



City of  
**Rockville**  
Get Into It

## Planning Commission Staff Report: Proposed Zoning Text Amendment TXT2018-00248

**MEETING DATE:** February 14, 2018

**REPORT DATE:** February 7, 2018

**FROM:** Deane Mellander, Zoning Administrator  
Planning and Zoning Division  
240.314.8224  
dmellander@rockvillemd.gov

**APPLICANT:** Mayor and Council of Rockville

**FILING DATE:** January 23, 2018

**RECOMMENDATION:** Staff recommends approval of the proposed text amendment

**EXECUTIVE SUMMARY:** The proposed text amendment will add a provision allowing the Mayor and Council to approve a single tenant retail space up to 100,000 square feet per floor when included as part of an application for a Champion Project within the South Rockville Pike Core area.

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

Being Chapter 25 of the Rockville City Code

**Effective Date – March 16, 2009**

As Amended to  
December 4, 2017

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## **APPLICANT'S PROPOSAL**

The proposed text amendment will add an additional provision to the Floor Area Limitation provision in Article 13 that allows the Mayor and Council to approve a single retail tenant space up to 100,000 square feet per floor when included within a Champion Project application. The current limit for a single retail tenant is 65,000 square feet per floor.

## **PROCESS AND PROCEDURE**

The Mayor and Council considered the proposal to expand the retail tenant space as part of the deliberations on zoning text amendment TXT2018-00247, which enacted many of the zoning recommendations of the Rockville Pike Neighborhood Plan. One recommendation was to create a new development procedure, the Champion Project. Testimony during the public hearing on the text amendment requested that the Mayor and Council amend the Floor Area Limitation provision of the code to allow for a larger retail tenant space. Since the text amendment as authorized did not address this issue, the City Attorney recommended that this matter be addressed as a separate text amendment. At the January 22, 2018 meeting, the Mayor and Council authorized the filing of this text amendment.

## **RECOMMENDATION**

The staff recommends approval of the proposed text amendment.

## **ANALYSIS**

The proposed text amendment is attached as Exhibit 1. The proposal is to add a new subsection (b) to Section 25.13.05.c.6, "Floor Area Limitation" that would allow the Mayor and Council to approved a single retail tenant to occupy space up to 100,000 square feet of floor area per floor. The current limitation is 65,000 square feet per floor. This approval would be within the context of the review of a Champion Project, which is approved by the Mayor and Council in the same manner as a Project Plan.

By way of background, the retail tenant area limitation was imposed by the City in response to concerns that the growth of "big box" retailers would have an adverse impact on the implementation of the Rockville Pike design guidelines contained in the 1989 Pike plan. A limitation of 65,000 square feet of floor area was inserted in the Zoning Ordinance via text amendment TXT2000-00183. This text amendment also inserted the design guidelines that have been carried forward with modifications as Section 25.13.06.

When the Zoning Ordinance was comprehensively revised in 2008, the Mayor and Council at the time modified the tenant area limitation by requiring that the footprint not exceed 65,000 square feet, but upper floors could also be 65,000 square feet. That is how the provision is set forth today.

In adopting the Rockville Pike plan in 2016, the Mayor and Council included a recommendation for a new development procedure, a Champion Project. The plan defines a Champion Project as one that:

- Is located in the South Pike
- Contains at least 5 contiguous acres
- For which the Mayor and Council is the Approving Authority; and
- Advances one or more of the following goals:
  - Supports increased multi-family housing near the Twinbrook Metro station by, for example – providing more than the minimum requirement of affordable housing – increasing the number of dwelling units that can be built.
- Provides more than the required 15% publicly accessible space. A portion of the publicly accessible space could be indoor space for a community amenity.
- Provides increased mobility options by building new streets and/or providing or constructing Vision Zero infrastructure, and/or providing pedestrian-bicycle connectivity over/under the CSX/Metro tracks between Lewis Avenue in Twinbrook and Rockville Pike.

On January 22, the Mayor and Council adopted zoning ordinance text amendment TXT2018-00247 to make changes in the code that aid in implementing the recommendations of the Plan. This included adding a Champion Project definition in the Zoning Ordinance. After several discussion sessions, the Mayor and Council included the definition shown on Exhibit 3.

