsed by the Mayor and Council. The schedule should include milestones to ensure that the process of rewriting the ordinance is achieved. Should higher than anticipated levels of participation occur, adjustments to the timeline may need to be explored. If the scope and schedule need to be modified, Mayor and Council will need to consider the impacts on the timeline, budget, and resource capacity.

5. Process

Provided in the attachment is a general overview of the process from drafting the Request for Proposals (RFP) to the adoption of a new Zoning Ordinance and Map, with significant milestones and opportunities for public input noted. The schedule is at a high level, with each section roughly corresponding to a quarter of the year. While this process highlights the general order of how the rewrite of the ordinance will occur during this process, the consultants and staff will develop a detailed schedule for review and approval before work commences.

<table>
<thead>
<tr>
<th>Process</th>
</tr>
</thead>
<tbody>
<tr>
<td>Develop the request for proposals (RFP) package.</td>
</tr>
<tr>
<td>Award contract to a consultant for the rewrite of the Zoning Ordinance.</td>
</tr>
<tr>
<td>Community Planning and Development Services and Public Works internal meeting for an assessment of the strengths and weaknesses of the current Zoning Ordinance.</td>
</tr>
<tr>
<td>Consultant meets with Mayor and Council.</td>
</tr>
<tr>
<td>Consultant and staff create a more detailed schedule for the process to complete the Zoning Ordinance Rewrite.</td>
</tr>
<tr>
<td>Project kick-off meeting with consultant team and staff</td>
</tr>
<tr>
<td>Public kickoff meetings (various times and venues plus virtual)</td>
</tr>
</tbody>
</table>
Initial draft text developed
Numerous public meetings begin, to include Planning Area meetings.

Revised Draft Text developed based upon feedback and direction from M&C
Third series of public meetings begins, to include Planning Area meetings

ZOR section drafts are compiled into a single document.

Planning Commission is presented with the initial public review draft of the ZOR.
Planning Commission holds a series of public hearings on ZOR draft reviews
Planning Commission holds numerous work sessions to make changes in response to public hearing comments
Planning Commission provides a its recommended ZOR to the Mayor and Council for its required review and adoption process

Mayor and Council conducts public hearings on ZOR and Comprehensive Map Amendment
Mayor and Council holds numerous work sessions and recommend changes to produce a draft for possible adoption
Mayor and Council adopts the ZOR and the Comprehensive Map Amendment

6. Implementation and Monitoring Plan

The long-term success of this project depends upon the effectiveness of adhering to the project timeline and ensuring that there is a robust public process. With the overview shown above and the more detailed schedule to be presented by the consultants, we will be able to monitor our schedule and ensure we meet the implementation deadline. It will be important to monitor the schedule and provide justification if additional changes are needed.

Monitoring of ZOR will not end with the adoption of a new Zoning Ordinance. Once the new ordinance is implemented and utilized on a regular basis, there will be effects that were not anticipated. This may result in the need for zoning text amendments to address those circumstances that could not have been expected without daily use of the ordinance. Implementing any necessary changes is a commitment to the citizens, Mayor and Council, and other stakeholders, that the City of Rockville has a Zoning Ordinance that achieves the desired outcomes and provides for a fair and equitable process for all.
Subject
Introduction and Possible Adoption of an Ordinance 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 review the proposed ordinance and introduce it if found to be acceptable. If the Mayor and Council wish to adopt the draft ordinance at the meeting, a motion to waive the layover period must be approved by four members of the Mayor and Council.

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.

Update
At the May 23, 2022, Mayor and Council meeting, the most recent modifications were presented and discussed. Mayor and Council recommended a few minor changes and requested the proposed amendment return to them in a relatively short period of time. The attached amendment has the recommended changes provided within and is ready for a vote by Mayor and Council. The remainder of the report is the same as the previous May 23rd report.

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.”

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.

• Accessory structures and buildings are permitted to have a floor in the unfinished attic storage area of the structure. The area covered by the floor can be equal up to the floor area below. For the purposes of this subsection, the installation of a floor shall not constitute a story.
• Remove the strikeout of “modified” to allow for conforming structures to be modified.
• Building Footprint
  o 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 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.
  o 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. 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. The maximum footprint of all accessory buildings is 1,000 square feet.
The reason for Building Footprint to Maximum Building Footprint change 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, and July 11, 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**
Staff recommends that the Mayor and Council introduce Zoning Text Amendment TXT2019-00254. If the Mayor and Council also wish to vote on the ordinance, a motion to waive the layover period must first be made, and the motion must receive an affirmative vote of at least four members of the Mayor and Council.

**Attachments**
- Attachment 12.a: Draft ordinance TXT2021-00254 - Final (DOCX)
- Attachment 12.b: TXT2019-00254 Public input summary (PDF)
- Attachment 12.c: TXT2019-00254 Public written comment (PDF)

[Signature]
Rob DiSpirito, City Manager 7/5/2022
WHEREAS, the Mayor and Council of Rockville, 111 Maryland Avenue, Rockville, Maryland, filed Text Amendment Application TXT2019-00254 for the purpose of amending Chapter 25 of the Rockville City Code, “Zoning,” so as to revise Chapter 25 for the purpose of modifying the regulations that apply to residential accessory buildings and structures; and

WHEREAS, the Planning Commission reviewed the proposed text amendment at its meetings of June 12, 2019 and July 10, 2019, and recommended approval of the proposed amendment to the Mayor and Council on July 10, 2019, with certain comments; and

WHEREAS, pursuant to the Land Use Article of the Annotated Code of Maryland, the Mayor and Council of Rockville gave notice that a hearing on said text amendment would be held virtually by the Mayor and Council via WebEx on July 15, 2019, at 7:00 p.m., or as soon thereafter as it may be heard; and

WHEREAS, on July 15, 2019, said application came on for hearing at the time and place provided for in said advertisement; and

WHEREAS, the Mayor and Council conducted additional public hearings on October 7, 2019 and May 10, 2021;

WHEREAS, the Mayor and Council, having considered the text amendment application and the entire file pertaining thereto, said Mayor and Council have decided that the granting of this application, in the form set forth below, would promote the health, safety and welfare of the citizens of the City of Rockville.
NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF ROCKVILLE, MARYLAND that Chapter 25 of the Rockville City Code, entitled “Zoning Ordinance,” be amended as follows:

Chapter 25 – ZONING ORDINANCE

***

ARTICLE 3. – DEFINITIONS; TERMS OF MEASUREMENTS AND CALCULATIONS

***

Sec. 25.03.02. – Words and terms defined.

***

*Breezeway means 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.*

***

ARTICLE 9. – ACCESSORY USES; ACCESSORY BUILDINGS AND STRUCTURES; ENCROACEMENTS; TEMPORARY USES; HOME-BASED BUSINESS ENTERPRISES; WIRELESS COMMUNICATION FACILITIES

***

Sec. 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(g). Uses within accessory structures must comply with the applicable provisions of Section 25.09.01 above.

Sec. 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:
### Minimum Setback Requirements

<table>
<thead>
<tr>
<th>Zone</th>
<th>Side - Street Abutting</th>
<th>Rear</th>
<th>Maximum Rear Yard 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 All accessory buildings must be located in the rear yard except as provided in Sec. 25.09.03.a.2(g)</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>25% 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 (Qualifying Undersized Lot)</td>
<td>20’</td>
<td>3’</td>
<td>3’</td>
<td>25%</td>
</tr>
<tr>
<td>R-40</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 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 (1) story and are subject to the following additional provisions:

   (a) *Accessory buildings and structures greater than twelve (12) feet high.* Accessory buildings and structures that exceed twelve (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. 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 exceed the height to the peak of the main house.

   (b) *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 (9) percent of the minimum lot area in the R-75 Zone, and eight (8) percent of the minimum lot area in the R-90 Zone. No single accessory building can have a gross floor area greater than five hundred (500) square feet. The maximum footprint of any one accessory building is 750 square feet and cannot exceed the footprint of the main building. The maximum footprint of all accessory buildings is 1,000 square feet.
(c) **Occupancy prohibition.** In no event can accessory buildings collectively occupy more than twenty-five (25) percent of the rear yard.

(c) **Conforming structures.** 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 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.

** ***

(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 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.
swimming pool is not subject to the maximum rear yard coverage requirements of subsection (c) above.

(i) Story and floor area. Accessory structures and buildings are permitted to have a floor in the unfinished attic storage area of the structure. The area covered by the floor can be equal to or less than the floor area below. For the purposes of this subsection, the installation of a floor shall not constitute a story.

* * *

ARTICLE 10. – SINGLE DWELLING UNIT RESIDENTIAL ZONES

* * *

Sec. 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.

* * *

ARTICLE 13. – MIXED-USE ZONES

* * *

Sec. 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).

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.
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 July 11, 2022.

