



PLANNING COMMISSION

Wednesday, July 24, 2019

7:00 PM

Rockville City Hall

Mayor and Council Chambers

Meeting No.20-2019

AGENDA

Gail Sherman, Chair

Don Hadley	Anne Goodman
Charles Littlefield	John Tyner, II
Sarah Miller	Rev. Jane E. Wood

Jim Wasilak, Staff Liaison

Cynthia Walters, Deputy City Attorney

Eliot Schaefer, Assistant City Attorney

- 1. Recommendation to Mayor and Council**
 - A. Review and Recommendation to the Mayor and Council - Zoning Text Amendment TXT2019-00251 - Small Cell Antennas; Mayor and Council of Rockville, Applicants**

 - 2. Closed Session**
 - A. Vote to go into Closed Session pursuant to Section 3-305(b)(7) of the General Provisions Article of the Annotated Code of Maryland to consult with counsel to obtain legal advice regarding the land use plan component of the Rockville 2040 Comprehensive Plan.**

 - 3. Work Session**
 - A. Work Session 3: Comprehensive Plan, Draft for Planning Commission Public Hearing**

 - 4. Commission Items**
-

A. Staff Liaison Report

B. Old Business

C. New Business

D. Minutes Approval

E. FYI/Correspondence

5. Adjourn

HELPFUL INFORMATION FOR STAKEHOLDERS AND APPLICANTS

I. GENERAL ORDER OF SESSION FOR DEVELOPMENT APPLICATIONS

1. Staff presentation
2. City Board or Commission comment
3. Applicant presentation (10 min.)
4. Public comment (3 min, or 5 min for the representative of an association)
5. Planning Commission Discussion and Deliberation
6. Decision or recommendation by vote

The Commission may ask questions of any party at any time during the proceedings.

II. PLANNING COMMISSION BROADCAST

- Watch LIVE on Comcast Cable Rockville Channel 11 and online at: www.rockvillemd.gov
- Replay on Comcast Cable Channel 11:
 - Wednesdays at 7:00 pm (if no live meeting)
 - Sundays at 7:00 pm
 - Mondays, Thursdays and Saturdays at 1:00 pm
 - Saturdays and Sundays at 12:00 am (midnight)
- Video on Demand (within 48 hours of meeting) at: www.rockvillemd.gov/VideoOnDemand.

III. NEW DEVELOPMENT APPLICATIONS

- For a complete list of all applications on file, visit: www.rockvillemd.gov/DevelopmentWatch.

VI. ADDITIONAL INFORMATION RESOURCES

- Additional resources are available to anyone who would like more information about the planning and development review process on the City's web site at: www.rockvillemd.gov/cpds.

Maryland law and the Planning Commission's Rules of Procedure regarding ex parte (extra-record) communications require all discussion, review, and consideration of the Commission's business take place only during the Commission's consideration of the item at a scheduled meeting. Telephone calls and meetings with Commission members in advance of the meeting are not permitted. Written communications will be directed to appropriate staff members for response and included in briefing materials for all members of the Commission.



Agenda Item #:	A
Meeting Date:	July 24, 2019
Responsible Staff:	Deane Mellander

SUBJECT:

Review and Recommendation to the Mayor and Council -
Zoning Text Amendment TXT2019-00251 - Small Cell
Antennas; Mayor and Council of Rockville, Applicants

RECOMMENDATION

(Include change in law or Policy if
appropriate in this section):

Staff recommends that the Planning Commission recommend
approval of the Text Amendment to the Mayor and Council.



Overview

Case: Zoning Text Amendment TXT2019-00251 (Small Cell Antennas)

Location: City-Wide

Staff: Deane Mellander
Planning and Development Services
240-314-8224
dmellander@rockvillemd.gov

Applicant: Mayor and Council of Rockville

Filing Date: April 2, 2019

Discussion

The Planning Commission received a briefing on this Text Amendment at its meeting of June 26, 2019. Please refer to the June 26 staff report for a full discussion of the proposed text amendment (see Attachment 2).

At that meeting the Planning Commission requested some additional information. Included as Attachment 3 is a summary that contains some of the key provisions of the FCC Order. The following is a link to the full FCC Order related to small cell antenna installations:

<https://docs.fcc.gov/public/attachments/FCC-18-133A1.pdf>

Attachment 4 is a recent article from the magazine *American City and County* recounting potential issues surrounding small cell installations and the FCC Order as it relates to local governments.

As recommended in the June 26th attached report, staff recommends that the Planning Commission consider the additional information and make its recommendation for approval of

the proposed text amendment to the Mayor and Council

Attachments

- Attachment 1.A.a: Zoning Text Amendment TXT2019-00251 (PDF)
- Attachment 1.A.b: Planning Commission Staff Report, June 26, 2019 (PDF)
- Attachment 1.A.c: Summary of FCC Order (PDF)
- Attachment 1.A.d: "Smart Cities and Technology" Article from American City and County Magazine (PDF)

ATTACHMENT TO APPLICATION
TO THE CITY OF ROCKVILLE FOR A
TEXT AMENDMENT TO THE ZONING ORDINANCE

Applicant: Mayor and Council of Rockville

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

Amend Article 3, "Definitions; Terms of Measurement and Calculations", as follows:

Sec. 25.03.02. - Words and terms defined.

Antenna means any structure or device used to collect, receive, transmit, or radiate electromagnetic waves, including both directional antennae (such as panels, microwave dishes, satellite earth station antennae over two (2) meters in diameter), or diagonal measurement, and omni-directional antennae (such as whips). This term does not include end-user antennas two (2) meters or less in diameter or diagonal measurement and designed for:

- 1. End-user over-the-air reception, not transmission, of multi-channel multi-point distribution service;
- 2. Direct broadcast satellite service;
- 3. End-user reception of signals from an Internet service provider and end-user transmission of signals to an Internet service provider;
- 4. Mobile radios; or
- 5. Antennas permitted by right by 47 C.F.R. Section 1.4000, as amended.

Antenna support structure means a structure designed for the primary purpose of supporting one (1) or more antennae (including telescoping mast, tower, monopole, tethered blimp, or other support structure). The term includes structures located on buildings or other structures, ground-mounted, or tethered, and towers, as defined in 47 C.F.R. Section 1.40001(b)(9). Without limitation, the term does not include utility poles or structures, including public structures in the public right-of-way.

Collocation ~~means the use of a wireless telecommunications facility by more than one (1) wireless service provider~~ has the same meaning as in 47. C.F.R. Section 1.4001(g).

Attachment 1.A.c: Final Draft of Text Amendment TXT2019-00251 (2641 : Zoning Text Amendment TXT2019-00251 - Small Cell Antennas)
Attachment 1.A.a: Zoning Text Amendment TXT2019-00251 (2761 : TXT2019-00251 - Small Cell Antennas)

Equipment enclosure means, for purposes of a wireless communication facility, a freestanding or mounted structure, shelter, cabinet, or vault used to house and to protect the electronic equipment and associated equipment necessary for processing wireless communication signals. Associated equipment may include air conditioners, back-up power supplies, and emergency generators.

Small wireless communication facility – See *Wireless communication facility, small*.

Wireless communication facility means a facility fixed at a location temporarily or permanently for the transmission and/or reception of wireless communication services, consisting of one (1) or more antennas and the equipment at that location necessary to the provision or reception of wireless communication services, including, but not limited to, transmission cables and related equipment enclosures.

Wireless communication facility, small means a wireless communication facility that meets each of the following conditions:

1. The structure on which antenna facilities are mounted:
 - (a) is 50 feet or less in height; or
 - (b) is no more than ten percent (10%) taller than other adjacent structures; or
 - (c) is not extended to a height of more than ten percent (10%) above its preexisting height as a result of the collation of new antenna facilities; and
2. Each antenna, excluding associated antenna equipment, is no more than three (3) cubic feet in volume; and
3. All antenna equipment associated with the small wireless communication facility, excluding antennas, is cumulatively no more than twenty-eight (28) cubic feet in volume; and
4. The small wireless communication facility does not require antenna structure registration; and
5. The small wireless communication facility does not result in human exposure to radiofrequency in excess of the applicable safety standards specified by Federal law.

Wireless communication service means those personal wireless services as defined ~~in the same manner as~~ in Title 47, U.S. Code, Section 332(c)(7)(c), ~~as they may be amended from time to time~~ and such other services that consist of the transmission, or transmission, ~~and/or transmission and~~ reception of information by electromagnetic wave, digital signals,

broadcast television signals, analog signals, radio frequencies, or other communication signals.

Amend Article 8, “Accessory Uses; Accessory Buildings and Structures; Encroachments; Temporary Uses; Home-Based Business Enterprises; Wireless Communication Facilities”, as follows:

Sec. 25.09.08. - Wireless Communication ~~Facility~~ Facilities.

a. *Purpose.* The purpose of this section is to provide a uniform and comprehensive set of standards for the development and installation of wireless communication facilities, related structures, and equipment.

1. The regulations and requirements contained herein are intended to:
 - (a) Regulate the placement, construction, and modification of wireless communication facilities in order to protect the health, safety, and welfare of the public and the aesthetic quality of the City; and
 - (b) Encourage managed development of wireless communication infrastructure, while at the same time not unreasonably interfering with the development of the competitive wireless communication marketplace in the City.
2. This section is intended to promote the following objectives:
 - (a) To minimize the total number of wireless communication facilities and antenna support structures throughout the community through siting standards;
 - (b) To provide for the appropriate location and development of wireless communication facilities and related structures and equipment within the City, and, to the extent possible, minimize potential adverse impacts on the community;
 - (c) To minimize adverse visual and aesthetic impacts of wireless communication facilities and related structures and equipment through careful design, siting, landscape screening, and innovative camouflaging techniques, such as stealth technology, and utilizing current and future technologies;
 - (d) To promote and encourage shared use/~~collocation~~ of antenna support structures;
 - (e) To maintain and preserve the existing residential character of the City and its neighborhoods and promote the creation of a convenient, attractive, and harmonious community;
 - (f) To promote the safety of citizens and avoid the risk of damage to adjacent properties by ensuring that wireless communication facilities and related structures and equipment are properly designed, constructed, located, modified, maintained, and removed;
 - (g) To ensure that wireless communication facilities and related structures and equipment are compatible with surrounding land uses;
 - (h) To encourage: the location of antennas wireless communication facilities on existing buildings or other structures; collocation of new antennas on existing antenna support structures; camouflaged antenna support structures; and

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construction of antenna support structures with the ability to locate three (3) or more providers or users; the deployment of wireless communication facilities in a manner that does not require substantial alterations to existing structures that adversely affects the structure’s appearance or the neighborhood; and

- (i) To maintain and ensure that a non-discriminatory, competitive, and broad range of high quality wireless communication services and high quality wireless communication infrastructure consistent with laws are available to the community.

b. *Wireless Communication Facilities Entirely Within an Existing Building or Attached to Existing Structures.*: ~~Wireless communication facilities attached to the roof or side of a building, or attached to an existing structure must comply with the following:~~

1. Scope. This subsection applies to wireless communication facilities that (1) do not meet the definition of small wireless communication facility and (2) are entirely within an existing building or attached to an existing structure.

2. Development Standards.

~~1.~~ (a) The building or other structure on which a wireless communication facility to be installed must be at least thirty-five (35) feet in height if used for nonresidential purposes and fifty (50) feet in height if used for multiple unit dwelling purposes. In a mixed-use development, the multiple unit dwelling standard applies. Except as provided in subsection 25.09.08.e, wireless communication facilities are not permitted on any single unit detached dwelling or appurtenant accessory building or structure.

~~2.~~ (b) ~~The antennas and antenna support structures must be located and designed to minimize visual impacts through various methods, including, but not limited to, the use of stealth technology.~~ Antennas and antenna support structures must be installed according to the order of preference in subsections 25.09.08b.2.(b)(i) through (ii) below, with (ai) being the preferred option. Use of a lower preference location is permitted only if an applicant provides detailed justification as to why higher preference locations are not suitable.

(ai) Antennas must be flush mounted on existing structures, or on either rooftop enclosures or the side of a building, and closely match the color and architectural treatment of the structure, enclosure, or building.

(bij) Antennas must be flush-mounted on expanded rooftop mechanical equipment enclosures, with the enclosures and antennas designed to be consistent with the architectural treatment and color of the building.

(c) The antennas and antenna support structures, regardless of location, must be located and designed to minimize visual impacts through various methods, including, but not limited to, the use of stealth technology.

(i) Antennas must be enclosed with screening that include shielding or otherwise be placed in an enclosure. The enclosures and shielding must be consistent with the architectural treatment and color of the building or structure.

(ii) Antennas and support structures must be painted or otherwise treated to minimize their visibility. Any paint used must be non-reflective paint of the same color as the structure.

(iii) No visible lighting is allowed on any wireless facility, except as required by law.

3. (c) Antennas and supporting structures are permitted to exceed the height of the building or structure to which they are attached by a maximum of nineteen (19) feet. The height above a building must be measured from the finished roof elevation, and not from the roof of any equipment enclosure.

4. (d) Antennas must comply with the following size standards:

(a) Whip antennas must be no more than seven (7) inches in diameter; and

(b) Panel antennas must be no more than two (2) feet wide and ~~six (6)~~ eight (8) feet long.

5. (e) Equipment enclosures must comply with the requirements of Section 25.09.08.e. An equipment ~~building or cabinet~~ enclosure may be located on the roof of a building provided it and all other roof structures do not occupy, in the aggregate, more than twenty-five (25) percent of the roof area.

6. (f) When an antenna is located on a stadium light or utility pole, the total height of the antenna plus the pole or light must not exceed one hundred twenty-five (125) percent of the average height of the lighting system at the stadium or run of poles within five hundred (500) feet of the pole on which the antenna is located.

(g) A wireless communication facility must be designed, installed, and maintained in compliance with all applicable provisions of the City Code including, but not limited to, provisions regulating noise levels, and permit and inspection requirements.

(h) When a wireless communication facility is no longer in use, the wireless communication facility must be removed at the expense of the facility owner. Failure to remove abandoned equipment will result in removal by the City at the expense of the owner.

(i) No hazardous material may be located at the site.

c. *Wireless Communication Facilities ~~Located on~~ Attached to Ground-Mounted Antenna Support Structures.*

1. *Scope.* This subsection applies to wireless communication facilities that (1) do not meet the definition of small wireless communication facility, and (2) are mounted on ~~free-standing~~ ground-mounted antenna support structures.

(a) *Special exception.* Wireless communication facilities covered by this section require the approval of a special exception in accordance with the applicable provisions of article 15 of this chapter.

(b) *Additional findings required.* The following additional findings must be made for the granting of a special exception:

- (i) The location is selected because ~~is necessary for the public convenience and service and cannot be supplied with equivalent public convenience on a the wireless communication facility cannot be attached to an existing~~ building or structure or collocated on an existing ground-mounted antenna support structure; and
- (ii) For new ground-mounted antenna support structures to be located in a residential zone or within five hundred (500) feet of a residential zone, it must be demonstrated that a good faith effort has been made to locate the proposed ground-mounted antenna support structure in a nonresidential zone more than five hundred (500) feet from the residential zone, with adequate coverage and on an isolated site with minimal visual impact.
- (c) *Independent consultant.* The City may hire an independent consultant to review evidence submitted by the applicant, and the applicant must reimburse the City for the reasonable cost of hiring and utilizing such a consultant.

2. *Development Standards.*

- (a) The maximum height of the facility, including antenna and other attachments, is fifty (50) feet in a residential zone, or within five hundred (500) feet of a residential zone, and one hundred ninety-nine (199) feet in all other locations. Height must be measured vertically from the pre-disturbance ground level at the center of the support structure.
- (b) Monopoles are the preferred type of freestanding ground-mounted antenna support structure.
- (c) No commercial or promotional signs, banners, or similar devices or materials are permitted on antenna support structures.
- (d) The ground-mounted antenna support structure must be located and designed in a manner that is harmonious with surrounding properties, to the extent practicable. Antenna support structures must be designed to blend into the surrounding environment through the use of color and camouflaging architectural treatment. When practicable, available stealth structure design techniques must be used.
- (e) Wireless communication facilities must be located on City-owned property, if feasible.
- (f) Antenna support structures must be set back one (1) foot for every foot of height of the structure, measured from the base of the structure to each adjoining property line or right-of-way.
- (g) Lights are not permitted on antenna support structures unless they are required for aircraft warnings or other safety reasons, or to comply with applicable laws and regulations. If required, minimum lighting requirements must be applied, and strobe lights must be avoided unless specified by the Federal Aviation Administration or the Federal Communications Commission.
- (h) Outdoor storage of equipment or items related to the wireless communication facility is prohibited on sites with antenna support structures.

- (i) All antenna support structures erected as part of a wireless communication facility must be designed to accommodate collocation of additional wireless communication carriers. New antenna support structures of a height of one hundred fifty (150) feet or more must be designed to accommodate collocation of a minimum of four (4) additional providers either upon initial construction or through future modification to the antenna support structure. Antenna support structures of less than one hundred fifty (150) feet must be designed to accommodate collocation of a minimum of two (2) additional providers.
- (j) Prior to construction, each applicant must provide certification from a registered structural engineer that the structure will meet pertinent design, construction, installation, and operation standards, including but not limited to the applicable standards of the Electronics Industries Association (EIA), the Telecommunications Industry Association (TIA), ANSI, and the BOCA Code in effect at the time of the building permit application.
- (k) Upon completion of any sale or sublease of an antenna support structure, the owner of an antenna support structure must provide written notice to the City's Inspection Services Division.
- (l) The owner of a ground-mounted antenna support structure, at the owner's expense, must remove antenna support structures when a wireless communication facility is not used for wireless purposes for a period one hundred eighty (180) days in a 12-month period. The owner of a ground-mounted antenna support structure must immediately notify the City, in writing, of nonuse or abandonment of the structure upon its cessation as a wireless communication facility. Failure to remove an abandoned or unused ground-mounted antenna support structure will result in removal of the structure by the City at the expense of the owner.
- (m) When a ground-mounted antenna support structure is removed by an owner, said owner must apply for a demolition permit to remove the tower. A condition of the demolition permit is to restore the site to the standards required by the building code in effect at the time, at no expense to the City.

d. Small Wireless Communication Facilities.

1. Scope. This subsection applies to small wireless communication facilities.

- (a) Small wireless communication facilities in the public rights-of-way. Small wireless communication facilities located within the public rights-of-way must comply with all requirements, standards, and guidelines set forth in or promulgated under Chapter 21 of the City Code.
- (b) Small wireless communication facilities outside of the public rights-of-way. Small wireless communication facilities located outside of the public rights-of-way must comply with the development standards set forth in subsection d.2.

2. Development Standards.

(a) Location.

- (i) A small wireless communication facility is prohibited from being attached to any single unit attached dwelling, single unit detached dwelling, semidetached

dwelling, townhouse dwelling, or on any accessory building or structure located on a lot with such a dwelling.

