

A Check on Sprawl?

As it updates its zoning rules, Rockville stops new development.



BY ERICA A. LEATHAM

On November 13, the mayor and council of Rockville, Md., adopted a moratorium on new development within the city. Other local jurisdictions have enacted their own building and development moratoriums, but Rockville's moratorium is unique in its duration and scope. As other jurisdictions weigh similar restrictions on development, some observers say that the moratorium will affect development around the region.

The Rockville moratorium applies for at least the next year on most new development within city limits. The moratorium does not alter planned unit developments, which are earlier approvals for a certain mix of uses at agreed-upon maximum densities (such as the developments at Fallsgrove, Tower Oaks, and King Farm, where a significant portion of commercial development remains to be constructed, while the residential and retail have already been built out).

It also doesn't apply to smaller-scale projects with at least some pre-existing city approval. For instance, in Rockville's two-tiered process, if a special exception has already been approved but a use permit is required to implement the special exception, the use permit may still be filed after the moratorium takes effect. And finally, the moratorium doesn't apply to development applications submitted before the moratorium's enactment.

In practice, the moratorium should have little impact on existing planned development in Rockville, but anything not already in the "pipeline" by the end of the year will be temporarily halted. New projects that are on hold until the new zoning ordinance is adopted will be required to correspond to the new standards. Based on our real estate and zoning practice at Stark, Meyers & Eisler, we anticipate that the moratorium will not change many things for the city of Rockville, but the new zoning ordinance could bring some changes.

The original moratorium proposal would have applied staggered deadlines to all development within the city, irrespective of whether there were previous approvals in place; however, a

majority of the city council members feared the proposal would "undercut the city's credibility" because the city would appear to be "breaking its word" and reversing previous approvals. As a result, the council crafted the moratorium described above and consequently limited the controversy surrounding it because projects that rely on existing approvals or had submitted applications prior to the adoption of the moratorium were exempt.

With the moratorium in place in Rockville, any development or redevelopment not otherwise subject to a prior approval must wait until the new zoning standards are enacted. Effective on Dec. 29, 2006, and continuing until Dec. 15, 2007, the city will not accept any applications for new development projects, new special exceptions, and certain new uses of existing property, although property owners still will be able to amend an existing approval.

CLEAR THE PIPELINE

Why a moratorium? The city's stated purpose for the moratorium is to "clear the pipeline" of developments approved under current zoning standards, pending the city's revision of its 30-year-old zoning ordinance. Rockville's (and the rest of the region's) demographics have changed since the city last revised its zoning ordinance, as have land use and development concepts. For example, previous zoning standards favored strict, single-use zones, while current development concepts call for mixed-use developments, as exemplified by Fallsgrove, King Farm, and Kentlands, where people can live, work, and shop in one location. An update to the zoning ordinance to reflect these modern concepts is therefore a necessary, though large, endeavor.

Rockville's zoning ordinance is being redrafted to reflect these modern land ideas, but the underlying stresses of dealing with the impact of growth unmistakably run through the debate. Open meetings of the committee charged with setting the policy and approving the language of the zoning ordinance reflect preferences for lower densities and mixed uses to limit the perceived impact on roads and schools, concerns that reverberate through-

out the metropolitan region. In fact, Prince William County in Virginia is proposing a yearlong residential building moratorium to alleviate traffic congestion.

Mix It Up

A draft of the new zoning ordinance is expected to be ready for public review by early spring of 2007. The major change from the existing ordinance will be the replacement of the current single-use zones (such as commercial zones that allow only commercial uses and no residential uses, or industrial zones that do not permit commercial uses) with mixed-use zones.

These zones will have different controls on the form of new construction (known as the “building envelope”) and the ways in which different uses will be integrated with each other. The change could allow more creative site designs and more efficient use of the land: With apartments and shops in the same area, there would be less reliance on automobiles and more interaction between the residents fostering a stronger community.

The other impact of the new zoning ordinance, in particular the conversion of almost all commercial and industrial zones to mixed use (such as allowing both residential and commercial development on a single property or area), is the change in allowable densities.

In some areas, permitted densities may be decreasing (the town center area in particular), but in other areas densities may be increasing. Depending upon the density and mix, this change may significantly change property values: Allowing a mix of uses or increasing the density permitted would have a positive impact, while decreasing the allowable density would have a negative impact. However, because the final draft is not yet

available, no one can predict the potential changes with any certainty at this time.

Across the region, jurisdictions are concerned that growth is outpacing the infrastructure and are taking steps to marry the two more directly. Within the past several years, several jurisdictions have considered or enacted moratoriums, although none quite as fully as Rockville.

For example, the city of Gaithersburg rejected a four-month moratorium on new housing projects to determine the need to establish an affordable housing program, while the town of Chevy Chase imposed a six-month moratorium (that later was successfully challenged) to prevent what is called the “mansionization” of older, established neighborhoods. (Mansionization is the trend of tearing down older, smaller homes and building larger houses on the lots.) Montgomery County already has promised to re-evaluate the county’s growth policies and discussed returning to an earlier “annual growth” policy that created an extended moratorium in the eastern part of the county.

The city of Rockville, in rewriting its zoning ordinance to respond to the changes in the demographics and land-use concepts, is hoping to create a template to make better use of the land by encouraging a mix of uses and integrated communities. Ultimately, the moratorium may delay new development for a period of time, but the result may permit greater opportunities for property owners, developers, and Rockville residents.

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