

Submitted June 28, 2023

Approved June 28, 2023

**MINUTES OF THE ROCKVILLE PLANNING COMMISSION  
MEETING NO. 6-2023  
Wednesday, April 12, 2023**

The City of Rockville Planning Commission convened in regular session at City Hall and virtually via WebEx at 7:30 p.m.  
Wednesday, April 12, 2023

**PRESENT**

Andrea Nuñez - Chair

Suzan Pitman

Sam Pearson

John Tyner, II

**Absent:** Eric Fulton

**Present:** Nicholas Dumais, Senior Assistant City Attorney  
Jim Wasilak, Chief of Zoning/Staff Liaison  
Christopher Davis, Senior Planner  
Jane Lyons Raeder, Principal Planner  
Nelson Ortiz, Principal Planner

Chair Nuñez opened the meeting at 7:08 p.m., noting that the meeting was being conducted in a hybrid format both in-person at City Hall and virtually via WebEx.

**I. Review and Action**

**A. Final Record Plat Application PLT2022-00593, for Approval of a Final Record Plat for the Creation of One Record Lot and Dedication of Public Right-Of-Way, in Conformance with Site Plan STP2021-0414, Chase Bank, in the MXCD Zone at 460 Hungerford Drive; Core States Group C/O Jason Arasim, Applicant**

Mr. Wasilak swore in Senior Planner Christopher Davis, who indicated that he would provide truthful testimony. Mr. Davis stated that the application reflects that approval of a record plat on the property which will create Lot 23 of the City Center subdivision. The proposed right-of-way dedication will be added to the right -of-way for Dawson Avenue.

Nick Speech of Bohler Engineering was sworn in by Mr. Wasilak and addressed the Commission on behalf of Chase Bank. He noted that the presentation had already been made and that he could answer any questions.

Commissioner Pitman moved, seconded by Commissioner Tyner, to approve Final Record Plat Application PLT2022-00593, for the creation of a record lot and street dedication in the City

Center subdivision in accordance with the approved Site Plan STP2021-00414, subject to the conditions in the staff report. The motion passed 4-0, with Commissioner Fulton absent.

**B. Level 2 Site Plan Application STP2022-00449, to Permit Construction of a Residential Development Consisting of 12 Multi-Family Style Units Within the Existing Building and 17 New Townhouse Units in the MXT (Mixed-Use Transition) Zone and Partially in the South Washington Street Historic District at 22 W. Jefferson Street; 22 West Jefferson St., LLC, Applicant**

Mr. Wasilak swore in Principal Planner Nelson Ortiz, presented the staff recommendation, which was for approval with conditions.

Chair Nunez asked for a more detailed explanation as to how the application met the schools test of the Adequate Public Facilities Ordinance (APFO). Mr. Ortiz explained that the application was in the Infill Impact Area, and that the proposed development is considered to be a low-rise multifamily development. The associated student generation rate is multiplied by the amount of units proposed, and the resulting number of students are added to the school projections for the City's test year (School Year 2027-28). This analysis revealed that the additional students generated by the development could be accommodated in each school level, provided the new high school at Crown stays on schedule. Mr. Wasilak added that the generation rates coming from Montgomery Planning are very accurate. Chair Nunez asked if the City supplies residential development information to the Montgomery County Public Schools (MCPS), and Mr. Wasilak answered that the City is required to provide residential development data to MCPS on an annual basis by the City's Adequate Public Facilities Standards (APFS). He further noted that the City also supplies residential pipeline information to Montgomery Planning on a quarterly basis. He confirmed that the City is not aware of any delay in the high school at Crown coming on line.

Soo Lee-Cho of the law firm of Bregman, Berbert, Schwartz and Gilday, representing the applicant, spoke in support of the application after being sworn in by Mr. Wasilak. The development team was present to answer the application.

Commissioner Tyner commented about the small area where four townhouse units were to be located, He also asked if the applicant was satisfied with the traffic analysis, and Ms. Lee-Cho noted that the traffic impact will be less than the prior use, and that the neighborhood was in support. Commissioner Tyner commended the applicant on working with the neighborhood to address concerns.

Commissioner Pitman asked about the justifications used for the removal of the three specimen on the property. He noted that one of the trees is in a declining condition, and that two of the trees were removed as impeding the utility provision on the site. Commissioner Pitman asked about the new trees to be provided, and Mr. Ryan stated that he felt that the trees will be a mix of canopy and understory trees.

Brian Shipley of South Washington Street and president of the West End Citizens Association, spoke in favor of the application. He stated that the association was very pleased with the

applicant's engagement with them, and that the applicant held numerous meetings with the community, WECA and the adjacent neighbors, which improved the project.