(ii) Within a single dwelling unit residential zone, a small wireless communication facility must be located at least twenty-five (25) feet from a single unit dwelling and two hundred fifty (250) feet away from the nearest existing antenna support structure.

(iii) Except as otherwise provided in this section, a small wireless facility may be attached to any existing structure that is at least fifteen (15) feet in height, measured from grade. The antenna must be a minimum of fifteen (15) feet above grade.

(iv) A small wireless communication facility may be installed on a new antenna support structure, provided that the antenna must be a minimum of fifteen (15) feet above grade.

(b) *Concealment.*

(i) Small wireless communication facilities must be designed and installed to incorporate specific concealment elements to minimize visual impacts.

(ii) All antenna equipment must be placed in an enclosure.

(iii) Equipment enclosures, whether located on the structure or ground-mounted, and including any pre-existing equipment enclosures on the structure or ground, may not exceed five (5) feet in height.

(iv) Antennas must be shielded or otherwise be placed in an enclosure. If attached to a pole, the shielding or enclosure must be no larger than the circumference of the pole at the point of attachment and, if attached to the top of the pole, designed to appear like a continuous vertical extension of the pole. Antennas must not extend more than thirty-six (36) inches in length, extending vertically from the base of the antenna, either at the top of the pole or structure, or on the related equipment housing, except that up to six (6) inches in additional height may be permitted for connectors.

(v) For antennas not located at the top of a pole, the antennas must be flush mounted on existing structures and closely match the color and architectural treatment of the structure.

(vi) All wiring and cables must be located inside the structure or, if that is not practical, in a conduit attached flush to the structure and painted with non-reflective paint of the same color as the structure.

(vii) No visible lighting is allowed on any small wireless facility, except as required by law.

(vi) In residential zones where public utilities are located or are required to be located underground, equipment enclosures must be located below the existing grade unless the enclosure is incorporated into the base of the pole.

- (c) A small wireless communication facility may not be located on a historic structure, or in an historic district where any portion of the wireless communication facility, except the antenna, would be visible from the ground.
- (d) A small wireless communication facility must be designed, installed, and maintained in compliance with all applicable provisions of the City Code, including, but not limited to, provisions regulating noise levels, and permit and inspection requirements.
- (e) When a small wireless communication facility is no longer in use, the small wireless communication facility must be removed at the cost of the facility owner and the properties affected by the facility restored to its prior condition.
- (f) No writing, symbol, logo, sign, or other graphic representation which is visible from the public right-of-way is allowed to appear on any exterior surface of the small wireless communication facility; however, the owner of the small wireless communication facility must tag all attachments to structures to allow for ready identification of the owner and type of attachment.
- (g) No hazardous materials may be located at the site.

de. Equipment Enclosures Located at Ground-Level Standards for Wireless Facilities Other than Small Wireless Facilities. Equipment enclosures ~~located at ground level~~ must comply with the following standards:

1. Each equipment enclosure that contains the equipment of a single provider must not exceed five hundred sixty (560) square feet of gross floor area and twelve (12) feet in height; if more than one (1) provider is to be accommodated in an equipment enclosure, a single equipment enclosure must be constructed to accommodate the maximum number of providers that are required to collocate on the antenna support structure, up to a maximum of ~~one thousand five hundred (1,500)~~ square feet in area and twelve (12) feet in height.
2. The equipment enclosure must conform to the applicable setback standards for main structures in the zone in which the property is located; setback standards for accessory buildings and structures in section 25.09.03 are not applicable to equipment enclosures.
3. The equipment enclosure must be screened to provide year-round screening. This standard may be met by one (1) or a combination of the following: fencing, walls, landscaping, structures or topography which will block the view of the equipment ~~shelter enclosure~~ as much as practicable from any street and/or adjacent properties. In areas of high visibility, fencing may be wrought iron, masonry, or other decorative fencing material.
4. Lighting associated with equipment structures enclosures must be directed so as to minimize any negative impact of such lighting on adjacent properties.
5. When constructed as a freestanding building, the design of the equipment enclosure must be coordinated with the design of the existing main building on the same lot or, if there is no building on the lot, with the buildings on an adjoining lot, to the extent practicable. In addition, the equipment enclosure must be constructed of non-reflective materials.

- 6. When attached to an existing building, the **equipment** enclosure must be designed in a manner that is harmonious with the existing building and surrounding properties. **Any paint must be non-reflective paint of the same color as the building.**
- 7. The equipment enclosure must be removed at the cost of the owner when the wireless communication facility is no longer being used by a wireless communication provider. Failure to remove abandoned equipment will result in removal by the City at the expense of the owner.

ef. Waivers permitted.

1. Regulated satellite earth station antennas.

- (a) Any person or entity seeking to install or erect a satellite earth station antenna subject to this section, other than an antenna specified in subsection 25.09.08.e.1(a)(ii) below, may apply for a waiver from one (1) or more of the provisions of this section 25.09.08, and the Board of Appeals may grant such a waiver pursuant to applicable procedures and standards if it is shown that:
 - (i) The provision(s) of section 25.09.08 at issue materially limit or inhibit the transmission or reception of satellite signals at the waiver applicant's property or the provision(s) at issue impose more than a minimal cost on the waiver applicant;
 - (ii) The waiver, if granted, would not result in any noncompliance with applicable laws, regulations, and codes (including, but not limited to, safety and building codes); and
 - (iii) The waiver sought is the minimum waiver necessary to permit the reception or transmission of satellite signals at the waiver applicant's property.
- (b) The Board of Appeals is authorized to grant a complete or partial waiver to any provision of section 25.09.08. In addition, the Board of Appeals may impose a lesser requirement instead of granting a complete waiver of any provision in this section if a complete waiver is not necessary to permit reception or transmission of amateur service communications at the waiver applicant's property, and the lesser requirement will allow the reception or transmission of satellite signals. The Board of Approval shall not condition a waiver upon an applicant's expenditure of a sum of money, including costs required to screen, pole-mount, or otherwise specially install a satellite earth station antenna, over and above the aggregate purchase or total lease cost of the equipment as normally installed, if such sum would be greater than the aggregate purchase or total lease cost of the equipment as normally installed.

2. Wireless Communication Facilities for Amateur Service Communications.

- (a) Any person or entity seeking to install or erect a wireless communication facility in the City for the purpose of engaging in amateur radio communications may apply for a waiver from one (1) or more of the provisions of this section 25.09.08. and the Board of Appeals may grant such a waiver pursuant to applicable procedures and standards if it is shown that:

- (i) The provision(s) of section 25.09.08 at issue preclude amateur service communications, do not reasonably accommodate amateur service communications at the waiver applicant's property or do not constitute the minimum practicable regulation to accomplish the City's health, safety, and welfare objectives;
 - (ii) The waiver, if granted, would not result in any noncompliance with applicable laws, regulations and codes (including, but not limited to, FCC regulations concerning amateur radio transmission and reception); and
 - (iii) The waiver sought is the minimum waiver necessary to reasonably accommodate amateur service communications at the waiver applicant's property.
- (b) The Board of Appeals is authorized to grant a complete or partial waiver to any provision of section 25.09.08. In addition, the Board of Appeals may impose a lesser requirement instead of granting a complete waiver of any provision in this section if a complete waiver is not necessary to permit reception or transmission of amateur service communications at the waiver applicant's property, and the lesser requirement:
- (i) Will not preclude amateur service communications; and
 - (ii) Is the minimum practicable regulation to accomplish the City's health, safety, and aesthetic objectives.
- (c) In determining whether to grant a complete or partial waiver of any provision in section 25.09.08 or to impose a lesser requirement, the Board must reasonably accommodate amateur radio communications.

3. *All Other Wireless Communication Facilities.*

- (a) The Board of Appeals is authorized to grant a waiver from any and all of the standards of this section 25.09.08, except for the height restrictions for a freestanding antenna support structure in subsection c. of this section, upon showing that compliance with this section would impose an undue hardship or prohibit or have the effect of prohibiting the provision of wireless communication services or would result in unreasonable discrimination among providers of functionally equivalent wireless communication services.
- (b) Waiver requests from the height restrictions (subsection 25.09.08.c.2) for a freestanding antenna support structure may be granted by the Mayor and Council upon showing that compliance with this section would impose an undue hardship or prohibit or have the effect of prohibiting the provision of wireless communication services or would result in unreasonable discrimination among providers of functionally equivalent wireless communication services. When requesting a height waiver under this provision, the applicant must submit evidence to the Mayor and Council that the height requested for the freestanding antenna support structure is the minimum height necessary to provide adequate coverage for the area that is being served by the structure. The Mayor and Council, in reviewing any waiver request from this section, must also consider the impact that the increased height of the antenna support structure would have on properties in the

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area surrounding the proposed structure, including, but not limited to, the visibility of the structure from residences and proposed methods of mitigating the visibility of the structure.

- (c) This subsection 25.09.08.ef.3. does not apply to antennas and wireless communication facilities specified in subsections 25.09.08.ef.1. and 2.

4. *Procedures for all waivers.*

- (a) Unless the Mayor and Council adopt by resolution different procedures for processing waivers from the height restrictions contained in subsection 25.09.08.ef.3., all waivers of this section must be processed in accordance with the procedures applicable to variances contained in section 25.06.03 of this chapter.
- (b) A waiver applicant must provide supporting evidence and all information requested by the City. The City may hire an independent consultant to review such evidence, and the applicant must reimburse the City for the reasonable cost of hiring and utilizing such a consultant.

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

* * *

25.10.03 – Land Use Tables

The uses permitted in the Single Dwelling Unit Residential Zones are shown in the table below. All special exceptions are subject to the requirements of Article 15.

	Uses	Zones							Conditional requirements or related regulations
		Residential Estate Zone (R-400)	Suburban Residential Zone (R-200)	Low Density Residential Zone (R-150)	Single Unit Detached Dwelling, Restricted Residential Zone (R-90)	Single Unit Detached Dwelling, Residential Zone (R-75)	Single Unit Detached Dwelling, Residential Zone (R-60)	Single Unit Semi-detached Dwelling, Residential Zone (R-40)	

f. Miscellaneous uses	Small wireless communication facility	C	C	C	C	C	C	C	Conditional use subject to the requirements of Sec. 25.09.08
	Wireless communication facility entirely within an existing building or on the roof or side of a building, or attached to an existing structure	C	C	C	C	C	C	C	Conditional use subject to the requirements of Sec. 25.09.08
	Wireless communication facility not entirely within an existing building or on the roof or side of a building, or attached to an existing structure, including, but not limited to, antennas on a freestanding a ground-mounted antenna support structure	S	S	S	S	S	S	S	Subject to the requirements of Secs. 25.09.08 and 25.15.02.

Amend Article 11, "Residential Medium Density Zones", as follows:

25.11.03 – Land Use Tables

The uses permitted in the Residential Medium Density Zones are shown in the table below. Uses are subject to applicable conditions of site plan approval, and all special exceptions are subject to the requirements of Article 15.

	Uses	Zones			Conditional requirements or related regulations
		Residential Medium Density RMD-10	Residential Medium Density RMD-15	Residential Medium Density RMD-25	

e. Miscellaneous uses	Public utility building and structure	S	S	S	See Sec. 25.15.02.n
	Publicly-owned or publicly-operated building and use, excluding sanitary landfill	C	C	C	Conditional use subject to a Level 3 Site Plan (Sec. 25.07.05)
	Wireless communication facility entirely within an existing building or on the roof or side of a building, or attached to an existing structure	C	C	C	Conditional use subject to the requirements of Sec. 25.09.08
	Wireless communication facility not located entirely within an existing building or on the roof or side of a building, or attached to an existing structure, including, but not limited to antennas on a freestanding a ground mounted-antenna support structure	S	S	S	See Secs. 25.09.08 and 25.15.02.s

Amend Article 12, “Industrial Zones”, as follows:

6-6-11

25.12.03 – Land Use Tables

Attachment 1.A.c: Final Draft of Text Amendment TXT2019-00251 (2641 : Zoning Text Amendment TXT2019-00251 - Small Cell Antennas)
Attachment 1.A.a: Zoning Text Amendment TXT2019-00251 (2761 : TXT2019-00251 - Small Cell Antennas)

	Uses	Zones		Conditional requirements or related regulations
		Light Industrial	Heavy Industrial	
		I-L	I-H	
* * *				
f. Assembly and entertainment	Wireless communication facility entirely within an existing building or on the roof or side of a building, or attached to an existing structure	C	C	Conditional use subject to the requirements of Sec. 25.09.08
	Wireless communication freestanding ground-mounted antenna support structure	S	S	Subject to the requirements of Sec. 25.09.08 and 25.15.02.s
* * *				
g. Industrial and service uses	Warehouse, self-storage	C	C	Not permitted on a lot within 250 feet of any lot on which a public school is located
	Wireless communication facility entirely within an existing building or on the roof or side of a building, or attached to an existing structure	C	C	Conditional use subject to the requirements of Sec. 25.09.08
	Wireless communication facility attached to a freestanding ground-mounted antenna support structure	S	S	Subject to the requirements of Sec. 25.09.08 and 25.15.02.s

Amend Article 13, "Mixed-Use Zones", as follows:

* * *

25.13.03 – Land Use Tables

		Zones								Conditional requirements or related regulations	
Uses		Mixed-Use Transit District (MXTD)	Mixed-Use Corridor District (MXCD)	Mixed-Use Employment (MXE)	Mixed-Use Business (MXB)	Mixed-Use Corridor Transition (MXCT)	Mixed-Use Neighborhood Commercial (MXNC)	Mixed-Use Commercial (MXC)	Mixed-Use Transition (MXT)		

f. Miscellaneous Uses	Publicly-owned or publicly-operated building and use, excluding sanitary landfill	P	P	P	P	P	P	P	P	P	
	Wireless communication facility entirely within an existing building or on the roof of side of a building, attached to an existing structure	C	C	C	C	C	C	C	C	C	Conditional use subject to the requirements of Sec. 25.09.08
	Wireless communication facility attached to a freestanding ground-mounted antenna support structure	S	S	S	S	S	S	S	S	S	See Sec. 25.09.08 and 25.15.02.s



Agenda Item #: _____ A
Meeting Date: _____ June 26, 2019
Responsible Staff: _____ Deane Mellander

SUBJECT: Review and Recommendation to Mayor and Council - Zoning Text Amendment TXT2019-00251 - Small Cell Antennas; Mayor and Council of Rockville, Applicants

RECOMMENDATION
(Include change in law or Policy if appropriate in this section): Review the staff report and provide a recommendation on the text amendment to the Mayor and Council for the public hearing on September 9, 2019.

Attachment 1.A.b: Planning Commission Staff Report, June 26, 2019 (2761 : TXT2019-00251 - Small Cell Antennas)



Overview

Case: Zoning Text Amendment TXT2019-00251

Location: City-Wide

Staff: Deane Mellander
Planning and Development Services
240-314-8224
dmellander@rockvillemd.gov

Applicant: Mayor and Council of Rockville

Filing Date: April 2, 2019

Background

The wireless industry got its start in the last quarter of the 20th century. Advances in electronic miniaturization made hand-held portable phones possible, which led to the initial pattern of cellular reception. Initially, the service was provided by what are now termed macro installations – installation of antenna support structures (typically, monopoles) spaced every few miles to provide overlapping service areas. If a user was mobile, the system would switch the carrier signal from one cellular antenna to the next to avoid signal drop.

As these installations proliferated, public pressure to regulate them increased. States and local jurisdictions began passing legislation intended to try and minimize the impact of these installations on the surrounding neighborhoods. In 1996, the Federal Government stepped in and passed the Telecommunications Act of 1996 (the “Act”), which gave the Federal Communications Commission (FCC) general authority to regulate the wireless industry. Under the Act, Federal law prohibits state and local regulations that “prohibit or have the effect of

prohibiting the ability of an entity to provide ... telecommunications service.” The Act applies to, among other things, the deployment of telecommunications infrastructure – including the deployment of small wireless facilities.

When the cellular system was initially designed it was for simple telephone service and there may have been one user per dwelling, and a few users at the place of employment or on the road. The macro sites were generally sufficient for this level of service.

A simple phone call does not use much bandwidth, but the proliferation of “smart” phones and other devices capable of video data streaming and the overall increase in the number of users means that the cell service areas need to be subdivided to maintain and increase the bandwidth service for both normal private user services but also to address future demands for public services such as self-driving vehicles. Today, there may be four or five users per dwelling, and many homes have replaced land line service with wireless. Many employers require most or all of their employees to carry cell phones to facilitate fast contact.

The pending introduction of a new fifth generation (“5G”) wireless system will substantially increase the size of the data stream. To accommodate this system, the number of cellular antenna locations will need to be substantially increased. This means that antennas will need to be located within several hundred feet of each other to provide full coverage.

On September 26, 2018, the FCC adopted a declaratory ruling and order (the “FCC Order”) broadly interpreting the Act and limiting or pre-empting local government authority on many issues related to the deployment of small cell wireless facilities. Although the FCC Order is being challenged in the courts by numerous local governments from across the United States, it went into effect on January 14, 2019. The City is a participant in one of the pending lawsuits.

Under the FCC Order, “small wireless facilities” are defined as facilities that: (i) are mounted on structures 50 feet or less in height including their antennas, or (ii) are mounted on structures no more than 10 percent taller than other adjacent structures, or (iii) do not extend existing structures on which they are located to a height of more than 50 feet or by more than 10 percent, whichever is greater. Antennas for small wireless facilities can be no more than three cubic feet in volume, and other equipment associated with the facility can be no more than 28 cubic feet in volume.

The FCC Order permits local governments to establish aesthetic requirements for the installation of small wireless facilities. However, the aesthetic requirements must be (1) reasonable; (2) no more burdensome than those applied to other types of infrastructure deployments; and (3) objective and published in advance.

Additionally, the FCC Order also set “shot clocks” which are timeframes in which local governments must act on applications to install small wireless facilities. The FCC Order requires the City to act on an application to install a small wireless facility on an existing structure in sixty days and an application to install a small wireless facility on a new antenna support

Attachment 1.A.b: Planning Commission Staff Report, June 26, 2019 (2761 : TXT2019-00251 - Small Cell Antennas)

structure in ninety days. If an application is not acted on within the applicable timeframes, the City could face a legal challenge and a court order that would allow the installation to occur as submitted.

City Zoning Regulations on Wireless Communication Facilities

The Mayor and Council adopted Zoning Text Amendment TXT2001-00191 in August 2001 to provide a comprehensive set of regulations for wireless telecommunications facilities in the City. This language is incorporated as Section 25.09.08, “Wireless Communication Facility” in the current Zoning Ordinance. The thrust of this section is to regulate the location and installation of macro antenna sites. These are typical multi-antenna installations mounted on monopole towers, lattice towers, or on the sides or roofs of buildings. Wireless facilities mounted on a new free-standing structure, i.e., a monopole or lattice tower, are required to obtain a special exception from the Board of Appeals. Facilities located on an existing building or structure are a conditional use, subject to compliance with the provisions of Sec. 25.09.08.b.