Sara Taylor-Ferrell
City Clerk/Director of Council Operation
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>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</td>
<td>1/27/21 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</td>
<td>1/27/21 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>Area</th>
<th>Method</th>
<th>Position</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</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>
</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>Contact</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<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>“Penalty”</strong></td>
<td>3150-1600=1550</td>
<td>35-12=</td>
</tr>
<tr>
<td>Equivalent to 1550/3150= 49% <strong>“Penalty” is HALF of a lot’s buildable area, for the accessory building.</strong></td>
<td>23 “Penalty”</td>
<td></td>
</tr>
<tr>
<td><strong>Results</strong></td>
<td><strong>Ridiculous. Unfair. Discriminatory</strong> 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>Front</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 subsection 2(a) below)</th>
</tr>
</thead>
<tbody>
<tr>
<td>R-400</td>
<td></td>
<td>30’</td>
<td>3’</td>
<td>25%</td>
<td>12’</td>
</tr>
<tr>
<td>R-200</td>
<td></td>
<td>25’</td>
<td>3’</td>
<td>25%</td>
<td>12’</td>
</tr>
<tr>
<td>R-150</td>
<td></td>
<td>30’</td>
<td>3’</td>
<td>25%</td>
<td>15’</td>
</tr>
<tr>
<td>R-90</td>
<td></td>
<td>20’</td>
<td>3’</td>
<td>25%</td>
<td>15’</td>
</tr>
<tr>
<td>R-75</td>
<td></td>
<td>20’</td>
<td>3’</td>
<td>25%</td>
<td>15’</td>
</tr>
<tr>
<td>R-60</td>
<td></td>
<td>20’</td>
<td>3’</td>
<td>25%</td>
<td>15’</td>
</tr>
<tr>
<td>R-60 (Qualifying Undersized Lot)</td>
<td></td>
<td>20’</td>
<td>3’</td>
<td>25%</td>
<td>15’</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/ Gross Floor Area - The gross floor area cumulative building footprint of all attached 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 half of the floor area greater than 500-1,000 square feet.**

(c) **In no event may 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 located in a Historic District Zone, are exempt from the calculation of rear yard coverage pursuant to Section 25.00.02.f.3.

***

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.
In the case of an institution of higher learning located on a site greater than 7 acres, the maximum building height is 70 feet, where the use adheres to the requirements set forth in the table above.

Uncovered surfaces include driveways, parking areas, and sidewalls. In cases where the Direction of the Zoning Review Officer is still limited to the percentage limits shown in the table below.

<table>
<thead>
<tr>
<th>Zone</th>
<th>Front Yard</th>
<th>Minimum Lot Dimensions</th>
<th>Building Envelope Requirements</th>
<th>Additional Regulations</th>
</tr>
</thead>
<tbody>
<tr>
<td>R-200</td>
<td>100'</td>
<td>25'</td>
<td>25'</td>
<td>25'</td>
</tr>
<tr>
<td>R-150</td>
<td>150'</td>
<td>25'</td>
<td>25'</td>
<td>25'</td>
</tr>
<tr>
<td>R-100</td>
<td>200'</td>
<td>25'</td>
<td>25'</td>
<td>25'</td>
</tr>
<tr>
<td>R-50</td>
<td>250'</td>
<td>25'</td>
<td>25'</td>
<td>25'</td>
</tr>
</tbody>
</table>

Reference Changes 4/19/2019 - 8/20/2019

Packet Pg. 317
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(e) 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
From:        David Hill <DavidHill@tigger2.us>
Sent:       Monday, September 16, 2019 12:13 PM
To:          cityclerk
Cc:           Nancy Pickard; mayorcouncil; Harold Pskowski
Subject:     RE: re TXT2019-00254, Accessory Structures

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
testing 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 than 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 restrictive. 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.**

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>3150</td>
<td>35</td>
<td>35</td>
</tr>
<tr>
<td>Landowner B</td>
<td>1600</td>
<td>18</td>
<td>20 and 12</td>
</tr>
<tr>
<td><strong>Penalty</strong></td>
<td>3150-1600=1550. Equivalent to 1550/3150= 49% Penalty 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*, 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. <strong>While this latitude would be nice, my comments are on packet page 147.</strong> Shorter accessory buildings should be allowed (not disallowed).</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. <strong>Eliminate the “cumulative” accessory buildings footprint requirement. and Reinstatethe 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.</strong></td>
</tr>
</tbody>
</table>
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.

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. |
| 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 Mellerand, 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 Mellerand, 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.
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 any 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 building 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.

Exaggeration. I struggle to pull out Rockville's response and associated basis. Paraphrasing Ms. Nicole Walters: We are not prepared.

Staff met with Mr. Roberson to discuss his concerns. While staff does not support most of the recommendations provided, staff finds that the Mayor and Council may want to consider the recommendation for additional height of accessory buildings. The current staff text amendment to respond to you today... Our response will be provided via report on 12 or 13 Sept.
Sec. 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 Exceed</th>
</tr>
</thead>
<tbody>
<tr>
<td>R-400</td>
<td>All accessory buildings must be located in the rear yard except as provided in Sec. 25.09.03.a.2(g).</td>
<td>30' 3' 3' 15%</td>
<td>12'</td>
</tr>
<tr>
<td>R-200</td>
<td>All accessory buildings must be located in the rear yard except as provided in Sec. 25.09.03.a.2(g).</td>
<td>25' 3' 3' 25%</td>
<td>12'</td>
</tr>
<tr>
<td>R-150</td>
<td>All accessory buildings must be located in the rear yard except as provided in Sec. 25.09.03.a.2(g).</td>
<td>30' 3' 3' 15%</td>
<td>12'</td>
</tr>
<tr>
<td>R-90</td>
<td>All accessory buildings must be located in the rear yard except as provided in Sec. 25.09.03.a.2(g).</td>
<td>20' 3' 3' 25%</td>
<td>12'</td>
</tr>
<tr>
<td>R-75</td>
<td>All accessory buildings must be located in the rear yard except as provided in Sec. 25.09.03.a.2(g).</td>
<td>20' 3' 3' 25%</td>
<td>12'</td>
</tr>
<tr>
<td>R-60</td>
<td>25.09.03.a.2(g)</td>
<td>20' 3' 3' 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 Palakovich Carr and Mark Pierzhala 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.

WWW.ROCKVILLEMD.GOV 240-314-5000
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.

<p>| 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* |</p>
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<th>%</th>
<th>Height (feet)</th>
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</thead>
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<td>Landowner A</td>
<td>9000 lot area X 0.35 max coverage =</td>
<td>3150</td>
<td>35</td>
</tr>
<tr>
<td>Landowner B</td>
<td>1000 main building + 600 accessory building =</td>
<td>1600</td>
<td>18</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>
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</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. 12.c
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></td>
<td></td>
<td></td>
</tr>
<tr>
<td>R-200</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>R-150</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>R-90</td>
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<td></td>
<td></td>
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<td>R-75</td>
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</tr>
<tr>
<td>R-60</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>R-60 (Qualifying Undersized Lot)</td>
<td></td>
<td></td>
<td></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 1/2 High** - Accessory buildings and structures that exceed 1/2 feet in height must be set back from all lot lines an additional three 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 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 all existing 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 accessory buildings must not exceed can have a gross floor area building footprint greater than 00-1,000 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.
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>Village</th>
<th>Holland Rd</th>
<th>Drive</th>
<th>Dekum</th>
<th>Lincoln Ave</th>
<th>Simms</th>
<th>Rockette</th>
<th>Bommarito</th>
<th>Dean</th>
<th>R-60</th>
<th>R-60</th>
</tr>
</thead>
</table>
| House and lot sizes for your early and mid-century neighborhoods (square foot) (According to SDART Data 10/7/2019)

Attachment 12.c: TXT2019-00254 Public written comment (4197 : Introduction and Possible Adoption of an Ordinance to Approve Text)
In prior written submission, that contributed to the D&I deferral leading to this additional hearing, I made five points:

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. 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.

prepping up primary structure is transmission issue
5. My last point was something that still strikes me as illogical: there exists a sliding scale where larger properties have smaller 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 are 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 a 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

written
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
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.

---

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:
  - 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

Maxine Rozar
Lynn Manor Drive
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
Greeting

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
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
From: J Lynch <plcinc@aol.com>  
Sent: Monday, April 6, 2020 7:45 AM  
To: mayorcouncil <mayorcouncil@rockvillemd.gov>  
Subject: Zoning

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
508 Carr Ave.
Rockville, MD 20850-2110

April 6, 2020

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
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
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 care-giver 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
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
From: Michael Dutka <ditko86@gmail.com>
Sent: Monday, April 13, 2020 8:44 PM
To: mayorcouncil <mayorcouncil@rockvillemd.gov>
Subject: Support for Zoning code amendment TXT2019-00255-Accessory Dwelling Units

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
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 allow⁠¹ 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.

