

Ordinance No. 18-21

ORDINANCE: To grant Text Amendment Application No. TXT2021-00260, as amended, Mayor and Council of Rockville, Applicant

WHEREAS, the Mayor and Council of Rockville, 111 Maryland Avenue, Rockville, Maryland, filed Text Amendment Application TXT2021-00260 for the purpose of amending Chapter 25 of the Rockville City Code, "Zoning," so as to revise Chapter 25 for the purpose of amending Sections 25.01, 25.03.02, 25.04.04, 25.05.07, 25.07, 25.13.03, 25.13.06, and 25.16.03 to modify the following: requirements for Project Plans, roadway classifications in mixed use zones, minor and major site plan amendments, and the definition of demolition; allow for development approval abandonment; and add research and development use as a permitted use in certain zones, including an associated parking standard; and

WHEREAS, the Planning Commission reviewed the proposed text amendment at its meetings of May 8 and May 22, 2021, and recommended approval of the proposed amendment to the Mayor and Council, with certain comments; and

WHEREAS, pursuant to the Land Use Article of the Annotated Code of Maryland, the Mayor and Council of Rockville gave notice that a hearing on said application would be held by virtually by the Mayor and Council via WebEx on June 21, 2021, at 7:00 p.m., or as soon thereafter as it may be heard; and

WHEREAS, on June 21, 2021, said application came on for hearing at the time and place provided for in said advertisement; and

WHEREAS, the Mayor and Council, having considered the text amendment application and the entire file pertaining thereto, said Mayor and Council have decided that the granting of

this application, in the form set forth below, would promote the health, safety and welfare of the citizens of the City of Rockville.

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

Amend Article 1, “General Information” as follows:

Sec. 25.01.10 – Abandonment of development approval.

The owner or owners of property subject to a valid and approved project plan, site plan, or special exception may seek to abandon such approval by filing a letter of abandonment with the Chief of Zoning. A letter of abandonment must be signed by all owners of property subject to the approval. An approval may only be abandoned if no new additional uses exist that are subject to the approval and no construction has commenced under the approval. Upon receipt of a letter of abandonment of an eligible approval, the Chief of Zoning must confirm the abandonment in writing.

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

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25.03.02 – Words and Terms Defined

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Demolition means the: The complete razing or removal of more than 50 percent of the floor area of a building or structure, or substantial reconstruction that removes more than 50 percent of the building floor area, as defined in Chapter 5.

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Life Science means the research, development, and manufacturing activities in one or more of the following scientific fields: biology, biophysics, biochemistry, bioelectronics, biotechnology, biomedical engineering, bioinformatics, medicine, immunology, embryology, clinical engineering, diagnostics, therapeutics, nutraceuticals, pharmacogenomics, drug production, genetic testing, or gene therapy activities. For a business, institution, or government agency conducting such activities, Life Sciences also includes related activities and supporting services, such as administrative offices, educational facilities, libraries, data services, nanotechnology, informational technology, and robotics.

Research and Development means study, research, or experimentation in one or more scientific fields such as life sciences, biomedical research, communications, chemistry, computer science, electronics, medicine, and physics. Research and Development also includes the development of prototypes and the marketing of resultant products and related

activities and may include the use of administrative offices, educational facilities, libraries, and data services, and the manufacturing, mixing, fermentation, treatment, assembly, packaging, and servicing of products.

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Amend Article 4, “Approving Authorities”, as follows:

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Sec. 25.04.04. - Historic District Commission.

- a. Established. There is established an Historic District Commission for the City.
- b. Powers and duties.

1. Generally. The Historic District Commission has all those powers and duties conferred and imposed upon it by this chapter and the provisions of State law, including but not limited to:

- (a) Identifying and recommending to the Mayor and Council properties and/or areas deemed eligible for historic designation due to their historic, archaeological, or architectural significance;
- (b) Reviewing applications for certificates of approval for sites, buildings or structures within a historic district zone;
- (c) Evaluating eligibility for historic designation of any sites, buildings or structures located outside a historic district zone which are proposed for demolition, as defined in this Chapter, or substantial reconstruction, as defined in Chapter 5;
- (d) Providing courtesy review to the Planning Commission and Mayor and Council as requested, for projects within or adjacent to historic resources.

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Amend Article 5, “Application and Notification Generally”

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Sec. 25.05.07. Amendments to approved development.

