

From: Patrick Rockinberg <prockinberg@[REDACTED]>
Sent: Wednesday, January 29, 2020 7:31 AM
To: Mayor And Council <mayorandcouncil@mountairymd.org>
Cc: Roxanne Hemphill <roxmtairypanz@[REDACTED]>; John Breeding <jbreeding@mountairymd.gov>
Subject: MXD Center Street Process

Not to usurp Councilpersons Pam Planning report next Monday, but it wouldn't be in this detail (Reports should be quick summaries). But I wanted to share a mood that is being experienced and my response. The developer asked I attend an earlier staff meeting and I did not as it was a staff level discussion. They were not pleased. So I weighed in on the developers comment to give some assurance while being clear of our processes. Please read bottom up. Council members Party and Karl were also in the audience Monday.

From: Patrick Rockinberg

Sent: Tuesday, January 28, 2020 12:39 PM
To: Victor Kazanjian <victor@[REDACTED]>
Cc: jbreeding@mountairymd.gov; Barney Quinn <bquinn@mountairymd.gov>; Clark Shaffer <Clark@[REDACTED]>; Dave Bowersox <dbowersox@[REDACTED]>; Craig Kazanjian <craig@[REDACTED]>; David Warrington <dwarrington@mountairymd.gov>; Tom McCarron <TMcCarron@semmes.com>; Chaslyn Derexson <cderexson@mountairymd.gov>
Subject: Re: MXD Ordinance

We understand these processes can be frustrating, especially when developing a new zone that may apply elsewhere. We thank you for your patience and value your experience. It is our hope we can find middle ground. You need to make a profit and we would love to improve our community but still need to protect our community from something out of scale. The vision plan was a suggestion and not a Master Plan we plan to follow exactly. I do want you involved in the process so we can understand your views and concerns and that this be a collaborative effort. I'll talk to the Chair to allow your input during the workshop conversation. My only request would be for you to also be sensitive and flexible to our concerns so we can develop a zone that works for both.

Getting frustrated at the hearing or workshop will set an uncomfortable environment for collaboration. Both the petitioner and commission need to keep that in mind. There was also some talk over by one of the Planning members the Chair will need to moderate.

It did appear that both Leslie and myself wanted to remove any open space requirement for the commercial portion. I think the compromise was since we were lowering the percentages for residential we would pick up some by adding commercial in. We do have an APFO that has to be considered and all other developments yare held to open space standards. We are only 2% off from the consultants recommendation. I'm sure this can be a discussion point. You may have noted the Chair also has

concerns about limiting financing. Not sure if Fannie Mae applies to rentals and commercial. Was your plan to to also have condos?

In short we very much want to work with you, but if the expectation is to mirror the vision plan exactly that may not occur. I'd have to look again, but the size and scale appeared a little large.

With your permission I'd like to share this with the Chair, Council Liaison and Commission.

Respectfully,

Sent from my iPhone

On Jan 28, 2020, at 11:27 AM, Victor Kazanjian <victor@> wrote:

Barney & John,

It is my expectation from last night's Planning Commission that you will be forwarding my document comments on the proposed MXD Ordinance to the members. Please include the comments from my email of 12/16/19 (below) with the information, as I believe they are also relevant to the matter.

Based on the discussion from last night, I hold no optimism that the Town will pass a workable MXD document. The recent revisions you made to the proposed Ordinance pushed the process backwards, and the obstructionists on the Commission are now clinging to those changes and looking to create even more roadblocks to the process. There has been literally no movement on the Town's part to make the process productive for anyone. Almost all of the conversations are about preventing the developer from doing something, rather than allowing the developer and Town to produce a great project.

Your own consultants did a significant market analysis as part of their work. Their general recommendations included:

- A **40,000** square foot grocery store (Section 3.1 page 44)
- The need for 3.060 new households to support existing and "vision" retail/restaurants in the Town (Section 3.1, page 46)
- A residential market that could support up to 62 new for-sale units per year (Section 3.1, page 47)
- And, an additional 60 rental units per year (Section 3.1, page 48)
- Multiple changes to the zoning ordinance to make things easier to develop, including converting special exception uses to permitted uses (Section 5.2, page 88)

Specific to the western portion of the Beck Property (Section 4.4, page 80):


- 126,000 – 175,000 square feet of retail, office, grocery and civic uses
- 290 – 400 residential units, including single family detached, townhouses and apartments (there is a typo in their table)
- A permitted hotel site

The Town paid significant dollars to a consultant to produce a plan for the downtown area, yet this MXD document, as written, will prevent that vision from actually occurring. What was the point of hiring them to (i) get to know your town, (ii) meet with the citizens, (iii) have public meetings and charrettes, (iv) produce a well designed set of conceptual plans, and (v) provide you with a roadmap to making it all happen, if you're going to pick and choose which of their recommendations you're going to ignore? For example, they recommended open space of 5%-8% in this area, and you changed it to 10%. Why? There is no density cap recommended in the vision plan. Why did you insert one? And why is it based on "net developable area"? That is just a code word for using the smallest possible space to determine density on a project. Effectively, it's your way of preventing the Vision Plan from actually taking place.

We would be willing to develop a project almost exactly as proposed in the Downtown Mount Airy Vision Plan. I think the big question everyone has to answer is – Does the Town want us to do that? If the answer is "Yes", then we need to make significant changes to the proposed MXD Ordinance, AND we need to work together productively and honestly. If the answer is "No", then the Town is well on its way to killing this project and preventing Center Street from ever being connected.

Please let me know if you have any questions.

Thanks.

