



City of
Rockville
Get Into It

Planning Commission Staff Report: Zoning Text Amendment TXT2014-00238

MEETING DATE: August 6, 2014

REPORT DATE: July 30, 2014

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

APPLICATION DESCRIPTION: The applicant's request is to amend the code to allow for a restaurant with a drive-through window as a conditional use in the MXE Zone

APPLICANT: Potomac Foods Group; Miller, Miller
and Canby, Attorneys

*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
February 11, 2013

FILING DATE: May 22, 2014

RECOMMENDATION: The staff recommends approval of a modified version of the applicant's request

EXECUTIVE SUMMARY: The proposed amendment would allow for a restaurant with a drive-through window in the MXE Zone if a property contains an existing hotel and has 200 feet of frontage on a major highway. The staff recommends deleting the requirements that the use be located with an existing hotel and delete the requirement for 200 feet of frontage on a major roadway.

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APPLICANT'S PROPOSAL

This text amendment application (see Attachments 1 and 2) proposes to include a restaurant with drive-through as a conditional use in the land use tables for the Mixed-Use Employment (MXE) zone and add a new subsection e to Section 25.13.04, "Special Regulations for Conditional Uses" to allow the use if the site has at least 200 feet of frontage on a major highway along the front lot line and has an existing hotel use on the site.

RECOMMENDATION

Staff does not support the request as submitted but would support a modified version as described below. The staff would not support a proposal to allow drive-through restaurants generally in the MXE Zone. The zone is primarily "intended for areas that are either currently developed or are recommended for development primarily for office, light industrial, and industrial park uses..." The MXE Zone was created and applied in 2009 as part of the comprehensive revisions to the zoning ordinance and the zoning map. Hotels (including motels) and restaurants without a drive-through are permitted uses in the zone. A restaurant with drive-through is allowed by special exception in the MXCD, MXB and MXC zones but not permitted in the other mixed-use zones. Allowing this use anywhere in the zone might tend to tilt the uses more toward highway commercial uses rather than the employment and service uses that are the primary intent of the zone. Limiting the use to properties fronting on a major arterial roadway addresses that concern.

The staff is willing to support the general intent of this proposal, but recommends that the limitation on being located on the same site as an existing hotel be deleted as there is not a clear link between the uses, such that they should be located on the same property.

The requirement for 200 feet of frontage seems onerous in view of the fact that the minimum amount of frontage in the MXE Zone is ten feet. Staff recommends that it be deleted and modify the provision to require access as well as frontage on a major arterial roadway to be consistent with the city's roadway classification terminology. The proposed revised language is shown as Attachment 4. The site plan review process can assess the compatibility of the use with the surrounding uses and address traffic concerns.

Staff notes that the major arterials with abutting property in the MXE Zone are Shady Grove Road, West Gude Drive and West Montgomery Avenue west of I-270.

ANALYSIS

As originally submitted, the proposed amendment did not propose to amend the land use tables to reflect the intent that this be a conditional use. Attachment 2 is the reformatted version of the applicant's submittal to be consistent with the code's format. In the Land Use tables a "C" would replace the "N" under the MXE Zone column, and additional reference language in the Conditional Requirements column would be added. The specific conditions are

then shown in the new subsection e. Items e.1 and e.2 come from the applicant's initial submission.

The proposed text amendment as submitted would limit drive-through restaurants only to sites zoned MXE that have an existing hotel (which includes motels) with a minimum of 200 feet of frontage on a major arterial roadway. Within the city, there are six hotels in the MXE zone, as follows (see Attachment 3):

- Courtyard/Marriott: 2500 Research Blvd.; ±490 feet of frontage on Shady Grove Rd.
- Best Western: 1251 W. Montgomery Ave.; ±450 feet of frontage on W. Montgomery Ave.
- Quality Suites: 1380 Piccard Drive: Not a major arterial
- Red Roof Inn: 16001 Shady Grove Rd.: ±550 feet of frontage on Shady Grove Rd.
- Crown Plaza: 3 Research Ct.: Not a major arterial
- Sleep Inn: 2 Research Ct.: Not a major arterial

The staff notes that although the Quality Suites, Crown Plaza and Sleep Inn do not have access to a major arterial, they are all through lots that adjoin the I-270 right-of-way which by definition gives them "frontage" on a limited access freeway' which might be construed to be a major arterial roadway. In addition, the city's Comprehensive Master Plan does not define a "major highway". Instead, it defines a "major arterial" roadway, one that has lanes divided by a median, limited access points, and a daily traffic volume exceeding 25,000 vehicles.