Mr. Wasilak relayed a question about whether the prior gate feature to the property would remain, but the response from the applicant was that it had to be removed due to the widening of the entrance to the site.

Commissioner Pitman stated that she thought it was a great project and asked the applicant to take great care of the trees on site, and complimented the applicant for its community engagement. Commissioner Pearson also stated his support for the project.

Chair Nunez voiced her support for the project and noted that the applicant had gone through a rigorous review and met all of the requirements.

Commissioner Tyner moved, seconded by Commissioner Pitman, to approve Level 2 Site Plan STP2022-00449, to permit construction of 12 multifamily units within the existing building and 17 new townhouse units in the MXT (Mixed-Use Transition) Zone and partially in the South Washington Street Historic District at 22 West Jefferson Street; The motion passed 5-0.

## II. Briefing

### **Briefing on Zoning Text Amendment TXT2023-00263, To permit Accessory Dwelling Units (ADUs) as a Conditional Use in the Single Unit Residential Zones; Mayor and Council of Rockville, Applicants**

Jane Lyons Raeder briefed the Planning Commission on the Zoning Text Amendment to allow ADUs in residential zones, which are secondary dwellings within a detached accessory building on the same lot as a single unit dwelling. She noted that the Rockville 2040 Plan recommends allowing ADUs and accessory apartments on residential properties.

At the request of Commissioner Fulton, Ms. Raeder presented information on property values and property taxes, concluding that if ADUs are permitted, this would not affect property values if permitted in all residential areas. Property taxes are not expected to increase, as neither the land use nor market conditions of properties with similar uses are changing. Individual property values typically increase between 25 and 38 percent when an ADU is constructed. Accordingly property taxes would also increase upon construction.

The ordinance proposes to allow ADUs as a conditional use in all residential detached zones. Some of the conditions include that the owner must live in either the ADU or the main dwelling on a property with an ADU; The floor area of the ADU must not exceed 50 percent of the floor area of the main dwelling or 750 square feet, whichever is less and an ADU must not be less than 400 square feet; ADUs must be compatible with the main dwelling in terms of façade treatments and materials; the lot that contains an ADU must have at least two on-street parking spaces, which is the requirement for a single family home. At least one parking space must be present for properties within 7/10 of a mile walking distance of a Metro station. The Chief of Zoning may

allow an ADU on a property with no parking if it can be demonstrated that sufficient on-street parking exists.

Ms. Raeder also outlined discussion points for consideration by the Commission, including a providing a grace period to allow noncompliant units to be brought into compliance; simplifying the terminology of ADUs and accessory apartments to detached ADU and attached ADU respectively; compatibility language would also be simplified and less prescriptive; and recommending that parking requirements be deleted, similar to the recommendation for accessory apartments.

Ms. Raeder noted that the ZTA would be discussed again by the Commission on May 10, when public testimony would be received.

Commissioner Tyner asked about the parking requirement recommendations, and questioned why no parking would be required at all. Ms. Raeder responded that research has indicated that additional cars generated by an ADU is .4 cars per unit.

Commissioner Pitman asked how the parking would work in areas that have long but narrow lots and not a lot of off-street parking. Mr. Wasilak responded that an analysis would have to be done during a peak period on a block to show if on-street parking is sufficient. Commissioner Pitman also asked if the ADU could be split into two units, and Mr. Wasilak answered that the existing text should be sufficient. Commissioner Pitman also asked how residents would be encouraged to meet the requirements.

Chair Nunez supported the name simplification, and questioned whether a sufficient amount of ADUs exist in the county to determine if the amount of cars generated by the units would be adequate. Ms. Raeder promised to bring the amount of existing ADUs back to the Commission, and whether additional research could be done on the regulations in similar jurisdictions. Ms. Raeder noted that the County requirements are one off-street space outside a one-mile radius from a Metro or MARC station, and no parking required within one mile of a station. Ms. Raeder noted that the additional cost of providing the off-street parking would make the ADUs cost-prohibitive, and that additional impervious surface would be created. Not providing off-street parking has emerged as a best practice nationally.

Commissioner Pearson noted that parking will be the biggest issue in the discussion, and encouraged staff to make sure sufficient information is provided. Commissioner Pitman noted that Montgomery County had 475 ADUs as of 2019.

Commissioner Tyner asked if there are any regulations regarding how the ADU is sited on a property. Perhaps orientation to the main dwelling should be considered. Commissioner Pitman thought perhaps the ADU should be oriented toward the street. Ms. Raeder added that ADUs would be subject to design guidelines that may apply to a neighborhood.