These macro sites, which usually consist of three large panel antennas facing in different directions for each carrier, generally provide wireless service coverage for a radius of about 2 to 4 miles. The spacing between the macro antenna locations is dependent on several factors, including elevation, density of wireless traffic, and intervening trees or structures that can attenuate the signal strength. In dense urban areas, there can be gaps in service because of the height and density of the built environment. Small cell antennas, which are a relatively new and evolving technology, serve several functions – they can fill in service gaps; provide additional service in high-traffic areas like city centers; and support 5G wireless service.

Under the current provisions for wireless communications facilities in Section 25.09.08, panel antennas, which can be up to two feet in width and six feet in height, may be mounted on existing buildings or structures that are at least 35 feet in height if used for nonresidential purposes, and 50 feet in height on a multi-family residential building. Antennas may also be located on a ground-mounted support structure, i.e., a monopole or other antenna support structure if the structure receives approval of a special exception by the Board of Appeals. In addition, if a ground-mounted support structure is proposed to be more than 50 feet tall in a residential zone or within 500 feet of a residential zone, or more than 199 feet tall in a nonresidential zone, the Mayor and Council must grant a waiver of the height restrictions under Section 25.09.08.e.3.

The proposed regulations cover small cell antennas intended primarily associated with the advent of 5G wireless service. In order to achieve the coverage intended by the FCC, there will need to be a network of antennas spaced perhaps 700 – 1,000 feet apart. The antennas themselves are small – limited to 3 cubic feet – but the support equipment can be larger. Several examples of current and proposed installations are shown in Attachment A. For single installations the equipment can often be mounted on the support structure or within the base of the structure (such as a light pole) if so equipped.

Analysis

Specific Zoning Ordinance Revisions

It is expected that the majority of small cell installations will be located on existing structures within the public right-of-way. Installations within the public right-of-way are regulated by authority of Chapter 21 of the City Code, "Streets and Public Improvements," not the Zoning Ordinance. These regulations have already been promulgated by the Director of Public Works (see Attachment B).

The intent of the proposed amendment is to revise the City's Zoning Ordinance to be in compliance with the FCC Order while also allowing the City to regulate the deployment of small cell antennas that are not within public right-of-way in a manner that meets the needs of the city. Small cell antennas can be much smaller than the typical tower-mounted cell antennas. Normally, only one omnidirectional antenna is needed.

The text amendment as authorized (see Attachment C) proposes to define small cell antennas as being no larger than three cubic feet in size, which is consistent with the FCC Order. Cumulative volumetric standards of 28 cubic feet are also proposed for equipment enclosures, which is also consistent with the FCC Order.

The definitions for the following terms: Antenna, Antenna support structure, Colocation, Wireless communication facility, and Wireless communication service, have all been revised to reflect the current terminology and to reflect the language in the FCC Order. A new definition for "Wireless communication facility, small" is proposed to be added to specifically address the regulation of small cell facilities in a manner consistent with the FCC Order.

The proposed text amendment revises the current language to essentially separate the regulations between small cell antennas and other types of antenna installations, including macro sites and monopoles. The language has also been revised to be consistent with the terminology contained in the FCC order. In some cases, the existing language has been reordered for better clarity of intent. The amendment also proposes to increase the allowable height of macro panel antennas from six feet to eight feet, in line with current industry practice.

A new subsection d is proposed to be added specifically to regulate the installation of small cell antennas on private or public property, outside of public right-of-way. For those installations outside of public rights-of-way to which the Zoning Ordinance will apply, the regulations can be summarized as follows:

- No small cell antennas can be located on a single family detached, semi-detached, or townhouse dwelling. No small cell antenna can be located on an accessory building or structure located on the same lot as a dwelling.

- Small cell antennas must be located at least 25 feet from a single-family dwelling, and 250 feet from another antenna support structure.
- Installations must be designed and located to minimize visual impacts, including use of stealth technology.
- Support equipment must be enclosed and cannot exceed 5 feet in height.
- Small cell antennas cannot exceed 3 cubic feet in volume, and support equipment cannot exceed an aggregate total of 28 cubic feet in volume.
- Where underground utilities are required, any equipment enclosures must be located below grade unless incorporated into the base of the support structure.
- No installations permitted on an historic structure or within a designated historic district where any portion of the installation except the antenna is visible from the ground.
- If the installation is no longer in use, it must be removed by the owner at their expense.
- No hazardous materials can be stored on the site.

The land use tables for the residential, mixed use and industrial zones are proposed to be amended to reflect the revisions in Article 9. Small cell antennas are added as a conditional use, subject to the new provisions. The current regulations for wireless facilities are still applicable in the RMD (Residential Medium Density) zones. In the industrial zones, the wireless provisions are proposed to be relocated within the tables from the Assembly and Entertainment section to the Industrial and Service Uses section to better reflect the characteristics of the use.

Under the FCC Order, the City is prohibited from requiring a wireless provider to prove that there is a gap in coverage and that a small wireless facility is needed in a particular location. Further, the FCC Order limits the City’s ability to enact spacing and underground requirements.

Surrounding Jurisdictions

The staff notes that both Montgomery County and the City of Gaithersburg have adopted text amendments to regulate small cell antennas in a similar manner to what is proposed. The County has limited small cell antennas to six cubic feet with a maximum length on any side of four feet two inches. Antennas are allowed in the Commercial/Residential, Industrial, and Employment zones as a limited use and must be mounted at least 15 feet off the ground. Such antennas may be mounted on replacement utility poles, streetlight poles or site-plan approved parking lot poles. If located within the right-of-way, the Department of Permitting Services must approve the location for safety purposes. A text amendment to permit them in the residential zones did not pass in the last County Council term.

In Gaithersburg, the size limit is 2.5 feet wide by four feet tall. Gaithersburg also requires that any small cell antenna located on a multi-family building be at least 20 feet off the ground, with the minimum being 15 feet for any non-residential or mixed-use structure.

Community Outreach

Notice of the filing of the text amendment and Planning Commission meeting date was sent out

to the civic associations and homeowners associations via the City's listserv.

Recommendation

Within the regulatory framework set forth in the FCC Order, the proposed amendment will provide the City with some regulatory control over the location and design of small cell antennas deployed outside of the public right-of-way, and the regulations will be consistent with those already in place for installations within public rights-of-way and the FCC order. Staff therefore recommends that Zoning Text Amendment TXT2019-00251 be approved.

Attachments

- Attachment 1.A.a: Sample small cell installations (PDF)
- Attachment 1.A.b: Standards for Small Cell Installations in the Public Right-of-Way (PDF)
- Attachment 1.A.c: Final Draft of Text Amendment TXT2019-00251 (PDF)

Jim Wasilak
Jim Wasilak, Chief of Zoning 6/19/2019

Attachment 1.A.b: Planning Commission Staff Report, June 26, 2019 (2761 : TXT2019-00251 - Small Cell Antennas)

Examples of the AT&T Small Cell Equipment



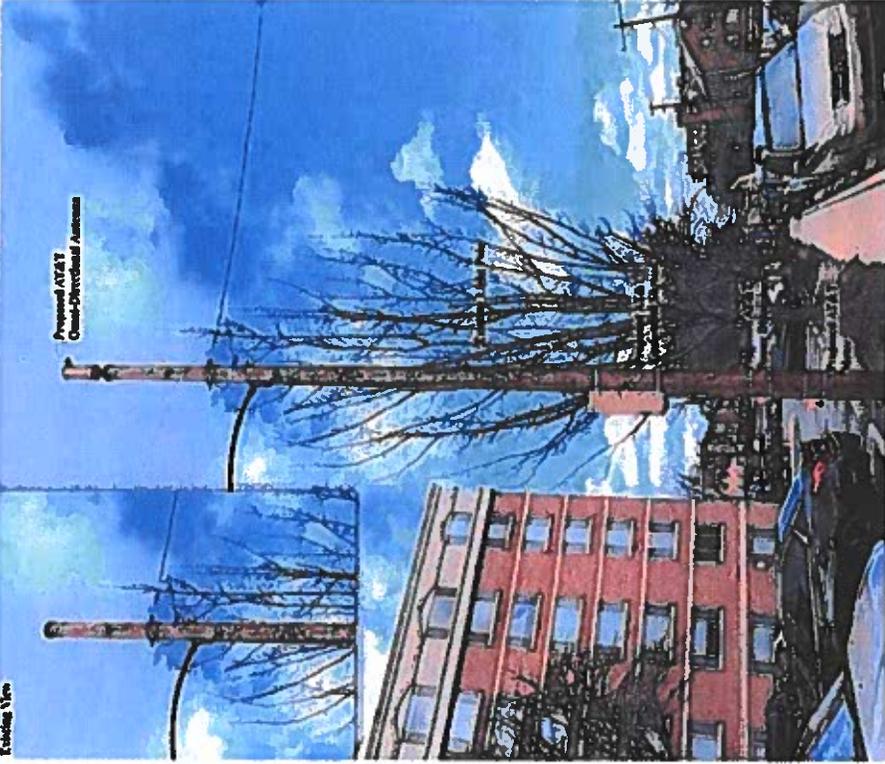
BC JACOBS at&t Light Standard Antenna with Conical Shroud CRAW_RVMM_0172_01

Small Cell Design – Metal Streetlight



BC JACOBS at&t Light Standard Antenna with Conical Shroud CRAW_RVMM_0172_01

Examples of the AT&T Small Cell Equipment

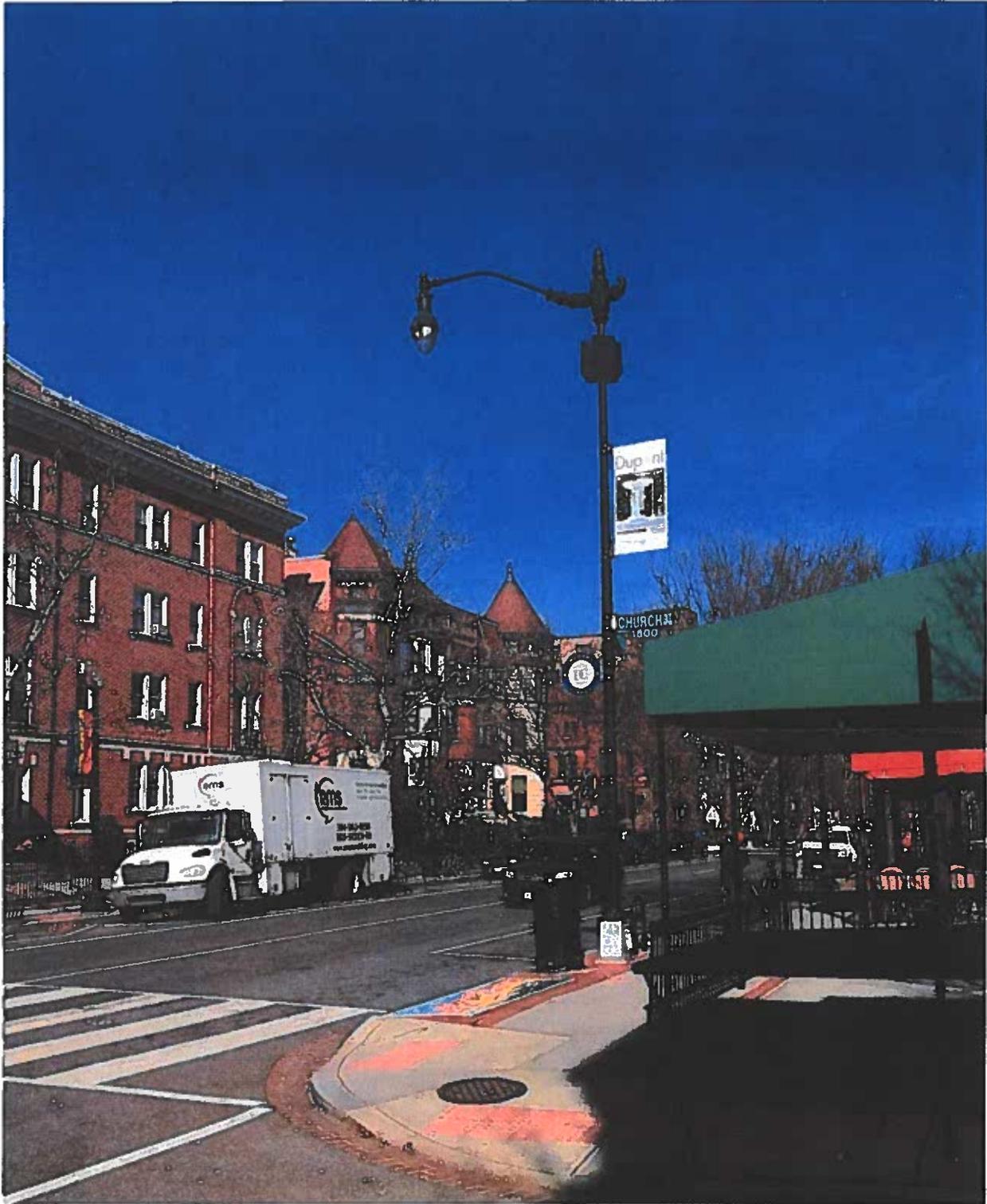


Wood Utility Pole Example



2100 Baltimore Road, Rockville, MD 20851

Small Cell Design – Wood Utility Pole



Attachment 1.A.a: Sample small cell installations (2641 : Zoning Text Amendment TXT2019-00251 - Small Cell Antennas)
Attachment 1.A.b: Planning Commission Staff Report, June 26, 2019 (2761 : TXT2019-00251 - Small Cell Antennas)

PROPOSED VERIZON SMALL CELL INSTALLATION



Attachment 1.A.a: Sample small cell installations (2641 : Zoning Text Amendment TXT2019-00251 - Small Cell Antennas)
Attachment 1.A.b: Planning Commission Staff Report, June 26, 2019 (2761 : TXT2019-00251 - Small Cell Antennas)

PROPOSED VERIZON SMALL CELL INSTALLATION

Small Wireless Facilities

Small Wireless Facility Standards

Height Standards

1. Small wireless facilities may not be mounted on structures greater than 50-feet in height including the antenna.
2. Small wireless facilities may not be mounted on structures more than 10 percent taller than other adjacent structures.
3. Small wireless facilities may not be mounted on existing structures which cause the structure to extend to a height of more than 50-feet or more than 10 percent taller than adjacent structures, whichever is greater.

Antenna and Other Small Wireless Equipment Size Standards

4. Each antenna associated with a small wireless facility can be no greater than 3 cubic feet in volume.
5. All other small wireless equipment associated with the small wireless facility (including any pre-existing equipment on the structure) may not be more than 28 cubic feet in volume.

Installation, Placement, and Design Standards

6. Small wireless facilities must not project over the roadway, pedestrian path or sidewalk and must be placed on a single side of the structure, unless approved by the Director of Public Works.
7. New poles or other structures that support small wireless facilities must maintain a minimum three (3) foot horizontal clearance from existing sidewalks and roadways and a minimum five (5) foot horizontal clearance from the outside edge of driveway aprons and handicapped ramps, unless a lesser clearance is approved by the Director of Public Works.
8. Any exterior attachments to structures (other than cabling), must be a minimum of eight (8) feet above grade, unless approved by the Director of Public Works.
9. Replacement poles must be the same height as the pole being replaced, unless a different height is approved by the Director of Public Works. Any replacement pole, including all required guying, may not intrude on any sidewalk or passageway more than the existing pole, and may not be more than 10 percent larger in circumference than the existing pole, considering the actual dimensions of the pole. Guy wiring must be comparable to that of the pole being replaced.
10. All small wireless equipment installed underground, at ground level, or on a pole must be placed in an enclosure.
11. All small wireless equipment must be consistent with industry standards.
12. Antennas must include shielding or otherwise be placed in an enclosure. If attached to a pole, the shielding or enclosure must be no more than the circumference of the pole at the point of attachment and, if attached to the top of the pole, designed to appear like a continuous vertical extension of the pole. Antennas must not extend more than 36 inches

Small Wireless Facilities

in length, extending vertically from the base of the antenna, either at the top of the pole or structure, or on the related equipment housing, except that up to six (6) inches in additional height may be permitted for connectors.

13. All wires/cables must be located inside the structure, unless Applicant proves to the City's satisfaction that this is not practical, in which case the wire/cable must be installed in a conduit attached flush to the structure and painted with non-reflective paint of the same color as the structure on which it is installed or otherwise concealed to the extent possible. Whenever possible, the Applicant must utilize existing ducts, conduits, or other facilities for the installation of connecting fiber.
14. All visible small wireless equipment placed on a structure, including antennas, must be painted with non-reflective paint of the same color as the structure on which it is sited so that the installation closely matches the existing paint. The Applicant must work with the structure manufacturer or owner regarding the specifics for the color match, and work with the equipment manufacturer regarding paint specifications as well as the method for cleaning the equipment and applying the paint. Antennas and shrouds must be painted to have the least visual impact possible; colors must be approved by the City as part of the permit. Paints must be lead and chromate free. Resistance to ultra violet light, road salt compounds, industrial chemical fumes, solvents for removal of graffiti off painted surfaces, flame or high temperatures, and corrosion.
15. No writing, symbol, logo or other graphic representation which is visible from the nearby street or sidewalk is allowed to appear on any exterior surface of the small wireless facility unless allowed by agreement with the City, required by law or regulation, or as a City-approved concealment element. Notwithstanding the previous sentence, Applicant must tag all attachments to structures to allow for ready identification of the small wireless facility owner and type of attachment.
16. No visible lighting is allowed on any small wireless facilities, except as required by law or as allowed by the City.
17. Any new pole installed to support a small wireless facility must be consistent and compatible with surrounding poles and structures.
18. Installation of small wireless facilities must not impact existing City street trees.
19. Installation of small wireless facilities must not impact line of sight for vehicle or pedestrian movements.
20. Installation of small wireless facilities must not create any Americans with Disabilities Act violations.
21. Small wireless facilities must not interfere with the function of the pole or structure to which the equipment is attached or interfere with other public facilities, including but not limited to:
 - a. Signs
 - b. Traffic signals
 - c. Street lighting
 - d. Bike racks
 - e. Benches
 - f. Fire hydrants
 - g. Water meters
 - h. Sewer cleanouts
 - i. Stormwater facilities
 - j. Other utilities

Small Wireless Facilities

- 22. In an area of the city where utilities are underground, all small wireless equipment must also be placed in an underground vault.
- 23. Small wireless facilities must be placed, as much as possible, in line with other utility features and in a location that minimizes any obstruction, impediment, or hinderance to the usual travel or public safety on a right-of-way.
- 24. The Applicant must incorporate ambient noise suppression measures, place small wireless equipment in locations less likely to impact adjacent residences or businesses, or both, and must comply with all applicable noise regulations.
- 25. The City strongly encourages the collocation of small wireless facilities on existing structures. To minimize visual clutter, distractions to vehicular traffic, and the hazard of poles adjacent to roadways, free standing poles must be spaced a minimum of 250 feet apart on each side of a street. An exemption may be granted by the Director of Public Works if the Applicant can demonstrate that this restriction has the effect of prohibiting the provision of wireless services.
- 26. Small wireless equipment installed at ground level must incorporate concealment elements into the proposed design. Concealment may include, but is not limited to, landscaping and strategic placement in less obtrusive locations.
- 27. Small wireless equipment installed at ground level must be painted to have the least visual impact possible; colors must be approved by the City as part of the permit. Paints must be lead and chromate free. Resistance to ultra violet light, road salt compounds, industrial chemical fumes, solvents for removal of graffiti off painted surfaces, flame or high temperatures, and corrosion.

