

Resolution No. 2-08 RESOLUTION:

To modify the moratorium, established by Resolution No. 17-06 and extended by Resolution No. 10-07, on the filing of certain development related applications until the completion of a comprehensive review and analysis of the City's zoning and development regulations and the adoption of a revised Zoning Ordinance and Comprehensive Zoning Map Amendment, to exempt from the moratorium, and allow the filing of, certain applications for setback variances for one-family detached residential lots.

WHEREAS, on November 13, 2006, the Mayor and Council adopted Resolution No. 17-06 establishing a moratorium on the filing of certain development related applications, requests, and petitions pursuant to the provisions of Chapter 25 (Zoning and Planning) of the Rockville City Code while the City undertook the process of comprehensively reviewing and revising its entire zoning ordinance; and

WHEREAS, said moratorium was implemented in stages with the final stage becoming effective on September 7, 2007; and

WHEREAS, as of September 7, 2007 there exists, with certain exceptions, within the City a moratorium on all new applications for development related approvals pertaining to development projects that have not received any prior development approval in connection with the project; and

WHEREAS, as of September 7, 2007 the moratorium precludes the filing of all applications for residential variances; and

WHEREAS, on October 8, 2007, the Mayor and Council authorized the filing of a text amendment application to reflect the changes contained in the zoning review committee's (RORZOR) proposed new Zoning Ordinance and further authorized the filing of a

Comprehensive Map Amendment Application to reflect the changes contained in the RORZOR proposed revised zoning map; and

WHEREAS, pursuant to Resolution No. 17-06 said moratorium was set to expire at the close of business on December 14, 2007, before a revised comprehensive Zoning Ordinance text amendment and Map Amendment could be adopted; and

WHEREAS, on October 8, 2007 the Mayor and Council adopted Resolution No. 10-07, extending the moratorium, including the moratorium on the filing of all applications for residential variances, until close of business on June 30, 2008 or upon the adoption of an ordinance revising Chapter 25 of the Rockville City Code and adoption of a comprehensive map amendment, whichever date first occurs; and

WHEREAS, the Mayor and Council has determined that it is appropriate to exempt from the moratorium, certain minor requests for setback variances for one-family detached residential lots, provided that the variance request, if granted, does not facilitate construction or other development on the residential lot inconsistent with certain development standards recommended in the pending zoning text amendment.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF ROCKVILLE, MARYLAND, that

1. The moratorium established by Resolution No. 17-06 adopted November 13, 2006, as fully implemented on September 7, 2007 and as extended by Resolution No. 10-07, on the filing of certain development related applications, requests, and petitions pursuant to the provisions of Chapter 25 (Zoning and Planning) of the Rockville City Code is hereby modified so as to exempt from its effect the filing of applications for setback variances for one-family detached residential lots that meet the following criteria:

- a. The application does not seek a variance greater than 20% of the applicable setback requirement.
- b. The granting of the requested variance will not result in or facilitate the creation of more than 40% impervious area in the front yard in the R-60 Zone; 35 % in the R-75 Zone; 30% in the R-90 Zone; 25% in the R-150 Zone; 20% in the R-S Zone, and 15% in the R-E Zone.
- c. For those properties in the R-60, R-75 and R-90 Zones, the following shall also apply:
 - i. Should the variance be granted, a minimum of 25% of the total lot area will be pervious.
 - ii. The granting of the requested variance will not result in a building that will exceed 35' measured at the mid-point of the front of the building from the surface of the pre-existing grade to peak of a gable, hip or mansard roof or to the roof surface of a flat roof,
 - iii. The granting of the requested variance would not result in or facilitate the construction of a residential dwelling exceeding a floor area ratio (FAR) of 0.50 or 3,000 square feet of gross floor area, whichever is greater. (Basements are included in the FAR calculations; cellars are not.); and

2. That the Department of Community Planning and Development Services is hereby directed to accept for filing any properly completed application for a setback variance covered by

the moratorium imposed by Resolution 17-06, as extended and modified by Resolution 10-07, that satisfy the criteria set forth in paragraph 1, immediately above; and

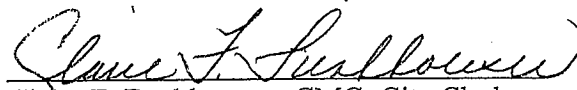
3. This resolution and exemption from the moratorium does not relieve the applicant for any variance permitted by this resolution of the obligation to meet all other requirements for the granting of a variance as contained in Article 66B of the Annotated Code of Maryland and in the City's Zoning and Planning Ordinance as set forth in Chapter 25 of the Rockville City Code; and

4. Except as modified by this resolution, the moratorium established by Resolution No. 17-06, as and modified and extended by Resolution No. 10-07, shall remain in full force and effect; and

5. The moratorium established by Resolution No. 17-06, as modified and extended by Resolution No. 10-07, and as further modified by this resolution, may be further extended or otherwise modified by further resolution of the Mayor and Council.

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I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the Mayor and Council at its meeting of February 4, 2008.


Claire F. Funkhouser, CMC, City Clerk