- a. *Application required.* Except as otherwise provided, an application to amend any previously approved development must be filed with the Chief of Zoning~~Planning~~ in accordance with the provisions of this article.
- b. *Minor amendments to approved development.*

1. Any application for an amendment which does not significantly deviate from the terms and conditions of the original approval and would effectively carry out the intent of the Approving Authority's original approval may be considered and acted upon by the Chief of Zoning Planning under the provisions for a level 1 site plan as set forth in section 25.07.04.
 - (a) Such application may be approved if it results in a minimal effect on the overall design, layout, quality, or intent of the plan and is limited to minor adjustments to site engineering, parking or loading areas, landscaping, sidewalks, recreational facilities, recreational areas, public use space, or open area in a manner that does not alter basic elements of the site plan nor cause a safety hazard. Landscaping maintenance does not require an amendment application under this section. The addition or relocation of minor appurtenances such as, but not limited to, bicycle racks, seating benches, ~~and pergolas, emergency generators, transformers, refrigeration equipment, trash enclosures, sidewalks and small storage sheds,~~ does not require an amendment application, but must not alter the basic elements of the site plan nor cause a safety hazard.
- ~~2.~~ An amendment~~Modifications~~ that results in a reduction of floor area or other development intensity may be approved ~~by the Chief of Planning as a minor amendment.~~
- ~~32.~~ A change in the types of uses on the site that is in conformance with the findings of the initial approval and does not increase the parking requirement may also be approved as a minor amendment.
- ~~43.~~ Minor amendments ~~changes~~ are not subject to the provisions for pre-application staff meetings, area meetings, and the notice provisions of Section 25.05.03 or Article 7.
- ~~54.~~ Where the Chief of Zoning Planning determines that the proposed amendment change is not minor, it is classified as a major amendment change and the application is reviewed and acted on by referred to the Approving Authority as an amendment to the original development approval for review.
- ~~65.~~ Implementation period. The approval of a minor amendment is subject to the implementation provisions of Section 25.07.06.

c. Minor amendments for commercial redevelopment.

1. To encourage and expedite the re-use and redevelopment of existing commercial structures subject to approved project plans or site plans, or within a Planned Development, the Chief of Zoning may accept an application for a minor amendment for commercial redevelopment under the provisions for a minor amendment to approved development in Section 25.05.07.b above, subject to the following requirements.
 - (a) The property must be in the I-L, MXTD, MXCD, or MXE zone and must be subject to a valid and approved project plan, site plan or use permit or the equivalent development approval.
 - (b) The limits of disturbance of the amendment must be at least 300 feet from the nearest single-family detached or attached residential use, as measured from the nearest property line. This requirement does not apply if a one of the following

transportation rights-of-way: Interstate 270, MD 355, MD 586 and the Metro/CSX rail right-of-way with a width greater than 100 feet, or any adjacent parcel of land intended to provide a buffer or open space, is located between the residential use and the proposed improvement.

- (c) The property must not be in a historic district.
- (d) The application may only include commercial, office, or industrial uses.
- (e) The application may include new buildings or building additions, subject to the limitations below.

(f) Notwithstanding Section 25.05.07.b.4, written notice will be provided by the City to all property owners, civic associations and homeowners associations within 500 feet of the subject property in accordance with Sec. 25.05.03.c. Electronic notice of the filing of an application under this section will also be provided to the Planning Commission and Mayor and Council.

2. The Chief of Zoning may approve a minor amendment for commercial redevelopment if the application meets the project plan or site plan approval findings in Section 25.07.01 as appropriate; the requirements of subsection c.1, above; and the following additional findings:

- (a) For amendments to a site plan, the application does not result in a comprehensive change to more than twenty (20) percent of the site plan area, or otherwise change the essential character and impact of the development.
- (b) The application does not generate more than twenty-nine (29) additional peak hour trips.
- (c) The application does not expand any existing zoning nonconformity.
- (d) The application will not result in more than 5,000 square feet of floor area being added to the site.
- (e) For amendments to a project plan or planned development, the amendment will not cause the following:
 - 1. An increase in overall project density;
 - 2. A change in permitted uses or mix of uses; and
 - 3. A deviation from any of the required conditions.

de. Major amendments to approved development.

