MAYOR AND COUNCIL AGENDA

NO. 13 DEPT.: Community Planning and Development Services DATE PREPARED: 8/29/05
STAFF CONTACT: Jim Wasilak FOR MEETING OF: 9/12/05

SUBJECT: Introduction of Ordinance on Text Amendment application TXT2004-00215: Amend the Zoning Ordinance per Recommendations in the Town Center Master Plan; Mayor and Council of Rockville, applicants.

RECOMMENDATION: Staff recommends that the Mayor and Council introduce the Ordinance to adopt the Text Amendment.

DISCUSSION: This Zoning Text Amendment is intended to implement recommendations of the Town Center Master Plan, adopted by the Mayor and Council on October 22, 2001, as well as reflect discussions held by the Mayor and Council at the intervening worksessions. Please note that changes to the optional method of development will be made separately, pending additional discussions.

The Text Amendment as proposed would allow the renaming of the Town Center zones from TCO-1, TCO-2, TCM-1 and TCM-2 to TC-1, TC-2, TC-3 and TC-4 respectively. Other changes include:

- A tiered system of parking reductions, assigning a portion of the total percentage to each individual criterion, as follows:
  -For projects within 1,500 feet of the entrance to the Rockville Metro station – up to 10 percent
  -For projects with common patrons or onsite users within the building or buildings, or there are non-overlapping peak parking needs among the uses on the site – up to 10 percent
  -For projects with a parking management plan, approved by the relevant approval authority, that incorporates car and van pooling, or public or private transit – up to 10 percent

  For projects that request more than a 30 percent reduction and up to 40 percent, the applicant would be required to provide a Transportation Demand Management (TDM) Plan with the specific goal of reducing the parking demand for the project. Monitoring of the effectiveness would be required as part of any agreement.

- Removal of the 448 elevation as the datum for measuring height in the TC-4 (former TCM-2) Zone. Existing multiple-building approvals in the TCM-2 Zone (Town Square, Rockville Center and Rockville Metro Plaza) would continue to be measured from the 448 level.

- Additional uses in the TCO-1 (new TC-1) zone to allow it to be consistent, in terms of use, with the other TC zones. Some of the additional uses include the retailing of alcoholic beverages for consumption off-premises, household appliances and sporting goods, auctioneer and commercial gallery, taverns and nightclubs, automobile rental, retailing of office furniture, libraries, museums and art galleries, indoor entertainment facilities, and hotels.

- Require all loading spaces in the TC-3 (former TCM-1) Zone to be located underground or in a building. While this is desirable in most cases, there may be instances when the requirement cannot be fully met. To provide some flexibility, a waiver of this requirement for good cause shown, is included.

- Reduce the minimum lot size from 20,000 square feet to 10,000 square feet, along with a corresponding reduction in minimum lot width to 50 feet. Particularly in the TC-1 Zone, this could allow some small parcels to redevelop at an appropriate scale without the impediment of obtaining a variance for minimum lot size. The Mayor and Council received a letter of support for this change from the owners of the property at 50 Monroe Place, the former IBM Building (See Attachment 1).

- Allow for property assemblage in the O-2 Zone for existing churches on a lot size of 40,000 square feet or less.

- Allow for the grandfathering of the 3.0 FAR as it applies to the 1 Church Street building. The Mayor and Council received a letter from representatives of the 1 Church Street and 21 Church Street properties (See Attachment 1), advocating that the 1 Church Street property should be allowed to be rebuilt to its current density if the properties are not rezoned to either TC-3 or TC-4 from the current TCO-2. The FAR of 1 Church Street is 3.0, while the maximum FAR of the current and recommended zone is 2.0, rendering the building a development nonconformity with respect to FAR.

Fiscal Impact: N/A

Change in Law or Policy: Adopting the Text Amendment will implement the policy recommendations contained in the Town Center Master Plan, resulting in changes to Chapter 25 of the City Code, the Zoning and Planning Ordinance.

Boards and Commissions Review: The Planning Commission reviewed this application on November 3, 2004 and recommended approval of the application as submitted. The Commission's recommendation is included as Attachment 2.

Next Steps: Adopt the ordinance at a subsequent meeting.

PREPARED BY:

R. James Wasilak **DATE:** 9.6.05

Jim Wasilak, AICP, Chief of Planning

APPROVED BY: Arthur D. Chambers **DATE:** 9/6/05

Arthur D. Chambers, AICP, Director

APPROVED BY: Scott Ullery **DATE:** 9/7/05

Scott Ullery, City Manager

LIST OF ATTACHMENTS:

1. Written Public Comment
2. Planning Commission Recommendation
3. Staff Report
4. Ordinance

Attachment 1

LINOWES AND BLOCHER LLP
ATTORNEYS AT LAW

Routed To:
[✓] Council
[ ] City Clerk
[✓] City Manager

[ ] City Attorney
[✓] Council Support Specialist
[✓] Other Jim W. Robb

Exhibit # 1

Subject: TXT2004-00215

Public Hearing Date: 1/10/05

January 10, 2005

Barbara A. Sears
301.650.7057
bas@linowes-law.com
Erin E. Girard
301.650.7145
eeg@linowes-law.com

Mayor Giammo and Councilmembers
Rockville City Hall
111 Maryland Avenue
Rockville, Maryland 20850

Re: 50 Monroe Place

Dear Mayor Giammo and Members of the City Council:

On behalf of the Ronald Cohen Management Company, the owner of 50 Monroe Place in the Rockville Town Center (the "Property"), the purpose of this letter is to state our support of Text Amendment Application TXT2004-00215 currently before you, and, more specifically, the proposed reduction of the minimum lot size in the TC-4 zone from 20,000 square feet to 15,000 square feet.

As more fully explained in our March 25, 2003 letter to you, a copy of which is attached hereto for your reference, the Property contains only 19,528 square feet and the current development standards of the TCM-2 Zone (to be renamed TC-4 in the proposed text amendment) require a minimum lot size of 20,000 square feet. Reduction of this minimum lot size requirement will allow the owner of the Property to better contribute to the achievement of the goals of the adopted Town Center Master Plan and more effectively utilize its property.

We greatly appreciate your consideration of this matter and hope that you will adopt the reduced lot size provision of the proposed text amendment. If you have any questions, or require any additional information, please do not hesitate to contact us.

Sincerely,

LINOWES AND BLOCHER LLP

Barbara A. Sears

Erin E. Girard

7200 Wisconsin Avenue | Suite 800 | Bethesda, MD 20814-4842 | 301.654.0504 | 301.654.2801 Fax | www.linowes-law.com

cc: R. James Wasilak
Craig S. Cohen

LINOWES AND BLOCHER LLP

ATTORNEYS AT LAW

1010 Wayne Avenue, Tenth Floor
Silver Spring, MD 20910-5600
301.588.8580
Fax 301.495.9044
Website: www.linowes-law.com

March 25, 2003

Barbara A. Sears
301.650.7057
bas@linowes-law.com
Erin E. Girard
301.650.7145
eeg@linowes-law.com

Mayor Giammo and Councilmembers
Rockville City Hall
111 Maryland Avenue
Rockville, Maryland 20850

Re: 50 Monroe Place

Dear Mayor Giammo and Members of the City Council:

On behalf of the Ronald Cohen Management Company, the owner of 50 Monroe Place in the Rockville Town Center (the "Property"), the purpose of this letter is to familiarize you with the development constraints currently affecting the property under the Rockville Zoning Ordinance, and to request your consideration of changes to the Text Amendment ("Text Amendment") to appropriately address these constraints during your ongoing review of the Text Amendment.

The Property, containing 19,528 square feet, is zoned TCM-2 and improved with a 32,180 square-foot commercial office building that is currently underutilized and in need of redevelopment. The Town Center Master Plan recommends that the Property remain in the TCM-2 Zone, to be renamed TC-4. In order to rename the TCM-2 and other Town Center zones as recommended in the Master Plan, the Mayor and Council introduced a Text Amendment to amend the Zoning Ordinance. We understand that the Mayor and Council is willing to consider logical modifications to the development standards for the Town Center zones that are the subject of the Text Amendment to better implement the recommendations of the Master Plan. In this regard, the current development standards of the TCM-2 Zone require a minimum lot size of 20,000 square feet. However, as noted above, the Property contains only 19,528 square feet, making it just shy of meeting this development threshold.

As is evident throughout the adopted Town Center Master Plan, development and enhancement of the Rockville Town Center is a priority. To contribute to the achievement of the goal and more effectively utilize its property, the owner wishes to have the ability to redevelop the

Property consistent with the TC-4 Zone as recommended in the Master Plan,[1] but may be prevented from doing so by the minimum lot size if the standard is not modified. We therefore request that you consider two alternative modifications to the proposed Text Amendment to permit redevelopment of this Property pursuant to the Town Center Master Plan: (1) a reduction in the minimum lot area needed for the standard method of development in the TC-4 zone to 19,000 square feet, or (2) the addition of a specific development standard for the Property, stating, for example, that for properties fronting on Monroe Place, the minimum lot area necessary for development may be reduced to 19,000 square feet.

We greatly appreciate your consideration of this matter. If you have any questions regarding the foregoing, or require any additional information, please do not hesitate to contact us.

Sincerely,

LINOWES AND BLOCHER LLP

Barbara A. Sears

Erin E. Girard

cc: Arthur Chambers
Robert J. Spalding
R. James Wasilak
Craig S. Cohen

[1] The Property is within walking distance of the Montgomery County District and Circuit Courts, the Montgomery County Executive Office and County Council Office Buildings, and the Rockville Metro Station, making it a central parcel that could contribute to the Master Plan goals for this area if allowed to redevelop.

Routed To:
[ ] Council
[ ] City Clerk
[✓] City Manager
[✓] City Attorney
[ ] Council Support Specialist
[✓] Ot[redacted] Spalding

LYNOTT, LYNOTT & PARSONS, P. A.

ATTORNEYS AT LAW

11 NORTH WASHINGTON STREET

SUITE 220

ROCKVILLE, MARYLAND 20850-4208

JOSEPH A. LYNOTT
JOSEPH A. LYNOTT, III
JAMES L. PARSONS, JR.

(301) 424-5100 (phone)
(301) 279-0346 (fax)
writer's e-mail:
jlynott@LLPlawfirm.com

December 3, 2004

Exhibit # 1

Subject: MAP91

Public Hearing Date: 1/10/05

Hon. Larry Giammo and
Members of the City Council
The City of Rockville
111 Maryland Avenue
Rockville, Maryland 20850

RE: Zoning Text Amendment and Modifications to Sectional Map Amendment for Town Center pertaining to commercial properties on Church Street

Dear Mayor Giammo and Members of the City Council:

This office represents One Church Street, LLC and Church Street, LLC in connection with their properties located on the south side of Church Street adjacent to the Rockville Metro Station.