The applicant's site of interest is the Red Roof Inn on Shady Grove Road. The site has a restaurant on-site that is currently vacant. Two other hotels would qualify under the requirements of the text amendment as submitted – the Courtyard/Marriott and the Best Western. The other three hotels do not have access to a major arterial. Note that Shady Grove Road is outside the City's jurisdiction, but is designated as a major highway in the County's master plan which is equivalent to the city's major arterial classification.

The proposed text amendment, as recommended by the staff, would require site plan approval, including an APFO review, prior to allowing the use on a property. Approval of the text amendment does not approve any future project.

ATTACHMENTS

- 1. Text Amendment Application**
- 2. Applicant's Proposed Text Amendment**
- 3. Map of Hotels in MXE Zone**
- 4. Text Revisions Recommended by Staff**



Application for
Text Amendment

RECEIVED
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TXT
2/09

2014 MAY 22 PM 3: 03

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: One (1) Ordinance # _____

Please Print Clearly or Type

Property Address Information 16001 Shady Grove Road, Rockville, MD (applicable site if ZTA approved)

Project Description The proposed ZTA would allow restaurants with drive-through facilities in the MXE ("Mixed Use Employment") Zone as a conditional use under specified circumstances.

Applicant Information:

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

Applicant Potomac Foods Group, Inc.; 9123 Gaither Road, Gaithersburg, MD 20879; Attn: Brian Timmons; 301.721.2900; brian@potomacfoodsgroup.com

Property Owner FMW RRI II LLC, 5847 San Felipe, Suite 4650, Houston, TX 77057 (no other information available)

Architect N/A

Engineer N/A

Attorney Jody Kline, Esq. / Soo Lee-Cho, Esq., Miller, Miller & Canby; 200-B Monroe Street, Rockville, MD 20850; 301.762.5212; jskline@mmcanby.com, slcho@mmcanby.com

STAFF USE ONLY

Application Acceptance:

Application # _____

Date Accepted _____

Staff Contact _____

OR Date Received _____

Reviewed by _____

Date of Checklist Review _____

Deemed Complete: Yes No

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 10; 12-13 Article 13 Section 25.13.03.h and 25.13.04

FROM: Which reads as follows ("Mixed Use Zones") "Commercial, office and industrial uses: Restaurant with drive through: Mixed-Use Employment Zone; Not permitted"

TO: Reads as follows "Commercial, office and industrial uses: Restaurant with drive through: Mixed-Use Employment Zone; Conditional use" and to add a new subparagraph "e" to Section 25.13.04 reading as shown on the attached Addendum.

Potomac Foods Group, Inc.

By: [Signature]
(Signature of Applicant)
Tody Kline, Esq. on behalf of Applicant

Subscribed and sworn before this 22 day of May, 2014

My Commission Expires [Signature]
M. KATHERINE SELF
Notary Public, State of Maryland
County of Montgomery
My Commission Expires October 11, 2014



The following documents are furnished as part of the application:

- A Complete Application
- Filing Fee

Comments on Submittal: (For Staff Use Only)

Applicant’s Proposed Text Amendment

Addendum to Zoning Ordinance Text Amendment Application

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

Section 25.13.03 –Land Use Tables

	Uses	Zones							Conditional requirements or related regulations
		Mixed-Use Transit District (MXTD)	Mixed-Use Corridor District (MXCD)	Mixed-Use Employment (MXE)	Mixed-Use Business (MXB)	Mixed-Use Neighborhood Commercial (MXNC)	Mixed-Use Commercial (MXC)	Mixed-Use Transition (MXT)	

