ATTACHMENT D

City of Rockville

MEMORANDUM

November 23, 2009

TO: Mayor and Council

FROM: Planning Commission

SUBJECT: Planning Commission Recommendation on Zoning Text Amendment (ZTA) Application TXT2010-00224

At its meeting on November 18, 2009, the Planning Commission reviewed ZTA Application TXT2010-00224. The Commission received a presentation from Planning and Zoning Division staff. After extensive discussion and deliberation on the aspects, intent and application of "public use space" versus an "open area" within a development context, the Planning Commission voted to approve two separate recommendations to the Mayor and Council.

As noted in the Planning Commission's staff report, staff had recommended some minor modifications to the ZTA as authorized by the Mayor and Council. These modifications were made to improve clarity and conciseness while retaining the intent of the submitted request.

In reviewing the proposed ZTA, the Planning Commission recommends that the provision to allow an open area to be used to fulfill the public use space requirement be limited to development in the Mixed-Use Employment (MXE) Zone instead of allowing this option in all of the Mixed-Use Zones. The MXE Zone is primarily intended for office and light industrial uses that are not normally pedestrian-oriented outside of working hours. In these situations, providing an open area for the benefit of the employees on site is practical in a development context. On a motion by Commissioner Hill, seconded by Commissioner Johnson, the Commission unanimously recommends approval of this modification to the text amendment.

As a part of the motion, the Commission also recommends that in cases where light industrial or service industrial uses are proposed in the MXE Zone, the approving authority should favorably consider the use of the fee in lieu option instead of requiring public use space on the site. This would be a policy recommendation, and not a change to the ZTA.

The Commission also recommends making it clear that cumulative additions are included in all development expansions, and therefore recommends adding the phrase "or cumulative additions" to the proposed subsection 25.17.01 (a) after the words "Building expansions…" The City Attorney suggested this modification in order to be consistent with the same language proposed in subsection 25.17.01 (b). Therefore, on a motion by Commissioner Hill, seconded by Commissioner Tyner, the Commission recommends this additional modification to the text amendment.

By these actions, the Planning Commission recommends that the proposed ZTA be modified to read as follows:

25.17.01 – Public Use Space

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b. *General Requirements* – Where provided, such public use space must be accessible for use and enjoyment by the general public. ~~and may include space so located and treated as to enhance the amenity of the development by providing landscaping features or a general appearance of openness.~~ Development within the Mixed-Use Employment (MXE) Zone may provide an Open Area, as defined in Article 3, for the purpose of satisfying the public use space requirement. The Approving Authority may allow reasonable limitations on access to the public use space to meet safety or security concerns.

1. Where development does not comply with the public use space requirement, the following regulations apply:

(a) Building expansions or cumulative additions that exceed 50 percent and up to 100 percent of the existing gross floor area must provide a proportionate amount of public use space on site using a factor of 0.2 times the percentage increase in gross floor area up to the required 20 percent public use space requirement (example: 75 percent increase in existing gross floor area x 0.2 = 15 percent public use space requirement).

(b) Any building expansion or cumulative addition that exceeds 100 percent of the existing gross floor area must provide public use space as set forth in Section 25.13.05.b.1.