The property at One Church Street is improved by a 94,096 square foot, nine-story office building at the intersection of Church Street and Rockville Pike (See Exhibit 1). The property at 21 Church Street has received use permit approval for a 93,450 square foot, six-story office building facing the entrance to the Rockville Metro Station (See Exhibit 2).

The Town Center Master plan and the proposed Sectional Map Amendment recommends that these two properties be placed in the new TC-2 zone. We respectfully request that the map amendment be modified to place each of these two properties in the TC-4 or TC-3 zones. Such a zoning designation is more appropriate than the TC-2 zone classification because of: (i) the properties' immediate proximity to the Rockville Metro Station; (ii) the higher zoning densities allotted to neighboring properties; and (iii) the current improvements and approved use permits for the two properties.

- The Town Center Master Plan recently confirmed the common sense planning principle that higher development densities should be concentrated in the areas best served by mass transit facilities. This principle was followed with the zoning recommendations in the Master Plan and the proposed Sectional Map Amendment when they confirmed the 4.0 FAR allocations of the new TC-4 zone for those properties closest to Metro located across MD Route 355. Proximity to mass transit was also the reason both the Master Plan and the Sectional Map Amendment

recommended changing the zoning and increasing the density allocations for the Metro site itself (from TCO-2 to TC-4) and for the Metro parking lots located on the other side of the train tracks (from I-1 to TC-3).

Except for the Metro Station itself, each of our client's properties stand in closer proximity to the Metro than any of the TC-4 properties in the Town Center. Indeed, even a cursory review of the proposed zoning map reveals an anomalous and unjustified situation whereby our clients' TC-2 parcels are surrounded with more densely zoned land on three sides, notwithstanding its immediate proximity to the Metro, MD Route 355 and the Town Center.

- For the same reasons noted above, both Church Street properties should at least be included among those parcels designated as TC-3. This designation would be consistent with the proposed upzoning of the Metro parking lot sites immediately to the east and north of our sites from I-1 to TC-3. It is noteworthy that the City has recommended placing these properties in the TC-3 zone notwithstanding: (i) that these parcels are located on the other side of the railroad tracks from all the other TC-3 and TC-4 parcels in the Town Center; and (ii) the proximity of the Metro parking lots to the homes of the East Rockville neighborhood. It is also noteworthy that in recommending the TC-3 designation for the Metro parking lots (thereby increasing their FAR from 0.75 to 3.0), the City recommended the institution of a "Residential Proximity Slope" due to these parking lots' proximity to East Rockville residences. Because our clients' properties are located on the west side of the railroad tracks, however, this concern about proximity to East Rockville's neighborhood does not exist. Indeed, our clients' properties are only surrounded by other TC-4 and TC-3 properties on three sides and a railroad track and institutional uses on its remaining side.

Moreover, when the nine-story office building located at One Church Street was constructed back in the late 1980's, the FAR allocated to this property was 3.0. By designating this property as TC-3, the City would logically be restoring the same density allocation to this property under which it was appropriately zoned at the time of its development.

- Lastly, if these properties were not placed in the new TC-3 or the TC-4 zones, the relatively new office building at One Church Street would be rendered a development non-conformity – meaning that it could not be rebuilt to its current density in the event it was substantially damaged by fire or other casualty. Such status would obviously have a substantially adverse impact on the property from an operational standpoint and from the standpoint of obtaining financing. This inequitable situation not only creates an unjustified hardship, it is a hardship that is rendered moot if the land was appropriately designated as TC-3 or TC-4.

It should be noted that page 89 of the Town Center Master Plan includes a recommendation that would grandfather in the 110' height limitation for buildings in the TC-2 zone built prior to July 1, 2001. Unfortunately this language is not sufficient to solve the development non-conformity status of the building at One Church Street because the existing building would still significantly exceed the 2.0 FAR allocation of the TC-2 zone. To prevent such an undue hardship and in the event that the properties are not placed in the TC-3 or the TC-4 zones, at the very least, the zoning ordinance must include an affirmative notation that existing buildings in the TC-2 zone should be allowed to be rebuilt to their current density in the event of fire or other casualty. This provision is consistent with other sections of the zoning ordinance pertaining to development non-conformities. (See e.g., Section 25-324 pertaining to the RPC zone). Specifically, the property owners request that in the event the properties are not placed in the TC-3 or TC-4 zones, that the ordinance include an affirmative notation as follows:

> Any development which lawfully exited prior to the rezoning of the land on which it is located to the TC-2 zone, shall be regarded as a development non-conformity, but if damaged, can be rebuilt, repaired and/or reconstructed only to the extent of the original development existing on the date of damage.

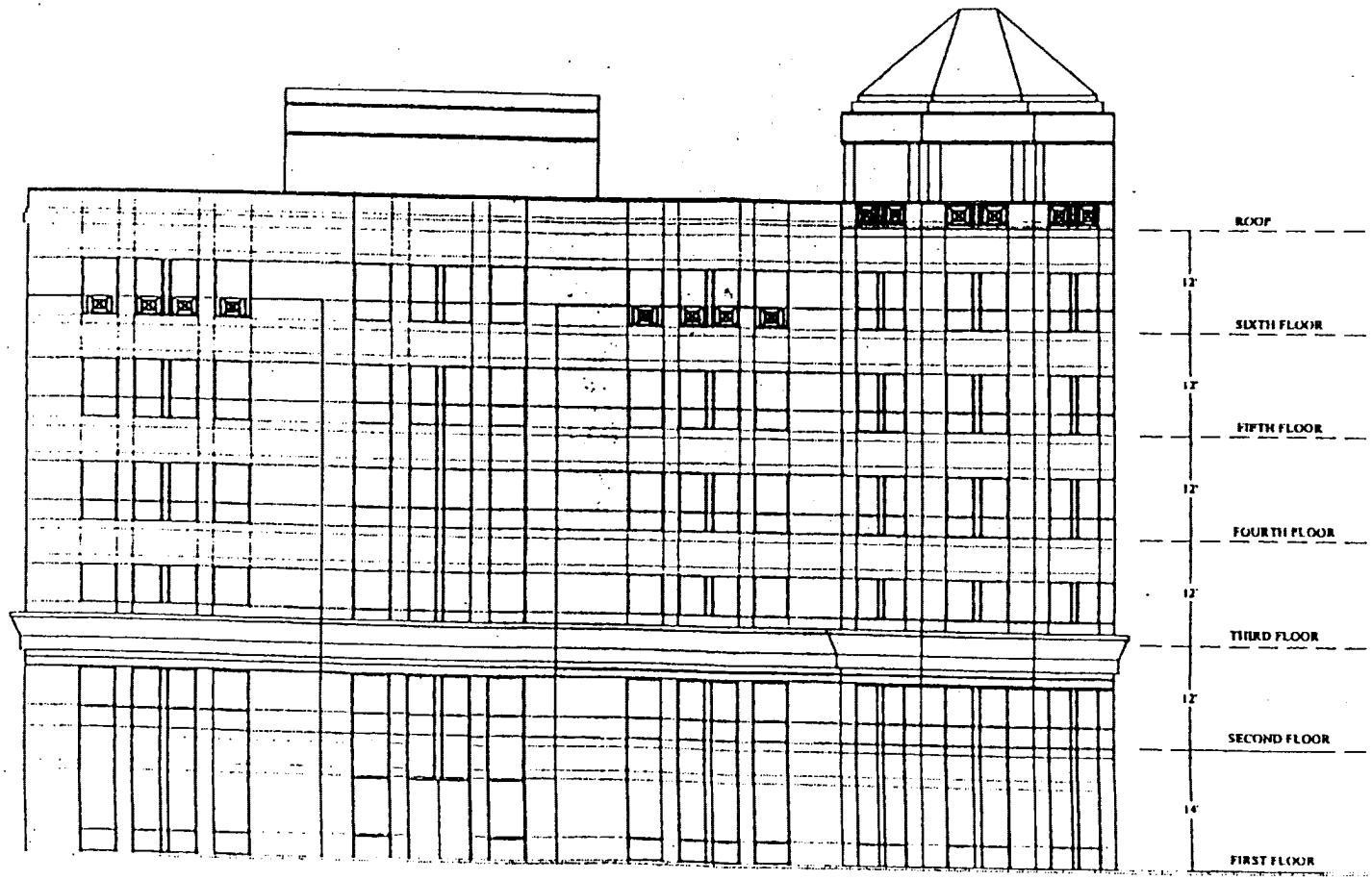
Thank you for this opportunity to comment on the proposed Sectional Map Amendment.