- 1. Where the Chief of ~~Zoning~~ ~~Planning~~ determines that a requested change is too significant to be a minor change but is not so substantial as to require an entirely new application for approval, the requested change must be reviewed and approved by the original Approving Authority as an amendment to the original development approval. Major amendments may include:
 - (a) An increase in the height of any building;
 - (b) An increase in the floor area of any non-residential portion of a building;
 - (c) An increase in the number of dwelling units; or

- (d) Any other significant change to the site that results in an increase in the parking requirement and requires the construction of additional parking spaces.
 - 2. An application for a major amendment is subject to the notice and procedural requirements as set forth in Section 25.07.03. The application will be processed under the procedures for either a level 1 or a level 2 site plan, depending on the initial Approving Authority.
 - 3. Reserved.
 - 4. Implementation period. The approval of a major amendment is subject to the implementation provisions of section 25.07.06.
- ed. *Substantial changes requiring a new application.* Where, in the opinion of the Chief of Zoning Planning, the requested change to an approved development is so extensive as to amount to a comprehensive change to more than fifty (50) percent of the project area or to otherwise change the essential character and impact of the development, such change may not be made by way of an amendment to the original approval, but rather requires the filing of an entirely new application for approval.

Amend Article 7, “Procedures for Site Plans and Project Plans, Special Exceptions, and Other Permits”, as follows:

Sec. 25.07.02, Application Procedure for Site Plans, Project Plans, and Special Exceptions

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b. Application Procedure, in General –

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4. For any Level 2 site plan application that includes property that is the subject of a pending Annexation petition, the application must be processed as a Project Plan application subject to Mayor and Council review and approval.

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Sec. 25.07.07, Project Plan Review

An application for a site plan review with 16 or more points, as determined in Section 25.07.02.b above, an application qualifying as a Project Plan under Section 25.07.02.b.4 above, or an application for a Champion Project as defined in Article 3, is processed as a Project Plan review and is subject to the following provisions:

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Sec. 25.07.16 – Alternate site plan approval.

An applicant for development on property subject to an approved project plan may elect to pursue approval of an alternate site plan for development inconsistent with the approved project plan subject to the following:

- a. The development proposed by the alternate site plan application must qualify as a Level 1 or Level 2 site plan under Section 25.07.02.b.
- b. An alternate site plan application must be made or authorized by all owners of property subject to the approved project plan.
- c. No site plans implementing the approved project plan may be valid at the time the alternate site plan application is filed.
- d. Upon the filing of an application for an alternate site plan, any pending site plan applications implementing the approved project plan are deemed withdrawn, and no site plan applications implementing the approved project plan may be filed.
- e. Approval of an alternate site plan must be made under Section 25.07.01.3(a).
- f. Upon approval of an alternate site plan, no site plan implementing the approved project plan may be approved unless the project plan is amended to be consistent with the alternate site plan. If the Mayor and Council does not approve such an amendment to the project plan within two years of approval of the alternate site plan, the project plan is deemed abandoned. The Mayor and Council may grant no more than two six-month extensions to this timeline.

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Amend Article 12, “Industrial Zones”

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Sec. 25.12.03, Land Use Tables

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e. Commercial, office and industrial uses (con’t.)	Uses	Zones		Conditional Requirements or related regulations
		Light Industrial I-L	Heavy Industrial I-H	
	Office Uses:			
	Duplicating service	P	N	
	Office	C	N	Conditional use limited to 25% of the gross floor area of a building

	Medical or dental laboratory	P	N	
	<u>Research and Development</u>	<u>P</u>	<u>N</u>	

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

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Sec. 25.13.03, Land Use Tables

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Zones								
Commercial and Office 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)
* * *								
<u>Research and Development</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>N</u>	<u>N</u>	<u>N</u>
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Sec. 25.13.06, Additional Design Guidelines

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Sec. 25.13.06.c, Site Design and Relationship to Surrounding Community

~~1. *Vehicular Access*— In the MXTD, MXCD, and MXE zones, each site must provide safety and protection to adjacent residential uses by having motor vehicle access only from an arterial, major, or business district road as designated in the Plan.~~

12. *Buffers*....

Amend Article 16, Parking and Loading

Sec. 25.16.03 – Number of Spaces Required

Use Category	Use	Auto Parking Spaces		Bicycle Parking Spaces			Additional Requirements
		Unit Measure	Base Number Required	Unit Measure	Short Term Space	Long Term Space	
Commercial (cont.)	***						
	<u>Research and Development</u>	<u>Per 1,000 gross SF</u>	<u>1.5¹</u>	<u>Square feet of gross floor area</u>	<u>2 per 40,000 SF</u>	<u>2 per 10,000 SF</u>	

¹The parking requirement for Research and Development use within 1 mile of a Metrorail station or bus stop is 1.0 spaces per 1,000 gross SF.

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NOTE: ~~Strikethroughs~~ indicate material deleted
Underlining indicates material added
 Asterisks * * * indicate material unchanged by this ordinance

I hereby certify that the foregoing is a true and correct copy of an ordinance adopted by the Mayor and Council at its meeting of October 25, 2021.

Sara Taylor-Ferrell, City Clerk/Director of Council Operations