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
Future Agendas

Recommendation

Attachments
Attachment 13.A.a: Mock Agenda 07.18.22 (DOC)
Attachment 13.A.b: Future Agendas as of 7.11.22 (PDF)

[Signature]
Sara Taylor-Ferrell, City Clerk/Director of Council Operations 7/6/2022
Agenda item times are estimates only. Items may be considered at times other than those indicated.

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

Virtual Speakers

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

In-Person Attendance

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

Viewing Mayor and Council Meetings

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

Participating in Community Forum & Public Hearings:

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

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

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

1. Send your Name, Phone number, the Community Forum, and Expected Method of Joining the Meeting (computer or phone) to mayorandcouncil@rockvillemd.gov no later than Noon on the day of the meeting.
2. Send your Name, Phone number, the Public Hearings 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.

3. 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.

4. Plan to join the meeting no later than 6:40 pm (approximately 20 minutes before the actual meeting start time).

5. 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).

6. 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.

7. 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, July 18 from 5:30-6:30 pm with Mayor Newton and Councilmember Feinberg. Please sign up by 10 am on the day of the meeting using the form at: https://www.rockvillemd.gov/formcenter/city-clerk-11/sign-up-for-dropin-meetings-227

7:00 PM 1. Convene

2. Pledge of Allegiance

3. Agenda Review

7:05 PM 4. Presentation

A. Rockville Goes Purple

7:15 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.

7:35 PM  6. Consent

A. Approval of Extension of the Schools and Community Based Contract Between the City of Rockville and Montgomery County's Department of Health and Human Services to Provide Community Counseling and Supportive Services to Rockville Based Schools

B. Award Contract for Taser Purchase

C. Rockville Swim and Fitness Center Outdoor Pool Renovations

D. Human Services Grant (Caregivers Agency Grants) Agreements

E. Award to Conduent State & Local Solutions, Inc. for Photo Enforcement Services Per Montgomery County Contract #1081683.

7:40 PM  7. RedGate- Results of Public Outreach on Concept Plans

8:40 PM  8. Discussion and Instructions - King Farm Farmstead Real Estate Market Analysis Report

9:40 PM  9. Vacancy Report/Hiring Freeze Status

9:45 PM 10. Application Signature Authorization for Street Closing and Abandonment Application SCA2022-00109 for a 0.0027 Acre Portion of an Unnamed Roadway Adjacent to Twinbrook Quarter LLC

9:55 PM 11. Introduction of an Ordinance to Amend Section 1-8, Entitled “Application of County Law,” of Chapter 1 of the Rockville City Code, Entitled “General Provisions,” to Allow Chapter 40, Real Property, Section 40-13B (Energy Performance Audits -Single Family Homes), Section 40-13C (Radon Test-Single Family Home), and Section 40-14 (Penalty for Violation of Article; Enforcement) of the Montgomery County Code to Apply in the City of Rockville

11:10 PM  13.  Old/New Business

11:20 PM  14.  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.
### Meeting: 8/01/22 07:00 PM (6 items)

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<th>Category</th>
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<th>Title</th>
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<tbody>
<tr>
<td>Proclamation</td>
<td>5</td>
<td>Proclamation Declaring September 2022 as National Recovery Month</td>
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<tr>
<td>Consent</td>
<td>5</td>
<td>Award of Sourcewell Rider Contract #(# TBD), Rear Packer Refuse Truck, to (Vendor TBD) in the Amount of $(# TBD)</td>
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<tr>
<td>Presentation</td>
<td>45</td>
<td>Vision Zero Update</td>
</tr>
<tr>
<td>Proclamation</td>
<td>5</td>
<td>Proclamation Declaring August 2, 2022 as National Night Out in Rockville</td>
</tr>
<tr>
<td>Proclamation</td>
<td>5</td>
<td>Proclamation Declaring National Day of Service and Remembrance - 2022</td>
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<tr>
<td>Consent</td>
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<td>Outside Agency Grant Agreement Approval</td>
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**Total Meeting Time (In Hours)**: **1 HRS 70 MINS**

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### Meeting: 9/12/22 07:00 PM (7 items)

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<tr>
<td>Public Hearing</td>
<td>20</td>
<td>Public Hearing - PJT2022-00014 Twinbrook Commons</td>
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<tr>
<td>Discussion and Instructions</td>
<td>45</td>
<td>Review of Concept Designs for the WMATA Study of the Rockville Station</td>
</tr>
<tr>
<td>Discussion and Instructions</td>
<td>20</td>
<td>Discussion and Instruction on an Ordinance to Amend Section 1-8, Entitled “Application of County Law,” of Chapter 1 of the Rockville City Code, Entitled “General Provisions,” to Allow Chapter 40, Real Property, Section 40-13B (Energy Performance Audits - Single Family Homes), Section 40-13C (Radon Test-Single Family Home), and Section 40-14 (Penalty for Violation of Article; Enforcement) of the Montgomery County Code to Apply in the City of Rockville</td>
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<tr>
<td>Public Hearing</td>
<td>10</td>
<td>Public Hearing and Possible Introduction of an Ordinance to Grant Street Closing and Abandonment Application, SCA2022-00109 for a 0.0027 Acre Portion of an Unnamed Roadway Adjacent to Twinbrook Quarter LLC</td>
</tr>
<tr>
<td>Introduction and Possible Adoption</td>
<td>10</td>
<td>Introduction, and Possible Adoption, of a Bond Ordinance to Authorize the Competitive Sale of Tax-Exempt 2022A General Obligation Bonds in an Amount Not to Exceed $16,000,000 for the Purpose of Financing the Construction of Water, Sewer, and Stormwater Management Improvements as Reflected in the City’s FY 2023 Capital Improvements Program</td>
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<tr>
<td>Proclamation</td>
<td>5</td>
<td>Proclamation Declaring Sept. 15, 2022 - Oct. 15, 2022 as National Hispanic Heritage Month</td>
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<tr>
<td>Proclamation</td>
<td>5</td>
<td>Proclamation Declaring September 2022 as National Preparedness Month</td>
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**Total Meeting Time (In Hours)**: **1 HRS 55 MINS**

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### Meeting: 9/19/22 07:00 PM (4 items)

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**Total Meeting Time (In Hours)**: **1 HRS 55 MINS**
## Future Agendas
### As of 07/11/2022

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<td><strong>Discussion and Instructions</strong></td>
<td>60</td>
<td>Discussion of Creating a Long-Term Agreement with Federal Realty for Town Square</td>
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<tr>
<td><strong>Discussion</strong></td>
<td>60</td>
<td>FY 2024 Budget Process Discussion</td>
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<tr>
<td><strong>Public Hearing</strong></td>
<td>30</td>
<td>TENTATIVE Public Hearing on Zoning Text Amendment TXT2021-00259 - Amendments to the MXE Zone to Allow Self-Storage Warehouse as Conditional Use; Miller Miller &amp; Canby, Applicant for U-Haul, Inc.</td>
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<tr>
<td><strong>Presentation and Discussion</strong></td>
<td>15</td>
<td>Caregiver Funding Task Force Recommendations</td>
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**Total Meeting Time (In Hours)**: 2 HRS 45 MINS

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<td><strong>Proclamation</strong></td>
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<td>Proclamation Declaring October 10, 2022 as Indigenous Peoples Day</td>
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**Total Meeting Time (In Hours)**: HRS 5 MINS

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<td><strong>Discussion</strong></td>
<td>60</td>
<td>FY 2024 Mayor and Council Budget Priority Discussion</td>
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<tr>
<td><strong>Consent</strong></td>
<td>5</td>
<td>Adoption of an Ordinance to Amend Section 1-8, Entitled “Application of County Law,” of Chapter 1 of the Rockville City Code, Entitled “General Provisions,” to Allow Chapter 40, Real Property, Section 40-138 (Energy Performance Audits -Single</td>
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<td><strong>Consent</strong></td>
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<td>Adoption of an Ordinance to Grant Street Closing and</td>
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**Total Meeting Time (In Hours)**: 1 HRS 10 MINS

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<td>Proclamation Declaring September 22, 2022 as Car Free Day</td>
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**Total Meeting Time (In Hours)**: HRS 0 MINS

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<td>Proclamation Declaring September 20, 2022 as National Voter Registration Day</td>
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**Total Meeting Time (In Hours)**: HRS 0 MINS

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<tr>
<td><strong>Presentation and Discussion</strong></td>
<td>60</td>
<td>Historic Preservation Workplan</td>
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<td><strong>Discussion</strong></td>
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<td>Vacancy Report/Hiring Freeze Status</td>
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**Total Meeting Time (In Hours)**: 1 HRS 15 MINS
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<tbody>
<tr>
<td>1. Virtual Speaker Mary Spencer</td>
<td>240-277-8613 <a href="mailto:baty_mary@yahoo.com">baty_mary@yahoo.com</a></td>
<td>Proposed redevelopment of the Seven Locks land; Proposed Bus Depot and Restoration Facility on Seven Locks Road</td>
<td></td>
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<tr>
<td>2. Virtual Speaker and Written Comments Melissa McKenna</td>
<td>240-793-1287 <a href="mailto:mckennaforeverpta@gmail.com">mckennaforeverpta@gmail.com</a></td>
<td>Proposed redevelopment of the Seven Locks land; Proposed Bus Depot and Restoration Facility on Seven Locks Road</td>
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<tr>
<td>3. Virtual Speaker Patricia A. Harris Lerch, Early &amp; Brewer</td>
<td>7600 Wisconsin Avenue Suite 700 Bethesda, MD 20814 301-841-3832 <a href="mailto:paharris@lercheearly.com">paharris@lercheearly.com</a></td>
<td>Agenda Item No. 10 – ZTA – Interim Zoning Ordinance Update</td>
<td></td>
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</table>
Good Evening. My name is Melissa McKenna. Thank you for continuing to accept live, virtual testimony.