Chair Nunez supported the simplification of the compatibility requirements. Ms. Pitman asked if the Lincoln Park Conservation District and historic districts would apply to ADUs, and Ms. Raeder stated that each document could provide such guidance.

Brian Shipley of the West End Citizens Association told the Commission that the association had developed a survey based on the information provided on the City web site. The association expects to be greatly affected by the text amendment, and the citizens will be able to weigh in on the proposal. He noted that the results of the survey will be provided to the Commission on May 10.

Commissioner Tyner pointed out that some neighborhoods have alleys, which could change how ADUs are sited in a neighborhood.

### III. COMMISSION ITEMS

- A. Staff Liaison Report** – Mr. Wasilak stated at the next meeting on April 26<sup>th</sup> he anticipated a plat for 203 Forest Avenue and a briefing on the Project Plan for the property at 900 Rockville Pike, at the corner with Edmonston Drive. Mr. Wasilak reminded the Commission that he would be remote for the meeting. At the following meeting on May 10, he anticipated that the parkland dedication and the ADU text amendment would be on the agenda for a recommendation.

Mr. Wasilak reminded the public that the Town Center Listening Sessions will be beginning shortly, and will include both virtual and in person sessions.

Mr. Wasilak also discussed the Commission retreat, which is anticipated to supplement regular Commission meetings beginning on May 24. This would be a meeting that begins early and would be recorded with the equipment already in place. Commissioners were to check their schedules to confirm so that the date may be set.

- B. Old Business** – Review of Proposed Changes to the Rules of Procedure

Nicholas Dumais reviewed the proposed changes to the Rules of Procedure, as most changes are intended to clarify and add detail, although some changes are substantive. The changes include clarifying the role of the chair and when the chair's term occurs and restored the title as Clerk of the Commission; added detail on what the minutes should include and how commissioners who miss a meeting may vote; allows for the Commission to determine that the meeting video may suffice for the minutes if draft minutes are not supplied within six months; added a section that allows the Commission to create committees of Commission members; meetings begin promptly at 7:00 p.m.; allows the chair to delay the start of the meeting by up to 15 minutes to wait for a late-arriving commissioner; added new language that requires the Commission to vote to take up an agenda item after 10:00 p.m.; allows for the Commission to hold virtual or hybrid meetings; added clarifying language that the chair is in charge of the agenda until it is published and then the Commission may modify the agenda once it is published; clarifying the procedures for public hearings and the role of the chair at a public hearing; the addition of circumstances when a commissioner may vote on an item that is the subject of a public hearing if that

commissioner was absent; deleted the possibility of a “deferral” of a public hearing and clarifying that a continuance is the mechanism to defer an item from a published agenda; clarification on the ex parte prohibition during site visits; clarification on reconsideration procedures and how such reconsideration interfaces with the court appeal period.

Commissioner Tyner suggested that the proposed rules should include that the briefing materials could be provided electronically or by printed copy by request. Commissioner Tyner suggested that the Open Meetings Act requirements and a designated person who completed the training should be included in the rules. Mr. Dumais stated that such compliance is not necessary for the rules as it is required by the law. Chair Nunez stated that she thought this potential addition was not necessary. Commissioner Pitman pointed out that the reference to the Open Meetings Act would not require that the Rules be changed if the Open Meetings Act changes. The Commission agreed to review draft language to potentially add this to the Rules.

Commissioner Tyner suggested that additional text in the cross examination section be added to give the chair more authority. Mr. Dumais responded that additional proposed text might be too restrictive per State law.

Chair Nunez asked about the use of the term “promptly” when starting the meeting and thought that the meeting should be allowed to be delayed by up to 30 minutes rather than 15. Commissioner Pitman agreed. Mr. Dumais agreed to provide some flexibility in this language in the next draft.

The Commission agreed to have the draft of the Rules with the more recent changes be brought back for further review.

**C. New Business** – None.

**D. Minutes Approval** – Commissioner Tyner moved, seconded by Commissioner Pearson, to approve the March 8, 2023 minutes as drafted. The motion was approved unanimously by a vote of 4-0, with Commissioner Fulton absent.

Commissioner Pearson moved, seconded by Commissioner Pitman, to approve the March 22, 2023 minutes as drafted. The motion was approved unanimously by a vote of 4-0, with Commissioner Fulton absent.

**E. FYI/Correspondence** – None.

#### **IV. ADJOURN**

There being no further business to come before the Planning Commission, Commissioner Pitman moved, seconded by Commissioner Pearson, that the meeting be adjourned at 9:28 p.m. The motion was approved unanimously, with Commissioner Fulton absent.

Respectfully Submitted,

*R. James Wasulak*

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Commission Liaison