Victor M. Kazanjian
Kaz Brothers, L.C.
14660 Rothgeb Drive, Suite 201
Rockville, MD 20850
Work 301-438-2211

Fax 301-438-3625

www.kazbrothers.com

Sent from my iPhone

From: Linda Camerata <linda.camerata@[REDACTED]>
Sent: Thursday, February 6, 2020 4:25 PM
To: John Breeding <jbreeding@mountairymd.gov>
Cc: Leslie Dickinson <dickinson1law@[REDACTED]>; Barney Quinn <bquinn@mountairymd.gov>; Bill Butts <billbutts@[REDACTED]>; Judi Olinger <jolinger@[REDACTED]>; Lindey Camerata <lindey@[REDACTED]>; Martina Hatley <martina.hatley@[REDACTED]>; prockinberg@[REDACTED] <prockinberg@[REDACTED]>; Pamela Reed <councilmemberreed@mountairymd.gov>; Roxanne Hemphill <roxmtairypandz@[REDACTED]>; Scott Sirchio <sirchio@[REDACTED]>; Tom McCarron (Town Attorney) <tmccarron@semmes.com>; Karl Munder <kmunder@[REDACTED]>
Subject: Re: MXD Meeting tonight, right?

Hi All,

I can't make the meeting this evening because I am getting ready for a finance committee meeting. I will touch base to find out what happened.

Lindey



Lindey Camerata
Controller
THE MARYLAND ZOO IN BALTIMORE
1876 Mansion House Drive
Baltimore | MD | 21217
P 443.552.5294
[linda.camerata@\[REDACTED\]](mailto:linda.camerata@[REDACTED])
www.marylandzoo.org



On Thu, Feb 6, 2020 at 4:12 PM John Breeding <jbreeding@mountairymd.gov> wrote:

Everyone,

Here is Victors comments and a rewrite that he was proposing. Remove the Black and white previse email

John

From: Leslie Dickinson [mailto:dickinson1law@██████████]
Sent: Thursday, February 06, 2020 3:26 PM
To: John Breeding <jbreeding@mountairymd.gov>
Cc: Barney Quinn <bquinn@mountairymd.gov>; Bill Butts <billbutts@██████████>; Judi Olinger <jolinger@██████████>; Lindey Camerata <lindey@██████████>; Martina Hatley <martina.hatley@██████████>; prockinberg@██████████; Pamela Reed <councilmemberreed@mountairymd.gov>; Roxanne Hemphill <roxmtairypanz@██████████>; Scott Sirchio <sirchio@██████████>; Tom McCarron (Town Attorney) <tmccarron@semmes.com>; Karl Munder <kmunder@██████████>; Linda Camerata <linda.camerata@██████████>
Subject: Re: MXD Meeting tonight, right?

John,

The two proposed ordinances (2017-9) that you emailed today and on Jan. 28 both have Karl at the top (one is in color, but seem the same otherwise). I don't see anything from Victor unless it's the same doc, but at first glance it doesn't appear to be.

thanks,

Leslie K Dickinson
Dickinson Law Firm, LLC
PO Box 238
Mt Airy, MD 21771
Tel: 301-639-9469
Dickinson1law@██████████

On Thu, Feb 6, 2020 at 11:28 AM Leslie Dickinson <dickinson1law@██████████> wrote:

Leslie K Dickinson
Dickinson Law Firm, LLC
PO Box 238
Mt Airy, MD 21771
Tel: 301-639-9469
Dickinson1law@██████████

On Tue, Jan 28, 2020 at 5:26 PM John Breeding <jbreeding@mountairymd.gov> wrote:

Everyone,

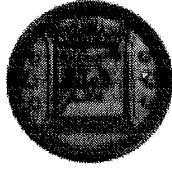
I have attached the current draft ordinance 2020-1, I also have attached Karl's and Victor's comments noted along the side of the draft so you can see the comments from both.

You will notice that the comments from Karl and Victor are from the 2017-9 ordinance.

If you need any additional information let me know and I will get it to as fast as possible.

Thanks John,

John Breeding
Community Planning & Zoning Administrator
Town of Mount Airy
P.O. Box 50 / 110 S. Main Street
Mount Airy, MD 21771-2802
301-829-1424



Attorney Client Privileged Communication



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2/24/20, 3/30/20

For:
Introduction and referral to Planning Commission: 1/6/20
Planning Commission Review and Recommendation: 1/27/20, 2.6.20.
Public Hearing _____
Adoption _____

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REDLINED CHANGES FROM PLANNING COMMISSION MEETINGS 1/27/20, 2/6/20, AND 2/24/20 FOR REVIEW AT PLANNING COMMISSION MEETING ON MARCH 30, 2020 – changes from 2/24/20 meeting are highlighted in yellow

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THE TOWN OF MOUNT AIRY, MARYLAND

ORDINANCE NO. 2020-1

AN ORDINANCE TO AMEND PART II OF THE CODE OF THE TOWN OF MOUNT AIRY ENTITLED “GENERAL LEGISLATION,” CHAPTER 98 ENTITLED “SUBDIVISION OF LAND AND SITE PLAN REVIEW”, ARTICLE VI ENTITLED “CONSTRUCTION, ARCHITECTURE AND DESIGN STANDARDS”, SECTION 98-23 ENTITLED “REQUIRED OPEN SPACE/RECREATION AREAS TO BE DEDICATED,” ARTICLE XVII ENTITLED “SPECIAL DEVELOPMENT REGULATIONS”, SECTION 98-60 ENTITLED “TOWNHOUSE DEVELOPMENTS” AND TO CREATE NEW SECTION 98-61 ENTITLED “MIXED USE DISTRICT (MXD) DEVELOPMENTS”; CHAPTER 112 ENTITLED “ZONING”, ARTICLE V ENTITLED “PROVISIONS GOVERNING COMMERCIAL DISTRICTS” AND CREATING NEW SECTION 112-37.2 ENTITLED “MIXED USE DISTRICT” (MXD), AMENDING ARTICLE VIII ENTITLED “BOARD OF APPEALS”, SECTION 112-62 ENTITLED “SPECIAL EXCEPTIONS”