I join you this evening to follow up on the proposed MCPS bus depot relocation. It's been a hobby of mine since 2014. Another year, another proposed location in Rockville, and yet another bad option put forward.

The County CIP budget is a funny creature: exceptionally large, allocations over six years when really only the first two years matter, amorphous items called placeholders, and the "out years." All of which make anything beyond the first two years of the CIP a dream rather than a real plan for the future.

Because these comments are submitted in advance of the meeting, I can only hope that MCPS and Mr. Seth Adams, Director of Facilities Management, were in attendance tonight to answer questions that arose during the May 9th Mayor and Council meeting.

Similar to previous attempts to locate, even temporarily, some of the buses from the Crabbs Branch MCPS bus depot to the front Carver parking lot or the former WINX site, this latest suggestion to relocate the buses to the intersection of Seven Locks Road and Wootton parkway prominently visible along I270, seems to me another desperate attempt to force a square peg into a round hole.

As I have said many times to every government body, only a complete relocation solution should be considered. A piecemeal approach is unacceptable. Then there's the cost. The $66M, in the out years, doesn't begin to scratch the surface.

The current average cost of an electric school bus is $355K-$450K. Let's say $400K for 270 MCPS school buses. That's $108M just for buses. Don't forget that there will be an additional, substantial infrastructure cost for charging stations. Between now and a possible FY2030 opening, there are seven fiscal years in which to purchase those buses. That would be $15M a year just for buses for one depot. That's more than MCPS invests annually in HVAC for the entire school system.

And what of the rest of the roughly 150 remaining "homeless" buses? We still don't have a magical floating island for schools or buses. They can't and won't be parked at MCPS schools. Thank you Dr. McKnight for that reassurance.

This is an incomplete solution to literally a decades old problem. Mayor Newton, if only the County had the foresight back in the day when you suggested the former Gude Drive dump eons ago. There's still time for that or other industrial locations off Gude to be negotiated with the City. It's time to send the County back to the drawing board.

Thank you.