The Plan did not make any specific recommendations regarding the retail tenant limitation, and the text amendment as authorized did not propose any change. The expansion issue was raised in public hearing testimony connected with the potential implementation of Champion Projects.

As part of the Mayor and Council's discussions on the text amendment regarding the possible retail tenant expansion the staff prepared a memo that explains the rationale for the proposed expansion and compares the proposed allowance of up to 100,000 square feet with existing larger retail sites in the vicinity of the South Pike area. This memo is attached for added background information for the Planning Commission.

The Champion Project definition has been inserted into the code with the adoption of the text amendment. However, because a revision to the tenant area limitation was not proposed or advertised as part of the public hearing process for TXT2018-00247, the City Attorney advised that this revision would require a separate text amendment.

Champion Projects are only allowed in the South Pike area, which is basically bounded by Congressional Lane, Jefferson Street, the CSX/Metro tracks and City boundary. Therefore, this proposed retail expansion may only occur in this area and where approved by the Mayor and Council as part of the review of a Champion Project application.

The proposed amendment revises the code by dividing the subsection into parts (a) and (b). Subsection (a) contains the existing language, and is modified by inserting a reference to subsection (b). Subsection (b) would allow the Mayor and Council, in reviewing a Champion Project, to allow a single retail tenant to increase the floor area at the ground level up to 100,000 square feet. Additional floors would also be allowed the same floor area. To be approved, the building enclosing the expanded floor area must have an activated exterior with multiple points of access and storefronts, include other uses or establishments in addition to the principal use with exterior access and be subject to the current design guidelines contained in Section 25.13.06.

The proposed retail tenant expansion only applies to a Champion Project. As a part of a larger development project the tenant space will be more integrated into the overall project layout and be subject to review by the Mayor and Council. Individual retail tenants that are not included in a Champion Project application will still be limited to 65,000 square feet of ground floor area

The staff recommends approval of the proposed text amendment. It is consistent with the intent of the master plan to expand development opportunities in the South Pike area while aiding in providing additional housing opportunities. By limiting the retail tenant expansion to the South Pike area and allowing it as part of a development plan approved by the Mayor and Council, the potential impact of this proposed change is limited and subject to rigorous review as part of a comprehensive development proposal for a Champion Project.

## **EXHIBITS**

- 1. Proposed Text Amendment**
- 2. Memo to Mayor and Council Re: Big Box Examples**
- 3. Champion Project Definition from TXT2018-00247**



Application for  
**Text Amendment**

**TXT**  
2/09

**City of Rockville**  
*Department of Community Planning and Development Services*

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

**Application Information:**

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

*Please Print Clearly or Type*

Property Address information N/A

Project Description Allow a single retail tenant to occupy up to 100,000 square feet within a Champion Project

**Applicant Information:**

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

Applicant Mayor and Council of Rockville 111 Maryland Ave., Rockville, MD 20850

Property Owner N/A

Architect N/A

Engineer N/A

Attorney N/A

<b>STAFF USE ONLY</b>	
<b>Application Acceptance:</b>	<b>Application Intake:</b>
Application # _____	Date Received _____
Date Accepted _____	Reviewed by _____
Staff Contact _____	Date of Checklist Review _____
	Deemed Complete: Yes <input type="checkbox"/> No <input type="checkbox"/>

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:** Reads as follows See Attached  
\_\_\_\_\_  
\_\_\_\_\_

By: \_\_\_\_\_  
(Signature of Applicant)

Subscribed and sworn before this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

My Commission Expires \_\_\_\_\_  
Notary Public

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**The following documents are furnished as part of the application:**

- A Complete Application
- Filing Fee

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**Comments on Submittal: (For Staff Use Only)**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

Applicant: Mayor and Council of Rockville

The applicant proposes to amend the zoning ordinance adopted on December 15, 2008, and with an effective date of March 16, 2009, by inserting and replacing the following text (underlining indicates text to be added; ~~strikethroughs~~ indicate text to be deleted; \* \* \* indicates text not affected by the proposed amendment). Further amendments may be made following citizen input, Planning Commission review and Mayor and Council review.