WHEREAS, the Planning Commission and Town Planning Staff have recommended the creation of a Mixed Use District (MXD); and

WHEREAS, the Town’s current zones do not provide within a single zoning district the kind of flexibility and mixture of residential and non-residential uses that the Planning Commission and Town Planning Staff envision for the MXD; and

WHEREAS, the Town Council has determined that the MXD would foster economic development within the Town and would facilitate the integrated and orderly development of commercial, office, employment, and residential uses on vacant tracts of commercial, industrial,

and high density residential zoned land within the Town of Mount Airy where high quality mixed use developments can occur in harmony with surrounding land uses, especially in parts of the downtown area, among other benefits; and

WHEREAS, changes to Chapter 98 creating supplemental development plan approval requirements and process for the MXD separate and apart from the townhouse regulations set forth in Section 98-60, and to Section 112-62 concerning specific standards for the granting of special exceptions, have been determined to be necessary and desirable in light of the creation of this new zoning district; and

WHEREAS, this ordinance was introduced at the Town Council meeting that occurred on 1/6/20 and, pursuant to the Town Code, Section 112-67, referred to the Town Planning Commission for review and recommendation; and

WHEREAS, the Planning Commission reviewed this ordinance at its regular meetings on January 27, 2020 and February 24, 2020; and

WHEREAS, at its regular meeting on _____, the Planning Commission recommended _____; and

WHEREAS, at its regular meeting on _____, the Town Council reintroduced this ordinance as reflected and set a public hearing for _____ pursuant to the Town Code, Section 112-66A and the Land Use Article of the Maryland Code, Section 4-203(b), which was held on the aforementioned date.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF MOUNT AIRY:

That Chapter 98, Article VI of the Code of the Town of Mount Airy is hereby amended to repeal and reenact with amendments Section 98-23 as follows:

§98-23. Required open space/recreation areas to be dedicated.

* * *

- B. Open space development shall be required in the Town of Mount Airy and shall apply, along with the provisions of this section, to all residential zones, the Mixed Use District (MXD), or special exemption residential uses in commercial zones, and any development with a residential component located in the Downtown Zone (DTZ) in accordance with the requirements set forth in this Code applicable thereto, except that plats recorded before the adoption of this section are exempt from the provisions of this section. *~~Edit note: this section may need to change if Ord. 2012-12 is enacted~~ [Note: change due to 2019-12]*

* * *

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- I. Except for developments with a residential component located in the Downtown Zone (DTZ), the total area of dedicated open space shall equal the amount by which all dwelling unit lots are reduced below the base zoning and shall meet the requirements outlined in Table 1 below. [Note: change due to 2019-12]

Table 1: Open Space Required For Various Densities

Base Density (du/ac)	Open Space Required (percentage of net developable acreage)
Conservation/R-1	25%
R-2/RE	35%
R-3 – R-5	45%
R-5 – R-7	50%
<u>MXD</u>	<u>10%</u>

~~(1) A request for the adjustment of the above percentages can be made to the Planning Commission based upon any unique features of the parcel. The Planning Commission, in its discretion, may grant an adjustment to the percentages set forth in Table 1 if it is established by the property owner that the adjustment will be more beneficial to the needs of the community for that specific parcel. In determining whether to grant such an adjustment, the Planning Commission may seek input from the Board of Parks and Recreation or from any other source that the Planning Commission deems beneficial. The open space requirement for developments in the Mixed Use District (MXD) shall be 10% of the total gross acreage of the project.~~

~~(2) A request for the adjustment of the above percentages can be made to the Planning Commission based upon any unique features of the parcel. The Planning Commission, in its discretion, may grant an adjustment to the percentages set forth in Table 1, and the open space percentage for the MXD as set forth in subsection (1) above, if it is established by the property owner that the adjustment will be more beneficial to the needs of the community for that specific parcel. In determining whether to grant such an adjustment, the Planning Commission may seek input from the Board of Parks and Recreation or from any other source that the Planning Commission deems beneficial.~~

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Was not sure if the PC was recommending that the % open space for MXD would likewise be subject to the adjustment provision. I have drafted this so that it is!

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* * *

§98-60. Townhouse developments.

A. Purpose and scope. The purpose and intent of this section is to provide minimum standards for townhouse developments to ensure the necessary amenities normally associated with such developments; to provide for design requirements that will promote appropriate and acceptable layout and grouping of such units to create a quality environment to live in; to provide minimum standards for the ownership and maintenance of common areas; to ensure adequate public improvements such as streets, walks, etc., are provided, to prevent detrimental effects on the use and development of adjoining properties; and to promote the health, safety and welfare of the residents of the development and neighborhood. The provisions of this section shall apply to all townhouse developments regardless of zoning district in which located, except that this section shall not apply to properties in the Mixed Use District (MXD) or approved as mixed-use developments within the CC District (MXU-CC).

* * *

§98-61. Mixed-use Development within CC District (MXU-CC) and Mixed Use District (MXD) developments.

A. Purpose and scope. The purpose and intent of this section is to provide supplemental requirements for the approval of development plans for properties zoned in the CC District and in the Mixed Use District (MXD) in order to implement the mixed-use development as set forth in §§ 112-39C(12) and 112-62F(29), and in Section 112-37.2.

B. Pattern Book. As part of the ~~site plan~~ initial phase of the development approval process, the applicant shall provide the Commission with a Pattern Book and concept layout plan that will address the site planning, architectural, and signage requirements for the proposed development. Once approved by the Commission, the Pattern Book shall govern development of the MXU-CC mixed use development. The applicant will follow the Design Guideline provisions adopted by the Town of Mount Airy. The Pattern Book shall be prepared by a licensed professional landscape architect, architect, or engineer. The Pattern Book shall include, at a minimum, the following sections:

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(1) An introduction that shall contain:

(a) Description of the overall development.