Melissa McKenna
<table>
<thead>
<tr>
<th>Name</th>
<th>Address/Phone</th>
<th>Topic</th>
<th>Speaking on Behalf of</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>In Person</strong> Hannah Fisher</td>
<td>1 Rock Falls Ct. Rockville, MD 20855 301-785-0522 (C) 301-424-6641 (H) <a href="mailto:hrmfisher601@yahoo.com">hrmfisher601@yahoo.com</a></td>
<td>Proposed redevelopment of the Seven Locks land; Proposed Bus Depot and Restoration Facility on Seven Locks Road</td>
<td></td>
</tr>
<tr>
<td><strong>In Person</strong> Sarah Bland</td>
<td>913 White Pine Place Rockville, MD 202-276-7375 <a href="mailto:greg@thingstododc.com">greg@thingstododc.com</a> <a href="mailto:stephaniewbland@gmail.com">stephaniewbland@gmail.com</a></td>
<td>Proposed redevelopment of the Seven Locks land; Proposed Bus Depot and Restoration Facility on Seven Locks Road</td>
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<tr>
<td><strong>In Person and Written Comments</strong> Krystal Putman-Garcia</td>
<td>1980 Lancashire Dr. Rockville, MD 20854 202-320-5695 <a href="mailto:krystal.putman@gmail.com">krystal.putman@gmail.com</a></td>
<td>Proposed redevelopment of the Seven Locks land; Proposed Bus Depot and Restoration Facility on Seven Locks Road</td>
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<tr>
<td><strong>In Person</strong> Nancy Popson</td>
<td>1615 Forbes Street Rockville, MD 20851 301-775-8957 <a href="mailto:nepopson@gmail.com">nepopson@gmail.com</a></td>
<td>Developing an expanded ballet center for the City's ballet classes and Rockville Civic Ballet on the King Farm Farmstead</td>
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<tr>
<td><strong>In Person</strong> Charlotte Popson</td>
<td>1615 Forbes Street Rockville, MD 20851 301-775-8957 <a href="mailto:nepopson@gmail.com">nepopson@gmail.com</a></td>
<td>Developing an expanded ballet center for the City's ballet classes and Rockville Civic Ballet on the King Farm Farmstead</td>
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<td><strong>In Person</strong> Leon Feuerstein</td>
<td>908 White Pine Place, Rockville, 20854 <a href="mailto:leonf01@gmail.com">leonf01@gmail.com</a></td>
<td>Proposed redevelopment of the Seven Locks land; Proposed Bus Depot and Restoration Facility on Seven Locks Road</td>
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<td><strong>In Person</strong> Steve VanGrack</td>
<td>110 N. Washington St. Rockville, MD 20850 301-548-6734 <a href="mailto:steven@stevenvangracklaw.com">steven@stevenvangracklaw.com</a></td>
<td>Proposed redevelopment of the Seven Locks land; Proposed Bus Depot and Restoration Facility on Seven Locks Road</td>
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<td>8.</td>
<td>Mariana Cordier</td>
<td>1021 Willowleaf Way Rockville, MD 20854</td>
<td>Proposed redevelopment of the Seven Locks land; Proposed Bus Depot and Restoration Facility on Seven Locks Road</td>
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<td>9.</td>
<td>Nora Eig</td>
<td>315 Baltimore Road Rockville, MD 20850 240-205-1330 <a href="mailto:Noraegr254@gmail.com">Noraegr254@gmail.com</a></td>
<td>Developing an expanded ballet center for the City's ballet classes and Rockville Civic Ballet on the King Farm Farmstead</td>
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<td>10.</td>
<td>Punya Goraya</td>
<td>1112 Halesworth Dr Potomac MD 20854 571-438-0491 <a href="mailto:punyagoraya@gmail.com">punyagoraya@gmail.com</a></td>
<td>Proposed redevelopment of the Seven Locks land; Proposed Bus Depot and Restoration Facility on Seven Locks Road</td>
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<td>11.</td>
<td>William Wood</td>
<td><a href="mailto:wwood300@gmail.com">wwood300@gmail.com</a></td>
<td>Developing an expanded ballet center for the City's ballet classes and Rockville Civic Ballet on the King Farm Farmstead</td>
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<td>12.</td>
<td>Silvie U. Gallardo</td>
<td>6225 Lone Oak Drive Bethesda, MD 20817 202-309-2530 <a href="mailto:president@friendsrcb.org">president@friendsrcb.org</a></td>
<td>City arts program</td>
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<td>13.</td>
<td>Kate DiBartolo</td>
<td>6225 Lone Oak Drive Bethesda, MD 20817 202-309-2530 <a href="mailto:president@friendsrcb.org">president@friendsrcb.org</a></td>
<td>City arts program</td>
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<td>14.</td>
<td>Charles Pavitt</td>
<td>301-633-4935 <a href="mailto:chazzq@udel.edu">chazzq@udel.edu</a></td>
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<td>Elaine Gilby</td>
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<td>16.</td>
<td>Eleanor Simpson</td>
<td><a href="mailto:simpsoner2014@gmail.com">simpsoner2014@gmail.com</a></td>
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<td>In Person</td>
<td>Steven Polinger</td>
<td><a href="mailto:steven.polinger@gmail.com">steven.polinger@gmail.com</a></td>
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<td>17</td>
<td>Erin Kwong</td>
<td>1115 Pipestem Pl Rockville, MD 20854 240-328-4892 <a href="mailto:ekwong6@gmail.comuzi">ekwong6@gmail.comuzi</a></td>
<td>Developing an expanded ballet center for the City’s ballet classes and Rockville Civic Ballet on the King Farm Farmstead</td>
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<td>18</td>
<td>Pali Keppetipola</td>
<td>301-412-6288 <a href="mailto:palimk7@umd.edu">palimk7@umd.edu</a></td>
<td>Developing an expanded ballet center for the City’s ballet classes and Rockville Civic Ballet on the King Farm Farmstead</td>
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<td>19</td>
<td>David Walker</td>
<td>301-919-6477 <a href="mailto:walkerbike@comcast.net">walkerbike@comcast.net</a></td>
<td>Developing an expanded ballet center for the City’s ballet classes and Rockville Civic Ballet on the King Farm Farmstead</td>
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<td>20</td>
<td>Dr. Uzi Vishkin</td>
<td>3 Kettle Pond Court Rockville, MD 20854 240-888-2203 <a href="mailto:vishkin@umd.edu">vishkin@umd.edu</a></td>
<td>Proposed redevelopment of the Seven Locks land; Proposed Bus Depot and Restoration Facility on Seven Locks Road</td>
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<tr>
<td>21</td>
<td>Isabel Camara</td>
<td>1610 Guenther Ave., Rockville, MD 20851 301-251-1610 <a href="mailto:dinis.camara@gmail.com">dinis.camara@gmail.com</a></td>
<td>The future of the historic horse barn site at the King Farm Farmstead</td>
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<td>22</td>
<td>Dinis Camara</td>
<td>1610 Guenther Ave., Rockville, MD 20851 301-251-1610 <a href="mailto:dinis.camara@gmail.com">dinis.camara@gmail.com</a></td>
<td>The future of the historic horse barn site at the King Farm Farmstead</td>
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<td>23</td>
<td>PK (Harish) Chidambaran</td>
<td>1000 Willowleaf way, Rockville, MD 20854 <a href="mailto:preetac1996@yahoo.com">preetac1996@yahoo.com</a></td>
<td>Proposed redevelopment of the Seven Locks land; Proposed Bus Depot and Restoration Facility on Seven Locks Road</td>
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<td>Written Comments</td>
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<td><strong>25.</strong> Dan Fulop</td>
<td>301-706-0268 <a href="mailto:danfulop@gmail.com">danfulop@gmail.com</a></td>
<td>Proposed redevelopment of the Seven Locks land; Proposed Bus Depot and Restoration Facility on Seven Locks Road</td>
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<td><strong>26.</strong> Mark Wetterhahn</td>
<td>2 Don Mills Ct, Rockville MD 2087=54 <a href="mailto:markwetterhahn@yahoo.com">markwetterhahn@yahoo.com</a></td>
<td>Proposed redevelopment of the Seven Locks land; Proposed Bus Depot and Restoration Facility on Seven Locks Road</td>
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<td><strong>27.</strong> Greg Bland</td>
<td>913 White Pine Place Rockville, MD 202-276-7375 <a href="mailto:greg@thingstododc.com">greg@thingstododc.com</a> <a href="mailto:stephaniewbland@gmail.com">stephaniewbland@gmail.com</a></td>
<td>Proposed redevelopment of the Seven Locks land; Proposed Bus Depot and Restoration Facility on Seven Locks Road</td>
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<td><strong>28.</strong> Doug Guidorizzi</td>
<td>16 Infield Court Potomac, MD 20854 <a href="mailto:dougguidorizzi@yahoo.com">dougguidorizzi@yahoo.com</a></td>
<td>Proposed redevelopment of the Seven Locks land; Proposed Bus Depot and Restoration Facility on Seven Locks Road</td>
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<td><strong>29.</strong> Chiara Jaffe</td>
<td><a href="mailto:cjjaffe@comcast.net">cjjaffe@comcast.net</a></td>
<td>Proposed redevelopment of the Seven Locks land; Proposed Bus Depot and Restoration Facility on Seven Locks Road</td>
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<td><strong>30.</strong> Anna Adhikari</td>
<td><a href="mailto:adhikari.anna@gmail.com">adhikari.anna@gmail.com</a></td>
<td>Developing an expanded ballet center for the City's ballet classes and Rockville Civic Ballet on the King Farm Farmstead</td>
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<td><strong>31.</strong> Irene Elliott</td>
<td><a href="mailto:ilelliott@verizon.net">ilelliott@verizon.net</a></td>
<td>Developing an expanded ballet center for the City's ballet classes and Rockville Civic Ballet on the King Farm Farmstead</td>
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<td><strong>32.</strong> Sharon Dekelbaum</td>
<td><a href="mailto:dekelbaum@aol.com">dekelbaum@aol.com</a></td>
<td>Proposed redevelopment of the Seven Locks land; Proposed Bus Depot and Restoration Facility on Seven Locks Road</td>
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<td><strong>33.</strong> Linda and Meyer Katzper</td>
<td>2 Locks Pond Ct. Rockville, MD 20854 301-340-6856 <a href="mailto:lkatzper@msn.com">lkatzper@msn.com</a></td>
<td>Proposed redevelopment of the Seven Locks land; Proposed Bus Depot and Restoration Facility on Seven Locks Road</td>
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<td>Written Comments</td>
<td>Email Address</td>
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<td>34. Written Comments</td>
<td><a href="mailto:justyna.sadlowska@gmail.com">justyna.sadlowska@gmail.com</a></td>
<td>Developing an expanded ballet center for the City's ballet classes and Rockville Civic Ballet on the King Farm Farmstead</td>
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<td>35. Written Comments</td>
<td><a href="mailto:brpfeuer@hotmail.com">brpfeuer@hotmail.com</a></td>
<td>Developing an expanded ballet center for the City's ballet classes and Rockville Civic Ballet on the King Farm Farmstead</td>
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<td>36. Written Comments</td>
<td><a href="mailto:sophiaubiera@gmail.com">sophiaubiera@gmail.com</a></td>
<td>Developing an expanded ballet center for the City's ballet classes and Rockville Civic Ballet on the King Farm Farmstead</td>
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<td>37. Written Comments</td>
<td>1106 Highwood Rd Rockville, MD 20851 301-351-7523 <a href="mailto:ballerina92082@yahoo.com">ballerina92082@yahoo.com</a></td>
<td>Developing an expanded ballet center for the City's ballet classes and Rockville Civic Ballet on the King Farm Farmstead</td>
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<td>38. Written Comments</td>
<td><a href="mailto:lindot293@yahoo.com">lindot293@yahoo.com</a></td>
<td>HRC support of the City's efforts and positions to mitigate gun violence</td>
<td></td>
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<td>39. Written Comments</td>
<td><a href="mailto:vtcufan@gmail.com">vtcufan@gmail.com</a></td>
<td>Developing an expanded ballet center for the City's ballet classes and Rockville Civic Ballet on the King Farm Farmstead</td>
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<td>40. Written Comments</td>
<td><a href="mailto:Tracyfitzgerald3@gmail.com">Tracyfitzgerald3@gmail.com</a></td>
<td>Developing an expanded ballet center for the City's ballet classes and Rockville Civic Ballet on the King Farm Farmstead</td>
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<td>41. Written Comments</td>
<td><a href="mailto:asstmgr@kingfarm.org">asstmgr@kingfarm.org</a></td>
<td>Update on items of interest to King Farm</td>
<td></td>
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</tbody>
</table>
Subject: FW: 617 Petition Signers Against the Proposed Seven Locks Plan

From: Krystal Putman-Garcia <keepsevenlockssafe@gmail.com>
Sent: Tuesday, June 28, 2022 12:43 AM
To: mayorcouncil <mayorcouncil@rockwillemd.gov>; Councilmember.Albornoz@montgomerycountymd.gov; Councilmember.Glass@montgomerycountymd.gov; Councilmember.Rice@montgomerycountymd.gov; Councilmember.Friedson@montgomerycountymd.gov; Councilmember.Hucker@montgomerycountymd.gov; Councilmember.Riener@montgomerycountymd.gov; Councilmember.Navarro@montgomerycountymd.gov; Councilmember.Katz@montgomerycountymd.gov; Councilmember.Jawando@montgomerycountymd.gov
Subject: 617 Petition Signers Against the Proposed Seven Locks Plan

Greetings Mayor and Councilmembers,

I write to update you that there are now 617 residents who have actively signed a petition against the proposal to bring a bus depot with 250-400 buses to Seven Locks & Wooton Parkway. https://www.change.org/nobusdepot

We continue to be frustrated and disappointed that the County has not presented any other sites for consideration. This plan continues to raise serious safety, environmental and lifestyle concerns not limited to residential safety, increased noise pollution, significant increase of air pollution, traffic congestion and delays, increased pedestrian hazards, and diminished property values, which have not been addressed.

We strongly oppose these plans and ask for your support.

Here's what your constituents are saying:
"I want less congestion and traffic in our residential neighborhood. Also I believe this project will decrease our property value."

"I want to keep our residential area free of additional noise and air pollution. There are better alternatives in industrial parts of Rockville."

"Why would you put this bus depot into a residential area?? We have industrial areas of Rockville near Gude. The pollution, the eye sore, the noise, the traffic!"

"The traffic after 3:00 pm on Seven Locks Road is already heavy and slow. This would add to the already congested area."

Thank you again for your consideration
Dear Mayor and Councilmembers,

I will keep this short. I write again to strongly oppose Montgomery County’s proposed plan to create a bus depot AND mental health crisis center at Seven Locks and Wootton Parkway. These facilities are not appropriate for my backyard or anyone’s backyard. These facilities should be in a commercial/industrial area.

I am a lifelong resident, tax payer, and voter seeking your support against these Proposals.