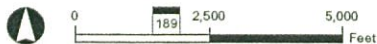
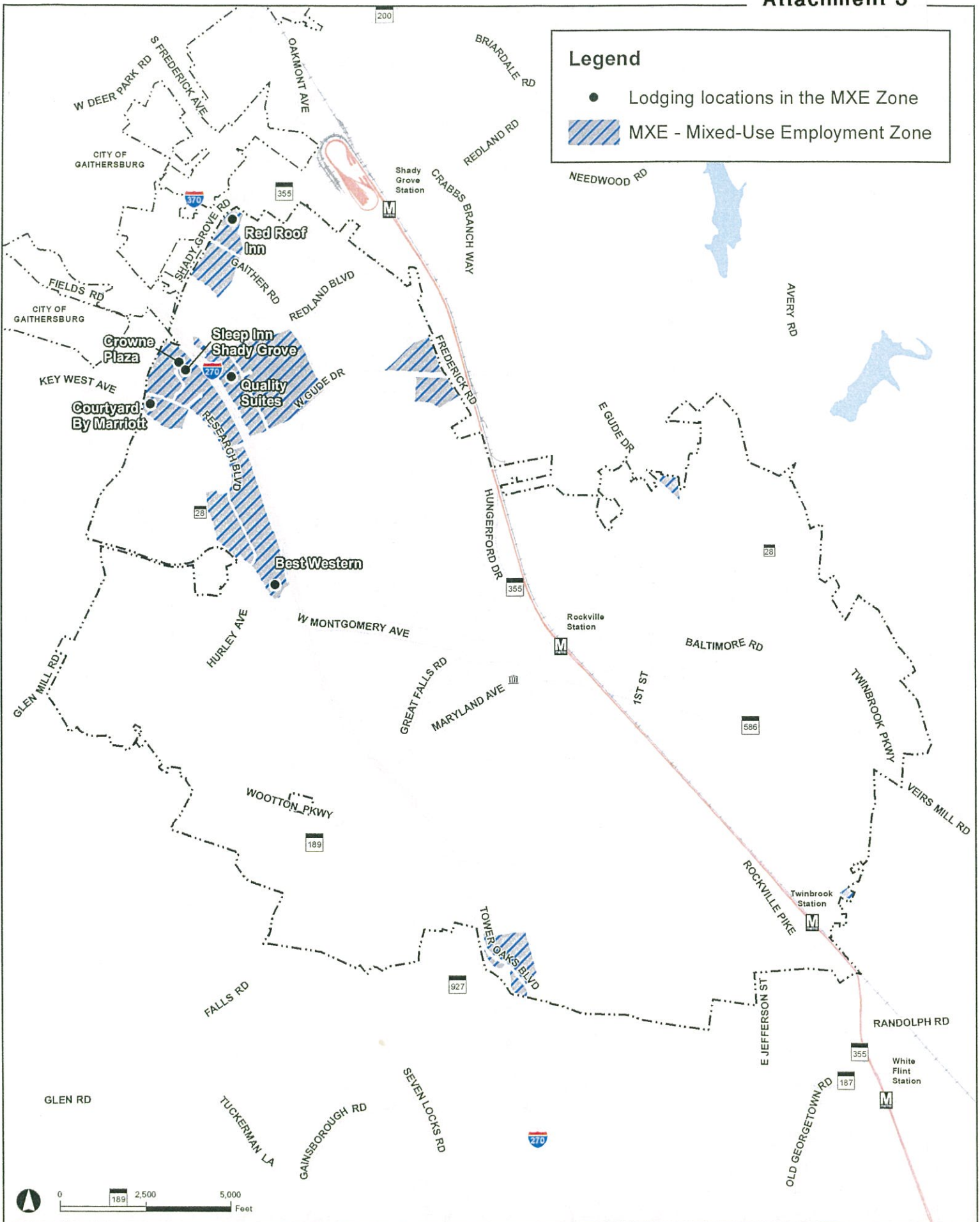
	Food Services:								
Commer- cial, office, and industrial uses		***							
	Restaurant, no drive-through	P	P	P	P	P	P	P	
	Restaurant with drive-through	N	S	[N]C	S	N	S	N	<u>Special exception subject to [See] Sec. 25.15.02.c Conditional use subject to the requirements of Sec. 25.13.04.e.</u>
	Office Uses:								

Section 25.13.04 – Special Regulations for Conditional Uses

e. Restaurant with Drive-Through Window in the MXE Zone:

The use must be located on a site that:

1. has a minimum of 200 feet of frontage on a major highway at the front lot line; and
2. has an existing hotel use on the site.



Text Revisions Recommended by Staff

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	Food Services:								

Commercial, office, and industrial uses	Restaurant, no drive-through	P	P	P	P	P	P	P	
	Restaurant with drive-through	N	S	[N]C	S	N	S	N	<u>Special exception subject to [See] Sec. 25.15.02.c</u> <u>Conditional use subject to the requirements of Sec. 25.13.04.e.</u>
	Office Uses:								

Section 25.13.04 – Special Regulations for Conditional Uses

e. Restaurant with Drive-Through Window in the MXE Zone:

The use must be located on a site that has frontage on and access to a major arterial roadway at the front lot line.