Very truly yours,

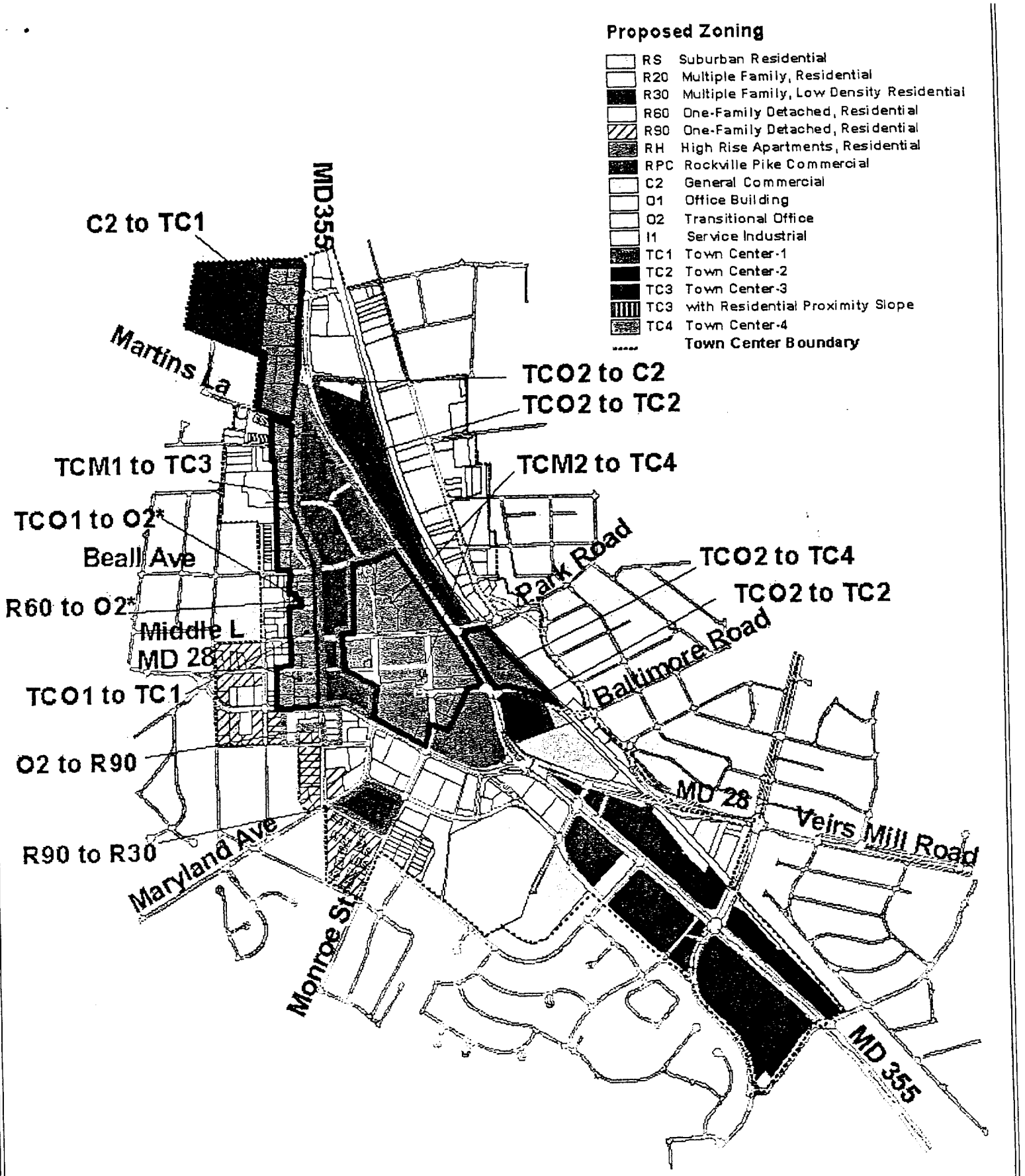
Joseph A. Lynott, III

JAL,III/la

Exhibit 1 – Photo of One Church Street
Exhibit 2 – Proposed Elevation of 21 Church Street
Exhibit 3 – Town Center Master Plan Zoning Map Recommendation
Exhibit 4 – Proposed Sectional Map Amendment



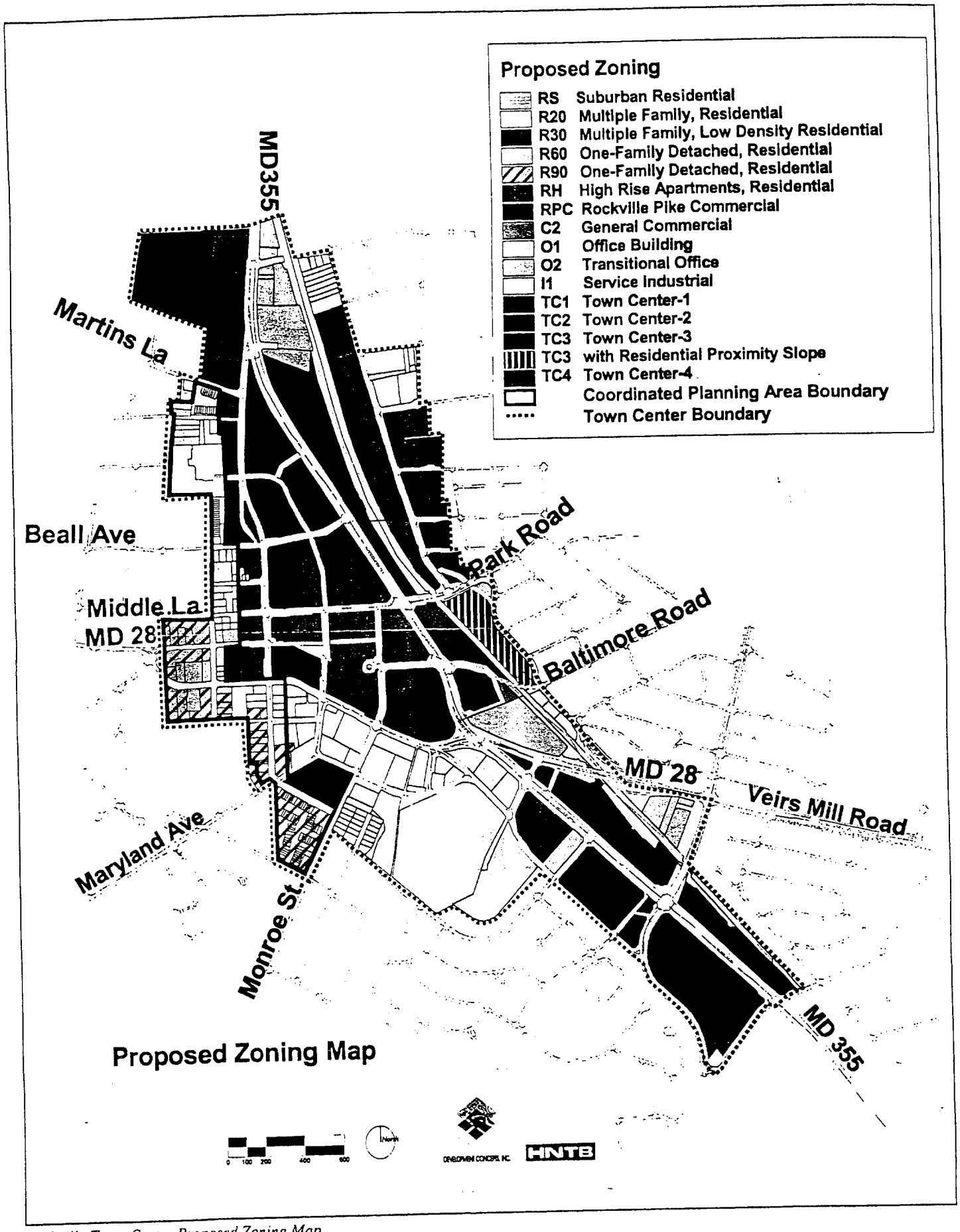
NORTH ELEVATION (TO METRO STATION)
1/16"=1'-0"



Note:
The map does not reflect zoning changes to C-T made as part of the Citywide Master Plan, Map Amendment, 8/4/03.
* Jerusalem Church property

CITY OF ROCKVILLE
DEPARTMENT OF COMMUNITY PLANNING AND DEVELOPMENT SERVICES

Town Center Proposed Zoning Map



Rockville Town Center Proposed Zoning Map

City of Rockville

MEMORANDUM

November 22, 2004

TO: Mayor and Council

FROM: Planning Commission - Members Present: Commissioners Britton, Hilton, Johnson, Mullican, Ostell and Wiener

SUBJECT: Map Amendment Application MAP2004-00091, Mayor and Council of Rockville

The Planning Commission considered this application at its November 3, 2004 meeting. The application is a sectional Map Amendment that will confirm the zoning on most property in the Town Center Planning Area, while rezoning certain properties per recommendations in the Town Center Master Plan, Comprehensive Master Plan and the compatibility text amendment.

Commissioner Hilton asked what the recommendation in the Master Plan had been regarding the properties on South Washington Street whose owners had testified during the Master Plan process. Staff responded that the recommendation was to review any changes in zoning in that vicinity as part of a Neighborhood Plan for the West End neighborhood. Commissioner Metzger asked when that plan would begin, and staff responded that it would probably commence within the next one and one-half years.

Commissioner Hilton asked about the enclave of property that is in the County along Darnestown Road (properties on Dav and Hiwood Roads). Staff confirmed that this property is not a true enclave because it is connected to property in the County by the Darnestown Road right-of-way. This is unlike the two properties on Hectic Hill Lane that are entirely surrounded by property within the City and, therefore, are truly an enclave.

Commissioner Mullican stressed that the new zoning maps should be clearly readable, including the labeling of all streets on each sheet. Staff responded that, with the transition of the zoning map to GIS, there are still some items to clarify, including shading patterns.

Commissioner Ostell asked whether the rezoning of the Fleet Street properties was satisfactory to the neighborhoods. Jim Wasilak responded that previously there had been concerns about other uses, such as a parking lot on that site, but that he could not recall any opposition to the

recommendation in the Town Center Plan to rezone the property. He pointed out that the R-30 townhouse yield on the property was of a similar density to the adjacent Courthouse Walk community. Commissioner Ostell also asked whether the former homes on the property were historic, and Mr. Wasilak responded that they were included in the City's inventory of historic properties, and would require review by the Historic District Commission by virtue of their age as well.

Commissioner Ostell asked about the discussions taking place on the Town Center zones, and Mr. Wasilak answered that the Mayor and Council had concerns about the potential densities and height limitations for the TC zones. Another worksession with the Mayor and Council is necessary before that process moves forward. She also asked about whether the property owners on Hectic Hill Lane agreed with the rezoning, and Mr. Wasilak responded that he did not know because he had not received any calls. There would be another notice sent out prior to the Mayor and Council public hearing. Bob Spalding added that there is a private covenant on the properties that restricts the minimum lot sizes to two acres.

Commissioner Ostell also asked about the two properties that were subject to the moratorium that led to the compatibility text amendment - 22 West Jefferson Street and the former car dealer site on Rockville Pike. Mr. Wasilak responded that 22 West Jefferson was subject to the rezoning (from O-1 to O-2), but that the car dealer would remain in the RPC Zone. Bob Spalding added that the applicant for the 22 West Jefferson Use Permit had amended their submission. The new plan meets the new transitional setbacks and height limitations, but would not meet the lot coverage requirement in the O-2 Zone.

The Commission voted unanimously to recommend approval of Map Amendment application MAP2004-00091 to the Mayor and Council.

/rjw
cc: Planning Commission

Attachment 3

CITY OF ROCKVILLE LONG RANGE PLANNING DIVISION
STAFF REPORT

October 27, 2004

SUBJECT:

Text Amendment Application TXT2004-00215

Applicant: Mayor and Council of Rockville
111 Maryland Avenue
Rockville, Maryland 20850

Planning Commission Review Date: November 3, 2004
Mayor and Council Public Hearing: December 6, 2004

REQUEST:

This application is a Zoning Text Amendment that is intended to implement many of the recommendations of the Town Center Master Plan. Sectional Map Amendments are defined by Section 25-116 of the Zoning Ordinance as covering a section of the City, portions of which may be classified in different zones.