Small Wireless Facility Conditions

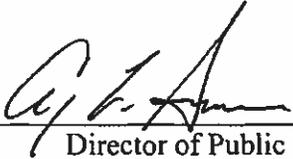
- 1. Applicant must be a member of “Miss Utility” and comply with state law regarding marking utilities.
- 2. Small wireless facilities located in public right-of-way must not cause a safety hazard to the public.
- 3. A small wireless facility must be removed from the public right-of-way within 90 days of the final Right-of-Way Access/Attachment payment to the City for the small wireless facility.
- 4. If a City project requires small wireless facilities to be removed or relocated, the Applicant must remove or relocate all equipment within 30 days’ notice by the City at the Applicant’s sole cost.
- 5. Applicant must obtain a permit from the City for any maintenance of small wireless facilities following initial installation.
- 6. Applicants for small wireless facilities may request a right-of-way agreement for multiple installations with the City.

Small Wireless Facilities

Submittal requirements

Applicant is required to submit the following information with the permit application:

1. Documentation certified by a Maryland Professional Engineer that the pole or other structure to which the small wireless equipment is proposed to be attached is structurally adequate to support the small wireless equipment.
2. Applicant must provide certified analysis showing that the proposed Facility satisfies the Federal Communication Commission ("FCC")'s Radio- Frequency (RF) exposure guidelines applicable on an individual basis, and on a cumulative basis (considering all frequencies, and all emitting sources as may be required by FCC regulations).
3. Applicant must provide a completed utility permit application and checklist.
4. Written authorization from the structure owner that demonstrates that the Applicant has the authority to install a small wireless facility on the structure.
5. All other information otherwise required by Chapter 21 of the City Code and for an application for a Utility Permit.

Approved by: 
 Director of Public Works

Date: 1/11/19

Attachment 1.A.b: Standards for Small Cell Installations in the Public Right-of-Way (2641 : Zoning Text Amendment TXT2019-00251 - Small Cell Antennas)
 Attachment 1.A.b: Planning Commission Staff Report, June 26, 2019 (2761 : TXT2019-00251 - Small Cell Antennas)

*Addendum to City of Rockville Department of Public Works Standards and Details for Construction

KEY POINTS OF FCC DECLARATORY RULING AND THIRD ORDER ON SMALL CELLS

Statutory Authority for Order¹

47 USC § 332(c)(7)

- Addresses personal wireless services

47 USC § 253(a)

- Addresses any interstate or intrastate telecommunications service

FCC Order – Key Paragraphs

Standard

- **Standard:** A state or local requirement constitutes an effective prohibition if it ‘materially limits or inhibits the ability of any competitor or potential competitor to compete in a fair and balanced legal and regulatory environment.’ (¶ 35.)
- A state or local legal requirement will have the effect of prohibiting wireless services if it materially inhibits the provision of such services. (¶ 37.)
 - Includes materially inhibiting additional services or improving existing services. (¶ 37.)
- Providers must be able to compete in a “fair and balanced regulatory environment.” (¶ 39.)
 - Requirement can function as an effective prohibition either because of a “financial burden” or because of a resulting competitive disparity. (¶ 39.)

Fees

- Only permitted to the extent that they represent a reasonable approximation of the local government’s objectively reasonable costs, and are non-discriminatory. (¶ 32.)
- ROW access fees, and fees for the use of government property in the ROW, such as light poles, traffic lights, utility poles, and other similarly situated property suitable for hosting Small Wireless Facilities, as well as application or review fees imposed by a state or local government as part of their regulation of the deployment of Small Wireless Facilities inside and outside the ROW, violate Sections 253 or 332(c)(7) unless these conditions are met: (1) the fees are a reasonable approximation of the state or local government’s costs, (2) only objectively reasonable costs are factored into those fees, and (3) the fees are no higher than the fees charged to similarly-situated competitors in similar situations. (¶ 50.)
- States and localities may recover a reasonable approximation of their costs related to deployment of Small Wireless Facilities. (¶ 56.)
- The requirement that compensation be limited to a reasonable approximation of objectively reasonable costs and be non-discriminatory applies to all state and local government fees paid in connection with a provider’s use of the ROW to deploy Small Wireless Facilities (¶ 69.)

¹ The text of the two subsection of the United States Code that are referenced below are contained at the end of this document.

- This interpretation applies with equal force to any fees reasonably related to the placement, construction, maintenance, repair, movement, modification, upgrade, replacement, or removal of Small Wireless Facilities within the ROW, including, but not limited to, application or permit fees such as siting applications, zoning variance applications, building permits, electrical permits, parking permits, or excavation permits. (¶ 69.)
- Fees not reasonably tethered to costs appear to violate [the Sections]. (¶ 70.)
 - Examples: gross revenue fees (not based on the costs associated with an entity’s use of the ROW), unreasonably high costs (such as excessive charges by third party contractors or consultants) may not be passed on through fees even though they are an “actual cost”
- Fair and reasonable compensation: a reasonable approximation of a state or local government’s objectively reasonable costs of, respectively, maintaining the ROW, maintaining a structure within the ROW, or processing an application or permit. (¶ 72.)
- Government’s incur a variety of direct and actual costs, such as: costs for staff to review the provider’s siting application, cost’s associated with a provider’s use of the ROW, and costs associated with maintaining the ROW itself or structures within the ROW to which Small Wireless Facilities are attached. (¶ 75.)
- When a locality charges both types of recurring fees (access to the ROW and for use or attachment to property in the ROW), the total of the two fees must reflect the total costs involved. (¶ 76.)
 - Fees that cannot ultimately be shown by a state or locality to be a reasonable approximation of its costs, such as high fees designed to subsidize local government costs in another geographic area or accomplish some public policy objective beyond the providers’ use of the ROW, are not “fair and reasonable compensation . . . for use of the public rights-of-way.”
 - Excessive and arbitrary consulting fees or other costs should not be recoverable as “fair and reasonable compensation” because they are not a function of the provider’s “use” of the public ROW.
- Fees that presumptively do not constitute an effective prohibition and are presumed to fair and reasonable: (a) \$500 for non-recurring fees, including a single up-front application that includes up to five Small Wireless Facilities, with an additional \$100 for each Small Wireless Facility beyond five, or \$1,000 for non-recurring fees for a new pole intended to support one or more Small Wireless Facilities; (b) \$270 per Small Wireless Facility per year for all recurring fees, including any possible ROW access fee or fee for attachment to municipally-owned structures in the ROW. (¶ 79.)
 - A local government can charge fees above this level by showing that the fees are (1) a reasonable approximation of costs, (2) those costs themselves are reasonable, and (3) are non-discriminatory. (¶ 80.)

Non-Fee Related Provisions that Could Operate as Prohibitions on Service

- Aesthetic requirements are not preempted if they are: (1) reasonable, (2) no more burdensome than those applied to other types of infrastructure deployments, and (3) objective and published in advance. (¶ 86.)

- Requirements that are reasonable in that they are technically feasible and reasonably directed to avoiding or remedying the intangible public harm of unsightly or out-of-character deployments are permissible. (¶ 87.)
- Requirements must be objective – *i.e.*, they must incorporate clearly-defined and ascertainable standards, applied in a principled manner – and must be published in advance. (¶ 88.)
- Undergrounding Requirements. (¶ 90.)
 - We believe that a requirement that *all* wireless facilities be deployed underground would amount to an effective prohibition given the propagation characteristics of wireless signals. (¶ 90.)
 - Further, a requirement that materially inhibits wireless service, even if it does not go so far as requiring that all wireless facilities be deployed underground, also would be considered an effective prohibition. (¶ 90.)
- Minimum spacing requirements may be reasonable aesthetic requirements. (¶ 91.)
 - Under the principle that may such requirements be reasonable and publicly available in advance, it is difficult to envision any circumstances in which a municipality could reasonably promulgate a new minimum spacing requirement that, in effect, prevents a provider from replacing its preexisting facilities or collocating new equipment on a structure already in use. (¶ 91.)

State and Local Governments Act in Their Regulatory Capacity When Authorizing and Setting Terms for Wireless Infrastructure Deployment in Public Rights-of-Way

- The interpretations extend to state and local governments’ terms for access to public ROW that they own or control, including areas on, below, or above public roadways, highways, streets, sidewalks, or similar property, as well as their terms of use of or attachment to government-owned property within such ROW, such as new, existing, and replacement light poles, traffic lights, utility poles, and similar property suitable for hosting Small Wireless Facilities. (¶ 92.)
- Section 253(a) is properly construed to suggest that Congress did not intend to permit states and localities to rely solely on their ownership of property within the ROW as a pretext to advance regulatory objectives that prohibit or have the effect of prohibiting the provision of covered services. (¶ 97.)

Shot Clocks/Applications

- New shot clock for small wireless facility deployments (¶ 105.)
 - 60 days for review of an application for collocation of Small Wireless Facilities using a preexisting structure.
 - 90 days for review of an application for attachment of Small Wireless Facilities using a new structure.
- Shot clocks reset in the event that a locality receives a materially incomplete application. (¶ 111.)
- It is likely that providers will submit “batched” applications, which are multiple separate applications filed at the same time, each for one or more sites *or* a single application covering multiple sites. (¶ 113.)
 - We see no reason why the shot clocks for batched applications to deploy Small Wireless Facilities should be longer than those that apply to individual

applications because, in many cases, the batching of such applications has advantages in terms of administrative efficiency that could actually make review easier. (¶ 114.)

- Section 332 does not allow states and localities to refuse to accept batches of applications to deploy Small Wireless Facilities. (¶ 115.)
- A failure to act amounts to a presumptive prohibition on the provision of personal wireless services within the meaning of [the Section]. (¶ 118.)
- Any request for authorization to place, construct, or modify personal wireless services facilities under [Section 332] means all authorizations necessary for the deployment of personal wireless services infrastructure. (¶ 132.)
 - The text encompasses not only requests to place personal wireless service facilities, e.g., zoning requests, but also requests for authorization to construct or modify personal wireless service facilities. (¶ 133.)
- Attachment of facilities to existing structures constitutes collocation, regardless whether the structure or the location has previously been zoned for wireless facilities. (¶ 140.)
- For Small Wireless Facilities applications, the siting authority has 10 days from the submission of the application to determine whether the application is incomplete. (¶ 143.)
 - The shot clock then resets once the applicant submits the supplemental information requested by the siting authority. (¶ 143.)

Statutory Authority for Order

47 USC § 332(c)(7)

(c)(7) Preservation of local zoning authority.

- (A) General authority.** Except as provided in this paragraph, nothing in this Act shall limit or affect the authority of a State or local government or instrumentality thereof over decisions regarding the placement, construction, and modification of personal wireless service facilities.
- (B) Limitations.**
 - (i)** The regulation of the placement, construction, and modification of personal wireless service facilities by any State or local government or instrumentality thereof--
 - (I)** shall not unreasonably discriminate among providers of functionally equivalent services; and
 - (II)** shall not prohibit or have the effect of prohibiting the provision of personal wireless services.
 - (ii)** A State or local government or instrumentality thereof shall act on any request for authorization to place, construct, or modify personal wireless service facilities within a reasonable period of time after the request is duly filed with such government or instrumentality, taking into account the nature and scope of such request.
 - (iii)** Any decision by a State or local government or instrumentality thereof to deny a request to place, construct, or modify personal wireless service facilities shall be in writing and supported by substantial evidence contained in a written record.

- (iv) No State or local government or instrumentality thereof may regulate the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the Commission's regulations concerning such emissions.
 - (v) Any person adversely affected by any final action or failure to act by a State or local government or any instrumentality thereof that is inconsistent with this subparagraph may, within 30 days after such action or failure to act, commence an action in any court of competent jurisdiction. The court shall hear and decide such action on an expedited basis. Any person adversely affected by an act or failure to act by a State or local government or any instrumentality thereof that is inconsistent with clause (iv) may petition the Commission for relief.
- (C) Definitions. For purposes of this paragraph--
- (i) the term "personal wireless services" means commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services;
 - (ii) the term "personal wireless service facilities" means facilities for the provision of personal wireless services; and
 - (iii) the term "unlicensed wireless service" means the offering of telecommunications services using duly authorized devices which do not require individual licenses, but does not mean the provision of direct-to-home satellite services (as defined in section 303(v) [[47 USCS § 303\(v\)](#)]).

47 USC § 253(a)-(c)

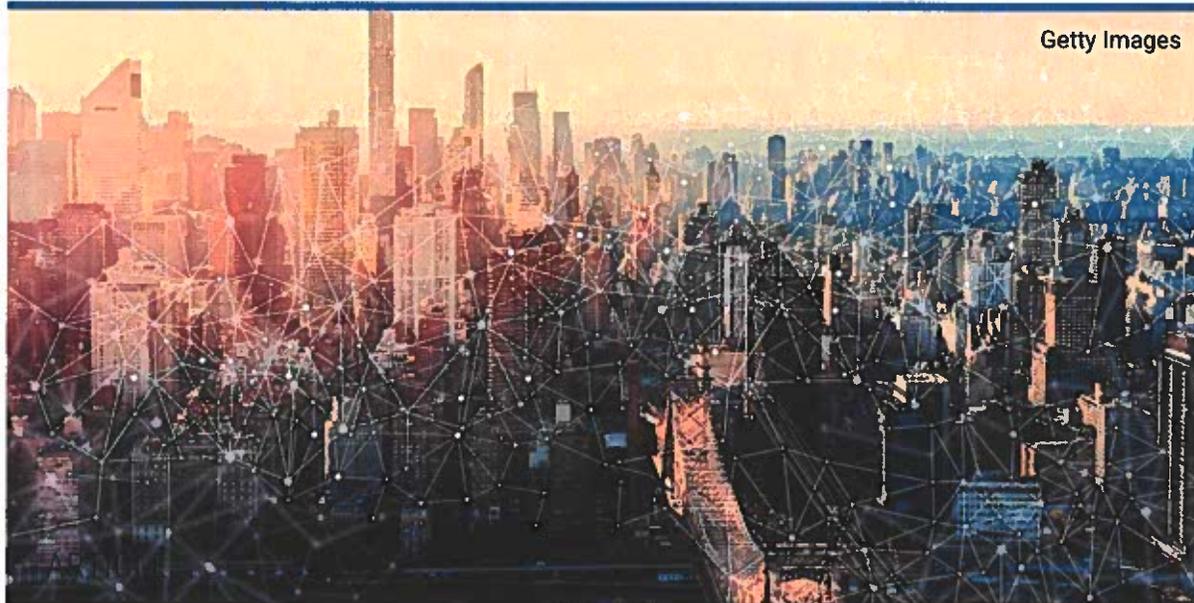
(a) In general. No State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service.

(b) State regulatory authority. Nothing in this section shall affect the ability of a State to impose, on a competitively neutral basis and consistent with section 254 [[47 USCS § 254](#)], requirements necessary to preserve and advance universal service, protect the public safety and welfare, ensure the continued quality of telecommunications services, and safeguard the rights of consumers.

(c) State and local government authority. Nothing in this section affects the authority of a State or local government to manage the public rights-of-way or to require fair and reasonable compensation from telecommunications providers, on a competitively neutral and nondiscriminatory basis, for use of public rights-of-way on a nondiscriminatory basis, if the compensation required is publicly disclosed by such government.

SMART CITIES & TECHNOLOGY

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Small cells, big uncertainties

Small cell wireless systems promise smart city innovation via 5G, but federal intervention into their deployment is costing local officials the ability to govern public property

Written Jason Axelrod

10th July

by (<https://www.americancityandcounty.com/author/jasonaxelrod/>)

2019

Like the turning of a page, Sept. 27, 2018, opened into a new chapter in local telecommunication systems regulation in the U.S.

Attachment 1.A.d: "Smart Cities and Technology" Article from American City and County Magazine (2761 : TXT2019-00251 - Small Cell

That day, the Federal Communications Commission (FCC) released an order that drastically altered the way local governments can administer small wireless telecommunication facilities, otherwise known as “small cells,” which enable technology such as 5G.

Among other mandates, the rules prevented local governments from establishing certain requirements on small cells. Notably, the order doesn’t grandfather in past state and local regulations that are out-of-line with the new order.

The FCC justified the order in stating its intent to remove regulatory hurdles towards implementing 5G-related systems, according to an official news release. This intent comes as part of its “commitment to ensuring that the United States wins the global race to 5G.”

Many advocates for local governance, however, have publicly lambasted the order, denouncing its pre-emption of local power.

“The FCC’s impractical actions will significantly impede local governments’ ability to serve as trustees of public property, safety and well-being. The decision will transfer significant local public resources to private companies, without securing any guarantee of public benefit in return,” the National Association of Counties (NACo) and the National League of Cities (NLC) wrote in a joint statement on the FCC’s order.

Challenges to the FCC’s order are moving through Congress and the U.S. judicial system. However, wireless system companies like Verizon and AT&T have begun deploying small cells to cities across the country. Moreover, the FCC set a deadline of April 15 for local governments to publish updated aesthetic standards for small cells that fall in line with the new order.

“The FCC’s approach is a pretty blanket approach. And it may not account for all of the nuances of local government. But at the same time, we’ve seen the conflict is that the cities need to take this seriously,” notes David Witkowski, executive director of civic technology initiatives at Joint Venture Silicon Valley, a nonprofit organization that convenes Silicon Valley leaders across sectors to solve various regional issues together.

Now that the deadline has passed, what can local governments do to manage these systems and their deployment?

To answer, it helps to know exactly what they're dealing with.

Issues at hand

"The FCC's approach is a pretty blanket approach. And it may not account for all of the nuances of local government. But at the same time, we've seen the conflict is that the cities need to take this seriously."

(<https://www.americancityandcounty.com/files/2019/07/Screen-Shot-2019-07-10-at-1.35.47-PM.png>) A cell tower is hard to miss if you're around one. Sometimes disguised as trees, the lofty spires send and receive data to and from devices across a wide radius, according to a report from CTIA, an association that represents the U.S. wireless communications industry. Data transmission is naturally strongest near a tower (also called a macro cell) and weakest at its transmission radius' edge.

Small cells predictably are smaller installations of radio equipment – typically about the size of a pizza box – that transmit data in a much tinier radius. In this way, they're effective for densely populated areas like city cores, according to a report from Verizon. They've even been deployed already to enhance 4G LTE coverage.