(b) Market ~~analysis summary~~ for the proposed uses. ~~[Comments were that this should be no more than an executive summary, this was already done by the Town in its Downtown Vision Plan]~~

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(c) Relationship between the proposed development and the existing Town limits.

(2) Site Planning Components

- (a) Relationship of uses within the development.
- (b) Focal points of the development and how they have been maximized.
- (c) Vehicular and pedestrian connectivity within the development and to the Town, to include walking and cycling paths.
- (d) Proposed recreational areas within and adjacent to residential areas, including proposed improvements to recreational areas to serve the intended residential population.
- (e) Building and parking setbacks.
- (f) Parking ratios per use shall be in accordance with § 112-7.
- (g) Proposed service and loading spaces.
- (h) Pedestrian oriented scale and design.
- (i) Any area utilized for outdoor storage, as defined in §112-71.
- (j) The locations for outdoor displays.
- (k) Drive through service location and layout. ~~[Comments here included with multiple allowable uses that allow drive throughs, should there be provisions to space out the drive throughs or only allow a certain number within a certain amount of space; some power in PC to cut off the number of drive thrus]~~
- (l) Set back requirements from public streets, other structures within the development, the property boundaries and, with respect to property lines that abut less intensive zoning districts, buffers.

(m)In the Mixed Use District (MXD), front yard setbacks within Priority Areas, especially along Center Street, shall be similar to the Downtown Zoning District with wide sidewalks and buildings near the street, or a distance equal to the average of the front yard setbacks for existing improved properties immediately adjacent to the subject property. **[Edit**

note: probably belongs in Section 112-37.2K. Also need to determine if we want this section to apply to MXU-CC] [Comment received that set backs should not be drawn from adjacent property, set back should be closer to the street in MXD, comment was made that this should be pulled out or some guidelines for PC need to be developed on what to be approved and what not to be approved]]

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- (3) Architectural Design.
 - (a) Architectural style and overall design principles.
 - (b) Graphic examples of selected style.
 - (c) Design details and materials.
 - (d) Green initiatives.
- (4) Landscape Architectural Design.
 - (a) Public spaces.
 - (b) Hardscape and softscape design details and materials.
 - (c) Streetscape design.
 - (d) Site furnishing details and products.
 - (e) Landscape screening (perimeter buffers, parking lots, service and loading areas).
 - (f) Lighting details and materials.
- (5) Signage Plan. All sign regulations under Town Code Section 112-11 shall apply unless expressly waived by the Planning Commission or are otherwise expressly waived or made inapplicable by the provisions of this Code that apply to MXU-CC or the MXD.
- (6) Management and Maintenance Program.
 - (a) For privately owned property.
 - (b) For common areas.
- (7) Phasing of the Development.
 - (a) The anticipated timeframe when various milestones of the development are anticipated to be developed. Consideration as to balancing the development of various uses to maximize the fiscal benefit to the development and the Town should

be given. In addition, consideration as to the availability of planned community amenities should be balanced with the development of retail services.

(b) The relative mix of uses and the development milestones and phasing of permits for each stage of development shall be determined to be reasonable in the discretion of the Planning Commission.

C. The Pattern Book shall be evaluated based on the Purpose and Objectives of the Mixed Use Development as outlined in § 112-39.1A and B or, as applicable, the Mixed Use District as outlined in § 112-37.2.

D. Approval process. ~~A MXU-CC and MXD development approval shall follow the two-step approval process of concept plan and final site plan following process: in accordance with Article VIII of this chapter. A development in the MXD shall follow the three step approval process of Concept Plan, Preliminary Plan, and Final Site Plan or Final Subdivision Plan in accordance with Articles VIII, IX or X of this Chapter, whichever shall be applicable. In addition, the Planning Commission may require a charrette(s) or special work session(s) to facilitate collaboration on the conceptual design and layout.~~

(1) An applicant shall submit the Pattern Book in accordance with this Section and a concept layout plan showing *need to describe what it will require, not require – I assume layout?* all concept, preliminary (if applicable) and final plans to the Planning Commission for consideration, in order for the Commission to have sufficient information to determine the practicality and suitability of the proposed development.

(2) The Planning Commission may require charrette(s) or special work session(s) to facilitate collaboration on the sketch plan design and layout ~~shall hold at least one public hearing when considering the final plan (including the Pattern Book). [Edit note: the MXD draft from Engineering said at concept and preliminary. Final is in this existing subsection]~~
The following notice shall be given:

(a) ~~At least 30 days' notice of the time and place of such hearing shall be published in a newspaper of general circulation in the Town.~~

(b) ~~The Property upon which a mixed-use development is proposed shall be posted conspicuously by a notice at least 24 inches by 36 inches in size, for at least 30 consecutive days before the date of the hearing.~~

(c) ~~Notice of the hearing shall be sent by first class mail to that person making application to the Commission no less than 30 days prior to the first scheduled hearing.~~

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~~(d) At least 30 days prior to the first scheduled hearing, notice of the hearing shall be sent by first-class mail to those persons identified by the applicant as persons owning property contiguous to the property which is the subject of the proceeding. Notice shall be sufficient if given to the person shown as the owner on the tax rolls and sent to the address where tax bills are sent.~~

(3) Once the Pattern Book and sketch plan are reviewed, commented upon by the Planning Commission and the public at public meeting(s) or work sessions, and are agreed upon in final form between the Planning Commission and developer, the developer shall submit a concept plan in accordance with Article VIII (for site plans), IX (for subdivision plans) or X (for minor subdivision plans) of this Chapter, as applicable, for water and sewer allocation review pursuant to Chapters 91 and 109 and for Adequate Public Facilities Ordinance (APFO) review pursuant to Chapter 25, Sections 25-4, et seq. *[Note: here is where in the process I assume Developers Rights and Resonponsibilities Agreement would be entered intol.*

(4) After a concept plan has been approved, the developer shall submit a final plan and Pattern Book for review and approval by the Planning Commission. The Planning Commission shall hold at least one public hearing when considering the final plan (including the Pattern Book) for which the following notice shall be given:

(a) At least 30 days' notice of the time and place of such hearing shall be published in a newspaper of general circulation in the Town.