BACKGROUND:

The Mayor and Council adopted the Town Center Master Plan on October 22, 2001. Within that document, several recommended changes to the Zoning Text were included in order for the Plan's recommendations to be realized. The processing and adoption of a Zoning Text Amendment application will implement these recommendations. Changes to the optional method of development have not been made, except for consistency in language concerns, pending additional discussions.

DISCUSSION:

The Text Amendment as proposed would create the renaming of the Town Center zones from TCO-1, TCO-2, TCM-1 and TCM-2 to TC-1, TC-2, TC-3 and TC-4 respectively, which was a recommendation of the Town Center Master Plan. In addition to changes to the purpose and intent of the section, and to certain recommendations in the Town Center Master Plan, the following key issues are addressed:

<u>Parking reductions in the Town Center zones</u>

Currently, reductions of up to 30 percent from the required amount of nonresidential parking spaces may be granted by the Planning Commission, or other approving body as appropriate, in the TCO-1, TCO-2, TCM-1 and TCM-2 Zones. These are granted as part of the Use Permit

approval. The parking reduction must meet one of the following criteria: 1) there are common patrons or onsite users within the building or buildings, or there are non-overlapping peak parking needs among the uses on the site; 2) a major point of pedestrian access is within 1,500 feet of the Rockville Metro station; or 3) a parking management plan, approved by the relevant approval authority, that incorporates car and van pooling, or public or private transit. The Mayor and Council may authorize an additional 10 percent reduction, for a total of forty percent.

The Mayor and Council agreed to a tiered system of reductions, assigning a portion of the total percentage to each individual criterion. The Mayor and Council agreed that there should be some type of enforcement mechanism that would ensures that parking reductions are not abused, or whether the reductions are effective. Staff recommends the following adjustments to the potential parking reductions in the TC zones.

-For projects within 1,500 feet of the entrance to the Rockville Metro station – up to 10 %

-For projects with common patrons or onsite users within the building or buildings, or there are non-overlapping peak parking needs among the uses on the site – up to 10 %

-For projects with a parking management plan, approved by the relevant approval authority, that incorporates car and van pooling, or public or private transit – up to 10 %

For projects that request more than a 30 percent reduction and up to 40 percent, which would continue to be granted only by the Mayor and Council, the applicant would be required to provide a Transportation Demand Management (TMD) Plan with the specific goal of reducing the parking demand for the project. Monitoring of the effectiveness would be required as part of any agreement.

Limits and measurement of height

The Plan also recommended that ground floor retail floor area not count toward the maximum FAR limitations and that the maximum height limitation be measured starting from the second floor or 16 feet above the street level, whichever is lower. This potentially results in effective height limits of 116 feet under the Optional Method in TC-3 (former TCM-1). Based on Mayor and Council discussions, this has not been included in the text amendment.

Another aspect related to the measurement of height in Town Center is that, for the TCM-2 Zone, heights are measured from the 448 elevation. That elevation is above grade level of the land area in the TCM-2 Zone, and is equivalent to the elevation of the main level of the 255 Rockville Pike and 51 Monroe Street buildings, and the promenade in between them. This requirement derives from the original concept for the redevelopment of Town Center after urban renewal, in which buildings were built on elevated platforms connected by pedestrian bridges and connections, rather than having street frontage. The Mayor and Council agreed that, since the recommended development pattern has changed since this was instituted in order to promote street-level activity, there is not a compelling reason to retain this requirement. The recommended text amendment deletes this provision. It should be noted that the existing approvals in the TCM-2

Zone (Rockville Center and Rockville Metro Plaza) accounted for measuring the height of those projects from the 448 level, so there may be reduction in height for future phases.

Permitted Uses

A recommendation in the Town Center Master Plan was to allow more flexibility in the mix of uses in the Town Center zones. This primarily relates to the TCO-1 (new TC-1) zone, in that the other three TC zones allow some uses that are not permitted in the TCO-1. Some of these include the retailing of alcoholic beverages for consumption off-premises, household appliances and sporting goods, auctioneer and commercial gallery, taverns and nightclubs, automobile rental, retailing of office furniture, libraries, museums and art galleries, private clubs and social halls, indoor entertainment facilities, and hotels. Many of these uses may be desirable in the new TC-1 Zone, and would contribute to the redevelopment of Town Center. The Mayor and Council generally agreed that these uses should be included in the TC-1 Zone, and have been incorporated in the text amendment.

Loading Spaces

One issue that has arisen in the Rockville Town Square project is the requirement that all loading spaces be located underground or in a building, in the TCM-2 Zone. While this is desirable in most cases, there may be instances when the requirement cannot be fully met. Staff suggests that this requirement perhaps be extended to the new TC-3 Zone as well, which contains the bulk of the redevelopable land in Town Center. To provide some flexibility, a provision that allows a waiver of this requirement for good cause shown, may be appropriate.

Minimum Lot Size

Based on a review of developable parcels in the TC zones, staff has recommended a reduction in the minimum lot size from 20,000 square feet to 15,000 square feet. Particularly in the TC-1 Zone, this could allow some small parcels to redevelop at an appropriate scale without the impediment of perhaps obtaining a variance for minimum lot width.

Recommendation

Most of these changes were considered as part of public policy discussions of either a Master Plan or Text Amendment. Staff therefore recommends approval of the application as submitted, for the reasons noted above.

/rjw
Attachments

1. Application Form
2. Proposed Zoning Text
3. Pages from Town Center Master Plan

Attachment 1

APPLICATION TO THE CITY OR ROCKVILLE
FOR A TEXT AMENDMENT
TO THE ZONING AND PLANNING ORDINANCE

THIS APPLICATION MUST BE TYPEWRITTEN OR PRINTED AND NOTARIZED AND SUBMITTED IN DUPLICATE TO THE CITY CLERK FOR FILING. ALL ITEMS MUST BE COMPLETED AND THE FILING FEE MUST ACCOMPANY THIS APPLICATION.

DO NOT WRITE IN THIS SPACE

Mayor and Council of Rockville
Name of Applicant

Application No. TXT2004-00215

Filing Date 10/6/04

111 Maryland Avenue
Address

Filing Fee

Public Hearing Date 11/1/04

Rockville, Maryland 20850

Decision/Date

Telephone Number
240-314-5000

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 _____ Section _____

FROM: Which reads as follows:

(SEE ATTACHED)

TO: Read as follows:

By: _____
Signature of Applicant

Subscribed and sworn before me this _____ day of _____, 19_____

My Commission Expires: _____

_____
Notary Public

Town Center Text Amendment
November 3, 2004

Sec. 25-120. Same--Limitation on amendments relative to certain zones.
(a) R-20, R-60, R-H, TC-1, TC-2, TC-3, TC-4 ~~TCO-1, TCO-2, TCM-1, TCM-2~~ and RPR Zones. The City Clerk shall not accept for filing any application for a local amendment to the zoning map for the reclassification of the whole or part of any land to the R-20, R-60, R-H, TC-1, TC-2, TC-3, TC-4 ~~TCO-1, TCO-2, TCM-1, TCM-2~~ and RPR Zones.

Sec. 25-271. Zoning districts established.
(a) For the purpose of this chapter, the City is divided into the following zones:

R-E Residential Estate;

.
.
.
.

~~TCO-1~~TC-1 Town Center ~~Office~~--One (1);

~~TCO-2~~TC-2 Town Center ~~Office~~--Two (2);

~~TCM-1~~TC-3 Town Center ~~Mixed Use~~ --Three (3) ~~One (1)~~;

~~TCM-2~~TC-4 Town Center ~~Mixed Use~~ --Four (4) ~~Two (2)~~;

RPC Rockville Pike Commercial;

RPR Rockville Pike Residential.

Sec. 25-272. Purposes of zones.

.
.
(k) TC-1~~TCO-1~~ Zone. The purpose of the TC-1~~TCO-1~~ Zone is to provide for mixed-use developments, containing office, commercial and multifamily residential uses ~~office space, with convenience retail uses~~ within the Town Center Planning Area ~~Performance District~~. It is also a transition between high density mixed ~~commercial~~ uses in the Town Center and low density, residential scaled office uses and residences adjacent to the Town Center.
(l) TC-2~~TCO-2~~ Zone. The purpose of the TC-2~~TCO-2~~ Zone is to provide for mixed use developments, containing office, commercial and multifamily uses ~~office space for private, quasi-public, and public uses with~~ in the Town Center Performance District.
(m) TC-3~~TCM-1 Zone~~. The purpose of the TC-3~~TCM-1~~ Zone is to provide for mixed-use developments, containing office, commercial and multifamily residential uses in the Town Center Performance District ~~separately or in any combination~~ in accordance with the Plan.

(n) TC-4 ~~TCM-2~~ Zone. The purpose of the TC-4 ~~TCM-2~~ Zone is to provide for mixed-use developments, containing office, commercial and multifamily residential uses, at the greatest development density within the Town Center Performance District in accordance with the Plan.

Sec. 25-296. Tables of uses.

[In all charts, replace references to TCO-1 with TC-1, TCO-2 with TC-2, TCM-1 with TC-3 and TCM-2 with TC-4]

Commercial Office and Industrial Uses

[All retail sales and personal services uses that are permitted in the TC2, TC3 and TC4 zones will also be permitted in the TC1 Zone.]

a. Retail sales and personal services
17. Restaurant
B. Restaurant, full service or fast food, free standing, no drive through
[Permitted use in TC-1, TC-2 Zones]

Sec. 25-311. Tables of development standards.
[In all charts, replace references to TCO-1 with TC-1, TCO-2 with TC-2, TCM-1 with TC-3 and TCM-2 with TC-4]

III. Development Standards for Town Center Zone

[Change "Minimum Lot Area (Square Feet)" from 20,000 to 15,000]

[Add to notes section]

(7) A sixty foot build-to line on the east side of Hungerford Drive only.
(8) Building height may be measured from the four hundred forty eight (448) foot elevation **for preliminary development plans and use permit applications approved before (effective date of ordinance)**
(11) Additional standards to mitigate....
(12) For properties in the TC-2 Zone, located immediately south of Church Street and east of MD 355, and built prior to July 1, 2001, the maximum height limit shall be 110 feet. [Note for TC-2 Zone]

Sec. 25-315.1 Special development standard for zone area in the O-2 Zone.

The minimum zone area.....is 6,000 square feet. Resubdivision for the purpose of assembling existing lots is not permitted, except for **lots containing an existing** ~~the purposes of locating a~~ church, synagogue or house of worship with a **proposed** lot size of 40,000 square feet of less.