Amend Article 13, "Mixed-Use Zones", as follows:

**25.13.05 Development Standards**

\* \* \*

c. *Other Standards and Requirements for New Development or Redevelopment*

\* \* \*

6. *Floor Area Limitation –:*

(a) Except as provided in subsection (b) below, ~~R~~etail commercial uses by a single tenant cannot occupy more than 65,000 square feet of floor area at the ground level. This limit only applies to the ground area footprint, and does not limit additional floors devoted to the single tenant so long as each of the additional floors does not exceed 65,000 square feet.

(b) In reviewing a Champion Project, the Mayor and Council may allow the floor area limit for a single tenant set forth in subsection (a) to increase to no more than 100,000 square feet of floor area at the ground level and at each additional floor. As a condition of approval, the following applies:

- i. The exterior walls at the ground level, along any public street or way, must be activated with multiple points of access and storefronts;
- ii. There must be other uses or establishments, in addition to the principal retail use, that are accessible from the exterior; and
- iii. The building design must be consistent with the additional design guidelines set forth in Section 25.13.06.





## MEMORANDUM

December 8, 2017

TO: Mayor and Council

FROM: Cindy Kebba, Principal Planner

VIA: David Levy, Chief of Long Range Planning  
Andy Gunning, Acting Director, CPDS

SUBJECT: December 11 Mayor and Council Meeting: Supplement to Agenda #1924  
Discussion and direction on code changes to facilitate the development of Champion Projects

Since July, the Mayor and Council have been discussing amendments to the Zoning Ordinance in connection with the implementation of the Rockville Pike Neighborhood Plan, including discussions regarding the concept of Champion Projects. On December 4, the Mayor and Council discussed proposed zoning changes and provided direction to staff regarding possible amendments to the City Code to facilitate the development of Champion Projects, but also asked that staff return on December 11 for further discussion. Topics to discuss include, but are not necessarily limited to, the maximum square footage of floor area that may be occupied by a single retail tenant at the ground level; parking standards for affordable housing; sign regulations; layback slope provisions; and the Code definition of a Champion Project.

### **Ground Floor Area Limitation for Retail Uses**

Currently, Rockville's Zoning Ordinance does not permit a single retail tenant to occupy more than 65,000 square feet of floor area at the ground level. This regulation does not limit additional floors occupied by the single tenant, as long as each of the additional floors does not exceed 65,000 square feet.

The Mayor and Council received testimony on behalf of B.F. Saul requesting that the Mayor and Council have the authority to eliminate the single-tenant ground floor area limit for Champion Projects.

### Staff Comments:

Staff researched the square footage of a sampling of retailers in the area to help visualize what different retail sizes and footprints look like. Below are the results of that research:

<b>Retailer</b>	<b>Location</b>	<b>Total Square Footage</b>	<b>Number of Stories</b>
REI	Pike & Rose (White Flint)	36,000	2
Pinstripes (Bowling & Restaurant)	Pike & Rose (White Flint)	37,000	2
Best Buy	Rockville Pike (Rockville)	50,843	1
Giant Food	Hungerford Drive (Rockville)	52,000	1
Home Depot	Shady Grove Road	102,190	1
Wegman's Grocery	Alexandria, Va	84,000 (proposed)	1 (to be located on second floor)
Wegman's Grocery	Germantown, MD	123,000	1
Wegman's Grocery	Columbia, MD	135,000	2
Costco	Gaithersburg, MD	132,000	1
Costco	Wheaton, MD	148,000	1

Staff believes that a retailer with a ground floor footprint of more than 65,000 square feet may be acceptable for Champion Projects but that the automobile-oriented nature of many large retailers must be balanced with the transit- and pedestrian-oriented nature of a Metro station area. All points within the entire South Pike area are less than one mile walking distance from the Twinbrook Metro Station. As stated in the Rockville Pike Neighborhood Plan, this area has the greatest potential to both receive the bulk of the city's population growth over the next few decades and to transform into an urban center with improved walkability and emphasis on the pedestrian experience.

**Staff Recommendation:**

Staff recommends that the Mayor and Council have the ability to eliminate the ground floor retail footprint limit for Champion Projects and to follow up at a later date with revisiting the limit in other parts of the city. If the Mayor and Council are more comfortable setting an upper limit that could be imposed, staff would recommend 100,000 square feet.