(b) Property upon which a mixed-use development is proposed shall be posted conspicuously by a notice at least 24 inches by 36 inches in size, for at least 30 consecutive days before the date of the hearing.

(c) Notice of the hearing shall be sent by first-class mail to that person making application to the Commission no less than 30 days prior to the first scheduled hearing.

(d) At least 30 days prior to the first scheduled hearing, notice of the hearing shall be sent by first-class mail to those persons identified by the applicant as persons owning property contiguous to the property which is the subject of the proceeding. Notice shall be sufficient if given to the person shown as the owner on the tax rolls and sent to the address where tax bills are sent. *[Note: discussion was had as to the need for a public hearing, as opposed to public meetings. Also, do we want this to occur at the final plan stage or the concept plan stage?]*

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~~(3)(5)~~ The Commission may approve or disapprove the ~~concept~~ final plan (including the Pattern Book) ~~after a public hearing.~~ *[Note: generally, the PC does not approve final plans unless there is a material change or something. See subsection (6) below].*

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[Note, we have eliminated any preliminary plan review. Large subdivisions have preliminary plan review. To clarify, are we saying that for MXD subdivisions, no preliminary is required? Will we even have MXD subdivisions? I assume we will. Also, supposing we have an MXD subdivision, are we going to insist on individual site plans for each non-residential lot, with separate PWAs like Twin Arch Business Park? If so, we will need to codify that.]

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(4)(6) Should the Planning Commission determine that additional assistance to review an application is required, the Town may hire licensed professionals (such as a landscape architect, architect, and/or engineer) to assist in the review of the application. The cost of any outside professionals shall be paid for by the applicant. The Town shall make every effort to minimize all costs associated with any outside professional assistance.

~~(5)(7)~~ Amendments to ~~concept layout, or if applicable, preliminary,~~ plans must be approved by the Planning Commission in the following instances:

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- (a) A material change in use is involved;
- (b) Increases in the height of building structures by 10 feet or more provided the increase does not exceed the building height standard set forth in § 112-37.2H or § 112-39.1F;
- (c) Material ~~c~~Changes in the orientation or location of buildings or parking areas;
- (d) Any decrease in the number of off-street parking spaces required by code or as agreed upon by the Planning Commission;
- (e) An increase of nonresidential building floor area by more than 10% or by more than 5,000 square feet; and
- (f) An increase in the number of residential dwelling units by more than 10% or more than five units.

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~~(6)(8)~~ Any application for amendment of concept plans, preliminary plans and final site plans that must be approved by the Planning Commission must be submitted in accordance with Appendix A and Appendix E to this chapter.

~~(7)~~(9) Elements of a concept, or if applicable preliminary, plan not materially affected by a proposed amendment may move forward in the development process while the amendment is processed and considered by the Planning Commission.

E. Drive-Through Services. Drive-Through Services permitted pursuant to § 112-39.1C(1)(c), (f), (h) and (k) ~~and § 112-37.2C(1)(b), (d), (h) and (k)~~ in the Mixed Use District (MXD) zone shall be subject to the following development standards unless the Planning Commission grants a variation pursuant to Section 98-49:

- (1) Drive-through lanes and service windows shall be located only in the back or sides of buildings.
- (2) Drive-through lanes shall not be located along the street frontage(s) of a building.
- (3) A maximum of two lanes shall be permitted.
- (4) Drive-through services must be designed so as to not interfere with the circulation of pedestrian or vehicular traffic on the adjoining streets, sidewalks, or drive aisles.
- (5) Drive-through speakers shall not be audible from adjacent residential uses or residentially zoned properties.
- (6) Drive-through canopies and other structures, where present, shall be constructed from the same material as the primary building and with a similar level of architectural quality and detailing.
- ~~(6)~~(7) No more than 1 drive-through shall be permitted for the first 50,000 square feet in footprint of commercial space, and thereafter no more than 1 drive-through for each additional 50,000 square feet in footprint of commercial space, shall be permitted, and the Planning Commission shall have the power to further limit drive-throughs in terms of their number, layout, and location taking into account their impact on vehicular and pedestrian traffic.

F. Outdoor Storage Areas. Inventory shall be delineated on the Final Site Plan or Preliminary Subdivision Plan and shall be screened from view of public and private right(s) of way and adjacent property. Landscaping, or screening, will be required along the perimeter of the outdoor storage area in a manner acceptable to the Planning Commission. Only those outdoor storage areas approved on the approved Final Site Plan or Preliminary Plan shall be permitted in the MXD.

G. Seasonal Displays. Seasonal sidewalk displays shall ~~be conducted in a manner which does not unreasonably interfere with vehicular or pedestrian traffic or with any other business establishment or residences~~ comply with applicable provisions of the Town Code. *[Note: my notes are not clear on this, but I think the suggestion was to simply refer to applicable*

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provisions of the Town Code which already preclude interference with pedestrian and vehicular traffic – Chapter 96 – See Section 96-11 and 96-18- -19.

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Section 3. That Chapter 112, Article V of the Code of the Town of Mount Airy is hereby amended to enact new Section 112-37.2 of the Code as follows:

§112-37.2. Mixed Use District (MXD).