ARTICLE XIII. TOWN CENTER PLANNING AREA

DIVISION 1. GENERALLY

Sec. 25-671. Intent.

The objective of this article is to encourage development within the Town Center Planning Area in accordance with the Plan. The regulations contained in this article are intended to:

(1) Provide for a mixed-use, pedestrian-oriented, urban neighborhood environment that is supportive of living, working, shopping and entertainment activities ~~Integrate circulation plans with development;~~

(2) Encourage ~~high-rise office with~~ street level retail developments in mixed-use buildings ~~arrangements~~ within the Town Center Planning Area ~~Performance District~~;

(3) Encourage medium to high density residential development within the Town Center Planning Area ~~Performance District~~;

(4) Encourage quality development that ~~and~~ enhances the City's position as a unique, high amenity destination ~~economic base~~;

(5) Emphasize excellence in urban design and improvement in the Town Center's ~~overall City~~ appearance to define the character of the Town Center;

(6) Protect stable residential areas adjoining the Town Center Planning Area ~~Performance District~~ from non-residential encroachment;

~~(7) Promote efficient use of land;~~

(7) Provide sufficient parking for new development and visitors to Town Center;

(8) Promote effective use of transit facilities through improved accessibility and visibility;

(9) Promote ~~Ensure consistency of~~ redevelopment consistent with the goals and objectives of the Plan throughout the Town Center Planning Area ~~Performance District~~;

(10) Implement a City streetscape improvement program throughout the Town Center Planning Area by establishing specific standards for coordination of façade design, landscaping and street trees along public rights-of-way, public pedestrian ways and sidewalks, utility undergrounding, and buffers between dissimilar uses outside of the mixed-use area.

(Laws of Rockville, Ch. 6, § 5A-101; Ord. No. 25-93, § 6, 12-13-93)

Secs. 25-672--25-680. Reserved.

DIVISION 2. APPROVAL PROCEDURES

Sec. 25-681. Use permit approval.

(a) All developments in the Town Center Planning Area shall require approval of the use permit application in accordance with division 2 of article V of this chapter, except that the following additional requirements shall apply:

(1) The Planning Commission shall approve a use permit application only if it finds:

a. That the proposed development will be consistent with the Plan;

b. That the proposed development will be consistent with the intent and purpose of this article; and

c. That the proposed development will not overburden existing public services, including water, sanitary sewer, public roads, storm drainage, school capacity and other public improvements;

(2) In approving a use permit application, the Planning Commission may impose such conditions in connection therewith as will, in its opinion, assure that the improvement and development will conform to the foregoing requirements, including, but not limited to, provisions for the protection of adjacent property, access and design for off-street parking and loading, and provisions for community facilities.

(3) Prior to approval of a use permit application for any optional method development, approval of a preliminary development plan shall first be obtained in accordance with section 25-683 of this article.

(b) Requests for parking requirement reductions shall be submitted for concurrent consideration with the use permit application.

(Laws of Rockville, Ch. 6, § 5A-301; Ord. No. 34-90, § 4, 11-26-90; Ord. No. 25-93, § 6, 12-13-93)

Sec. 25-682. Optional method of development.

Use of the optional method of development is a voluntary option for large tracts of land in the TC-3~~M-1~~ and TC-4~~M-2~~ Zones where multiple buildings are planned to be developed over a long period of time. Submission of an application under the optional method commits the applicant to a greater degree of development control authority by the Mayor and Council. The Mayor and Council may grant additional building height and F.A.R. where a development complies with more extensive standards of urban design review and traffic impact review and mitigation. Any development that receives approval may exceed the normal building height and F.A.R. specified in Table III contained in section 25-311 of this chapter, provided that in no event shall the resulting building exceed the maximum height and F.A.R. allowed in the zone. Developments submitted for approval under the optional method of development shall be subject to the following additional modifications and requirements:

(1) A minimum area of two (2) acres shall be required for applications under the optional method;

(2) All applicants shall prepare and submit a traffic impact study in conformance with the "Standard Traffic Methodology," (STM) and shall provide mitigation of traffic impacts which exceed the standards of the STM as may be acceptable to the Mayor and Council;

(3) All developments shall be subject to an urban design review process employing the urban design guidelines contained in the Plan;

(4) Developments shall be so planned in relation to one another that no building shall cast a shadow on existing or approved residential structures between 10:00 a.m. and 2:00 p.m. on December 21. This requirement shall not apply to residential towers separated by a distance at least equal to the height of the tallest residential building in the proposed development and having a length less than ten (10) percent greater than width;

(5) All developments shall contain a mix of uses, including at least residential, office, and commercial components. The Mayor and Council may authorize modification to this use requirement where the strict application would result in practical difficulty or unnecessary hardship upon the owners;

(6) All developments shall provide a system of public pedestrian ways linking all elements of the development with neighboring properties and the W.M.A.T.A. Rockville Metro Station;

(7) Within the ~~TCM-1 and~~ TC-~~4M-2~~ Zones, the Mayor and Council may authorize additional building height up to a maximum of two hundred thirty-five (235) feet and F.A.R. up to a maximum of six (6);

(8) All developments that provide right-of-way or easements for public streets or pedestrian ways may include the area of such right-of-way or easements in the net development area for the purpose of calculating F.A.R.

(b) Procedures following filing.....

(Laws of Rockville, Ch. 6, § 5A-302; Ord. No. 34-90, § 4, 11-26-90; Ord. No. 25-93, § 6, 12-13-93)

Sec. 25-683. Optional method approval.

(a) Preliminary development plan. All land developed in accordance with the optional method shall be included in a Preliminary Development Plan

(b) ...

(c) ...

(d) The fact that an application complies with all of the specific requirements and purposes of the applicable zone or the article shall not be deemed to create a presumption that the development shall be approved.

(Laws of Rockville, Ch. 6, § 5A-208; Ord. No. 34-90, § 4, 11-26-90; Ord. No. 21-91, § 1(2), 8-5-91; Ord. No. 25-93, § 6, 12-13-93)

Secs. 25-684--25-690. Reserved.

DIVISION 3. USE AND DEVELOPMENT REQUIREMENTS

Sec. 25-691. Use requirements.

(a) Uses within the Town Center Planning Area shall be as set forth for the various zones in section 25-296 except that the following limitations shall apply in the Town Center Planning Area ~~Performance District~~ to the amount of floor area devoted to retail sales and personal services, and/or home and business services:

(1) In the TC~~O~~-1 and TC-2 Zones, not more than twenty-five (25) ~~fifteen (15)~~ percent of the gross floor area of a building or one hundred (100) percent of the first two (2) floors of a building, whichever is greater, shall be devoted to:

a. Retail sales and personal services; and/or

b. Home and business services;

~~(2) In the TCO-2 Zone, not more than twenty-five (25) percent of the gross floor area of a building shall be devoted to:~~
~~a. Retail sales and personal services; and/or~~
~~b. Home and business services;~~
(2~~3~~) In the TC-3~~M-1~~ and TC-4~~M-2~~ Zones, there shall be no limit on the amount of floor area devoted to retail sales and personal services, and/or home and business services;
(b) Retail sales and personal services and/or home and business services provided in accordance with this section shall be located adjacent to public pedestrian circulation improvements as specified in the Plan. Ground floor retail uses must be provided in all structures that front on Maryland Avenue.
(Laws of Rockville, Ch. 6, § 5A-201; Ord. No. 11-92, § 3, 7-13-92; Ord. No. 25-93, § 6, 12-13-93)

Sec. 25-692. Development standards.

Development standards within the Town Center Planning Area shall be as set forth for the various zones in section 25-311 except as otherwise provided for in this article.

(Laws of Rockville, Ch. 6, § 5A-202; Ord. No. 25-93, § 6, 12-13-93)

Sec. 25-693. Parking, loading and access requirements.
Parking, loading and access requirements within the Town Center Planning Area shall be as set forth in article IX of this chapter except that the following additional modifications and requirements shall apply within the Town Center Performance District:

(1) Within the TC~~O~~-1, TC~~O~~-2, TC-3~~M-1~~ and TC-4~~M-2~~ Zones, the Planning Commission shall have the authority, in the granting of a use permit to reduce the required number of parking spaces by an amount not to exceed thirty (30) percent of the total number of spaces required for nonresidential uses in the building or buildings to be constructed; provided that:
a. Such reduction is calculated and justified on the basis of the following:
1. Common patrons and on-site users of the uses within the building or buildings; and~~/or~~
~~2.~~ Non-overlapping peak parking needs of the uses within the building or buildings, an amount not more than 10 percent may be granted; or
b. A major point of pedestrian access to such building or buildings is within a fifteen hundred (1500) foot walking distance of a transit station shown on the Washington Metropolitan Area Transit Authority Adopted Regional Rail Transit System, an amount not more than 10 percent may be granted; or
c. A parking management plan approved by the Planning Commission will be implemented with occupancy of the building or buildings using such features as car and van pooling and public or private transit, an amount not more than 10 percent may be granted;
d. In addition to any action taken under this section, the Council, following the issuance of a use permit pursuant to this section, shall have the authority to reduce the

number of parking spaces required by the use permit by an amount not to exceed ten (10) percent of the full amount of parking ordinarily required for the use in question. A Transportation Demand Management strategy must be submitted with the goal of reducing parking demand in the building to meet the amount of reduction requested. The effectiveness of this plan should be demonstrated periodically after the use has been operating, as determined by the Mayor and Council. Application for the amount of parking reduction shall be filed with the City Clerk and final approval shall be by resolution of the Council;

(2) Within any development with an approved Preliminary Development Plan under the Optional Method of Development under section 25-683, the number of parking spaces is computed by multiplying the minimum amount of parking normally required for each land use, as reduced under sections (1)a. through d. above, by the appropriate percentage as shown in the parking credit schedule for each of the five (5) time periods shown. The number of parking spaces required is determined by totaling the resulting numbers in each column; the column total that generates that highest number of parking spaces then becomes the parking requirement.

	Weekday		Weekend		Nighttime
	Daytime 6 a.m.- 6 p.m.	Evening 6 p.m.-mid	Daytime 6 a.m.- 6 p.m.	Evening 6 p.m.- 6 a.m.	Mid-6 a.m.
Office/industrial	100%	10%	10%	5%	5%
General retail	50%	90%	100%	70%	5%
Hotel, motel, inn	70%	100%	70%	100%	70%
Restaurant	50%	100%	100%	100%	10%
Indoor or legitimate, theater, commercial recreational establishment	40%	100%	80%	100%	10%
Clubs*	50%	100%	100%	100%	10%
Residential	60%	90%	80%	90%	100%
Institutional	50%	100%	100%	30%	5%

look at residential use - if dedicated

and public uses					
All other uses	100%	100%	100%	100%	100%

*Clubs - community center, museum, civic club, private club, lodge and health and fitness establishment.