However, staff strongly recommends, that if the ability to eliminate or increase the limit is approved, language be added to the Zoning Ordinance to require design and use elements for large single tenant retail projects that would soften the impacts of massing and contribute toward activating the street. The risk of large-footprint retail in this area is that entire block faces could be de-activated by unbroken walls. The plan recommends "encouraging massing and building forms that are visually interesting, contribute to energy on the street, and help to establish an environment that encourages and facilitates pedestrian activity. Frequently-spaced windows and doors at eye-level, expression lines and other façade articulation or building adornment oriented to pedestrians are examples of design features that serve these objectives" (p. 4-35). Staff further recommends, in this pedestrian-oriented area, requiring wrapping a large single ground-floor tenant with smaller

retail/commercial establishments as the optimal way to achieve this objective. These design and use requirements would be in addition to the guidelines for mixed-use development in Section 25.13.06.

### **Parking Standards for Affordable Housing**

Currently, the Approving Authority for a Project Plan or site plan within the MXTD, MXCD, MXE, MXNC and PD zones has the authority to reduce the required number of parking spaces for uses in the building or buildings to be constructed provided that:

- (a) A major point of pedestrian access to such building or buildings is within seven-tenths of a mile (3,696 feet) walking distance of a transit station entrance; or
- (b) There are three or more bus routes in the immediate vicinity of the building or buildings; or
- (c) There is a major public parking facility available to the public within 1,000 feet of a building entrance; or
- (d) Where the size of the lot is so small that meeting the parking requirement would prevent redevelopment; or
- (e) Where there is a bikeway in close proximity to the site and the applicant demonstrates that the uses in the proposed development are conducive to bicycle use; or
- (f) For any other good cause shown.

As such, full flexibility already exists. However, Section 25.16.03.d of the City Code makes no distinction between parking for affordable dwelling units (Moderately-Priced Dwelling Units) and market-rate dwelling units.

The Mayor and Council received testimony (on behalf of B.F.Saul, dated October 16, 2017) requesting that the Zoning Ordinance be amended to allow the Mayor and Council to waive the parking requirement for affordable units in Champion Projects. Subsequent testimony (B.F. Saul, dated October 27, 2017) amended the request to ask for a 50% reduction in the number of parking spaces required by right for MPDUs within Champion Projects. The testimony cited the Montgomery County Zoning Ordinance which states that parking for affordable dwelling units may be reduced to 50% of the number required for market-rate units. The testimony argues, based on Saul's experience in transit-proximate locations, that a significantly smaller percentage of occupants of affordable dwelling units utilize parking than do occupants of market-rate units.

Staff notes that Arlington County, VA allows for such a parking reduction, from 1.0 - 1.125 spaces per market-rate unit to 0.825 spaces per affordable unit. The District of Columbia has low parking ratios (from 1.0 space per unit to 0.25 space per unit), depending on location, but no reductions are specified for affordable housing units. Reductions in parking for affordable housing in DC is considered on a case-by-case basis. Alexandria's zoning ordinance does not have provisions for reductions in parking for affordable housing.

#### **Staff Recommendation:**

The ability already exists for the Mayor and Council to reduce the number of parking spaces required for a project in the zones noted above, although this is not currently a by-right provision. Staff recommends that the Mayor and Council consider the following options:

- 1) Retain the existing zoning provisions, leaving the amount of parking reduction (if any) to the decision of the Approving Authority (the Approving Authority would always be the Mayor and Council for Champion Projects); or

- 2) Allow a by-right 50% reduction for MPDUs only as part of a Champion Project application.

Staff recommends that, if the Mayor and Council choose to allow a reduction in the number of parking spaces for MPDUs, that a requirement be added such that all tenants (market-rate and MPDU) would have equal access to the parking that is provided as part of the development project.

### **Sign Provisions of the Zoning Ordinance**

As discussed at the December 4 meeting, the Mayor and Council was asked to consider amending the sign provisions of the Zoning Ordinance (Article 18) to allow for greater flexibility and to allow for approval of a comprehensive sign package for Champion Projects.

#### **Staff Recommendation:**

Staff continues to recommend that the city take a fresh look at its sign provisions, especially in the context of mixed-use redevelopment. However, amending the sign provisions and allowing for a comprehensive sign plan should include input from the Sign Review Board, and would require that new standards be developed that address legal issues related to signage. Staff proposes re-examining the city's sign provisions in 2018 and developing recommendations for changes.

