

Action

MEMORANDUM

January 28, 2011

TO: County Council

FROM: Marlene L. Michaelson, Senior Legislative Analyst *MM*

SUBJECT: Resolution to deny Kensington and Vicinity Sector Plan for the purpose of incorporating new recommendations related to the CR Zone

Attached to this memorandum is a resolution (© 1-2) that will allow the Council to return the Kensington and Vicinity Sector Plan to the Planning Board to amend the Sector Plan to incorporate changes to the Commercial Residential (CR) zone. This will allow the Planning Board's work to be completed while the Council is reviewing the FY12 Operating Budget. The goal will be for M-NCPPC to revise the Sector Plan and resubmit it to the Council after the budget. Although "return" would be a more accurate description of the Council's intent, County law only allows the Council to approve a master plan, approve it with modifications, or deny it. **The Council President and Planning, Housing, and Economic Development (PHED) Committee Chair recommend denial.** If the Council does not concur with this approach, it must extend action on the Sector Plan or it will be considered approved as submitted.

**Background**

The Council received the Kensington and Vicinity Sector Plan from the Planning Board in October 2009 and held a public hearing on February 4, 2010. Every commercial property owner who submitted written or oral testimony to the Council expressed their concern that the CR zone, in its then current form, would serve as a disincentive for redevelopment. The PHED Committee held worksessions on March 17, April 5 and May 5, 2010. The Committee discussed the problems with the CR zone and the majority recommended the use of an alternative zone or revisions to the CR zone to address the problems. Representatives from the Town of Kensington expressed their opinion that it would be preferable to amend the CR zone and the Committee accepted this recommendation (with the majority noting that it had not eliminated the possibility of using another zone if the Planning Department was unable to develop appropriate amendments to the CR zone). At that time it was contemplated that the Planning Board would submit amendments to the Council in early summer 2010. This did not happen, and the Council set a new goal of considering the zone amendments and Sector Plan before beginning work on the FY12 operating budget.

The Planning Board has not yet completed its work on the CR zone and recently indicated that it would not be able to transmit the amendments in time for the Council to consider them before its budget review. The Council President and PHED Committee Chair agree that it would be fruitless for the Council to work on master plans which recommend the use of the CR zone until the amendments have been submitted to the Council (and therefore are also recommending delaying the Council review of the Takoma/Langley Sector Plan until the CR zone has been submitted). Attached is a memorandum from the Council President and PHED Committee Chair to the Planning Board Chair discussing the implications of the delay in the CR zone amendments for the master plan schedule (© 3-4).

The Council has already extended action on the Kensington and Vicinity Sector Plan 4 times and must either deny the Sector Plan or extend the deadline for action by February 7, 2011. The Council President and PHED Committee Chair recommend denial for the following reasons:

- The Planning Department could use the following few months (while the Council is working on budget issues) to amend the Sector Plan to reflect the changes to the CR zone the Planning Board will be recommending. Otherwise, the Council will consider a document with CR recommendations that are no longer valid.
- Both the Planning Board and Council would be required to have a new public hearing on the revised Sector Plan, giving the public the opportunity to comment on the changes to the CR zone in the context of the Kensington Sector Plan.<sup>1</sup> Given the changes to the zone, the time that has elapsed since the Planning Board and Council's previous hearings, and the change in the composition of both the Planning Board and Council, new public hearings for both bodies are advisable. This would also address the comments of some members of the public who did not participate in earlier hearings and have concerns about the Sector Plan.
- The Council would have to extend action on the Sector Plan at least 3 or 4 additional times before approval is possible. (The Council can only extend action on a master plan in 60 day increments.)

While the Council directive would be to revise the Planning Board draft to reflect changes to the CR zone, the Planning Board will have the discretion to determine whether any additional changes to the Sector Plan are warranted based on new information available since they last acted on the Sector Plan.

Should the Council disagree with the recommendation to deny the Sector Plan, it would need to extend action. A resolution to extend action until April 9, 2011 is attached at © 5.

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<sup>1</sup> The Council will be holding a second hearing on the Takoma/Langley Sector Plan in May, which will give the public the opportunity to comment on the changes to the CR zone in the context of that Sector Plan.

Resolution No.: \_\_\_\_\_  
Introduced: February 1, 2011  
Adopted: \_\_\_\_\_

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND  
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION  
OF THE MARYLAND-WASHINGTON REGIONAL DISTRICT  
WITHIN MONTGOMERY COUNTY, MARYLAND**

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By: District Council

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**SUBJECT:** Resolution to Deny the Planning Board Draft Kensington and Vicinity Sector Plan

1. On October 20, 2009 the Montgomery County Planning Board transmitted to the County Executive and the County Council the Planning Board Draft Kensington and Vicinity Sector Plan.
2. The Planning Board Draft Kensington Sector Plan comprehensively updates the 1978 Sector Plan for the Town of Kensington and Vicinity.
3. On December 15, 2009 the County Executive transmitted to the County Council his fiscal analysis of the Kensington and Vicinity Sector Plan.
4. On February 4, 2010 the County Council held a public hearing regarding the Planning Board Draft Kensington and Vicinity Sector Plan. The Sector Plan was referred to the Planning, Housing, and Economic Development Committee for review and recommendation.
5. On March 17, April 5, and May 5, 2010 the Planning, Housing, and Economic Development Committee held worksessions to review the issues raised in connection with the Planning Board Draft Kensington and Vicinity Sector Plan.
6. On May 18, July 27, October 5, and December 7, 2010 the County Council approved resolutions to extend for 60 days the time for Council action on the Planning Board Draft Kensington and Vicinity Sector Plan.
7. The Planning Board has indicated its intent to revise the Commercial Residential (CR) Zone. A significant portion of the Sector Plan area is recommended for CR zoning.