(3) Within the TC~~O~~-1 Zone:

a. Vehicular access to North and South Washington Street is prohibited except where no other means of ingress and egress to a lot can be provided; and

b. Easements shall be provided for public ingress and egress to parking and service areas;

c. No parking shall be permitted between the public right-of-way line and the building line. In the event that a building is set back from the public right-of-way, the area between the public right-of-way line and building line may be devoted to pedestrian oriented amenities including, but not limited to, plazas, sidewalks, trees, awnings, arcades, outdoor dining, and other similar types of pedestrian oriented amenities.

(4) Within the TC~~O~~-2 Zone:

a. A service drive shall be constructed in a public easement adjacent to Hungerford Drive to provide for ingress and egress between adjoining lots. The design of such service drive shall be in substantial accordance with Illustration 5A-1; and

b. No parking shall be allowed between the Hungerford Drive build-to-line and any portion of the building;

(5) Within the TC-3~~M-1~~ Zone:

~~a. A service drive shall be constructed in a public easement adjacent to Hungerford Drive to provide for public ingress and egress between adjoining lots. The design of such service drive shall be in substantial accordance with Illustration 5A-1;~~

a.~~b.~~ Easements shall be provided for public ingress and egress to parking and service areas; and

b. Except for temporary parking lots approved under paragraph (7) of this section, all off-street parking spaces and loading facilities shall be located underground or in a building.

~~c. No parking shall be allowed between the Hungerford Drive build-to-line and any portion of the building;~~

(6) Within the TC-4~~M-2~~ Zone:

a. Except for temporary parking lots approved under paragraph (7) of this section, all off-street parking spaces and loading facilities shall be located underground or in a building; and

b. Easements shall be provided for public ingress and egress to parking and service areas;

(7) Within the Town Center Performance District, the Mayor and Council shall have the authority in the granting of a Preliminary Development Plan to approve temporary parking lots for uses that are part of a staged development program. Such parking may be located on a separate lot from the use served. The Planning Commission shall have the authority, in granting a use permit, to approve temporary parking lots for uses that are part of a staged development program. The Planning Commission or the Mayor and Council for development subject to an approved Preliminary Development Plan or City owned land or land purchased by the applicant from the City, may attach such conditions to the approval of a temporary parking lot as may be reasonable and necessary to assure that the use will be consistent with the purpose and intent of this article.

(8) All development within the Town Center Planning Area ~~Performance District~~ that provides public rights-of-way or easements for roads may include the area of such right-of-way or easement in their net lot area for the purpose of calculating F.A.R.

(Laws of Rockville, Ch. 6, § 5A-203; Ord. No. 34-90, § 5, 11-26-90; Ord. No. 21-91, § 1(5), 8-5-91; Ord. No. 11-92, § 4, 7-13-92; Ord. No. 8-97, § 3, 9-22-97)

Sec. 25-694. Landscaping and screening requirements.

Screening and landscaping requirements within the Town Center Planning Area shall be as set forth in article X of this chapter except that the following additional requirements shall apply:

(1) All developments in the Town Center Planning -Area shall provide street trees in or adjacent to public rights-of-way. The minimum caliper shall be three (3) inches and trees shall be regularly placed not to exceed forty (40) feet on center.

(2) All developments in the Town Center Planning Area shall provide screening of parking from public rights-of-way. ~~,~~ B~~b~~uffers between nonsimilar uses~~,~~ and other landscape treatments must be provided ~~and~~ in substantial accordance with Illustration 5A-2. This does not apply to uses entirely within the TC-1, TC-2, TC-3 and TC-4 Zones, unless reasonably determined by the Planning Commission as necessary to preserve the intent of this chapter.

~~PU Diagrams mp 3931~~

(Laws of Rockville, Ch. 6, § 5A-205; Ord. No. 21-91, § 1(6), 8-5-91; Ord. No. 25-93, § 6, 12-13-93)

Sec. 25-695. Sign requirements.

Sign requirements within the Town Center Planning Area shall be as set forth in article XI of this chapter.

(Laws of Rockville, Ch. 6, § 5A-206; Ord. No. 33-90, § 7, 10-22-90; Ord. No. 25-93, § 6, 12-13-93)

Secs. 25-696--25-710. Reserved.

The following is a list of recommended zoning changes:

1. A change in zoning of the west side of the Metro station property from TCO-2 (FAR of 2.0) to TC-4 (FAR of 4.0) increasing the maximum permitted density to take advantage of the transit opportunities at the site.

2. A change in zoning of the east side of the Metro station property from I-1 (FAR of .75) to TC-3 (FAR of 3) and the institution of a Residential Proximity Slope influencing this property as illustrated in the diagram below.

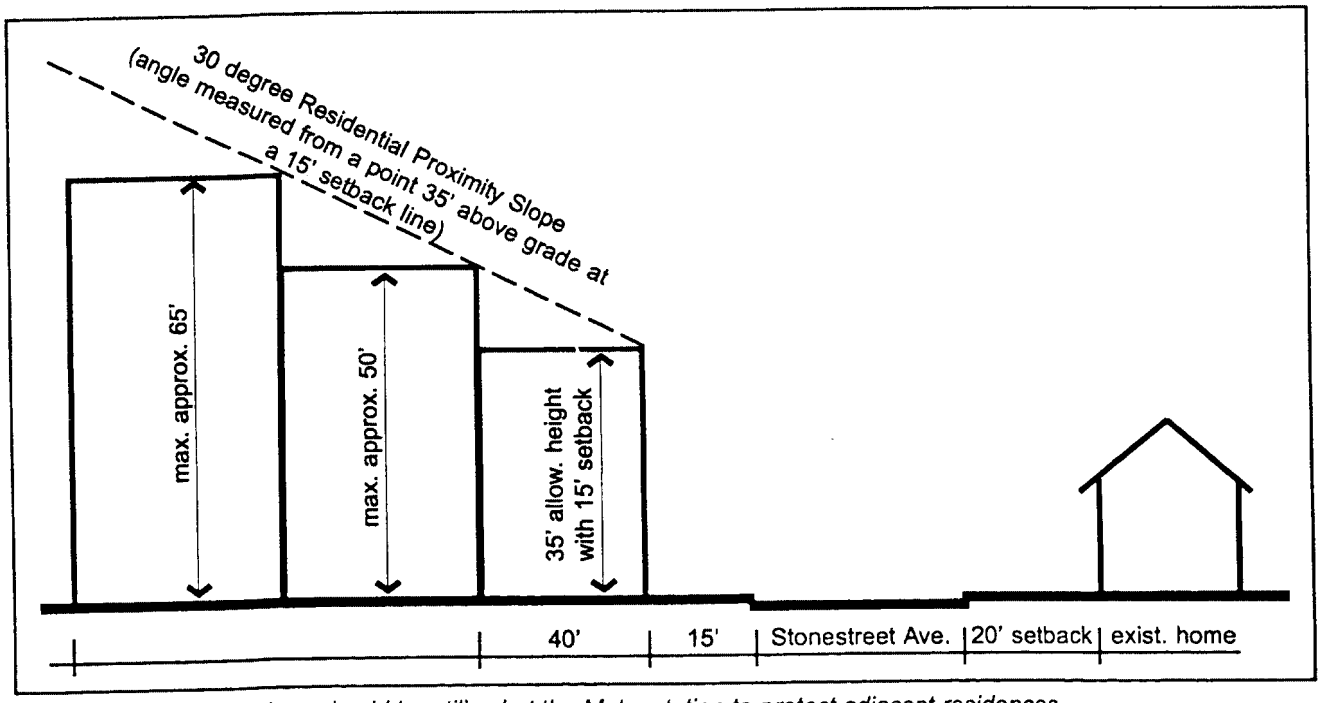
3. A change in zoning of properties on the west side of Washington Street between Jefferson Street and Wood Lane from TCO-1 (FAR of 1.0) to the new TC-1 zone which would not change the density of the properties but would allow greater flexibility in uses.

4. A change in zoning of properties on the west side of North Washington Street and MD 355 between Wood Lane to Ivy League Lane from TCO-1 (FAR of 1.0) and C-2 to the new TC-1 (FAR of 1.0).

5. A change in zoning of properties on the east side of MD 355 north of Park Road from TCO-2 (FAR of 2.0) to TC-2 (FAR of 2.0) to allow for greater flexibility of uses.

6. A potential future change in zoning of properties to the west of North Stonestreet Avenue between Park Road and Lincoln Avenue and to the east of North Stonestreet Avenue between Park Road and Howard Avenue from I-1 (FAR of .75) to TC-1 (FAR of 1.0) to allow for residential and low-density office uses. (Note: Any Zoning changes for property in the Planning Area abutting North Stonestreet Avenue would occur in the context of a Neighborhood Plan for the area.)

7. A change in zoning of property at the southwest corner of Fleet Street and Monroe



A residential proximity slope should be utilized at the Metro station to protect adjacent residences.

Street from R-90 to R-30, or to a new zone that would allow for an appropriate scale of single-family attached or multifamily development.

8. A change in the optional method of development for property north of Beall Avenue and east of Maryland Avenue extended from TCM-1 (FAR of 3.0) to TC-4 (FAR of 4.0) if provisions for proposed public street extension projects are made. Otherwise, properties would be subject to the TC-3 (currently named TCM-1) standards.

9. A change in the optional method of development for property north of Dawson Avenue between North Washington Street and MD 355 from TCM-1 (FAR of 3.0) to TC-4 (FAR of 4.0) if provisions for proposed public street extension projects are made. Otherwise, properties would be subject to the TC-3 (currently named TCM-1) standards.

10. A requirement for ground floor retail uses in properties that front Maryland Avenue; the resulting ground floor retail space would not be included in the FAR calculations and maximum heights would be measured starting from the second floor or 16 feet above the street level, whichever is lower.

11. Allowance of surface parking (except on Maryland Avenue) as long as the lots are screened and no larger than 50,000 square feet.

12. Creation of an Urban Design Overlay District (see map on page 91) within which the *Design Guidelines* recommendations described below would be applicable.

13. A change in the maximum height limit to 110 feet for buildings built prior to July 1, 2001 in the TC-2 Zone, immediately south of Church Street and east of MD 355.