I am requesting that you actively oppose any and all Proposals seeking to rehabilitate the MCDC and police station property into a MCPS Bus Depot and Mental Health Crisis Center.

I am asking you and the members of the council to reject the above captioned Proposal because it is damaging to our neighborhood.

I also ask that this email is a part of the written testimony that goes on record.

Thank you for your consideration and hopefully your support,

Dan Fulop

--

Dan Fulop
301-706-0268
danfulop@gmail.com
Keep Seven Locks Safe

I understand that Montgomery County has proposed redeveloping the roughly 40-acre site of the Detention Center facility in Rockville to also include a bus depot and a “restoration center.” This plan raises serious safety, environmental and lifestyle concerns that have not been addressed by Montgomery County. I strongly oppose these plans and ask for your support in also opposing them.

- Expanded crisis service plans and rebuilt detention centers have not been communicated to the community and could bring an increase in crime to the community, especially considering there is no access to public transportation in this residential area. The current plan of releasing inmates with a bus pass is unacceptable and has resulted in break-ins, robberies and assaults in our area. Without a clear safety plan and active communication with the community, this plan should not proceed.

- A bus depot will add unnecessary traffic, pollution, noise and safety concerns with 260+ buses being added into an already congested area. Also we have serious concerns about the proximity of the school buses next to a detention center. We understand this is the third attempt for MoCo to find another home for the bus depot but this area is not the place – there are already locations down the street that can be used near Westlake.

Montgomery County has been negligent in communicating their plans to the community. We need to have a voice in determining plans for this land, especially since Rockville has extensive industrial areas that can be better utilized.

I stand united with my community in asking Montgomery County to:

1. Develop detailed safety plans and share with the community before any decisions are made.
2. Seek alternative sites for both the expanded crisis services center (closer to hospitals that can better treat those leveraging the services) and bus depot (in other industrial, not residential areas).
3. Begin and maintain proactive communications with the Seven Locks Alliance communities and residents in the surrounding area.
4. Say no to the expanded crisis center, prison, and bus depot at this Seven Locks site.

Overall, I support the Crisis Now model and deeply support Montgomery County's plans to ensure that we provide these critical services to our residents. However this plan is not acceptable for this residential area.

I ask that this email is a part of the written testimony that goes on record.
Many thanks for your consideration.

Sincerely,

Gregory Bland
240 632 9474
Comments Relating to Presentation by Montgomery Regarding Future Redevelopment Plans for 1307, 1451, and 1541 Seven Locks Road
Before the City of Rockville Mayor and Council
July 11, 2022

My name is Mark Wetterhahn. I reside at 2 Don Mills Ct, Rockville MD directly across I-270 from the Montgomery County Detention Center, the proposed location of the projects to be discussed during your July 11, 2022 meeting. I understand the presentation by representatives of Montgomery County will discuss three elements, a new Criminal Justice Center, a new Restoration Center and a bus depot for school and ride-on buses. I ask that the comments submitted herein be entered in the record and considered in your deliberations and actions related to these projects.

With regard to the Restoration Center, there does not appear to be a comprehensive plan relating to its operation, staffing, patient intake and discharge, and security. This program is a diversion from and alternative to incarceration and must be viewed in this context. The ability of (excuse the expression) "unrestored" patients to leave on their own volition must be carefully defined and managed to assure that this facility can safely be located within feet of an existing residential neighborhood. Such a comprehensive plan must be developed before any physical structure is designed and its location determined. This overall plan must be vetted with the surrounding communities and Mayor and Council. A final observation is that the Restoration Center is a medical facility and should if all possible should be co-located with similar medical facilities such as at the Shady Grove Hospital campus where medical personnel and transportation are available at all times. Such site is only a few minutes' drive from the proposed Criminal Justice Facility.

With regard to the bus depot, my comments center around the noise from such a facility. My understanding is that before school buses leave a depot, they must test safety apparatus including backup signals, which are quite loud. This would occur early in the morning. I understand that vehicle repair would occur day and night. Facility personnel as well as bus drivers would use their own vehicles to come to the facility at early hours. The number of ride-on buses using the facility has yet to be defined; the noise and environmental impacts associated with such use must be carefully considered. Noise must be a major consideration in siting given the location next to established residential communities.

Should one or more of the facilities be built, the applicant should be required to assure that certain amenities are provided. There should be an established sidewalk/bike path along Seven Locks Road from Wootton Parkway to Falls Road. There should be dedicated parkland as part of these projects. The projects are being built on land that previously constituted the Montgomery County poor farm and potters' field in which hundreds if not thousands of souls have been buried. The history of the site, both good
and bad, should be recognized and the lives of the souls who very likely remained buried in the area remembered and honored in this parkland. The City should work closely with Peerless Rockville to fully understand the history of the site and to implement historical preservation and markers and other innovative ways to remember the past.
From: Douglas Guidorizzi <dougguidorizzi@yahoo.com>
Sent: Friday, July 8, 2022 1:51 PM
To: mayorcouncil <mayorcouncil@rockvillemd.gov>
Subject: Opposition to plan for land at the end of Seven Lock Road

Re: Montgomery County 7 Locks Land Use Plan Proposal

MCPS Bus Depot at 7 Locks Road,

Dear Mayor and Councilmembers,

I understand that there will be a presentation by the County during this Monday’s meeting about the County’s proposal to use the land by Seven Locks Road for a MCPS Bus Depot. I am writing to express my objection and opposition to developing the land located at the end of Seven Locks for the Montgomery County Public Schools Bus Depot.

I am resident of Fallsmead. I am also a Past President of the Fallsmead Homes Corporation and the current Corporate Secretary and a Director, but I write to you in my personal capacity. A few months ago, I learned at our community meeting about the County’s proposal for the MCPS Bus Depot. I am vehemently opposed to this plan.

It is my understanding that the proposed bus depot will house 269 buses overnight and provide maintenance services for additional buses used by the County. This location cannot handle the traffic that will result. Already, the traffic is bad. The traffic in this area is already heavy, frequently causing back-ups that block the exit from my neighborhood on Fallsmead Way to Falls Road (the entrance to I-270 North from Falls Road has frequent back-ups). It is a very populated area that is also a thoroughfare for commuters and the increased traffic would make this situation untenable.
I also learned that the project will include diversion services that operate 24 hours a day, seven days a week. As a former prosecutor, I applaud the investment in diversion services, but the proposed location is not suitable for such a program. The location abuts a residential area, does not have sidewalks, has inadequate public transportation, and is not close to services that will be needed for those who use the program.

I am requesting that you actively oppose any and all Proposals seeking to rehabilitate the MCDC and police station property into a MCPS Bus Depot.

Thank you for your consideration.

Sincerely,

/s/
Doug Guidorizzi
Dear Mayor Newton and County Council Members Albornaz, Glass, Friedson, Rice, Katz, Navarro, Hucker, Jawando, and Riemer,

I am writing to strongly oppose Montgomery County’s proposed plan to create a bus depot at Seven Locks Road and Wootton Parkway.

An MCPS Bus Depot at that location would have a detrimental impact on the surrounding area, including the more than 500 homes. Particularly harmful effects include increased air pollution, traffic delays, and pedestrian hazards. The increased traffic also would exacerbate the congestion off I-270 exit 5 near Julius West and the surrounding single lane roads. Additionally, bus arrivals and departures would create a significant amount of noise pollution. Therefore, the project is in direct conflict with Rockville’s Vision 2040 Development Plan for our Area 13.

As a tax paying resident, I am asking that you oppose any and all proposals seeking to create a bus depot at Wootton Parkway and Seven Locks Road because it is damaging to our neighborhoods.

I also ask that this email be included in the written testimony that goes on record.

Thank you for your consideration.

Sincerely,

Chiara Jaffe (Horizon Hill resident for 45 years)
Subject: FW: King Farm Farmstead Rockville Civic Ballet Proposal

> -----Original Message-----
> From: Anna <adhikari.anna@gmail.com>
> Sent: Sunday, July 10, 2022 9:38 AM
> To: cityclerk<cityclerk@rockvillemd.gov>
> Subject: King Farm Farmstead Rockville Civic Ballet Proposal
>
> Hello,
>
> My name is Anna Adhikari and I am writing in support of the King Farm Farmstead building’s renovation into a space for the Rockville Civic Ballet program.
>
> I began dancing with the City of Rockville at age 5 and have continued to dance with RCB to this day at age 21. I cannot speak highly enough of the incredible environment and kind teachers at the ballet program. Through the training and performance opportunities I have received with the Rockville Civic Ballet, I have been fortunate enough to pursue a dance major at the University of Maryland, summer programs at the Orlando Ballet school, and a career in professional dancing.
>
> I credit all of these opportunities to the Rockville Civic Ballet and City of Rockville Ballet classes. I am so grateful that these programs give students the chance to train at an affordable cost and I encourage the expansion of the ballet program to reach even more dancers like me.
>
> Now as a teacher for the Rockville ballet program, I highly support the renovation of the King Farm Farmstead into a space for the Rockville Civic Ballet. I hope the City of Rockville sees how deserving the ballet program is of this space expansion, as it has truly changed my life.
>
> Thank you very much for your consideration, Anna Adhikari
From: Irene Elliott <ilelliott@verizon.net>
Sent: Sunday, July 10, 2022 6:57 PM
To: cityclerk <cityclerk@rockvilleemd.gov>
Subject: testimony in support of Rockville Civic Ballet

I am not a Rockville resident yet, but hope to become one when I enter a retirement facility. (I am 76 years old.) I have been involved with the Rockville Civic Ballet since 1989, and I can assure the City of Rockville that with this ballet company they have a real gem in their recreation program. The ballet reaches out to encompass many, many people to take part and/or to simply watch and enjoy. It is a positive atmosphere of acceptance and cooperation and reaches to every generation, every level of talent. With more space it can do even more good work. I hope you will take this opinion into account when deciding about the use of your facilities.