**Action**

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following resolution:

The Planning Board Draft Kensington and Vicinity Sector Plan, dated October 2009, is denied and the Planning Board is directed to revise the Sector Plan to incorporate its recommended changes to the CR zone.

This is a correct copy of Council action.

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Linda M. Lauer, Clerk of the Council



MONTGOMERY COUNTY COUNCIL  
ROCKVILLE, MARYLAND

OFFICE OF THE COUNCIL PRESIDENT

MEMORANDUM

January 21, 2011

TO: Francois Carrier, Planning Board Chair

FROM: Valerie Ervin, Council President  
Nancy Florence Manning, Housing, and Economic Development Committee Chair


SUBJECT: Master Plan Schedule

Despite the Council's best efforts to establish a workplan for the Planning Department that would have facilitated Council action on the Commercial Residential (CR) zoning text amendments (ZTA) prior to our work on the operating budget, you have notified us that the Planning Board has determined that it requires additional worksessions to complete its work on the CR zone. As you know, the additional time required to transmit the CR zone to the Council has a ripple affect on the master plans the Council is scheduled to consider over the next few months, since the Kensington, Takoma Langley and Wheaton CBD plans all use the CR zone. This memorandum sets forth our understanding of the practical considerations of the schedule changes required.

Since the Planning Board requires additional worksessions on the CR zone, it will be impossible for the Council to hold a public hearing or worksessions on the ZTA before beginning our work on the budget in April and May. The current schedule for the Planning Board review of the ZTA would not allow for a Council public hearing until early April. Therefore our review of the ZTA must occur after we complete work on the budget. To ensure that we can hold a public hearing in May and then begin work on the ZTA as soon as we complete the budget, this ZTA must be transmitted to the Council no later than March 11. It is our intent to finish our work on the ZTA this summer.

It is clear that the Council cannot continue worksessions on Kensington or begin worksessions on Takoma Langley or Wheaton until you have submitted the CR ZTA because the zoning recommendation is one of the most critical issues in each plan. We expect that your staff will revise each master plan as needed to reflect the proposed changes to the CR zone, so that the Council's public hearing on each plan

STELLA B. WERNER COUNCIL OFFICE BUILDING • 100 MARYLAND AVENUE • ROCKVILLE, MARYLAND 20850  
240/777-7900 • TTY 240/777-7914 • FAX 240/777-7989  
WWW.MONTGOMERYCOUNTYMD.GOV

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will be on a draft plan with the correct zoning recommendations. To accomplish this, the Council will hold a second public hearing on the Takoma Langley Plan in mid-May and ask that you transmit any amendments to the Plan related to the CR zone prior to May 1. We will begin worksessions in June after we have completed our work on the budget.

The Council's public hearing on the Kensington Sector Plan occurred almost a year ago. We believe that the Plan should be revised to reflect the changes to the CR zone and that the Planning Board and Council should each have new public hearings on the revised plan. We will return this plan to the Board and request that staff incorporate the new zone by June 1. (We leave it to the Planning Board to determine whether to revisit any master plan recommendation other than the CR zone amendments.) This would enable the Council to hold a public hearing on the revised plan in September and hold worksessions in the fall with adoption in late fall/early winter.

**The Wheaton CBD Sector Plan remains a very high priority for the Council, and we ask that you continue to move ahead on that Plan so that we can have final adoption in fall 2011, as shown in the currently approved schedule.** We understand from Planning Department staff that the Planning Board needs to hold a final worksession on the Sector Plan after you complete work on the CR zone amendments, and then another Planning Board meeting for final approval of the Planning Board draft once all Planning Board recommended changes have been compiled. Planning Department staff estimate that this will occur in the spring, which would enable the Council to have a public hearing in the summer (after the Executive review and advertisement of the public hearing) and worksessions in September. Our objective is to minimize any delays to the approved schedule to allow pending development applications to proceed as expeditiously as possible.

With these necessary changes the new schedule for the CR ZTA and master plan review will be as follows:

	<b>Date for Planning Board Transmittal</b>	<b>Date for Council Public Hearing</b>	<b>Goal for Council Action</b>
CR ZTA	By March 11	Early to Mid-May	By end of July
Takoma-Langley	Transmit any revisions related to CR zone before May 1	Mid-May	By end of July
Wheaton	ASAP but no later than April 15	End of July (after 60 day period for Executive review and 30 day advertising)	Early Fall
Kensington (Revised Plan that incorporates new CR recommendations)		September	November – December (before winter recess)

The next master plan due to the Council is Long Branch. The schedule currently plans for a December 2011 Council public hearing on the master plan, and we see no reason to adjust the date for this plan or any subsequent plan.

Resolution No.: \_\_\_\_\_  
Introduced: \_\_\_\_\_  
Adopted: \_\_\_\_\_

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND  
SITTING AS A DISTRICT COUNCIL FOR THAT PORTION  
OF THE MARYLAND-WASHINGTON REGIONAL DISTRICT  
WITHIN MONTGOMERY COUNTY, MARYLAND**

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By: District Council

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**Subject:** Extension of Time for Council Action on the Kensington and Vicinity Sector Plan

**Background**

1. Under §7-108(d) (2) (ii) of Chapter 28 of the State Code, on a vote of two-thirds of those present and voting, the District Council may extend by 60 days the requirement that review and action on a plan or amendment must be completed within 180 days.
2. Insufficient time is available before February 8, 2010 for scheduled worksessions to be completed and for the Council to act on the Kensington and Vicinity Sector Plan.

**Action**

For these reasons, the County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland approves the following resolution:

The time limit for Council action on the Kensington and Vicinity Sector Plan is extended to the close of business on April 9, 2011.

This is a correct copy of Council action.

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Linda M. Lauer, Clerk of the Council