14. Allowing freestanding restaurants in the TC-1 Zone as a permitted use along North Washington Street. Drive-through restaurants shall not be allowed. To encourage restaurants to locate in the proposed restaurant district, flexible parking regulations should be developed to allow for parking reductions when valet or other public or private off-site parking is provided.

These changes are shown on the *Proposed Zoning* map following page 88. No existing zoning requirements other than those described above would change. The Master Plan proposes these changes but recommends that City staff, in conjunction with property owners, evaluate these proposals further.

Design Guidelines Recommendations

The Master Plan recommends the creation of Design Guidelines for use in an Urban Design Overlay District (see map on page 91). The boundary of this district corresponds with the desired urban areas within the Town Center Planning Area. The creation of such standards will help to ensure that the design of new Town Center development meets the *Goal and Objectives* of the Master Plan.

The Town Center Planning Area includes areas at its periphery that are not always identified as being within the urban core of the Town Center. The guidelines would not apply to those areas. In addition, some areas in the Planning Area deserve further study as part of a neighborhood planning effort incorporating other areas beyond the Town Center Planning Area boundaries. The creation of any design standards for those areas should be done in conjunction with those neighborhood planning efforts.

The recommended Design Guidelines for the Town Center are based upon the *Desired Framework* and the goal of reinforcing the East

Ordinance No. _____ ORDINANCE: To grant Text Amendment Application TXT2004-00215, Mayor and Council of Rockville, Applicant

WHEREAS, the Mayor and Council of Rockville has adopted a Master Plan for the Rockville Town Center (the "Town Center Master Plan") which is part of the Master Plan for the City of Rockville; and

WHEREAS, said Town Center Master Plan is designed, among other things, to guide development in the Rockville Town Center Planning Area; and

WHEREAS, Text Amendment Application TXT2004-00215, was filed to amend the Zoning and Planning Ordinance to further implement the purposes, goals, and objectives of the said Town Center Master Plan; and

WHEREAS, the Planning Commission reviewed the aforesaid text amendment application and recommended approval of the application as more fully set forth in a memorandum to the Mayor and Council dated November 22, 2004; and

WHEREAS, pursuant to Article 66B of the Annotated Code of Maryland, the Mayor and Council of Rockville gave notice that a public hearing on said application would be held on January 10, 2005, at 7:00 p.m., or as soon thereafter as it may be heard, in the Council Chambers, Rockville City Hall, 111 Maryland Avenue, Rockville, Maryland 20850, at which parties in interest and citizens would have an opportunity to be heard; and

WHEREAS, on January 10, 2005, the said application came on for hearing at the time and place provided for in said advertisement; and

WHEREAS, the application and all comments and recommendations with respect thereto having been fully considered, the Mayor and Council having determined that the public health, safety, morals and general welfare would be promoted by the granting of Text Amendment Application No. TXT2004-000215.

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

SECTION 1. That Text Amendment Application No. TXT2004-00215, be and the same is hereby granted, in the form set forth below:

SECTION 2. That Article III, Section 25-120 of Chapter 25 of the Rockville City Code, entitled "Zoning and Planning" is amended as follows:

Sec. 25-120. Same--Limitation on amendments relative to certain zones.

(a) R-20, R-60, R-H, TC-1, TC-2, TC-3, TC-4 ~~TCO-1, TCO-2, TCM-1, TCM-2~~ and RPR Zones. The City Clerk shall not accept for filing any application for a local amendment to the zoning map for the reclassification of the whole or part of any land to the R-20, R-60, R-H, TC-1, TC-2, TC-3, TC-4 ~~TCO-1, TCO-2, TCM-1, TCM-2~~ and RPR Zones.

(b) * * *

SECTION 3. That Article VI, Section 25-271 of Chapter 25 of the Rockville City Code, entitled "Zoning and Planning" is amended as follows:

Sec. 25-271. Zoning districts established.

(a) For the purpose of this chapter, the City is divided into the following zones:

* * *

~~TCO-1~~TC-1 Town Center ~~Office~~--One (1);

~~TCO-2~~TC-2 Town Center ~~Office~~--Two (2);

~~TCM-1~~TC-3 Town Center ~~Mixed Use--~~ Three (3) ~~One (1)~~;

~~TCM-2~~TC-4 Town Center ~~Mixed Use~~ Four (4) ~~Two (2)~~;

* * *

SECTION 4. That Article VI, Section 25-272 of Chapter 25 of the Rockville City Code, entitled "Zoning and Planning" is amended as follows:

Sec. 25-272. Purposes of zones.

(a) through (k) * * *

(l) TC-1~~TCO-1~~ Zone. The purpose of the TC-1~~TCO-1~~ Zone is to provide for mixed-use developments, containing office, commercial and multifamily residential uses ~~office space, with convenience retail uses~~ within the Town Center Planning Area ~~Performance District~~. It is also a transition between high density mixed ~~commercial~~ uses in the Town Center and low density, residential scaled office uses and residences adjacent to the Town Center.

(m) TC-2~~TCO-2~~ Zone. The purpose of the TC-2~~TCO-2~~ Zone is to provide for mixed use developments, containing office, commercial and multifamily uses ~~office space for private, quasi-public, and public uses with some general retail uses~~ in the Town Center Performance District.

(n) TC-3~~TCM-1 Zone~~. The purpose of the TC-3~~TCM-1~~ Zone is to provide for mixed-use developments, containing office, commercial and multifamily residential uses in the Town Center Performance District ~~separately or in any combination~~ in accordance with the Plan.

(o) TC-4 ~~TCM-2~~ Zone. The purpose of the TC-4 ~~TCM-2~~ Zone is to provide for mixed-use developments, containing office, commercial and multifamily residential uses, at the greatest development density within the Town Center Performance District in accordance with the Plan.

(p) * * *

(q) * * *

SECTION 5. That Article VII, Section 25-296 of Chapter 25 of the Rockville City Code, entitled "Zoning and Planning" is amended as follows:

Sec. 25-296. Tables of uses.

1. Amend all charts by replacing references to TCO-1 with TC-1, TCO-2 with TC-2, TCM-1 with TC-3 and TCM-2 with TC-4

2. Amend the Column for Commercial Office and Industrial Uses to indicate that all retail sales and personal services uses that are permitted in the TC2, TC3 and TC4 zones are permitted in the TC1 Zone.

3. Amend the Column for Commercial Office and Industrial Uses, Subsection "a. Retail sales and Personal services," "17. Restaurant" so as to designate "B. Restaurant, full service or fast food, free standing, no drive through," as permitted in the TC-1 and TC-2 Zones.

SECTION 6. That Article VII, Section 25-311 of Chapter 25 of the Rockville City Code, entitled "Zoning and Planning" is amended as follows:

Sec. 25-311. Tables of development standards.

1. Amend all charts so as to replace references to TCO-1 with TC-1, TCO-2 with TC-2, TCM-1 with TC-3 and TCM-2 with TC-4

2. Amend the Development Standards for Town Center Zone chart by changing the "Minimum Lot Area (square feet)" from 20,000 to 10,000 and the "Minimum Width" at "front lot line" to 50 feet for all Town Center Zones.

3. Amend the Development Standards for Town Center Zone chart by amending notes No. (7) and (8) in the notes section at the bottom of the chart to read as follows:

(7) A sixty foot build-to line on the east side of Hungerford Drive only.

(8) Building height may be measured from the four hundred forty-eight (448) foot elevation for preliminary development plans and use permit applications approved before September 26, 2005.

4. Amend the Development Standards for Town Center Zone chart by adding a new footnote (12) in the column entitled "Zone" in the row entitled "TC-2", said footnote (12) to be placed immediately after footnote No. (11) and the corresponding footnote language to read as follows:

(12) For properties in the TC-2 Zone, located immediately south of Church Street and east of MD 355, and built prior to July 1, 2001, the maximum height limit shall be 110 feet, and maximum F.A.R. shall be 3.0.

SECTION 7. That Article VII, Section 25-315.1 of Chapter 25 of the Rockville City Code, entitled "Zoning and Planning" is amended as follows:

Sec. 25-315.1 Special development standard for zone area in the O-2 Zone.

The minimum zone area for development in the O-2 zone is 6,000 square feet. Resubdivision for the purpose of assembling existing lots is not permitted, except for lots containing an existing church, synagogue or house of worship with a proposed lot size of 40,000 square feet or less.

SECTION 8. That Article VII, Section 25-317 of Chapter 25 of the Rockville City Code, entitled "Zoning and Planning" is amended as follows:

Sec.25-317. Accessory swimming pools in R-30, R-20, R-H, TC~~M-1~~-3, TC~~M-2~~-4, RPC and RPR Zones.

A swimming pool as an acessory use to a multiple dwelling unit development in the R-30, R-20, R-H, TC~~M-1~~-3, TC~~M-2~~-4, RPC and RPR Zones shall have a minimum legal capacity of one (1) person for each three (3) dwelling units in the development.

SECTION 9. That Article V, Section 25-320 of Chapter 25 of the Rockville City Code, entitled "Zoning and Planning" is amended as follows:

Sec. 25-320. Limitations on certain uses in ~~TCO-1~~ TC-1 Zone.

(a) Any hotel which lawfully existed prior to the rezoning of the land on which it is located to the ~~TCO-1~~ TC-1 Zone shall not be regarded as a nonconforming use and may be continued and expanded and structurally repaired , altered and enlarged in conformance with the develoment requirements of the ~~TCO-1~~ TC-1 Zone.

(b) Any automobile filling station, class I, which lawfully existed prior to the rezoning of the land on which it is located to the ~~TCO-1~~ TC-1 Zone shall not be regarded as a nonconforming use but, if damaged, can be rebuilt, repaired and/or reconstructed only to the extent of the original floor area existing on the date of the damage.

SECTION 10. That Article IX, Section 25-390 of Chapter 25 of the Rockville City Code, entitled "Zoning and Planning" is amended as follows:

Sec. 25-390. Determination of requirements for Multiple uses.

(a) * * *

(b) * * *

(c) In a predominantly office, multiple-use building located in the ~~TCM-2~~ TC-4 zone with frontage on a Transit Station Link, and not part of an approved Preliminary Development Plan, the number of parking spaces required may be determined by using the parking standards for office use applied over the entire floor area of the building and not on the requirements for the individual uses. Office uses must occupy more than seventy-five (75) percent of the gross floor area of the building. In the event that a lesser standard may apply for accessory uses within the building, the lesser standard may be employed as approproaite. If the mix of uses contains one (1) or more restaurants that, in the aggregate, exceed four thousand five hundred (4,500) square feet of gross floor area, the parking requirement for the restaurant or restaurants exceeding four thousand five hundred (4,500) square feet of gross floor area, must be calculated according to the restaurant parking standard of the Zoning Ordinance.