- A. Purpose. The purpose of the Mixed Use District (MXD) is to facilitate the integrated and orderly development of residential uses and non-residential uses where high quality mixed use developments can occur in harmony with surrounding land uses.
- B. Objectives. The following objectives are sought in the MXD:
- (1) Provide a more attractive residential and non-residential environment than would be possible through the strict application of conventional zoning district requirements.
 - (2) Encourage harmonious and coordinated development of sites that is consistent with the existing natural features, bicycle, pedestrian and vehicular circulation and compatibility with surrounding uses.
 - (3) Encourage development that is of excellent design and architecture with a mix of uses that will create synergy, efficiency of design, and a reduction of vehicle miles traveled.
 - (4) Create a mixture of office, retail, cultural, art, recreational, and residential uses, along with restaurants, eateries and cafes, where all related structures, parking, and open spaces are designed to establish and maintain a cohesive community while protecting the character of surrounding neighborhoods and the overall natural environment.
 - (5) Expand the opportunity to support diversified housing options within an integrated site design of varying land uses.
 - (6) Encourage development of sites that promote and support a diverse artistic and if possible cultural entertainment entity and that creates a community with live-work space for artists.
- C. Permitted Uses. No building, structure, or land to which this zone applies shall be used and no building or structure shall hereafter be erected, structurally altered, enlarged or maintained on land to which this zone applies, except for one or more of the uses listed in Subsection C (1) below combined with one or more of the uses listed in Subsection C (2) below, up to a maximum of 25,000 square feet of floor space per single user subject to Site Plan review and approval. [Note: much discussion had about whether to have permitted uses, whether to only have non-permitted uses, if you have permitted uses, make them exhaustive and

perhaps more generic like “retail uses” or “service or professional uses”, should allow combination of all the other uses, and should focus on non-permitted uses. Other municipal ordinances to be consulted e.g., Sykesville, Frederick as models]

(1) The following are the non-residential permitted uses:

- (a) Administrative, financial, real estate, bank and professional offices.
- (b) Alcohol sales.
- (b)(c) Banks and savings and loan institutions with or without drive-through service compliant with Section 98-61E.
- (c)(d) Bed and Breakfast establishments.
- (d)(e) Bookstores, with the exception of adult entertainment.
- (e)(f) Breweries, distilleries, and wineries.
- (f)(g) Coffee shops with or without drive-through services compliant with Section 98-61E that may facilitate live performances or readings.
- (h) Crafts and artisan services.
- (g)(i) Day-care facilities.
- (h)(j) Drugstores with or without drive-through services compliant with Section 98-61E.
- (k) Educational centers.
- (l) Furniture upholstery and repair, no chemical uses.
- (i)(m) Health services such as medical, dental, optical offices.
- (n) Hotels, with or without conference rooms.
- (j)(o) Home occupations.
- (k)(p) Laundry or dry-cleaning establishments with or without drive-through service compliant with Section 98-61E.
- (q) Municipal government services.
- (h)(r) Physical fitness facilities.
- (s) Professional offices.
- (m)(t) Public buildings, structures and properties.
- (n)(u) Recreational entertainment and amusements.

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(o)(v) Restaurants and lunchrooms, including outside or sidewalk dining without drive-through service. [Question raised what about coffee shops? Also, see earlier comments about drive throughs? Comment made should drive throughs be a special exception?]

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(p)(w) Retail sales and service, without outdoor storage.

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(q) Short-term rentals or Airbnb's

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(r)(x) Veterinary Clinic, Animal Hospital, without overnight boarding.

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(y) Video rental establishments, with the exception of adult entertainment.

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(s)(z) Any other uses not listed above that the Planning Commission determines are similar to and/or compatible with the commercial uses set forth above.

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(2) The following are the residential uses permitted:

(a) Townhouse.

(b) Dwelling, Multifamily, to include apartments and condominiums.

(c) Duplex or Semi-Detached Dwelling

(d) Single Family or Detached Dwelling

(3) Accessory uses. The accessory uses allowed in mixed use developments shall be those uses and structures customarily accessory and incidental to any permitted principal use or authorized conditional use. Accessory uses shall be screened from public view by walls, fencing, landscaping, or a combination of the three.

(4) The Planning Commission may consider One building use may exceed 25,000 square feet up to 65,000 square feet of floor space. Any additional uses that exceed 25,000 square feet shall require Planning Commission approval up to a maximum of 65,000 square feet of floor space per single user.

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D. Special Exceptions. The Board of Appeals may authorize the following principal uses as special exceptions in accordance with the provisions of Article VIII, § 112-62:

(1) Clubs, Fraternal Organizations and Service Organizations. [§ 112-62F(3)]

(2) Hotels. [General standards, § 112-62E] [Edit note: *Special standards? How many levels, etc.?*] [comment made here by developer of Beck property – should be a use of right, not conditional use]

(3) Nursing Home, including assisted living centers. [§ 112-62F(4)]

E. Minimum Use Percentage Guidelines. Mixed Use Developments shall incorporate the following residential to non-residential ratios with respect to the site design and proposed land use:

(1) Required Land Use Mix. Residential to non-residential land use mix shall represent a ratio of no greater than 75% residential and no less than 25% non-residential, and no less than 25% residential and no greater than 75% non-residential, of the net developable acreage.

(a) The developer shall propose a ratio of the overall mix in its Pattern Book concept plan and provide a table showing the number of acres proposed for non-residential, residential, and relative land use mix percentage. The developer shall propose a ratio of open space to net developable acreage (see reference 98-23).

(b) The burden shall be on the developer to establish that the proposed ratio meets the overall intent of this zone in consideration of the project size, location, access to existing or planning community amenities, infrastructure and the character of the properties surrounding the project.