### **Layback Slope (further changes to provisions addressed in pending TXT2018-00247)**

The layback slope requirement in the current Zoning Ordinance (25.13.05.b.2(d)) states that building height cannot penetrate a layback slope line of 30 degrees, beginning from the closest ground point of the lot line of any property in any residential zone where single unit detached, semi-detached, attached, or townhouse development exists or such development is recommended in the plan without regard to intervening roads or other transportation facilities. The provision does have six exceptions, including "areas adjacent to Metro rapid transit or railroad right-of way.

The pending Zoning Text Amendment (TXT2018-00247) removes this exception from the Zoning Ordinance. Testimony received by the Mayor and Council requests that the exception for "areas adjacent to Metro rapid transit or railroad right-of-way" remain.

The Rockville Pike Neighborhood Plan states that "In particular, layback slopes should also be applied to development on the east side of Rockville Pike that is located across the tracks from residences on Lewis Avenue in Twinbrook. Layback slopes would not apply to development within the Core of the South Pike." (p. 4-26, emphasis added).

#### **Staff Recommendation:**

The pending Zoning Text Amendment, as currently drafted, does not adequately implement the plan intention not to apply the layback slope within the Core. Staff recommends that this portion of the ZTA be amended to define the Rockville Pike Neighborhood Plan's Core and clarify that properties located within the Core are not subject to a layback slope.

Staff further recommends that the ZTA indicate that the layback slope only apply to properties that are confronting residential zones, defined in the Zoning Ordinance as "directly opposite each other, but that may be separated by public right-of-way."

Residential property is further protected by Section 25.17.06.a that state that "In the MXTD, MXCD, MXE, IH, and RMD-25 zones, development must be so planned in relation to one another that no building will cast a

shadow between 10:00 a.m. and 2:00 p.m. on December 21<sup>st</sup> on existing or approved structures that are principally (i.e., 50% or more) residential or on existing designated historic structures. This requirement does not apply to residential towers in a single development 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 percent greater than width.

### **Champion Project Definition**

At the December 4 meeting, the question arose as to whether properties that are located in the South Pike, but that are separated by public right-of-way, could be assembled to achieve the five-acre minimum size required for Champion Projects. The ZTA definition of Champion Projects states that the five acres must be “contiguous.” The definition of “contiguous” in the current Zoning Ordinance is: “Sharing an edge or boundary touching and not separated by other property or a public street or alley.” This definition would make assemblage of properties across public streets, for the purpose of meeting Champion Project eligibility, infeasible.

### Staff Recommendation:

If the Mayor and Council would like to make such assemblage possible, staff recommends that within the definition of Champion Projects in the pending ZTA, eligibility standard #1 read: contains at least five (5) contiguous **or confronting** acres, excluding public rights-of-way. As noted above, “confronting” is defined in the Zoning Ordinance as “Properties directly opposite each other, and separated only by public right-of-way.”

### **Next Steps**

1. Pending Text Amendment TXT2018-00247: Staff recommends that the Mayor and Council decide if they would like to instruct staff to make changes to the layback slope requirements and the definition of Champion Projects in the pending ZTA before it is brought back for Introduction and possible Adoption on January 8, 2018.
2. New Zoning Text Amendments: Staff recommends that the Mayor and Council direct staff to develop language to address any Code changes it would like to make to ground floor area limitations for retail uses and parking standards for affordable housing to facilitate development of Champion Projects. Staff would bring these forward as Zoning Text Amendments to file for authorization on January 8, 2018.

cc: Debra Daniel  
Eliot Schaefer  
Jim Wasilak  
Deane Mellander

## **Definition of Champion Project, as adopted via text amendment TXT2018-00247**

*Champion Project:* A development project that is located within the South Pike and meets the following standards:

1. Contains at least five (5) acres of private property that is (i) contiguous, or (ii) confronting, separated only by a Business District Class I or Class II street; and
2. Significantly advances one or more of the following goals:
  - (a) increases multifamily housing that provides more than the minimum requirement of moderately priced dwelling units near the Twinbrook Metro Station; and/or
  - (b) provides more than the required public use space; and/or
  - (c) provides more than the required vehicular, bicycle and/or pedestrian safety measures and/or provides pedestrian and bicycle access over or under the CSX/Metro tracks; and/or
  - (d) provides a significant increase in the amount of employment.