SECTION 11. That Article XI, Section 25-470 of Chapter 25 of the Rockville City Code, entitled "Zoning and Planning" is amended as follows:

Sec. 25-470. Signs permitted for all uses in the ~~TCO-1, TCO-2, TCM-1, TCM-2~~ TC-1, TC-2, TC-3, TC-4, O-1 and RPR Zones.

The following signs are permitted for all uses in the ~~TCO-1, TCO-2, TCM-1, TCM-2~~ TC_1, TC-2, TC-3, TC-4, O-1 and RPR zones in accordance with the following:

(1) * * *

(2) Freestanding signs. In the ~~TCO-2, TCM-1, TCM-2~~ TC-2, TC-3, TC-4, and O-1 zones, one (1) freestanding nonilluminated monument sign per lot, not exceeding three feet by eight (8) inches in size. The sign must not exceed six (6) feet in height and must not have a separate supporting structure. Letters or graphics must not exceed six (6) inches in height. Final location of such sign shall be approved by the City Traffic Engineer to ensure motorist visibility.

(Note: Graphic remains unchanged)

(3) * * *
(4) * * *
(5) * * *
(6) Temporary signs are permitted in accordance with the following:

a. * * *
b. * * *
c. * * *

d. Temporary noncommercial signs are permitted in the ~~TCO-1, TCO-2, TCM-1, TCM-2~~ TC-1, TC-2, TC-3, TC-4, O-1 and RPR Zones in accordance with the provisions of Section 25-467(4)b.

SECTION 12 . That Article XIII "Town Center Planning Area" of Chapter 25 of the Rockville City Code, entitled "Zoning and Planning" is amended as follows:

ARTICLE XIII. TOWN CENTER PLANNING AREA

DIVISION 1. GENERALLY

Sec. 25-671. Intent.

The objective of this article is to encourage development within the Town Center Planning Area in accordance with the Plan. The regulations contained in this article are intended to:

(1) Provide for a mixed-use, pedestrian-oriented, urban neighborhood environment that is supportive of living, working, shopping and entertainment activities ~~Integrate circulation plans with development;~~

(2) Encourage ~~high-rise office with~~ street level retail developments in mixed-use buildings ~~arrangements~~ within the Town Center Performance District;

(3) Encourage medium to high density residential development within the Town Center Planning Area ~~Performance District~~;

(4) Encourage quality development that ~~and~~ enhances the City's position as a unique, high amenity destination ~~economic base~~;

(5) Emphasize excellence in urban design and improvement in the Town Center's ~~overall City~~ appearance to define the character of the Town Center;

(6) Protect stable residential areas adjoining the Town Center Planning Area ~~Performance District~~ from non-residential encroachment;

(7) ~~Promote efficient use of land;~~ Provide sufficient parking for new development and visitors to Town Center;

(8) Promote effective use of transit facilities through improved accessibility and visibility;

(9) Promote ~~Ensure consistency of~~ redevelopment consistent with the goals and objectives of the Plan throughout the Town Center Planning Area ~~Performance District~~;

(10) Implement a City streetscape improvement program throughout the Town Center Planning Area by establishing specific standards for coordination of façade design, landscaping and street trees along public rights-of-way, public pedestrian ways and sidewalks, utility undergrounding, and buffers between dissimilar uses outside of the mixed-use area.

DIVISION 2. APPROVAL PROCEDURES

Sec. 25-681. Use permit approval.

(a) All developments in the Town Center Planning Area shall require approval of a use permit application in accordance with division 2 of article V of this chapter, except that the following additional requirements shall apply:

(1) The Planning Commission shall approve a use permit application only if it finds:

a. That the proposed development will be consistent with the Plan;

b. That the proposed development will be consistent with the intent and purpose of this article; and

c. That the proposed development will not overburden existing public services, including water, sanitary sewer, public roads, storm drainage, school capacity and other public improvements;

(2) * * *

(3) * * *

(b) * * *

Sec. 25-682. Optional method of development.

(a) Use of the optional method of development is a voluntary option for large tracts of land in the TC-3~~M-1~~ and TC-4~~M-2~~ Zones where multiple buildings are planned to be developed over a long period of time. Submission of an application under the optional method commits the applicant to a greater degree of development control authority by the Mayor and Council. The Mayor and Council may grant additional building height and F.A.R. where a development complies with more extensive standards of urban design review and traffic impact review and mitigation. Any development that receives approval

may exceed the normal building height and F.A.R. specified in Table III contained in section 25-311 of this chapter, provided that in no event shall the resulting building exceed the maximum height and F.A.R. allowed in the zone. Developments submitted for approval under the optional method of development shall be subject to the following additional modifications and requirements:

(1) A minimum area of two (2) acres shall be required for applications under the optional method;

(2) All applicants shall prepare and submit a traffic impact study in conformance with the ~~"Standard Traffic Methodology,"~~ Comprehensive Transportation Review (CTR), or its successor, and shall provide mitigation of traffic impacts which exceed the standards of the ~~STM~~ (CTR) as may be acceptable to the Mayor and Council;

(3) All developments shall be subject to an urban design review process employing the urban design guidelines contained in the Plan;

(4) * * *

(5) * * *

(6) * * *

(7) Within the ~~TCM-1 and~~ TC-4~~M-2~~ Zone~~s~~, the Mayor and Council may authorize additional building height up to a maximum of two hundred thirty-five (235) feet and F.A.R. up to a maximum of six (6);

(8) * * *

(b) * * *

Sec. 25-683. Optional method approval.

* * *

DIVISION 3. USE AND DEVELOPMENT REQUIREMENTS

Sec. 25-691. Use requirements.

(a) Uses within the Town Center Planning Area shall be as set forth for the various zones in section 25-296 except that the following limitations shall apply in the Town Center Performance District to the amount of floor area devoted to retail sales and personal services, and/or home and business services:

(1) In the TC~~O~~-1 and TC-2 Zones, not more than twenty-five (25) ~~fifteen (15)~~ percent of the gross floor area of a building or one hundred (100) percent of the first two (2) floors of a building, whichever is greater, shall be devoted to:

a. Retail sales and personal services; and/or

b. Home and business services;

~~(2) In the TCO-2 Zone, not more than twenty-five (25) percent of the gross floor area of a building shall be devoted to:~~

~~a. Retail sales and personal services; and/or~~

~~b. Home and business services;~~

(2~~3~~) In the TC-3~~M-1~~ and TC-4~~M-2~~ Zones, there shall be no limit on the amount of floor area devoted to retail sales and personal services, and/or home and business services;

(b) Retail sales and personal services and/or home and business services provided in accordance with this section shall be located adjacent to public pedestrian circulation improvements as specified in the Plan. Ground floor retail uses must be provided in all structures that front on Maryland Avenue.

Sec. 25-692. Development standards.

* * *

Sec. 25-693. Parking, loading and access requirements.

Parking, loading and access requirements within the Town Center Planning Area shall be as set forth in article IX of this chapter except that the following additional modifications and requirements shall apply within the Town Center Performance District:

(1) Within the TC~~O~~-1, TC~~O~~-2, TC-3~~M-1~~ and TC-4~~M-2~~ Zones, the Planning Commission shall have the authority, in the granting of a use permit to reduce the required number of parking spaces by an amount not to exceed thirty (30) percent of the total number of spaces required for nonresidential uses in the building or buildings to be constructed; provided that:

a. Such reduction is calculated and justified on the basis of ~~1. C~~common patrons and on-site users of the uses within the building or buildings; and~~/or 2. N~~non-overlapping peak parking needs of the uses within the building or buildings, an amount not more than 10 percent may be granted; or

b. A major point of pedestrian access to such building or buildings is within a fifteen hundred (1500) foot walking distance of a transit station shown on the Washington Metropolitan Area Transit Authority Adopted Regional Rail Transit System, an amount not more than 10 percent may be granted; or

c. A parking management plan approved by the Planning Commission will be implemented with occupancy of the building or buildings using such features as car and van pooling and public or private transit, an amount not more than 10 percent may be granted;

d. In addition to any action taken under this section, the Council, following the issuance of a use permit pursuant to this section, shall have the authority to reduce the number of parking spaces required by the use permit by an amount not to exceed ten (10) percent of the full amount of parking ordinarily required for the use in question. A Transportation Demand Management strategy must be submitted with the goal of reducing parking demand in the building to meet the amount of reduction requested. The effectiveness of this plan should be demonstrated periodically after the use has been operating, as determined by the Mayor and Council. Application for the amount of parking reduction shall be filed with the City Clerk and final approval shall be by resolution of the Council;

(2) * * *

(3) Within the TC~~O~~-1 Zone:

a. * * *

b. * * *

c. * * *

(4) Within the TC~~O~~-2 Zone:

a. * * *

b. * * *

(5) Within the TC-3~~M-1~~ Zone:

~~a. A service drive shall be constructed in a public easement adjacent to Hungerford Drive to provide for public ingress and egress between adjoining lots. The design of such service drive shall be in substantial accordance with Illustration 5A-1;~~

a.~~b.~~ Easements shall be provided for public ingress and egress to parking and service areas; and

b. Except for temporary parking lots approved under paragraph (7) of this section, all off-street parking spaces and loading facilities shall be located underground or in a building. For good cause shown, the Planning Commission may approve a modification to this requirement during review of a Use Permit.

~~c. No parking shall be allowed between the Hungerford Drive build-to-line and any portion of the building;~~

(6) Within the TC-4~~M-2~~ Zone:

a. * * *

b. * * *

(7) * * *

(8) * * *

Sec. 25-694. Landscaping and screening requirements.

Screening and landscaping requirements within the Town Center Planning Area shall be as set forth in article X of this chapter except that the following additional requirements shall apply:

(1) * * *

(2) All developments in the Town Center Planning Area shall provide screening of parking from public rights-of-way. ~~,~~B~~b~~uffers between nonsimilar uses~~,~~ and other landscape treatments must be provided ~~and~~ in substantial accordance with Illustration 5A-2. This does not apply to uses entirely within the TC-1, TC-2, TC-3 and TC-4 Zones, unless reasonably determined by the Planning Commission as necessary to preserve the intent of this chapter.

(Note: Graphic remains unchanged)

Sec. 25-695. Sign requirements.

Sign requirements within the Town Center Planning Area shall be as set forth in article XI of this chapter.

NOTE: ~~Strikethrough~~ indicates 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

_____

Claire F. Funkhouser, CMC, City Clerk