Over a 5G network, information is transmitted via millimeter waves, which allow more data to be transmitted in less time but cannot travel as far as waves used in 4G networks, according to a NACo report. Small cells enable the transmission of millimeter waves, but many are needed in close vicinity to ensure that devices in transit receive uninterrupted coverage.

Given their size, small cells are frequently placed on public property or in local public rights-of-way, the NACo report explains.

This creates a number of issues. For starters, small cells aren't the prettiest objects. Improperly disguised small cells could look out-of-character for culturally-distinct areas like the French Quarter in New Orleans or in San Francisco's Haight-Ashbury district.

"[There is] the potential for... the creation of blight in otherwise beautiful neighborhoods," says James Kennedy, founder and CEO of Steepsteel, which facilitates the management and consulting of wireless agreements and infrastructure. "That's something that cities... they have great planners and they have these ordinances, aesthetic guidelines for all kinds of things, and then to get caught flat-footed on this, you could see how that could be detrimental."

The relocation of wireless equipment into densely-populated areas has forced cities to rethink how they administer it, Witkowski says. Small cells can't be disguised as trees, and unlike cell towers, they'll need to be placed in residential areas.

"A city that is used to doing a [cell] tower every 10 years probably can do that through real estate or economic development, some other entity," Witkowski explains. "Now, it's falling largely in the bucket of public works. Previously, public works was not really involved in telecom because towers were not in public rights-of-way."

Public works officials, however, most likely don't have telecom expertise. So, another issue develops –a learning curve towards knowledge of telecom. But Witkowski says that knowledge of telecom isn't common among many municipal leaders in general.

"Cities are really good at streets and parks and sidewalks and tree trimming and permits for house additions. They're just not up-to-speed on telecom," he explains. "What we find is that most cities don't have that expertise in-house, and it's also hard to hire."

These issues have been compounded especially by cities now needing to construct rules that are in-line with the FCC's sweeping and restrictive September 2018 order, the Declaratory Ruling and Third Report and Order.

Rules of the game

In its Declaratory Ruling and Third Report and Order, the FCC defines small cells (referred to within as small wireless facilities or SWF) and places a number of restrictions on state and local governments that try to manage the deployment of small cells, according to a document from the National Association of Telecommunications Officers and Advisors (NATOA).

For starters, the order caps all recurring and non-recurring fees related to small cells; the caps can only be raised if local governments can show that the costs are reasonable approximations of reasonable costs levied on the government, the NATOA report states.

"It shifts away all the financial benefit, reduced it by, 80 to 90 percent relative to what it was prior to the passage of this order," Kennedy explains. "But this is very specific. It's for assets that are on city property or the public right-of-way, right? So, it's just going to incentivize carriers and tower companies to put their small cells on government-owned property."

The order pre-empts local governments from establishing certain aesthetic requirements for small cells. Aesthetic requirements are allowed only if they are "reasonable," "objective" and aren't more arduous than requirements put on other infrastructure deployments. The rules must also be published in advance. The order also pre-empts the requirements of all small cells being placed underground or being placed underground in a way that inhibits service.

"Other than safety issues, the rights-of-way are deregulated... [the FCC has] granted [carriers] unfettered and effectively unregulated [access] to the rights of way to install and deploy poles and wireless equipment with minimal at best local oversight," says Rusty Monroe, founder and owner of Monroe Telecom Associates, which assists local governments in their dealings with the wireless industry. "And they're doing great harm."

Lastly, the order establishes "shot clocks" of 60 or 90 days for approvals of small cell deployments. A few actions can pause or stop these shot clocks, but inaction during a shot clock window is considered a violation of the Communications Act.

While the FCC's order is restrictive, it can also be detrimental to local governments in its vagueness.

“The FCC order uses terms like ‘reasonable’ and doesn’t define those. And ultimately, even on what’s considered the most concrete part of the order, where it talks about fees, it doesn’t say that those are definitely fee caps or that those fees are definitely acceptable,” explains NLC Principal Associate for Technology and Communications Angelina Panettieri.

Tools of the trade

Before the FCC’s order was passed, the NLC released a report, “Small Cell Wireless Technology in Cities,” that explains small cell technology, profiles several cities’ small cell-related efforts and presents strategies for city leaders. The first strategy is to become familiar with the technology and its safety considerations.



(<https://www.americancityandcounty.com/files/2019/07/image-1.jpg>)

Small cells like the ones on this pole, will be deployed throughout the country to build 5G networks.

“These are not simple topics. And so, the challenge I think is, telecom is complex enough that a city really unless they’ve staffed up...the others would have to hire consultants,” Witkowski says.

It is feasible that carriers like Verizon or AT&T could honor aesthetic guidelines that a city passes after April 15, as long as the city provides those guidelines before application discussions begin.

Witkowski provides the example of a carrier entering a city without aesthetic guidelines in place. If the city were to say that it would provide the guidelines at a specific date within a reasonably quick timeframe, he posits that a carrier would most likely honor that agreement.

"I think carriers don't want a fight. I don't think the industry wants a fight. They're not looking to make enemies," he says. "It would be rational for them to say, 'OK fine, we'll give you that amount of time'."

Panettieri notes that resident involvement was a common theme among the cities profiled in the NLC report. Officials were working with homeowners associations, neighborhood commissions and other groups of residents that were likely to be concerned with small cells. "Proactively working with residents, I think that's a huge one," she says.

The shot clocks are particularly important for this strategy, she says. That's due to the need to keep residents and resident groups abreast of planning processes and to ensure feasible input on placement and designs, as the shot clocks can prevent officials from adequately doing so once time becomes critical.

Monroe believes that the best way to draft up such guidelines is to have a person or team draft them who knows the industry from the inside. He believes that if aesthetics guidelines are drafted up correctly, that they can protect the public in the majority of instances.

"The key is in having well-done regulations by someone who knows what's happening and how to deal with it," he says.

Going it alone can be dangerous – Monroe adds that local officials trying to work with the communications industry as equals is, "an effort in futility without expert assistance. They don't even know what they don't know."

Panettieri however, believes that entering into agreements with carriers is a viable option. "Proactively speaking with providers, if [officials] know that they're a city that's going to see development, it ensures that they at least have some time to think through what they might be able to come to an agreement on."

Two cities in particular so far, have been able to obtain desired outcomes in

negotiating directly with carriers.

Working together

Instead of rallying against the FCC's rules, San Diego officials decided to work with Verizon to accelerate small cells' deployment in the city and improve its technological initiatives.

"We went ahead and took a little bit of a different approach even though we were taken aback a little bit by the FCC rules that came out," says San Diego Assistant Chief Operating Officer Ron Villa. "But we decided to... embrace the potential that is 5G rather than try and fight everything."

Announced on April 8, San Diego's agreement with the city involves the city working with Verizon to streamline its permitting process to lower review times and deploy small cells quicker and more efficiently, according to a news release from the city. San Diego will develop a master permit for digital fiber installation to give more users access to broadband.

"Our development services department that handles all of our permitting... they really came together," Villa says. "They put a core group of folks together that really started looking at what they did and what they could do with regard to reviewing this, and they took the review cycles from months down to weeks, if not days."

In return, Verizon will give 500 smartphones to the San Diego Police Department and 50 tablets to the San Diego Fire-Rescue Department, according to the release. Verizon will also install traffic gathering and sensing technology at five intersections where crashes are common, and it will inventory about 60,000 city light poles to provide wireless capability to residents. The carrier will also deploy fiber and small cells to the light poles.

Villa admits that San Diego embraces technology, but that officials also keep the public's best interest in mind. While concerns about privacy must be addressed, the government has the public trust in them. "San Diego tends to get out in front of some of these things," he says.

At the end of 2018, Syracuse, N.Y. found itself with a standing small cell-related ordinance that didn't comply with the FCC's new order, Syracuse, N.Y. Chief Data Officer Sam Edelstein says.

Realizing that federal rules governing small cells could change again in the future, Syracuse officials decided to rescind their standing order, Edelstein says. Instead, the city would negotiate directly with each carrier as it entered the city until a larger enterprise agreement could be put into place that would govern the city as a whole, Edelstein says.

One concern that has been raised about 5G and small cells concerns the health effects that the technology and the frequencies it emits would have on the public. An agreement between Syracuse and Verizon has enabled the city to address those concerns while having small cells implemented in its community.

"Because there hasn't been tons of research into the effects of having radio frequencies that 5G provides, it would be good to have regular checks on those antennas," Edelstein says. "But then additionally, we knew that people would be nervous about them... we wanted to ensure that we could check on that to give some more confidence to the public that not just anything can go into facilities that can emit whatever kind of radio frequencies that the carrier wants."

Another critical part of the agreement was ensuring that the city would have an equitable level of connectivity deployed across its area, since certain parts of the city lack internet access, Edelstein says.

The desire to inspect the small cells hadn't been asked of Verizon before, Edelstein says. However, Verizon was confident that health wouldn't be an issue because they do their own testing of the cells. The city is still determining how exactly it will carry out small cell inspections, but officials have thought about it in a similar way to how inspections of other pieces of infrastructure are carried out.

"We are excited about the technology and think it's also our job to find ways to provide access to the right-of-way in a safe and responsible way," Edelstein says. "And so, we feel like we did that with this agreement."

There is much to be excited about as far as 5G is concerned – especially because it will enhance far more than mobile handset connectivity.

Close to the cutting edge

The deployment of 5G will certainly carry technological benefits to cities, but it will also yield economic benefits.

A report from Accenture indicates that U.S. carriers and telecom operators could invest about \$275 billion over seven years to deploy small cells and other next-

generation wireless technology. This, in turn, is expected to create 3 million jobs and lead to \$500 billion in gross domestic product (GDP) growth.

Witkowski explains that 5G is simply the next incremental step in a better performing network – it's not akin to simply flipping a switch on a new technology. However, 5G networks are more flexible in that they don't just offer technological benefits for mobile handsets.

5G will improve fixed wireless, mobile technology, weightless positioning, the Internet of Things (IoT) and more efficient use of spectrum, Witkowski says. The Accenture report states that 5G will allow the high-speed, pervasive connection of more devices and sensors, and it will provide better redundancy and reliability with low power consumption.



(<https://www.americancityandcounty.com/files/2019/07/image-2.jpg>)

Small cells on a light pole in Minneapolis. Photo by Tony Webster/ CC BY-SA 2.0.

An example of improvement for cities lies in GPS efficiency – 5G and small cells will improve that efficiency in dense urban areas where buildings can reflect GPS signals, Witkowski says. This, along with enhanced vehicle-to-vehicle communications via 5G, can improve the use of autonomous vehicles.

However, the 5G that has been launched isn't necessarily up to par with what the technology promises. For example, AT&T has launched what it calls 5G Evolution (5Ge) in 400 markets, but that technology runs on its existing LTE network, according to an AT&T statement.

So, regarding both the launch of 5G and the concrete benefits it will bring to cities, governments may have to play the waiting game for the time being.

"I think it's kind of a wait-and-see situation," Panettieri says. "Because if the technical benefits of 5G include lower latency and higher network load, then potentially, this is going to be most effective for those smart city Internet of Things deployments where you're dealing with a lot of devices on a network over a short distance."

Tags: In-Depth , Smart Cities & Technology , In-Depth , Smart Cities & Technology , Article

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Agenda Item #:	A
Meeting Date:	July 24, 2019
Responsible Staff:	Barry Gore

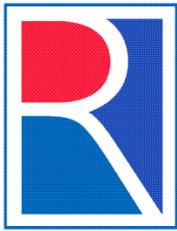
SUBJECT:

Work Session 3: Comprehensive Plan, Draft for Planning
Commission Public Hearing

RECOMMENDATION

(Include change in law or Policy if
appropriate in this section):

Hold the third work session on the Draft Comprehensive Plan



City of
Rockville
Get Into It

Planning Commission Staff Report:

MEETING DATE: July 24, 2019

REPORT DATE: July 17, 2019

RESPONSIBLE STAFF: Barry Gore, Principal Planner, Long
Range Planning 240.314.8214
bgore@rockvillemd.gov

SUBJECT: Work Session on the Land Use
Element of the Draft
Comprehensive Plan

BACKGROUND:

Actions to Date

Following completion of public hearings on the Comprehensive Plan Draft, the Planning Commission scheduled four work sessions, to take place on June 26, July 10, July 24, and August 7. The work sessions are opportunities for the Planning Commission to review the testimony with staff and make revisions to the Draft Plan.

The Planning Commission closed the public record for written testimony on Tuesday, June 18, 2019. Written testimony received by the Planning Commission and transcripts from the public hearings are available on the project Web site at <https://www.rockvillemd.gov/203/Rockville-2040-Comprehensive-Plan-Update>. All of the testimony and the transcripts were also provided

in the staff report for the June 26 work session on the Comprehensive Plan. A summary of all testimony is attached with this staff report.

The first work session covered the Introduction and the Community Facilities, Economic Development, and Municipal Growth elements. The second work session covered Housing, Historic Preservation, and Recreation and Parks. At both sessions, the Planning Commission reviewed testimony submitted and instructed staff to make changes to the Draft Plan based on the discussions.

Summary of Draft Plan Contents

The Comprehensive Plan: Draft for Planning Commission Public Hearing constitutes the first major portion of the proposed update to the existing Comprehensive Master Plan, which was adopted by the Mayor and Council of Rockville on November 12, 2002.

This first portion of the Draft Plan contains an Introduction chapter and ten elements, or citywide topic areas. The second portion of the plan has not yet been completed or released. It will cover the planning areas, which are closer looks at geographic subareas of the city. The draft of the planning areas portion will be presented to the Planning Commission this fall, for its review, adjustments, and release.

DISCUSSION:

Staff suggests that, at the July 24 meeting, the Planning Commission review and discuss testimony on the Land Use element. As this is a very broad topic area, staff recommends that the Planning Commission discuss the testimony as sets of land use issues with testimony on the same or similar topic grouped together, as outlined below. Some testimony addresses issues that are singular and not grouped with other issues; these are discussed after the broad sets of issues. Background information is provided on complex issue sets; others begin with testimony organized by exhibit number.

The staff report makes references to both the current Comprehensive Master Plan (CMP - 2002) and its "Planned Land Use" map; and the Draft Comprehensive Plan (March 2019) and its draft "Land Use Policy Map," which is shown in the plan as Figure 3 on page 20. The current Planned Land Use Map is available at:

<https://www.rockvillemd.gov/DocumentCenter/View/27988/Comprehensive-Master-Plan---Planned-Land-Use-Map-Updated-2017?bidId=>. In some cases, it is helpful to consider the differences between these two land use maps when reviewing the testimony. Staff notes that the current 2002 plan does not include definitions for the dozens of land use categories used on the land use map. The Draft Plan includes definitions, which are useful to understanding city land use policy. To ensure ease of use for the commissioners, staff has included in your mailed packets large printed versions of both the existing and draft new land use maps.

Testimony on Accessory Dwelling Units (ADUs)

Exhibit 11 from the Maryland Department of Planning (MDP) comments that the draft plan's recommendation for allowing one ADU per residential lot is "a truly noteworthy policy and the city is to be commended," specifically as a strategy for providing affordable housing.

Exhibit 16 is from a resident of Twinbrook who is in favor of changing residential zoning from exclusively single-unit housing to include duplex housing, which seems to address the ADU policy in the draft plan. However, the resident also expresses concerns about there being adequate parking if such a change is made.

Staff recommendation: Retain draft text language on ADUs on page 23. Staff recognizes that zoning standards and regulations, including parking, will need to be developed and adopted prior to implementation.

Testimony on Residential Attached (RA), definitions and mapping

Several items of testimony address the Residential Attached (RA) land use category, including its definition on page 19 of the Draft Plan, the types of housing included, and locations where it is mapped on the Land Use Policy Map.

A category called Attached Residential is found on the current (2002) Planned Land Use Map, based primarily on the 2002 Comprehensive Master Plan. The 2002 CMP does not include a definition of Attached Residential, and that category of land use seems to be mapped where townhouses already existed. However, the current map also applies Attached Residential on fourplex buildings and one nine-unit apartment building along Dawson Avenue in the West End (zoned RMD-25), and on duplex buildings on Blandford Street and Lynfield Drive (zoned R-40). Staff recommends a similar approach for the new Residential Attached category, in that the land use category spans a variety of construction types, while existing or future zoning controls the actual density and development standards.

The draft text definition of Residential Attached (Land Use element, page 19) reads:

"RA: Residential Attached allows a variety of house types that share party walls. Types of permitted construction include rowhouse, fourplex or quad, triplex, and duplex."

However, the text on page 24 under Policy 3 in the Land Use element describes the RA types also to include "small apartment buildings," and page 191 in the Housing element includes "small apartment buildings" in a related discussion. As such, the draft Plan has an inconsistency.

Exhibit 9 from the Twinbrook Community Association requests that the definition of RA explicitly state that the category is inclusive of detached single unit residential as well as attached.

Staff recommendation: Change the definition of Residential Attached to be inclusive of detached residential.

Exhibits 29, 34, and 35, from two residents of East Rockville and the East Rockville Civic Association, ask for a more detailed definition of the RA category, specifically requesting that RA not include “small apartment buildings.”

Staff recommendation: Revise the definition of Residential Attached to read “small apartment buildings with up to six units total in a single structure.” This added language will place an upper limit on the sizes of these properties. The East Rockville planning area discussion will include zoning recommendations for individual parcels, depending on their locations in the city, where there will be an opportunity to refine and limit the types and number of units per site based on location and context. Residential Attached can therefore remain a broadly defined land use type in the Comprehensive Plan, with the zoning as the implementing tool for more-localized customization.

Exhibit 42 requests a land use change for 216 Park Road, from the draft map showing Residential Attached to Residential Flexible. The issue raised by the property owner is, as above, the definition of Residential Attached, specifically whether it includes ‘stacked flats’ or ‘two-over- twos.’

Staff response: No change to the draft map is recommended. Staff notes that a duplex, triplex, or fourplex structures can be configured as vertically stacked flats. Likewise, two-over-twos are a type of vertically stacked townhouse. Any of these types may be consistent with the Residential Attached category, depending on the total number of units on the lot. The zoning applied to these RA properties will control the density and dimensions of any construction.

Exhibits 29, 34, and 35, from two residents of East Rockville and ERCA, ask that RA be mapped for only “two or three lots from South Stonestreet but no further” on the three blocks across from the Rockville Metro Station, those being Reading Terrace, Highland Avenue, Croydon Avenue.

Exhibit 19, from a resident of Town Center, asks that the RA mapping be preserved in the plan, and urges the Commission to expand the area for RA types of housing, including small apartments, an additional quarter mile out from its current mapping in order to generate affordable housing.

Exhibit 40, from WMATA, notes Metro’s recent investments in additional peak service to Rockville’s Metro stations with the elimination of the Grosvenor turnback. Metro supports the policies on ADUs, and Residential Attached, mentioning the typical half-mile station walkshed.