F. Conditions to use. Processes and equipment employed and goods processed or sold shall be limited to those which are not objectionable by reason of odor, dust, smoke cinders, gas, fumes, noise, vibrations, refuse matter or water-carried waste or otherwise create a nuisance.

G. Density. A maximum of seven ~~eight~~ person dwelling units per net developable acre shall be permitted. *[Beck property developer indicates that this needs to change. Concept of net developable acreage is not workable (see open space comment above), referral should be made to Town's Vision Plan. I have a note saying "10 acres or so?" but am not sure of the meaning]*

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H. Building Height. No structure shall exceed 40 feet in height ~~or a maximum of three stories.~~ *[Edit note: MXU-CC allows 40 feet without saying how many stories. Should that be corrected?]* *[Developer of Beck Property: note that 4 story Townhomes with rooftop deck in Town Center style are very popular right now]*

I. Off-street parking and loading. There shall be provided in the MXD adequate off-street parking and loading areas in accordance with the requirements in Article II. Temporary storage of motor vehicles and motor equipment is subject to the requirements for off-street parking set forth in Section 112-7F, related to paving.

J. Location, and layout requirements. Mixed Use Development design shall promote a pedestrian oriented environment through the placement of buildings in relation to public walkways, massing of buildings and related architectural elements, and give consideration as to the appropriate location of necessary amenities such as parking areas, trash containers, alleys, loading areas, etc. so as to limit them as much as possible from public view.

K. Setbacks and Buffer Requirements. During the Concept Plan phase of the development approval process, the applicant shall provide the Planning Commission with a list of building setback requirements from public streets, or other structures within the development, and the property boundaries to be similar to existing individual zoning requirements. Once approved by the Commission, these bulk requirements shall be included in the Pattern Book described in Section 98-61B and govern development of the MXD. Property boundaries that abut less intensive zoning districts shall contain suitable buffers to be delineated in the development plans and Pattern Book and approved by the Planning Commission. Buffer requirements may not be eliminated through consolidation of parcels outside the MXD with parcels located within the MXD. Buildings with commercial, townhomes, and/or apartments that abut an existing residential district must maintain a fifty-foot yard buffer with no impervious area, except parking within half the yard distance. [Question raised by developer of Beck Property why do this for townhomes, at least those that abut residential anyway? Shy need a buffer?]

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L. Development plans. Any new use or a change of use involving structural additions or changes and any site improvements, to include grading and parking, to be undertaken within the MXD shall require submission and approval of site and/or subdivision plans, as may be applicable, pursuant the Chapter 98 including Section 98-61.

Section 4. That Chapter 112, Article VIII of the Code of the Town of Mount Airy, Section 112-62 is hereby amended to repeal and enact with amendments as follows:

§ 112-62. Special exceptions.

* * *

F. Specific standards for special exception uses. In addition to the general standards for all special exceptions as contained in § 112-62E, the following specific standards for particular uses must be met prior to the granting of a special exception:

* * *

(3) Clubs, fraternal and service organizations. In R-5, and R-7 and Mixed Use Districts and subject to the requirements of the district in which located except as herein provided:

- (a) Lot area: 20,000 square feet minimum.
- (b) Lot width: 150 feet minimum.
- (c) Yards, minimum for each yard: front 50 feet, side 30 feet, rear 60 feet.
- (d) Building coverage: 15% of the total lot area maximum.
- (e) Access must be on a major street as designated in the Town Master Plan.

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(4) Convalescent or nursing home. In R-5, R-7, and CC and Mixed Use Districts and subject to the requirements of the district in which located except as herein provided.

* * *

~~(30) Hotels, Section 62-F(30). *Edit note: Specific standards?*~~

[A couple of notes: (1) I have a note about a comment on "need standards to apply for APFO" but not sure what that refers to; (2) also discussed DRRA's, which TVM will have to draft enabling legislation for, but in this ordinance, we'd make accommodation for this in the Pattern Book section perhaps, would protect developer from changes in law after approval of concept plan/water allocation, perhaps changes in APFO (which may be what the first note was about!)]

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BE IT ENACTED AND ORDAINED BY THE AUTHORITY AFORESAID, that this Ordinance shall take effect on the ____ day of _____, 2020.

Introduced this 6th day of January, 2020.

Enacted this ____ day of _____, 2020 by a vote of ____ in favor and ____ opposed.

ATTEST:

Jason Poirier, Secretary

Larry G. Hushour
President of the Town Council

Approved this ____ day of _____, 2020.

ATTEST:

Jason Poirier, Secretary


Patrick T. Rockinberg, Mayor

REVIEWED AND APPROVED AS TO LEGAL FORM AND SUFFICIENCY.

This _____ day of _____, 2020.

Thomas V. McCarron, Town Attorney

TVM0041



From: Karl Munder <councilmembermunder@mountairymd.gov>

Sent: Wednesday, July 1, 2020 6:02 PM

To: tmccarron@semmes.com <tmccarron@semmes.com>; Holly McCleary <hmcclary@mountairymd.gov>; Colleen Reilly <creilly@mountairymd.gov>

Cc: prockinberg@[REDACTED] <prockinberg@[REDACTED]>; Larry Hushour <councilmemberhushour@mountairymd.gov>; Pamela Reed <councilmemberreed@mountairymd.gov>; David Warrington <dwarrington@mountairymd.gov>; Barney Quinn <bquinn@mountairymd.gov>; Chaslyn Derexson <cderexson@mountairymd.gov>; John Breeding <jbreeding@mountairymd.gov>; Debra Clinton <dclinton@mountairymd.gov>

Subject: RE: Materials for MXD Discussion

A request here to make the discussion of this easier for all on Monday. For the version that incorporates all of the changes by the planning commission and the town council, can the PDF copy be printed and used for the discussion related to changes. I am asking this because when I open the similar version in word, the colors of the edits do not match with what Tom stated at the beginning. The colors of the edits match in the PDF version. This will allow all of us to use the same version for discussion.