Irene Elliott
Bethesda, Maryland 20814
Good evening

I am a Montgomery county resident who lives on seven locks and Montrose road. I wanted to express my opposition for the imposed seven locks road bus depot. Seven locks road is such a major traffic jam. Often it takes my neighbors and I so long to get out of our own neighborhood because of the traffic on seven locks road. There is foot traffic from the many bus stops along seven locks road. We have a school on seven locks that has its own line up of busses am and pm. How much more can one street have. We have houses of worship. Three synagogues and three churches. Please we don’t need anymore reason to have more traffic jams and many many walkers to and from the shopping centers and places of worship. It’s too congested already. Please don’t ad to our chaotic situation Thank you for your time

Sharon Dekelbaum
CEO Of Dekelbaum Operations
Sent from my iPhone
As residents of Rockville for almost 49 years and as residents of the Potomac Springs community in Rockville for more than 44 years, we are outraged by the proposal of Montgomery County to redevelop the 40-acre site of the Rockville Detention Center facility to include a bus depot, new crisis management services, and a rebuilt detention center. This raises serious safety, environmental, traffic and financial concerns. Also, the County proposal has not taken any consideration of the nearby adjacent residential neighborhoods, which is exactly where Potomac Springs is.

The myriad of buses will make it almost impossible to negotiate traffic on Seven Locks Road. And we greatly fear that those released from the Restoration Center or the Detention Center will cause havoc in our quiet Potomac Springs community. Also, these plans will not only make the community very uncomfortable but also likely to have the potential to lower the value of our homes.

We are also disappointed that Montgomery County government officials have not only proposed these actions but have not engaged in any outreach with the nearby communities, such as ours. With elections approaching, we are extremely dissatisfied that those currently in power have little or no consideration for the needs of their constituents.

Linda and Meyer Katzper
From: justyna.sadlowska@gmail.com
Sent: Monday, July 11, 2022 6:32 AM
To: cityclerk
Subject: Support for additional space dedicated to the RCB – comment for today’s Council meeting

Dear Mayor and Council,

I am writing to you with the request of building an expanded RCB-dedicated space on the site of the historic horse barn at King Farm Farmstead. My daughter has been dancing with RCB for 7 years, which means that for the last 7 years RCB has been like a family to us. Under the care of the amazing teachers she has grown into a person who is not only a great dancer but is also very knowledgeable about the arts, sensitive and caring. As she grew older within the beautiful RCB community, her friendships grew and are a major source of joy for her and offer her a sense of belonging. As an immigrant I could not afford any of the more expensive and extravagant classes that are offered in the area and I was thrilled to find RCB, which offers high quality training at a reasonable price. My love and dedication for RCB grew with each passing year. I can’t say enough good things about the teachers, whose passion for the arts is so inspiring. The cooperation between them, the parents and the Rockville City allows our children to follow their dreams, gives them a place where they feel safe, accepted, and wisely tutored into becoming a better version of themselves each and every day. RCB is a diamond that once you find it, you don’t want to let go. Our humble space in Twinbrook has given us a home for many years. While is it wonderful to have it, it'd be even more wonderful to be able to expand that space, allowing more students to participate in classes. It would give our ballet school something the school has given us and our children - a chance to grow, expand and a new home, so well-deserved.

Thank you so much for reading and for your consideration.

Sincerely,

Justyna Sadlowska, mom to Nina Lingan
Good morning – I would like to submit testimony in support of the Rockville Civic Ballet (and associated City of Rockville ballet program) being considered for future use of the historic horse barn site at King Farm Farmstead. The Rockville Civic Ballet program has been an invaluable resource for our family. My middle daughter who is 13 has been a participant in Rockville City ballet classes since she was 7, and has also participated in the Rockville Civic Ballet’s full ballet productions for that time as well. As time went on, I also began taking ballet classes as an adult. The City’s ballet program is very unique in that it encourages ballet for everyone. We live in the Norbeck Meadows neighborhood of Rockville, which is outside of the City’s borders. However, we choose to come to the Rockville Civic Ballet to take City classes and to dance in the Rockville Civic Ballet. We live close to Olney, where we would have the option of participating in other dance companies that are closer or attend shows at the Olney Theater. However, due to what we believe is a superior, unique program, we choose to come and spend our time and money with Rockville’s program, and the surrounding community.

The Rockville Civic Ballet has a dance program where the instructors are inclusive of all, and encourage all to dance. This welcoming atmosphere drew my daughter in, and she found not only a place to dance, but a second family. During the pandemic, we offered her other opportunities (gymnastics classes, ice skating lessons, etc) to get out and do something. However, the RCB meant so much to her, that she would only agree to return once classes and performances began again with RCB. Other companies were dancing during the pandemic, but she insisted that RCB was her home. She did participate in the City’s virtual classes during the pandemic as well while she waited.

Due to the RCB’s welcoming and encouraging nature, I have witnessed over the years the growth of the program. While the pandemic set the program back in some numbers, I fully anticipate it continuing to grow as families return to pre-pandemic activities. The RCB can easily use access to updated and expanded space to continue to grow its ballet program. This program encourages dancers to see what they can to, not what they cannot do, as other dance companies who are highly competitive are wont to do. With this attitude comes a desire for others to participate, and thus, a need for adequate facility space for future growth.

Outside of my 13-year-old daughter, the Rockville Civic Ballet has become important to the rest of my family as well. My other 2 children play travel ice hockey for the Montgomery Youth Hockey Association and Team Maryland. While they are highly involved in athletic endeavors, the Rockville Civic Ballet offers the opportunity for members of the community such as themselves (and their busy parents) to engage in high quality community ballet and the arts easily. The RCB provides the opportunities for our family to engage with the cultural side of Rockville easily, and we all look forward to viewing the high-quality work that the dancers produce through their classes and rehearsals. Every year my athlete children are more and more impressed at the growth they see in the dancers. Having an expanded facility space to continue this dance education helps contribute to their cultural education as well.

-Bridgette Pfeuffer
Rockville, MD
Good morning,

This is Sophia Ubiera writing on the behalf of RCB, to help decide the future of the historic horse barn site at King Farm Farmstead.

The RCB community has provide a safe and loving space for everyone to learn ballet, no matter their age, physical appearances, or their background.

Additionally RCB has been provided me with a positive coping mechanism when I had anxiety, and safe place when I was going through my own struggles.

The RCB helped me and others develop leadership skills, social skills, and taught us how to become more flexible mentally and physically.

Overall the RCB brought together a group of unique individuals to work together to bring greatness on stage for over 45 years.

RCB has especially been so impactful on me, as there aren’t many colored and latina dancers. Even so, they welcomed me with warm arms.

Through the help of RCB and the city, I hope to inspire others who look like me to dance on or off the stage. In order to achieve this, I hope the use of historic barn is given to the RCB Community.

Thank you so much,

Sophia Ubiera
Good Evening

My name is Kathryn Chongpinitchai and since 1986 I have been involved with the City of Rockville's Ballet program and the Rockville Civic Ballet as a student, dancer, and now in my greatest role, teacher. Over these past thirty some years that I have been involved, I have witnessed the impact that the program and the Civic Ballet have had on our community. The Rockville Civic Ballet in particular offers a unique opportunity for dancers, no matter the level, shape, size, color, age, to participate in full length productions of classical and modern ballet. RCB is unique in so many ways to name a few there is no requirement for number of required classes, it fosters camaraderie amongst the dancers that turn into lasting friendships - even family, and is open to participants from outside the City of Rockville to become involved thus bringing more business to Rockville. I have seen the growth of many dancers and students over the years who have participated in the RCB and would like to see the RCB and ballet program continue to grow with the assistance of the City. The Historic Barn Site would be a perfect opportunity to provide the RCB much needed additional storage space and rehearsal space to help keep Rockville a destination for performing arts.