Exhibit 11, from the Maryland Department of Planning, supports the Draft Plan policies on RA and states that MDP would like to share actions 3.1 and 3.2 with other communities as best practices; these items addressing the mapping of Residential Attached and the drafting of a new mixed residential zoning regulation.

Staff recommendation: Retain Residential Attached (RA) as mapped on the draft Land Use Policy Map, with one change to remove RA from East Jefferson Street between Mount Vernon Place and Ritchie Parkway and retain Residential Detached in that location. The RA designation on East Jefferson was a prior mapping error. Staff is sensitive to the concerns of the East Rockville community and looks to both the planning area discussion and zoning to provide a customized approach that will take into account both transit proximity and customization according to the property-by-property circumstances to avoid adverse impacts on neighbors.

Testimony on Residential Flexible and Retail Residential Mix

Several pieces of testimony include questions about the definition of the Residential Flexible (RF) land use category. The draft definition on page 19 reads:

“RF: Residential Flexible allows a mix of rowhouse and apartment buildings, as well as detached houses. It is applied to relatively large sites where the final mix of residential construction is flexible and to be determined during development review.”

Staff recommendation: After reviewing where the RF sites are mapped, staff recommends changing the definition to read: “Residential Flexible is applied to sites where the mix of allowed residential types is flexible, as regulated by the Zoning Ordinance, and to be finalized during development review. Small scale retail is an allowed option if integrated into the residential development.”

Exhibit 24, from Tower-Dawson, LLC supports the mapping of RF on a portion of the Tower Oaks area that the PD-TO approved for an extended stay hotel.

Staff response: Staff agrees. No changes are needed.

Exhibit 22, regarding the property at 5946 Halpine Road, requests a change from RF to Retail Residential Mix (RRM). The owner believes that a small amount of retail on the property would be appropriate in this pathway to the Twinbrook Metro Station.

Staff recommendation: Retain Residential Flexible at 5946 Halpine Road, with the understanding that the proposed revised definition of Residential Flexible allows for small scale retail integrated into a residential development. The Twinbrook Planning Area discussion also will reflect the Planning Commission’s recommended land use category, noting the change from the current Park use and will include a zoning recommendation for this property.

Exhibit 18, from Woodmont Country Club, requests that the Land Use Policy Plan map add a band of Residential Flexible (RF) along the frontage of their property along Wootton Parkway.

Staff response: The Initial Staff Draft included this “band” of RF in the location requested. During a review session, the Planning Commission directed staff to remove the RF designation and leave the entire Woodmont Country Club property (except for that portion addressed in the Rockville Pike Neighborhood Plan) as Open Space Private (OSP). Staff can support this approach, but in parallel with how a change of use may occur for all or part of the property. This discussion is presented, below, as part of testimony related to Policy 25, and will also be presented in the planning areas section of the plan.

Testimony on the plan for the Veirs Mill Road corridor, Twinbrook Metro Station area and mapping of Residential Attached, Residential Flexible, and Retail Residential Mix.

Exhibit 17 is testimony submitted by a Twinbrook resident. A request has been made that the Planning Commission reconsider the draft plan’s recommendation for mixed use development along Veirs Mill Road at the intersections of Edmonston, Broadwood, and Atlantic. The resident requests that the neighborhood be left alone, mentioning the difficulty in moving around the area during peak times.

Exhibit 26 is testimony from the Twinbrook Community Association (TCA) which begins with a statement of support: “We applaud the inclusion of the Twinbrook Metro Station area and the Veirs Mill Corridor in the Land Use Policy map, to ensure that Twinbrook residents have access to the flexible zoning arrangements that allow for growth and housing options.”

Exhibit 45 is testimony from a Twinbrook resident with an address a few blocks south of Veirs Mill Road. The testimony supports the draft plan recommendation for additional density near Metro stations and along the MD 355 and Veirs Mill Road transit corridors. The resident asks for more walkable amenities in their immediate area and supports the development of a community node at Edmonston Drive and Veirs Mill Road. The question is asked: “Could larger apartment buildings be accommodated here to leverage the transit links and help support neighborhood-based retail?”

Staff recommendation: Retain the RA, RF, RRM and RM land uses along Veirs Mill Road on the Land Use Policy Map as drawn in the draft plan.

Discussion of Institutional Uses

There was no testimony on the draft plan’s approach to mapping private Institutional uses. However, during review of the Initial Staff Draft, the Planning Commission did indicate a need for a final discussion and decision regarding mapping of these uses. The draft plan shows Institutional uses only on parcels larger than three acres. For parcels smaller than three acres, the plan map identifies a land use to match the underlying zoning (typically Residential Detached in R-60 or R-90 zones) in most cases. In a small number of instances, a land use such as RF or ORRM is applied to an institutional use, implying recommendation for higher density and, where deemed appropriate, new a zoning designation.

During its review of the Initial Staff Draft, the Planning Commission discussed the application of Residential Flexible to the property at 5906 Halpine Road, which is currently a church on 1.5 acres. The current Planned Land Use map shows the property as “Institutional” and it is zoned R-60. The Planning Commission’s discussion questioned the Residential Flexible, over the more restrictive Residential Attached, which raised the issue of how private institutional uses are mapped on the Land Use Policy Map.

Staff response: Staff recommends the approach as outlined above and in the Draft Plan. The Planning Commission may wish to discuss other options for Institutional uses and direct staff as to how to address institutional uses on the land use map. Attention should be paid to those properties where a change in the land use map may lead to a new zoning recommendation, and staff will identify those properties during the work session. Any recommendation for a change in zoning for these parcels will be included in the planning areas portion of the plan.

Testimony on Office uses, definition, mapping, and zoning

Several pieces of testimony address the issue of planning for office uses. The issue reveals basic differences of opinion on the value of detailed land use planning. For instance, during the thirty-year build out of the office and research uses along Research Boulevard, the Planning Commission and land owners saw the value in having a category for Restricted Industrial/Office Park, which is the designation on the current Planned Land Use map. The Euclidian zoning that regulated land use in these areas was replaced in the 2009 Zoning Ordinance update to allow a mix of uses on all commercial properties, which is resulting in the development of new mixed-use projects on property that formerly had office uses.

The question for the Planning Commission is whether there are any areas of the city that the Land Use Policy Map should identify as preferred for Office (O), in order to ensure locations for office use; and how the city’s planning and regulatory processes should be structured to maintain those uses. It should be noted that none of the city’s mixed-use zones require a mix of uses, and all of them allow a conversion to residential-only, or retail-only use, regardless of location.

The Draft Plan allows for conversion of large segments of office and retail commercial land uses to new developments dominated by residential uses, through the ORRM land use designations; while some locations are mapped to show where office uses are required. The draft plan recommends that the majority of the Research Boulevard corridor be planned for Office (O), with some introduction of a new, walkable retail or residential uses (ORRM) at Gude Drive. No testimony was received by owners of property in the Research Boulevard corridor.

The Draft Plan also maps Office uses in close proximity to the west side of the Metro station in Rockville Town Center. A mix of office uses and residential uses is important to sustain retail and hospitality businesses in the Town Center throughout the day and evening. The draft plan has mapped Office on the blocks directly across from the Rockville Metro station and one other location with a large office building.

Exhibit 38 from a resident argues for the intermingling of residential, employment, and service uses, cautioning against “caving to the current market cycle that is driving residential build-out.” The testimony notes that while the current market for office uses is weak, the retention of land planned for employment is important, and conversion of land on the plan for office uses to residential is “ominous . . . without another plan of where to cultivate it,” specifically mentioning such conversions in King Farm and Tower Oaks.

Staff response: Staff agrees that the plan should include areas planned for office employment uses.

A number of the pieces of testimony relate to the definition for Office uses (page 19) which reads:

O: Office is mapped where the city expects and prefers office uses. Retail uses are allowed on the ground floor. Residential or other uses are allowed only with Special Exception.

Also, there is a policy and action discussion of office uses on page 43; the text includes:

“Policy 16: Plan for office land uses in locations that have good access to the regional transportation network and other amenities.

Action 16.5: Revise the MXE zone to require office uses where the Land Use Policy Map specifies Office (O), and only allow residential uses in the MXE as a Special Use permit.”

Note that the definition for Office mentions a revision to the zoning ordinance for a Special Exception, while Action 16.5 mentions a Special Use permit. This inconsistency reflects an editing error, as well as a continuing discussion about the best approach to protecting and encouraging office uses.

Exhibit 23 is testimony from a land use attorney, suggesting that the Draft Plan’s definition of Office reads “very narrowly,” which the testimony claims is a “single, specific use itself, rather than a category of uses.” The testimony questions if the current mixed-use zoning on areas on the land use map as Office will still be applied, or if new zoning that restricts the use to only office uses will be reapplied as a return to “pre-2009 ideas.”

Exhibit 24 is testimony submitted by Tower-Dawson, LLC regarding the land use plan for the Tower Oaks area. The testimony supports the ORRM, or Office Retail Residential Mix, category for currently undeveloped land in the Tower Oaks PD area, but questions the Office definition that states: “Residential or other uses are allowed only with Special Exception.” The testimony also questions how zoning will be applied, while also recognizing this is less of an issue for them because Tower Oaks is in its own Planned Development.

Exhibit 41 is testimony from Lantian Development LLC, the owner of the property which is approved for the Shady Grove Neighborhood development on Shady Grove Road, Gaither Road, and Choke Cherry Road, and is zoned MXE. The testimony supports the ORRM land use for the property but requests that Action 16.5 state that a Special Use permit is only required for proposed residential development on properties that are designated as Office on the land use map.

Staff response: Staff recommends striking the third sentence of the definition of Office that mentions a “Special Exception” and revising Action 16.5. A revised definition would read: “**O: Office** is mapped where the city expects and prefers office and other non-industrial uses that provide employment. Retail uses are allowed, generally on lower floors.”

Staff recommends that Action 16.5 be revised to “Explore the best method for encouraging and preserving office land uses in those areas mapped for Office (O) on the Land Use Policy Map.” One option would be to require some office space for each project on sites planned for Office, while recognizing other uses are allowed in the MX zones.

Exhibit 40, from WMATA, asks for a change on the land use map from Office to ORRM on the west side of the Rockville Metro Station property between the railroad tracks and MD 355, to allow more flexibility.

Staff recommendation: Retain the Office land use, as more broadly re-defined in this staff report, on the WMATA property between MD 355 and the railroad corridor. Staff recommends that residential uses not be planned for narrow properties between the busy highway and railroad tracks.

Exhibit 48 is testimony from Eldridge, Inc. the owners of 255 Rockville Pike, which is shown as Office on the draft Land Use Policy Map. Eldridge requests that the property, which is directly across MD 355 from Rockville Station, be mapped as ORRM to allow for more flexibility in future use.

Staff response: Staff recommends changing the mapping for 255 Rockville Pike to ORRM. However, staff also recommends that the planning areas section include a strong policy preference that employment/office, under the broader definition proposed above, be part of any project at this location. This plan guidance would inform any proposed change to the existing planned development for the site. While flexibility and a mix of uses has merit, it is also a site with superior access to transit and visibility on Rockville Pike, making it an excellent site for a major office development.

Testimony on the relationship between the Land Use Policy Map and the Zoning Map

Exhibit 23 is testimony from a land use attorney on the structure of the plan, with particular emphasis on the lack of information on how the land use plan will relate to zoning.

Exhibit 24, from Tower-Dawson LLC, asks how zoning will be applied to Tower Oaks to implement the land use plan, while recognizing that the area is covered by the PD-TO.

Exhibit 32, from a resident of Woodley Gardens, suggests that the city consider adopting form-based codes in areas near Metro, mentioning the current low-density single-family development patterns and the need to provide more housing, especially near transit.

Staff response: Staff recommends adding text to the beginning of the Land Use chapter (page 18) on the relationship between the land use policies and its associated map and the Zoning Ordinance and zoning map. It would explain that Land Use categories provide broad policy guidance, with the more-specific regulations being codified in zoning. For example, properties designated as Residential Attached (RA) in the Plan may have different zoning designations, based on circumstances specific to the neighborhoods; but the zoning would all be within the RA definitions.

In addition, the Planning Areas section, as Volume 2 of the Comprehensive Plan, will provide site- and area-specific recommendations on planned land use change and zoning recommendations for individual properties. For the vast majority of the city, the new Land Use Policy Map does not recommend any changes of land use, only changes in the categorization to consolidate similar uses and simplify the land use map.

The Rockville Planning Areas draft will indicate and discuss newly planned land use changes (i.e., those not identified in previous plans) sometimes for corridors or areas, and in other cases, for individual properties. The Plan's strategy for promoting new affordable housing is to map areas for additional housing diversity or mixed-use redevelopment, as well as to promote programs within the Housing element. Form-based zoning is not currently recommended.

Testimony on Parking Regulations

Exhibit 1 is from the owners of property at the southwest quadrant of the intersection of Chapman Avenue and Twinbrook Parkway. The testimony is in support of Policy 26, which is to undertake a study of minimum parking regulations, noting the high cost of structured parking, and the location of their property near transit.

Exhibit 16 is from a resident of Twinbrook who likes the idea of changing residential zoning from single-unit housing to also allow duplex housing, but notes that there are already "sometimes 3 or more vehicles per residential unit," and asks about where parking for additional units would be found.

Exhibit 24, from Tower-Dawson LLC, supports a reduction in minimum parking requirements, noting that the Tower Oaks office buildings are in compliance with the existing parking regulations with the result that "large portions of that parking go unused each day." The high cost of parking is passed on through leased space, making the property more difficult to lease.

Exhibit 27 from a resident of Twinbrook supports the intent of Policy 26 that recommends a study of parking regulations; however, the testimony argues that a study is unnecessary and instead recommends that “parking requirements be eliminated or greatly reduced.”

Exhibit 31, from the Rockville Environment Commission, suggests adding additional actions on parking under Policy 26, including allowing businesses to pay a fee-in-lieu of parking that allows for shared parking between businesses and/or exchanges parking requirements for incentives for the use of public transportation. The testimony also recommends that the proposed parking study examine the potential effects of spill-over parking.

Exhibit 32 suggests that the city “de-couple parking costs from rent or overhaul parking requirements” in Town Center and the South Pike.

Exhibit 48, from the owners of 255 Rockville Pike, support Policy 26 and Policy 16, and Action 16.2 which recommends reducing parking minimums for office uses.

Staff response: Policy 26 and actions 16.2 and 26.1 to study parking regulations received wide support in the testimony and, while no changes to the Draft Plan are recommended, study of the issue should be prioritized.

Transit-Oriented Development

Exhibit 10 from a resident of Twinbrook supports more density in the Town Center to sustain a grocery store and local retail.

Exhibit 11 from the Maryland Department of Planning and the Department of Housing and Community Development supports the city’s commitment to transit-oriented development.

Exhibit 25, from the owners of 1488 Rockville Pike, supports the draft plan land use designation as ORRM, and requests a change in zoning from MXCD to MXTD, arguing that the property is located within a half mile of the Twinbrook Metro Station.

Exhibit 28 from a resident of the West End strongly supports transit-oriented development in the Town Center.

Exhibit 31 from the Rockville Environment Commission supports high-density mixed-use development near Metro station and believes height limits need to be raised in those areas.

Staff response: Transit-oriented development is supported by the plan and most of the testimony. No changes to the Draft Plan are recommended on this topic. Zoning is not addressed in the elements portion of the plan, but it will be discussed in each planning area.

A recent Urban Land Institute Technical Advisory Panel (TAP) study recommends considering increasing density in certain areas of Town Center. Staff believes that this study recommendation should be evaluated by the Planning Commission. The TAP gave a presentation on July 10th. A written report will be delivered to the city within the next 4-6 weeks. Staff can provide a briefing on the results of the study at this or an upcoming meeting.

Planned Development

Exhibit 18, from representatives of Woodmont Country Club, requests that the property be recommended for a PD zone for all portions other than the Rockville Pike frontage and frontage along Wootton Parkway. The testimony refers back to the approach in the 2002 Comprehensive Master Plan, which was written during a period when the city had a Planned Development zoning process and areas of “Comprehensive Planned Development” (e.g. King Farm, Falls Grove, Tower Oaks) on the Planned Land Use map. The Zoning Ordinance does not currently include a Planned Development process although the Draft Plan recommends establishing a flexible zoning procedure and a Planned Development approval process.

The Woodmont Country Club testimony also asks that Policy 25 in the Land Use element “Require that a conceptual master plan be completed prior to, or as part of, any development proposal involving Rockville’s three golf courses” be removed, in favor of providing for a PD process and zoning. The testimony requests that the Wootton Parkway frontage be designated for Residential Flexible.

Staff response: Policy 25 was included in the current draft at the direction of the Planning Commission during review of the Initial Staff Draft. The intent and goal of the policy requiring a conceptual master plan for golf courses is similar to the former PD process. As such, staff recommends amending Policy 25 to make it clear that a PD can serve as the conceptual master plan, as long as the PD is addressing the key concepts required, including open space, transportation infrastructure, environmental analysis, and other areas as detailed on p. 53 of the draft. In that way, the owners of the privately-owned courses (Woodmont and Lakewood) would have an opportunity to present their own proposals, under the regulatory framework of a PD, while the city can do its master plan for the RedGate site.

Staff also recommends two changes, on pages 52 and 53, in response to concerns that any proposed development on the golf courses, of any size, would require a full master planning process. There are more than 600 acres of total property on the two private golf courses, and staff believes that the plan should provide guidance on how small portions may be developed, even if the majority remains in the current uses.

Taking into account both issues raised, staff recommends that Policy 25 on p. 52 be changed to the following language: “Require that a conceptual master plan, which may include a Planning Development proposal, be completed prior to, or as part of, any development proposal of significant scale involving Rockville’s golf courses.”

On p. 52, staff recommends changing the last paragraph of the narrative, before the actions, to the following:

“The value of a master planning process, including a PD, is that it will consider the long-term implications of a series of development projects, so that the final results are part of a cohesive whole that is integrated into the larger community. As such, development proposals, of any scale, for a change of use from private open space will require a Comprehensive Plan amendment, followed by the appropriate zoning. However, small-scale development proposals may not require a conceptual master plan (or PD) for the entire site if it is judged that the proposal does not conflict with the Plan or other city policies.”

Exhibit 31, from the Rockville Environment Commission, asks that the following text on page 50 be eliminated from the plan: “And yet, the rewrite of the Zoning Ordinance in 2009 did not include a planned development option and no new PDs have been created since.”

Staff response: No change is recommended. The sentence is factual.

Exhibit 31, from the Rockville Environment Commission, asks for a revision so that “an environmental analysis should be mandatory for all commercial sites and large residential sites (over 1-2 acres), not just large development sites.” The testimony also requests an addition (see underline) to the list for master plans (page 53) to include “an environmental analysis with identification of critical features for conservation and consideration of environmental impact.”

Staff response: No change is recommended. Staff believes that an environmental analysis implies consideration of environmental impact.

