



City of
Rockville
Get Into It

Planning Commission Staff Report: Zoning Text Amendment TXT2012-00233

MEETING DATE: February 22, 2012

REPORT DATE: February 15, 2012

FROM: Deane Mellander, Zoning
Administrator
Planning and Zoning Division
240.314.8224
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APPLICATION DESCRIPTION: Amend the provisions for non-conforming uses by deleting Sec. 25.08.04.d.

APPLICANT: Mayor and Council of Rockville

FILING DATE: January 12, 2012

RECOMMENDATION: Approval of the Proposed Text Amendment

EXECUTIVE SUMMARY: The proposed revision deletes the provision that allows for the expansion of off-street parking in connection with a nonconforming use in the R-90 Zone.

*Zoning Ordinance of
The City of Rockville
Adopted December 15, 2008
by Ordinance 19-08*

Being Chapter 25 of the Rockville City Code

Effective Date – March 16, 2009

As Amended to
June 6, 2011

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RECOMMENDATION

Approval of the proposed text amendment.

Previous Related Actions

- The current language in Section 25.08.05.d was inserted into the ordinance by approval of zoning text amendment TXT2010-00228. The ordinance was approved by the Mayor and Council on December 13, 2010.

Proposal

The proposed text amendment would delete Section 25.08.05.d, which now reads as follows:

d. Additional off-street parking. Where a nonconforming use has been in continual existence in the R-90 Zone within the City since prior to August 3, 1932, off-street parking for the nonconforming use may be altered, expanded or enlarged in accordance with the requirements of Article 16 and the Landscaping, Screening and Lighting Manual.

PROJECT ANALYSIS

Subsection d was added to the Zoning Ordinance via Zoning Text Amendment TXT2010-00228. That text amendment was filed by the Pumphrey's Funeral Home for the purpose of allowing for the expansion of off-street parking at their site at 300 West Montgomery Avenue. The Mayor and Council approved that text amendment in December, 2010.

Nonconforming uses are those land uses that were permitted under the zoning ordinance at one time, but are no longer allowed under the current code. Nonconforming uses may continue to operate and maintain their buildings and site, but cannot expand. Once the nonconforming use ceases for a period of 90 days, it cannot be re-established. Only those uses currently allowed in the zone can then be established.

In the case of the funeral home, the use has been in operation since prior to adoption of the first city zoning ordinance in 1932. Funeral homes have never been allowed in the residential zones, so the use has been nonconforming since that time.

The current language in the Zoning Ordinance was inserted in order to allow Pumphrey's to build a parking lot on two properties fronting on West Montgomery Avenue. One lot encompasses the existing funeral home, an accessory garage, and 17 parking spaces with access off Williams Street. The other lot is vacant and would be used to accommodate most of the new parking area. A Nonconforming Alteration application is currently pending to allow construction of the expanded parking area (VAR2012-00030). The Nonconforming Alteration application is processed as a Level 2 Site Plan. The site is located within the West Montgomery

Avenue Historic District, so the application will also have to obtain approval from the Historic District Commission.

The intent behind the regulation of nonconforming uses is for them to ultimately cease to exist, with only uses allowed in the current zone to be approved in the future. Allowing the expansion of the parking lot for the funeral home will have the practical effect of perpetuating the nonconforming use for the foreseeable future, contrary to the intent of the code. The staff therefore recommends that the text amendment to delete this exception language be approved.

The public hearing before the Mayor and Council is tentatively scheduled for March 26, 2012.

ATTACHMENTS

- 1. Text Amendment Application**



Application for **Text Amendment**

TXT
2/09

City of Rockville
Department of Community Planning and Development Services

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

Application Information:

Is this an Amendment to Existing Text ? YES NO
Add New Zone Classes: YES NO Add New Uses: YES NO
Number of new uses: _____ Ordinance # _____

Please Print Clearly or Type

Property Address information 300 West Montgomery Avenue

Project Description Pumphery's Funeral Home - Deletion of provision allowing expansion of off-street parking

Applicant Information:

Please supply Name, Address, Phone Number and E-mail Address

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

Property Owner N/A

Architect N/A

Engineer N/A

Attorney N/A

STAFF USE ONLY

Application Acceptance:

Application # _____
Date Accepted _____
Staff Contact _____

OR

Application Intake:

Date Received _____
Reviewed by _____
Date of Checklist Review _____
Deemed Complete: Yes No

Application is hereby made with the Rockville Mayor and Council for Approval of a change in the text of the Zoning and Planning Ordinance of Rockville, Maryland.

Page _____ Article 25.08 Section 25.08.05.d

FROM: Which reads as follows See Attachment

TO: Reads as follows See Attachment

By: _____
(Signature of Applicant)

Subscribed and sworn before this _____ day of _____, 20____

My Commission Expires _____
Notary Public

The following documents are furnished as part of the application:

- A Complete Application
- Filing Fee

Comments on Submittal: (For Staff Use Only)

January 12, 2012

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

Applicant: Mayor and Council of the City 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; [brackets] 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 8, "Transitional Provisions, Nonconformities, Nonconforming Alteration

Approval," by deleting subsection d. of Section 25.08.05 of Chapter 25, "Zoning" as follows:

25.08.05 – Nonconforming Uses

* * *

[d. Additional off-street parking. Where a nonconforming use has been in continual existence in the R-90 Zone within the City since prior to August 3, 1932, off-street parking for the nonconforming use may be altered, expanded or enlarged in accordance with the requirements of Article 16 and the Landscaping, Screening and Lighting Manual.]

NOTE: [Brackets] indicate material deleted
 Underlining indicates material added
 Asterisks * * * indicate material unchanged by this ordinance