Thank You,

Kathryn Chongpinitchai
July 11, 2022

Dear Mayor & Council,

The members of the City of Rockville Human Rights Commission are heartbroken and outraged at the recent acts of gun violence that: the white supremacist terrorist attack that took 10 lives in a Buffalo, New York supermarket, the elementary school shooting in Uvalde, Texas that took the lives of 19 students and 2 teachers, and the hateful attack at the Irvine Taiwanese Presbyterian Church in Laguna Woods, California. Even more recently, a gunman murdered seven and wounded dozens more at a Fourth of July Parade in Highland Park, Illinois. Moreover, as we recognize the incredible violence of mass shootings, we also acknowledge that over one hundred people die at the hands of guns every day in the United States, and we mourn the incalculable loss of life that has happened and continues to happen because of firearms.

Gun violence, in all of its forms, is a human rights issue recognized by human rights organizations, leaders, and institutions around the world. The U.N. Convention on the Rights of the Child clearly declares that every child has a right to life and the survival and development of the child should be ensured by their state to the maximum extent possible.¹ Yet every day in the U.S., five children die by gun violence; the attack in Uvalde was the 27th school shooting documented just in 2022. The U.N. Human Rights Council has also called out the inherent danger presented by firearm access to women in abusive relationships.² In the U.S., the risk of femicide is increased 5x when a gun is present; yet loopholes continue to allow some abusers access to firearms. The U.N. Human Rights Committee has also publicly recognized the disproportionate impact of gun violence on marginalized communities.³ The attack at a supermarket in Buffalo is just the latest act of white supremacists leveraging firearms to enact violence against Black communities and communities of color. We recognize the patterns and remember the 2019 attack on immigrant shoppers in El Paso, Texas and the white supremacist attack against Charleston, South Carolina’s AME Church in 2019, in which 9 Black Christians were killed.

We stand with the Mayor and Council in the demands for action they shared in May 2022.⁴ Mandatory background checks, a moratorium on the sale of assault weapons, and a 48-hour waiting period for those purchasing firearms are the bare minimum. Each day our leaders fail to act, our children, neighbors, and communities continue to face an increased risk of gun violence.

Sincerely,

Members of the Rockville Human Rights Commission

³ Ibid.
Good Morning,
We are members of FRCB, Friends of Rockville Civic Ballet, and the parents of a ballet dancer with Rockville Recreation Department.

Our daughter, Alexa, began participating with the RCB and taking classes through Rockville 7 years ago. At that time we were looking for a new ballet class option after the City of Gaithersburg rec department abruptly dismissed her longtime, very beloved ballet teacher. We could no longer support an organization that operated in such a disrespectful manner toward a valued, dedicated teacher who was a pillar to the ballet community in Gaithersburg. In our search, we came to Rockville and found so much more than just a replacement option for ballet classes. We were warmly and completely welcomed into the ballet community. A number of dancers from Gaithersburg moved to the Rockville programs with us at the time and I continue to recommend RCB and Rockville classes ever since. We have had nothing but a positive experience and I cannot say enough to laud the RCB leadership, directors, the City employees who support and participate, and class teachers with the recreation dance classes as well as all of the families that came together to volunteer and support their children and the adults that continue to participate long after they "graduate" or their children "graduate". This program has no age barriers. It really has no barriers for inclusion at all.

Ballet with the Rockville Civic Ballet and classes with the Rockville Recreation programs are not just ballet classes and performances. This is a unique and supportive, inclusive community that the City of Rockville should be extremely proud of! We have thoroughly enjoyed and become a part of all that goes with this. It is truly a village and brings together people of all ages, genders, shapes, ability levels, income levels, colors and cultures.

Our daughter has loved being able to participate in a number of performance opportunities each year through RCB including The Nutcracker in December, a Spring performance each March, a Summer show in July (once was October instead due to work in progress at the Fitzgerald Theater) and the Annual Student Performance in June! This is completely unlike the once every other year (yes - 1 every 2 years!) that was available through the City of Gaithersburg! There is really no comparison! Rockville is fantastic! RCB and Rockville offer these outstanding opportunities to experience as dancers and are an awesome showcase for the many facets of the wonderful Program! Alexa is a recent high school graduate and she and her senior peers had the invaluable opportunity to choreograph a performance piece for the most recent Annual Student Performance. It was an amazing learning and teaching experience! She has had excellent older teen and adult role models throughout the years and, as she aged, she has also become a role model and support to younger dancers. Such a positive environment is a rare and priceless addition to the development of our youth!

Currently, the classes are held in the Rockcrest center and the facility is a tight space at times when classes (pre-covid) are larger or even now as the classes are limited in number of participants if the dancers are older teens and adults with longer limbs and large 'wingspans'. A larger dedicated or available space is much needed and would be greatly appreciated by so many. Additional floor space for classes, rehearsals for upcoming shows, and other potential uses would be absolutely wonderful and is sorely needed! Storage is always a challenge for equipment, costumes, props, and all of the things that are needed and used for the shows.

The fact that this community came together to form the support group of the FRCB speaks to the commitment and level of dedication to all that is part of this program. The people behind the dancers and the dancers are a valuable part of the
City of Rockville. We support community businesses, we contribute financially and with volunteer hours and in immeasurable yet vital ways to all things Rockville!

Please consider the requests of the FRCB and favorably decide to support and give back to this group that is shining a bright light on the people in this community and the City of Rockville! It is a mutually beneficial decision to assist the FRCB because we will continue to support and give back as well. Thank you in advance for considering the in person statements at the Community Forum and our written comments. We regret that we are unable to attend in person this evening to lend our voices to this worthy and much needed request. Alexa is also away working as a camp counselor or she would also be there in person.

We look forward to a positive decision and to many more years of happy participants in the RCB and all of those families enjoying a larger, newer space in this historic part of the City, carrying on the legacy of Ms. Claudia Mangan, the RCB founder and longtime director as well as her successors, and enriching the lives of the members of this special community within The City of Rockville.

Best,
Colleen and Donald Goldstein
Parents of Alexa Goldstein

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Dear Mayor and Council,

I am writing with regard to the future of the historic horse barn site at Kings Farm Farmstead. My daughter, Charlotte Hess, and I would like to express our support for the Rockville Civic Ballet (RCB) to have some space at the site as it is redeveloped. The RCB would benefit greatly from some additional, dedicated space for storage of costumes, props, and sets and for ballet floor space for show rehearsals.

As City residents, our family has enjoyed and benefited from Rockville’s Recreation and Arts programs. Charlotte has danced with the RCB for seven years, and I have volunteered throughout that time with the organization. The RCB is an amazing and unique company that truly lives up to its motto, “Dance for all”. The young dancers benefit greatly from the opportunity to express their love of dance and experience the teamwork and dedication required to put on a real stage production. In addition, the company gives performers of various ages, races, ethnicities, and body types the chance to participate in classic ballet. Both the dancers that participate and the audiences that enjoy these shows are given a powerful example that classic ballet need not be limited to a small group of people who all look the same. I hope you will consider giving some additional space to this valuable arts organization.

Sincerely,

Tracy Fitzgerald and Charlotte Hess
July 11th, 2022

Mayor and City Council

Re: Comments for July 11th Mayor and Council Meeting

Dear Mayor and Council,

Thank you for your service to the City. As an official of nearly one seventh of Rockville’s population I can say that I have a vague idea of the amount of time and effort and decisions you are tasked with. You truly have a daunting job and one that requires preparation and consideration to do it well.

I want to update you on several items that are of interest to King Farm.

The first is the Fourth of July Celebration. It was a great success, and it was truly fantastic to see everyone back in King Farm at Mattie Stepanek Park once again. After two years of COVID-related cancellations it was nice to see fireworks once again in King Farm.

I also commend Chief Brito for an increased police presence in King Farm. I have seen Rockville police cars with their blue lights on silently cruising the streets of King Farm. It reassures residents the police are visibly establishing a presence to deter criminals.

On a related note, I am gladdened by the recent progress that been made between King Farm and the City’s Department of Public Works on pedestrian safety. I am hopeful we will shortly be able to meet with Emad Elshafei, Chief of Traffic and Transportation and his team to get a presentation on what will be undertaken to make King Farm safer. I remain concerned that the intersection of MD-355 and King Farm Boulevard and other intersections along MD-355 continue to be stuck in limbo between the City and state.

A meeting between our City elected officials and our state elected officials to move this long asked for improvement for pedestrians is warranted.

King Farm will have more to say at the July 18th Mayor and Council meeting to discuss the King Farm Farmstead. But in light of recent comments that, “we have not heard from King Farm” it would be helpful to consider the history of the long-running debate over what to do with the Farmstead in the City Council.

Years ago, there was a community meeting in King Farm to discuss a Farmstead proposal. More recently there was an actual Commission to formulate plans for the Farmstead that included King Farm residents. Every time this discussion has occurred King Farm has weighed in. I believe this time will be no different. I appreciate the desire to have King Farm’s input and know no decision will be made without adequate input discussion and approval from King Farm.

Sincerely,

Barry Jackson
President, King Farm Citizens Assembly, Inc.