Exhibit 38 is from a Rockville resident who argues against Land Use Goal 9, and Policies 23 and 24. The testimony states that there were good reasons why the Planned Development zoning process and the floating zone (Policy 24) were removed from the Zoning Ordinance during the 2009 revision. The testimony includes a discussion of “amenity development options” (apparently from 2006) and why the writer believes that a flexible approach to project development that trades off value to the developer in the form of density or height for on-site and off-site amenities.

Staff response: No changes are recommended to the Draft Plan. Staff believes that Planned Development zoning is a good tool for major projects and large sites; however, consideration should be given to how the tool is implemented.

Community Node Concept

Exhibit 12 is from two Hungerford residents who discuss the difficulty accessing the Town Center, Metro, and businesses as a pedestrian, inducing more trips by car. They ask that the community node graphic include a node immediately south of the Rockville Metro station. They also ask for better pedestrian connections and facilities from the Hungerford neighborhood to

Rockville Pike, and potential BRT stations at Mount Vernon Place and Edmonston Drive. They would like to see the existing car dealerships relocate to allow for expansion of Residential Attached uses between Mount Vernon Place and Ritchie Parkway.

Exhibit 45 is testimony from a Twinbrook resident with an address a few blocks south of Veirs Mill Road. The resident asks for more walkable amenities in their immediate area and supports the development of a community node at Edmonston Drive and Veirs Mill Road. The testimony also suggests realignment of the Edmonston Drive intersection to a single intersection at Veirs Mill Road to increase pedestrian convenience and safety and to make the node more appealing for retail and bus rapid transit.

Staff response: The Walkable Community Node concept, pages 38 and 39, seems to have support from the community, as reflected by the testimony. The text notes that: “This mapping is somewhat subjective and not exhaustive, so other locations may function as nodes for some people, specifically along the MD 355 corridor.” Staff recommends keeping Figure 6 graphic as presented in the draft plan.

Exhibit 39 is from the owners of the Rockshire Village Shopping Center. The testimony requests that the land use for the 7.5-acre property be changed from Retail to Residential Attached that would allow for primarily residential uses with a small amount of retail or a community center.

Staff response: Staff recommends retaining the Retail mapping for this site at this time. The city engaged a consulting firm in spring 2019 to help determine the range of potential uses on the Rockshire Village Center site that would be acceptable to the property ownership and achieve an acceptable level of community support. Potential changes to the Land Use Policy Map for this site will occur with the Rockshire Planning Area portion of the plan which is expected to be reviewed by the Commission in the Fall.

Testimony on Pubic Park Designation on the Land Use Policy Map

Exhibit 4 is from the Montgomery County Department of General Services (DGS) addressing county-owned properties, including the county’s jury lot at 301 E. Jefferson Street and the Council Office Building parking garage behind 100 Maryland Avenue, which spans all 450 feet of the frontage along Monroe Street from Fleet Street to East Jefferson Avenue. The county is renovating this parking garage. The testimony is opposed to labeling the jury lot as a public park on the draft Land Use Policy Map, and to the ORRM mapping of the adjacent COB parking garage for future mixed-use development fronting the public park along Monroe Street. The testimony asks that the Land Use Policy Map be “removed from the draft.”

Exhibit 10, from a resident of Twinbrook, supports a large park that will attract people to Rockville.

Exhibit 12, from two residents of Hungerford, recommends that the city develop a plan based on the draft Land Use Policy Map to purchase private property and convert the county jury lot

into new park space, noting that the jury parking can be consolidated at nearby parking garages. They ask for pedestrian access through the new park to the high school and to Elwood Smith Community Center.

Exhibit 13 is from CBT Associates, owners of property at 200-A and 200-B Monroe Street. CBT Associates argues against the proposed land use designation of Public Park for the property, based on the current use of the property for offices and the current mapping as Preferred Office on the current Planned Land Use map. The testimony requests a land use designation of Office Residential Retail Mix (ORRM) instead of Public Park.

Exhibit 18, from Woodmont Country Club, requests that: “Any recommendation for a park on the club property contain clarification that the need, size and location of the park would be determined if all or a substantial portion of the property redevelops.” This is in reference to an asterisk placed on the club property on the Land Use Policy Plan map with annotation in the map legend that reads: “Potential Park (location TBD)”.

Exhibit 40 from WMATA discusses the mapping of Public Park along Chapman Avenue and the railroad corridor, including property owned by WMATA, which is currently a stormwater retention facility. WMATA is promoting the conversion of land in the Twinbrook Station area to transit-oriented development and requests that the property they own between Bouic Avenue and Thompson Avenue along the tracks, and the parcels they do not own along Chapman be designated as ORRM, rather than Public Park. WMATA instead suggests that small open spaces could be dispersed through the immediate station area and recreational facilities could be located on parking garage rooftops as part of redevelopment projects.

Exhibit 45 is testimony from a Twinbrook resident requesting that the plan allow for opening Hillcrest Park to Veirs Mill Road to promote greater use of the park.

Staff response: Staff recommends that the Planning Commission receive legal advice from the City Attorney’s Office in a closed session regarding the Public Park land use designation. If any changes to the Draft Plan are required, the changes should be discussed in open session.

Testimony on single issues, single sites, small changes, etc.

Exhibit 11, from the Maryland Department of Planning, suggests adding “condominium” in addition to “apartment” buildings to describe multiple dwelling units in the definition of Residential Multiple Unit on page 19.

Staff response: The definition of Residential Multiple Unit (RM) notes that “apartment buildings” are defined as construction types with shared corridors and entrances. Condominium indicates an ownership condition rather than a construction type. Staff recommends retaining the text as drafted.

Exhibit 11, from the Maryland Department of Planning, references the mapping of a new higher-density zoning district, which the draft plan says would be “limited to areas designated for Residential Multiple Unit uses on the Land Use Policy Map, and only where higher densities are deemed appropriate.” The testimony suggests that the city clarify if this yet-to-be-created higher density residential zone could also be applied to land designated for RF, RRM, ORRM and RO.

Staff response: This future zone is intended to be a higher density residential zone, not a mixed-use zone. Therefore, it maybe appropriate for RM and RF, but not the other land use categories. Zoning recommendations are not included in the Elements portion of the Draft Plan.

Exhibit 20 is from the owner of 100 S. Adams Street who supports the land use designation of Residential Office (RO) for his property at the corner of West Jefferson Street and South Adams Street and zoning that would allow this property to be used as offices.

Staff response: The draft plan recommends retaining the land use designation RO.

Exhibit 14, from a Rockville resident, discusses the threat of “increasing income disparity” and asks for a goal to “build a stronger middle-class base of economically secure Rockville residents. Testimony supports land use designations and creative urban design “for high density housing” that would allow Montgomery College graduates, with incomes in the \$25,000 to \$75,000 range, to be able to afford to live within the city.

Staff response: Policies in the Land Use and Housing elements promote a diversification of housing types and a housing stock that can offer more affordable choices. The new planning area draft for the area around Montgomery College will also discuss opportunities and demand for housing to serve students.

Exhibit 37, from the King Farm Citizens Assembly, supports Policy 20 for the city to “support retail uses along Rockville’s commercial corridors and other shopping areas” and specifically mentions the plan language regarding “off-site signage” for shopping areas not visible from major arterials, which is the case with the King Farm Village Center.

Staff response: Staff concurs.

Exhibit 38, from a Rockville resident, refers to current (2002) plan’s “Critical Parcels, recommends a way of defining these sites, and suggests sites that may be deemed critical and why.

Staff response: The Draft Comprehensive Plan is comprehensive in scope and based on a detailed analysis of the land use and transportation systems across the city. Some ‘critical parcels’ as discussed in previous plan documents have remained static in their use over many decades, while other parcels not identified in the 2002 plan have experienced dramatic land use change. Staff recommends the Draft Plan’s approach that looks at the large-scale structure

of land use in the Elements section of the plan, with additional detailed discussion of sites and areas where land use change is planned in the Planning Areas portion of the Plan.

Typographical errors

A few exhibits point out typographical or word choice errors. Staff will correct these errors as noted.

PUBLIC OUTREACH:

After the Draft Plan release on March 14, 2019, staff initiated a public information program. The draft is posted on the city's Web site, at <http://www.rockvillemd.gov/203/Rockville-2040-Comprehensive-Plan-Update>. It was sent to the State Clearinghouse within the Maryland Department of Planning, relevant public agencies, and adjoining jurisdictions. Staff held two informational meetings, prior to the public hearings, to assist the public in understanding both the Draft Plan and the methods by which written and oral testimony could be provided.

Staff also offered to visit with any community, business and other organizations, including City Boards and Commissions, that wished to have a presentation regarding the draft plan and on how to provide testimony. Staff visited with many and has made many informational presentations.

In addition, staff worked with the city's Public Information and Community Engagement office to provide information through Rockville Reports, Rockville 11, social media, and listserv emails to provide information on the Draft Plan content, public hearing dates, methods to provide testimony, and to keep the public updated on the process.

At a broader level, the Draft Plan is the result of extensive community input that was gathered over a multi-year period, and continues to the present, in a process known as "Rockville 2040." That process is summarized in the Introduction chapter of the Public Hearing Draft, but includes a kick-off meeting, 35 Listening Sessions, 4 Citywide Forums, 3 Open Houses, 2 Information Sessions, and many meetings with community members, community organizations, and other stakeholders as warranted. Staff has been available to talk and meet with any member of the broad Rockville community, including but not limited to residents, business owners, workers, representatives of non-profit organizations, and representatives of governmental and quasi-governmental agencies.

BOARDS AND COMMISSIONS:

City boards and commissions participated in many of the public meetings held during the Rockville 2040 process; and city staff have attended various meetings of boards, commissions and other organizations (e.g. Rockville Economic Development, Inc., Rockville Housing Enterprises, etc.) to obtain their input. The Planning Commission may choose to include boards and commissions in work sessions, on various topic areas.

NEXT STEPS:

The next work session on the Draft Comprehensive Plan is scheduled for August 7. The Environment and Water Resources Elements are tentatively scheduled for Planning Commission review and discussion.

Attachments

Attachment 3.A.a: Testimony Matrix (updated July 12, 2019) (PDF)

David Levy

David Levy, Chief of Long Range Planning 7/17/2019

COMPREHENSIVE PLAN: Planning Commission Public Hearing Draft																	
Summary of Testimony from March 14 - June 18, 2019																	
Exhibit #	Information Source Name and Address	Intro	Land Use	Transp	Rec&P	Comm Facs	Environ	Water Res	Econ Dev	Staff Lead	Housing	Hist Pres	Muni Growth	Other	Summary of Comments	Staff Comments	Planning Commission Comments
1	Todd D. Brown Shulman Rogers, on behalf of White Flint Express Realty Group Ltd. Partnership		x												Entity owns 1.1 acres at SW quadrant of Twinbrook Parkway and Chapman. Supports draft plan's recommendation to continue to develop the Twinbrook Metro Station/South Pike as major activity/growth center (p. 28). Supports draft plan's recommendation to undertake a study of minimum parking regs. (p. 45). Supports land use policies and regulations that encourage private sector planning and redevelopment (p. 44) including DRRAs & flexible approval schedules.	Staff agrees with comments.	
2	Dr. Reeve Brenner Autism Awareness Bankshot Playcourts				x										Advocating for drop-in facilities for differently abled and autistic individuals, recreational equality and accessibility. Bankshot playcourts provide these types of facilities.	The Vision statement for the Recreation and Parks Element includes the statement that "Parks and recreation facilities will meet the needs and desires of Rockville's diverse users." Action statement 2.6 in this Element reads: "Plan for and promote park access via non-vehicular modes, and equivalent access for all types of users."	
3	Karen Kalantzis Community Development Manager Launch Workplaces								x						Launch Workplaces is a shared office company. Would like to see the Rockville Innovation Center, a business incubator for health IT companies in the Arts and Innovation Center (Vis Arts), mentioned as a Rockville asset. It currently has 20 growing businesses in it.	Staff recommends mentioning the business incubator in the first paragraph of Policy 10 in the Economic Development Element.	
4	Greg Ossont Deputy Director, Montgomery Co. Dept. of General Services 101 Monroe Street, 9th Floor Rockville, MD 20850		x												Concerns about Figure 3 (and detailed maps such as Figure 4) Land Use Policy Map and county-owned properties, including 301 E. Jefferson St. (Jury Lot); Council Office Building and parking garage at 100 Maryland Avenue. Map shows the jury lot as a public park and COB garage as ORRM with a strip of retail along Monroe Street. DGS is currently renovating the COB and COB garage. Redevelopment of the jury lot would require replacement parking. Underground parking is cost-prohibitive. Unclear how land use policy map will be interpreted and how it will influence zoning. Requests removing the Land Use Policy Map from the plan.	These comments are addressed in the July 24 staff report and will be discussed during the Land Use Element work session.	
5	Scott Gutschick Montgomery Co. Fire & Rescue Service, Public Safety Headquarters, 100 Edison Park Drive, Floor 2, Room E-09 Gaithersburg, MD 20878					x									Page 116: Need to correct that 1) MCFRS is not a "facilities" master plan. Delete the word "facilities" at top of second column on page. 2) The MCFRS is updated every 6 years, not 5; 3) MCFRS does not specifically state that Station 3 is inadequate, though it could be correctly inferred to be; 4) Action 5.3: a new location may be city's intention but they are considering renovation of the existing facility as well. Suggest a map showing locations of Stations 3, 23, 32, and 33 and/or including the street addresses of each. Suggest that the plan specify the location of the County's future fire station in the White Flint area (intersection of Chapman Ave. and Montrose Parkway). Page 234: 2nd paragraph, 3rd sentence as well as 3rd paragraph, 1st sentence under Policy 12 heading - should say "fire and emergency medical services"	Staff agrees with suggested edits and corrections.	

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6	Mary Grace Sabol Blandford Street Rockville, MD			x	x										Include game called soccer darts at events/festivals. Need more fenced dog runs/parks. Portion of Elwood Smith Park that borders Fleet Street needs better maintenance. Better water drainage on steps from Metro ped bridge to Monroe St. Traffic calming needed at Fleet and Monroe. Crosswalk signal is dangerous for pedestrians. Connect dead end of Blandford Street with Fleet Street for pedestrians. Consider a sculptural/architectural element on MD355 that tells people they are entering Rockville.	Some of these comments are better addressed outside the Comprehensive Plan. Comments forwarded to Recreation & Parks staff for consideration. Comments forwarded to Traffic and Transportation staff for consideration. Rockville Pike Neighborhood Plan (part of Comprehensive Plan) states that "significant public art at a gateway location on the Pike and for Metro passengers existing the Twinbrook Metro Station would provide a welcoming entry to Rockville."	
7	Jonathan (no last name or address provided)				x										Add temporary activities (large chess or checker pieces, horsehoes, etc.) on Rockville Town Square park grassy area.	Programming comment. Comments forwarded to Recreation & Parks staff for consideration.	
8	Isaac Fulton Bradford Drive Rockville, MD				x										City of Rockville sports should have year-round basketball.	Programming comment. Comment forwarded to Recreation & Parks staff for consideration.	
9	Twinbrook Community Association		x												Request that the definition of the land use category "RA" explicitly state that it includes detached residential.	Staff agrees with comment. See July 24 saff report.	
10	Drew Napolitano Atlantic Avenue Rockville, MD		x												Rockville needs more density around Town Center. There are not enough people to sustain a grocery store or local retail. Change zoning to allow higher buildings. City could use a large park with ample parking to attract people from surrounding communities.	Draft plan is supportive of these comments.	
11	State of Maryland Agencies: Dept of Planning, Housing & Community Development, Commerce, Environment, Historical Trust	x	x	x	x		x	x			x	x	x		MD Planning confirms that the draft plan includes the elements required by the Land Use Article and includes many other comments.	Comments are extensive and detailed, and not easily summarized. A full review by staff and the Planning Commission is recommended. Topics raised will be addressed at appropriate work sessions.	
12	Parke Nicholson & Rebecca Merritt Bowie Court Rockville, MD		x	x											These Hungerford residents note that the city's walkability/bike access is restricted due to lack of direct routes to the city center, Rockville Metro, and businesses along the west side of Rockville Pike. Consider expanding the citywide walkable community node concept to include the area immediately south of Rockville Metro. Develop a draft plan (based on the proposed land use plan) to purchase private property and convert the juror lot and other parking space into a new recreational/park space. Expand upon the Hungerford retail node to connect Hungerford via a pedestrian crosswalk to Wintergreen Plaza. Consider incentives to relocate car dealerships to allow for expansion of proposed Residential Attached (RA) between Mt. Vernon Place & Ritchie Parkway and additional mixed-use residential-business along Rockville Pike.	Comments are in line with walkability and walkable community nodes policies in the draft plan. Comments on land use and community nodes are addressed in the July 24 staff report.	

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13	Soo Lee Cho, Miller, Miller & Canby, representing C.B.T. Associates Written and oral testimony (5-22-19 public hearing)		x												C.B.T. Associates, owners of property at 200-A and 200-B Monroe Street, object to changing the property's land use designation from "Preferred Office" to "Public Park." Testimony states that such a change "would run afoul of well-established principles of takings law." Request that the land use designation be changed to ORRM (Office, Residential, Retail Mix).	Staff recommends a Planning Commission discussion during the work session on the Land Use Element that takes into account this comment.	
14	Kenneth Hoffman 1511 Auburn Avenue, Rockville, MD 20850		x	x	x	x	x	x	x		x	x	x		Addresses all ten elements in his testimony. Expresses concerns about income disparity and differentials between income and housing costs. Rockville needs a stronger middle class base that is economically secure. Encourages a more integrative relationship with Montgomery College. Specific attention should be given to income potential of Montgomery College graduates and land use policies that will help them live in Rockville. Encourages better transportation, particularly between the college and Town Center. Need for more parks and recreation opportunities and community facilities. Encourages environmentally friendly components for use in urban density housing, water conservation, safe drinking water. Enhance economic development in Town Center and other locations with students educated and trained at Montgomery College in collaboration with Rockville Economic Development, Inc. (REDI) initiatives.	Many of these points concern Montgomery College and its surrounding area and can be considered in the Planning Areas document that will follow the Elements portion of the draft plan.	
15	Rockville Economic Development, Inc. (REDI) Executive Board (written comments and oral testimony at 6-4-19 public hearing by Kathryn Davis)	x	x						x						Commends the inclusive process for developing the draft plan and for including a chapter on Economic Development. The REDI Board considers flexibility to be a top priority for the Plan. The main concern of employers is to attract and retain talent. Economically vibrant municipalities are investing in connectivity. Continuous review of the plan is essential. It should be reviewed on a two-year schedule.	Comments are addressed in the staff report for the June 26 work session.	
16	Annette Regatts Baltimore Road, Rockville, MD		x												Likes the idea of changing zoning to allow duplex housing but concerned about on-street parking and loss of permeable surfaces. There are already many cars and trucks parked on the street in the single-family detached residential zone where she lives.	These comments will be addressed during the work session on the Land Use Element.	
17	Kelly Silver Twinbrook neighborhood Rockville MD		x												Reconsider mixed use along Veirs Mill. It is already hard enough to get in and out of the neighborhood at peak times. Please leave the neighborhood alone.	These comments will be addressed during the work session on the Land Use Element.	