I am also wondering if town staff can send the pdf copy to Roxanne and request that she uses this copy if she wants to discuss any of the edits that have been included. Again, this way we are all using the same document during discussions of previous changes. We should use the "clean" copy for final discussions or if changes are proposed, this should go for anyone proposing changes also. We should do each discussion separate of each other, comments on previous changes first, then any proposed changes. This way it will make the process less confusing and all the council, staff and public will be using the same document version at the same time.

Just some thoughts since last time all of us were using different versions of the same ordinance during discussions.

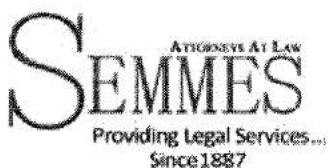
No discussion please due to open meeting rules, just some thoughts on how to make the discussion easier for all.

Karl



Attorney Client Privileged Communication

Attorney Client Privileged Communication



Open for business and working remotely to serve you.

Thomas V. McCarron

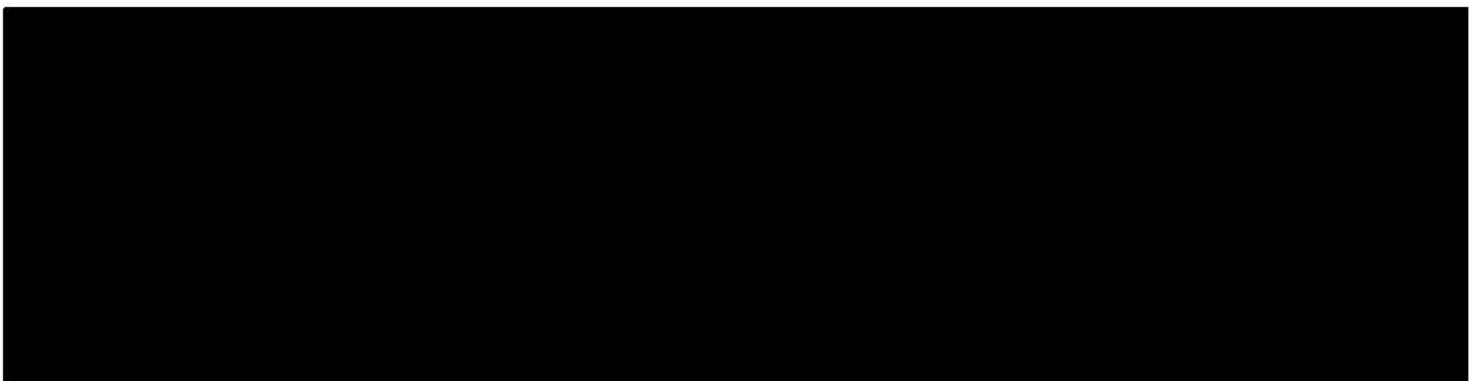
Principal

25 South Charles Street, Ste 1400, Baltimore, MD 21201

Tel: 410.576.4854 | Cell: 410.960.6743 | Fax: 410.539.5223

tmccarron@semmes.com

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From: Patrick Rockinberg <prockinberg@[REDACTED]>
Sent: Saturday, September 26, 2020 4:38 PM
To: Mayor And Council <mayorandcouncil@mountairymd.org>
Cc: tmccarron@semmes.com <tmccarron@semmes.com>
Subject: Fwd: Intent to amend apfo ordinance at Oct meeting

Please respond one on one only. If you care to.

Sent from my iPhone

Begin forwarded message:




Attorney Client Privileged Communication



Attorney Client Privileged Communication

Attorney Client Privileged Communication



From: Pamela Reed
Sent: Wednesday, May 19, 2021 11:35 AM
To: Stephen Domotor <councilmemberdomotor@mountairymd.gov>
Subject: Beck Property - MXD Rezoning


Steve, I am working to introduce a resolution at the June Council meeting to rezone the Beck Property to MXD, prior to the next master plan.

I would suggest reaching out to Tom, Barney, and John Breeding for a history of the Center Street extension and the development of this property.

Pamela

Attorney Client Privileged Communication

Attorney Client Privileged Communication



From: Ron Thompson <ron@[REDACTED]>
Sent: Tuesday, January 4, 2022 9:30 AM
To: John Breeding <jbreeding@mountairymd.gov>
Cc: Debra Clinton <dclinton@mountairymd.gov>; roxpazmtairy@[REDACTED]<roxpazmtairy@[REDACTED]>; Pamela Reed <councilmemberreed@mountairymd.gov>
Subject: Beck Property MXD Preconcept Sketch Plan

Good Morning John:

I am working on finalizing the Beck Property MXD Preconcept Sketch Plan. Please add to the January 29th Planning Commission agenda the discussion of setting the following dates for the MXD Beck Property;

Planning Commission Charrette –. REQUIRES 30 day notice.

Planning Commission Public Hearing –REQUIRES 30 day notice. This notice can overlap the PC Charrette 30 day notice.

Workshop with Planning Commission members, Town Council members, staff and Development Team – Requires both Planning Commission and Town Council approval of the date. REQUIRES normal notice and not 30 day notice.

JOINT Planning Commission/Town Council Public Hearing –Before Town Council meeting. REQUIRES normal notice and not 30 day notice.

Thank you.

Ronald E. Thompson, PE*
VANMAR ASSOCIATES
310 South Main Street PO Box 328
Mount Airy, Maryland 21771
O 301-829-2890 / C 443-421-2164 / F 301-831-5603

*(*licensed in MD, VA, DE, DC, SC, GA, FL, NC, MA)*