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18	Linowes and Blocher, Attorneys on behalf of Woodmont Country Club		x		x										Linowes & Blocher (on behalf of Woodmont Country Club) summarizes its testimony as follows: 1. Eliminate the recommendation for a conceptual master plan for golf courses with respect to Woodmont CC and recommend only a PD zone. 2. Land Use Policy Map should reflect the recommendation for PD on Woodmont. 3. Woodmont requests that the Wootton Parkway frontage be designated RF (Residential Flexible) rather than OSP (Open Space - Private). 4. Any recommendation for a park located on Woodmont CC property should contain the clarification that the need, size, and location of the park will be determined if the property redevelops.	Comments will be addressed during the work session on the Land Use Element. Regarding the request for PD being put on the Land Use Policy Map, 'planned development' is a zoning tool and process, rather than a land use. At this time the Zoning Ordinance does not have a PD zone or process, although such a process is recommended in the Plan. Staff believes that Open Space Private reflects the likely future land use for the majority of the property, with other uses along the frontage per the Rockville Pike Neighborhood Plan. Staff agrees with comments about the park, which will be addressed in the Planning Areas portion of the Plan.	
19	Aaron Kraut Monroe Street, Rockville, MD 20850		x												Americana Centre resident. States that the draft plan is impressive in scope with forward-thinking strategies for environmental sustainability, pedestrian and bicycle safety, parks and open spaces, annexation, and more. Addresses policies in the Land Use Element. Supports Policy 2, to "maintain large areas of Residential Detached land use, while allowing one additional accessory apartment or accessory dwelling unit per lot."; supports policy 3 to "allow diversification of the residential land use pattern in specific locations to meeting varied needs, market dynamics, and high demand for all types of housing."; and supports policy 9 to "allow Residential Attached and mixed use development in East Rockville on blocks immediate to the Metro station, as mapped on the Land Use Policy Map."	The testimony is supportive of the Draft Plan and Land Use policies.	
20	(George) Son Hwa Chang owner of 100 South Adams Street, Rockville MD. (written and oral testimony, 6-4-19 public hearing.		x												Requests zoning change for the property at 100 South Adams Street, at the southeast corner of West Jefferson and South Adams Streets, to allow for office use.	Staff agrees that this property location is appropriate for office use and is identified as RO (Residential Office) on the Land Use Policy Map in the draft plan.	
21	Soo Lee-Cho, on behalf of owner of 216 Park Road (written and oral testimony, 6-4-19 public hearing. See also Testimony #42)		x												States that this property is identified as Residential Attached (RA) in the Land Use Policy Map in the draft plan. RA does not include stacked flats in the land use definitions. The Stonestreet Study does identify stacked flats as appropriate for this location, in addition to the residential types defined by RA. Requests having the option for stacked flats.	Discuss the definition of the RA land use designation at the Land Use Element work session. This issue is addressed in the July 24 staff report.	
22	William Kominers, Lerch, Early & Brewer, on behalf of the owner of 5946 Halpine Road (written and oral testimony, 6-4-19 public hearing)		x												Requests that the land use recommendation for the property at 5946 Halpine Road be changed from Residential Flexible (RF) to Retail and Residential Mix (RRM), given its location proximate to the Twinbrook Metro Station and the mixed-use development to the west and south.	To be discussed at the work session on the Land Use Element.	
23	William Kominers, Lerch, Early & Brewer		x												How will the proposed land use be implemented through zoning and what constraints or requirements will come with the particular zoning classification? What other uses - unrelated or subsidiary - will be allowed by the zone, under the umbrella of the particular land use recommendation? The uncertainty of these questions seriously affects a property owner's opinion about a specific land use designation. Will new zoning classifications be created with the implementation of the plan? A clearer exposition of the zoning implementation methodology and mechanisms would allow better consideration of the acceptability of the land use recommendations set out in the draft plan.	These questions and comments will be discussed at the work session on the Land Use Element.	

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24	William Kominers, Lerch, Early, Brewer, on behalf of Tower Oaks, LLC		x												The land use policy map designation of ORRM for development areas 3 and 4 is consistent with the Concept Plan for Tower Oaks and the Planned Development (PD-TO) and the MXE zone (equivalent zone for the undeveloped parcels). The proposed land use designation of Residential Flexible (RF) is appropriate for development area 1. Supports goals, policies, actions of the Land Use Element. Concerns about office description on p.19 of the draft plan and what zone would be applied. New land use recommendations should be used to provide suggested direction for the "equivalent zones."	Discuss concerns about the definition of "Office" land use designation and relationship of the land use designations to zoning in the work session on the Land Use Element.		
25	Cynthia Bar, Lerch, Early & Brewer, on behalf of Shellhorn Rockville LLC (Chesapeake Plaza at 1488 Rockville Pike)		x												The property is zoned MXCD and the draft plan's Land Use Policy Map labels the property as Office Residential Retail Mix (ORRM) which is consistent with the MXCD zone. Supports the ORRM land use category, but believes MXTD would also be appropriate for zoning, at the time that zoning recommendations are made. Supports current or higher building height for this property.	Supports ORRM land use for the site. No changes to the Draft Plan requested.		
26	Twinbrook Community Association		x	x	x	x					x	x			Supports ADUs and diverse housing options around the Twinbrook Metro Station area and the Veirs Mill Corridor. Supports transit-oriented development that can connect Twinbrook to retail and services along Rockville Pike. Agrees that creative solutions should be sought to address capacity issues of major arterials (Veirs Mill, Twinbrook Parkway, Rockville Pike). Supports public transit services and the improvement of bus routes, stops, and shelters in Twinbrook. Some are not accessible to people with disabilities. Supports a Bus Rapid Transit (BRT) hub at Atlantic Avenue and more investment in the Metro stations. Encourages investment in the Rockrest Community Center and in the infrastructure needs of the two school clusters that serve Twinbrook with the goal to bring both schools to a "green" rating. Suggests including signage in Twinbrook and throughout the city to highlight their history.	Supportive of the Draft Plan. Any recommended investments in the Rockcrest Community Center will be addressed in the Planning Areas portion of the Draft Plan (Twinbrook, PA8). The Draft Plan does include policies to advocate for public schools in Rockville. Education on the city's history through interpretive signage and other means is recommended in the Historic Preservation Element.		
27	Monica Saavoss Mclane Court, Rockville, MD		x												References Policy 26 in the Land Use Element to "undertake a study of minimum parking regulations and recommended changes to the Zoning Ordinance to promote access via modes other than private automobiles and reduce the financial and site development burden." Suggests that, instead of recommending a study, the plan should directly recommend that parking requirements be eliminated or greatly reduced (except for handicap spaces). If a study is recommended, state exactly what the purpose of the study is.	The Planning Commission may wish to consider whether it would like to strengthen the current language. Staff is comfortable with the language in the Draft Plan.		
28	Robert Harris, oral testimony at 6-4-19 public hearing													x	Generally supports the Draft Plan. States that upcoming neighborhood plans (Planning Areas portion of the Comprehensive Plan) should not be overly rigid or specific.	Addresses Planning Areas portion of the Draft Plan. This will be part 2 of the draft plan.		
28	Phillip Staub Upton Street Rockville, MD		x												Supports Policies 8 and 18 in the Land Use Element for a vibrant, transit-oriented Town Center. In favor of pedestrian-oriented Town Center and more density. Provide safe and easy means to move around from Metro transit center and Town Center.	Supportive of Land Use Element policies 8 and 18.		

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29	Lincoln Park Civic Association, oral testimony at 6-4-19 public hearing by President, Alexandra Dace Denito		x								x				Supportive of Draft Plan. Accessory Dwelling Units (ADUs) are a good option to provide more housing.	Supportive of ADUs as introduced in the Draft Plan.		
29	Ruth Hanessian Rockville, MD		x												References Policy 3 in the Land Use Element on page 24. Requests eliminating the option of apartments in the Residential Attached (RA) land use category. Limit RA to a narrow band, perhaps two deep along South Stonestreet, consistent with the narrow band proposed along Park Road.	The definition and mapping location of RA will be discussed at the work session on the Land Use Element.		
30	Monica Saavoss Mclane Court, Rockville, MD						x								In the Environment Element, Goal 4, policy 7, add "promote plant-based foods."	Staff is developing comments which will be completed for the work session on the Environment Element.		
31	Rockville Environment Commission, John Becker, Chair		x	x	x	x	x	x						x	Numerous comments provided on the Environment Element and other Elements.	Staff is developing comments on the testimony which will be discussed during appropriate work sessions.		
32	Eric Fulton Bradford Drive Rockville, MD		x	x	x			x							The city should explore options beyond traditional zoning to accommodate its growing population. Research and consider adopting form-based codes in areas ringing the metro centers, areas that are currently dominated by single-family homes with easy walk to transportation. This would support Goals 1 & 2 in the Land Use Element. Overhaul parking requirements in Town Center and the South Pike area. Build housing without parking. Address safety, comfort, aesthetics, and convenience in improving walkability. Stop putting trees in the medians where they are in direct sight lines of drivers. Would like to see more pop-up retail or kiosks. Supports growth of public transportation and a pedestrian master plan. Parks should be well lit for safety and walkability. Invest in upgrades to the water treatment plant.	Supports much of the Draft Plan goals and policies. Form based zoning was discussed as part of the Rockville Pike Neighborhood Plan process. Elements of form-based zoning may be appropriate in certain areas of the city where form and design may be considered to be more critical than use or density.		
33	King Farm Resident Council			x											Strongly object to Corridor Cities Transitway (CCT) route through King Farm. Eliminate the segment of the CCT on King Farm Boulevard and support a route using Shady Grove Road instead.	The CCT project is currently on hold. MTA conducted a study in 2011 to explore other route options but concluded that no other option "warrants further consideration." The current Mayor and Council position is to support the project with the proposed rout on Kinf Farm Boulevard.		
34	Chas Hausheer Rockville, MD		x												Page 24 of Draft Plan: define 'small apartment' in more detail. Supports quads and duplexes for more dense housing but states that such dwellings should not exceed the size, height and massing of a house as outlined in the draft East Rockville Design Guidelines or the East Rockville Neighborhood Plan. Supports the Residential Attached (RA) land use as aligned along South Stonestreet Avenue but does not support the RA land use stretching down one full block into Reading Terrace, Highland Avenue, and Croydon Avenue (see pages 20 and 31). He would support the RA land use only two to three lots down these streets from Stonestreet.	The RA land use designation and where it is located on the Land Use Policy Map will be discussed during the work session on the Land Use Element.		

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35	East Rockville Civic Association (ERCA)		x												Generally supports the Residential Attached (RA) zoning in East Rockville as shown on page 31 of the Draft Plan. However, ERCA would like to see small apartment buildings excluded and prefer nothing larger than a fourplex. Residential types for RA need to be better defined. The plan should clearly state that Adequate Public Facilities (APF) regulations would apply to all construction, including those designated as RA. ERCA does not support RA stretching one full block into Reading Terrace, Highland Avenue, and Croydon Avenue. ERCA instead would support RA only going two to three lots from S. Stonestreet. Off-street parking in RA should be minimum of 1.5 spaces per unit. It should be explicitly stated that the East Rockville design guidelines currently under development will apply to the RA properties.	Note: the RA designation is a land use category, not zoning. The RA land use designation will be discussed during the Land Use Element work session.	
36	Sarah Salazar Lemay Road, Rockville, MD	x	x				x	x							Suggests the the Plan Introduction include a flowchart to illustrate steps for plan review, approval, and implementation as well as how the plan is used to guide other land use plans. Include more comparisons of data to identify where the city is achieving its goals. Use interactive maps on the Web site to complement the plan. Land Use: Page 63, Policy 5 - should elaborate on east-west connections. Multiple specific comments on Environment and Water Resources Elements.	Staff suggests that such a flowchart is a good idea to help the public better understand the process for plan development, review and adoption but is better included on the project Web site. Comments on the Land Use, Environment, and Water Resources Elements will be discussed during relevant work sessions.	
37	King Farm Citizens Assembly, Inc. (KFCA)		x	x			x								KFCA generally supports the Draft Plan. Comments on Land Use, Policy 7: Include the Shady Grove Metro Station in planning even though it is not within the city's current boundaries because the station and development around it are integral to the King Farm community. Agrees with Policy 20 to support retail uses along commercial corridors and shopping areas and Action 20.2 to allow off-street signage under certain conditions. Transportation: Supports Vision Zero policies of the plan. Requests that the plan advocate for SHA to study allowing a left-turn movement from westbound Redland Boulevard onto MD 355. Disagree with Action 13.3 to support implementation of the CCT on King Farm Boulevard. Environment: Policy 7 and action item 7.4 - KFCA Supports the expansion of community gardens but suggests that the plan also include preservation of existing community gardens.	Traffic and Transportation staff support advocating for a left-turn land off Redland Boulevard to MD 355.	
38	David Hill Beall Avenue, Rockville, MD		x									x			Would like to see a section on critical parcels in the plan, as was done in the 2002 Comprehensive Master Plan. Comments on introduction of the Historic Preservation Element and the wording of Goal 2 on page 206 - change appropriate alterations to sympathetic alterations. Includes comments on making a cityscape that contains core premises of Smart Growth and retrofitting when possible.	Staff is developing responses to these comments that will be addressed at the appropriate work sessions.	
39	Lerch, Early & Brewer on behalf of the owners of the Rockshire Village Shopping Center at the corner of Wootton Parkway and Hurley Avenue		x												The shopping center, once anchored by Giant Food and occupied by other small businesses is now vacant. Requests a land use designation of Residential Attached within a mixed-use zone that would allow a small amount of retail or a community center.	This property will be addressed in the Planning Areas portion of the Draft Plan. The property is labeled as Retail in the Land Use Policy Map as a placeholder for now.	

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40	Washington Metropolitan Area Transit Authority (WMATA)		x	x											Supports the Draft Plan's policies to encourage more density around Metrorail stations, improving walkability, and proposed reforms to the city's Comprehensive Transportation Review (CTR) and parking requirements. WMATA requests a change on the proposed land use map on page 35 to classify the WMATA property on the west side of the Rockville Metro station as Office Residential Retail Mix (ORRM) instead of Office (O) to allow more flexibility. Requests WMATA property on the west side of the Twinbrook Metro Station designated as Park (P) on the proposed land use map be changed to ORRM. WMATA believes that open space could instead be provided by enhancing the plaza in front of the station entrance and incorporating green spaces as part of new development projects with a 1/2 mile walkshed of the station.	Staff is developing recommendations for these land use change requests and they will be discussed at the work session on the Land Use Element.	
41	Linowes & Blocher (on behalf of Lantain Development LLC)		x												Lantain Development owns approximately 31 acres on Shady Grove, Gaither, and Choke Cherry Roads now zoned MXE. They are in the process of obtaining approvals for redevelopment of the property (PJT2017-00007). Testimony supports many of the plan's policies relating to the property but has concerns with Action 16.5 in the Land Use chapter that would require a Special Use permit for residential uses in the MXE zone. Requests that this statement be rewritten to clarify that a Special Use Permit would be required only for residential uses for MXE-zoned properties that are designated as Office (O) on the Land Use Policy Map.	Action 16.5 (page 43 of Draft Plan) is addressed in the July 24 staff report and it will be discussed at the work session on the Land Use Element.	
42	Miller, Miller & Canby (on behalf of Joey Soleiman - see Testimony #21 on same subject)		x												Represents owner of 216 Park Road that is currently zoned R-60 and is improved with a house. Requests a land use designation of Residential Flexible (RF) instead of Residential Attached (RA) to be consistent with the intent of the Stonestreet Corridor Study.	Staff is developing a recommendation for this land use change request, to be discussed at the work session on the Land Use Element.	
43	Morris Law Firm (on behalf of the Woodley Gardens Shopping Center)														The shopping center's current zoning does not allow for the off-premise sale of alcoholic beverages, causing a hardship to small retail tenants. Requests a revision to the city's Zoning Ordinance to permit such sales. Numerous signatures attached.	The request is not inconsistent with Draft Plan policies. However, zoning revisions are not part of the Comprehensive Plan. Staff has forwarded this testimony to the Zoning Administrator.	
44	Peerless Rockville Historic Preservation, Inc.											x			Testimony states that the Draft Plan's Historic Preservation Element should be informed by the updated Historic Resources Management Plan. (Note: this plan has not been finalized at this time). Suggests specific modifications to goals and policies.	Comments were addressed at the work session on the Historic Preservation Element on July 10.	
45	Vincent Russo DeBeck Drive, Rockville, MD		x		x										Twinbrook resident supports many of the Draft Plan policies, including development of a community node at Edmonston Drive and Veirs Mill Road. Suggests adding a provision to straighten Edmonston Drive so that it intersects with Veirs Mill at one location instead of two. The Plan should allow for opening up Hillcrest Park to Veirs Mill Road. Could larger apartment buildings be included in the Residential Attached (RA) land use designation along Veirs Mill to achieve the desired density?	The RA land use designation and other topics will be subjects of discussion at the work session on the Land Use Element.	

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46	Sara Moline Rockville resident			x											Testimony includes suggestions for WMATA Q bus routes and streamlining service. BRT operating along the same route between Montgomery College, Rockville and Wheaton Metro Stations would be redundant to the existing Q route. Supports concepts of BRT alternatives 2.5 and 3 but thinks County does not need a whole new system for only a portion of the Q route.		
47	West End Civic Association (WECA)											x			Historic Preservation Element - suggests changing Goal 2 to read: Historic Designation and Preservation of Historic Resources. Recommends sentences to be added to Action items 5.1, 5.4, 5.6 and 6.2.	WECA comments were addressed at the July 10 work session on Historic Preservation.	
48	Lerch, Early & Brewer (on behalf of Eldridge, Inc. owners of 255 Rockville Pike and Lot 4, part of Rockville Center, Inc.)														Testimony supports the Office Residential Retail Mix (ORRM) land use designation for Lot 4 and requests ORRM also for 255 Rockville Pike. The Draft Plan's Land Use Policy Map shows 255 Rockville Pike as Office (O). The testimony supports many of the Draft Plan policies, but expresses concern about how zoning will be applied to implement the proposed land uses. Suggests simplifying the process for amending existing Planned Developments (PDs).	These comments are addressed in the July 24 staff report and will be discussed during the Land Use work session.	
49	Historic District Commission (HDC)		x	x								x			Add a goal to the Land Use Element to incorporate historic preservation concepts into land use planning. Comments on adding interpretive signage; doing cultural resource surveys for all new developments; include interpretive materials as part of any redesign of the Rockville Metro Station. Historic Preservation Element: add more on the history of the national historic preservation movement to the introduction. Add more discussion on archaeology. Mention the Section 106 process and its requirements. Individual comments and wording suggestions.	HDC comments were discussed at the July 10 work session.	