

Memorandum

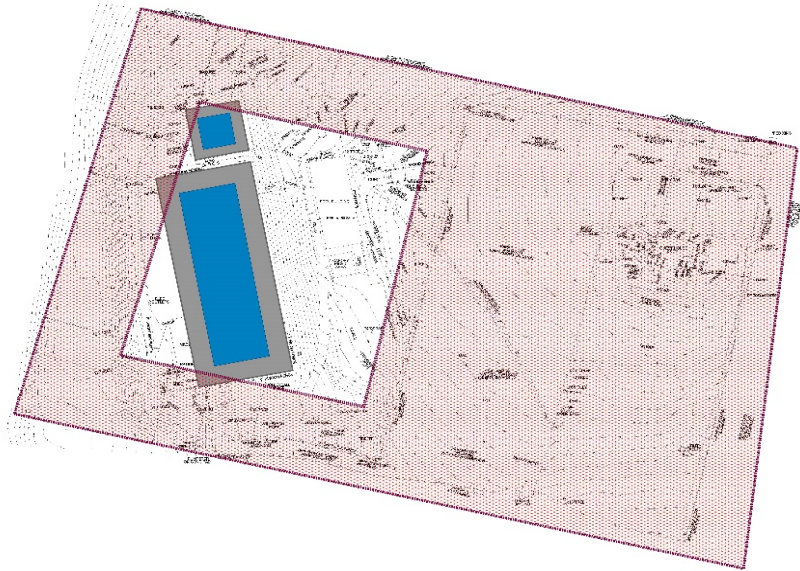
TO: Adelphi Recreation Inc.
FROM: William Shipp and Nate Forman
DATE: 5/23/22
RE: Adelphi Pool—Zoning Overview

Adelphi Recreation Inc., (“Adelphi”) has requested an overview of the zoning process for redeveloping the existing community pool upon property located at 9442 Riggs Road, Hyattsville (“Subject Property”), which is the subject of two previous special exceptions: SE-289 and SE-2381 to construct said pool and the subsequent addition of a storage shed, as well as the remodeling of a bathhouse. The Subject Property is zoned RR under the prior and current Zoning Ordinance. Both ordinances are in effect until April 1, 2024, at which point applications must be filed pursuant to the Current Ordinance. For this development, the major difference between the Prior and the Current Ordinance is that the Prior Ordinance potentially allows for greater relief from the strict application of development standards.

A special exception is required for a community pool in the RR Zone under the Prior and Current Zoning Ordinances. Any changes to an existing special exception must be approved as a revision to the special exception plan. There are two methods for revising a special exception: Minor Changes and Major Changes. A Minor Change does not require a public hearing and can normally be resolved by Maryland-National Capital Park and Planning (“M-NCPPC”) Staff at the administrative level. To constitute a Minor Change, the request must satisfy certain disjunctive criteria, with the most appropriate being that the change involves an increase of no more than 15% in the land area covered by a structure other than a building (assuming a pool constitutes a structure).

A Major Change is any change that does not satisfy the criteria for a Minor Change or a change that also requires approval of a variance. A Major Change is more time consuming and expensive compared to a Minor Change because procedurally, it is essentially an entirely new special exception with an evidentiary hearing before the Zoning Hearing Examiner (“ZHE”) and the potential for a second hearing by the District Council (County Council when presiding over land use matters). The District Council may elect to hold a second hearing on the matter or the matter can be appealed to the District Council by a party of record. If no appeal is filed, the District Council can also elect to adopt the ZHE’s recommendation as their decision.

While the ordinance under which this request is reviewed and approved is not a major concern, if a variance to the minimum setback requirements is required, it could only be approved through a Major Change to a special exception under the Prior Zoning Ordinance. As mentioned previously, the Current Zoning Ordinance does not permit variances from use specific development regulations.



It is our understanding that Adelphi seeks to improve the existing pool facilities shown on the image to above. The blue and grey areas show the proposed improvements to the pool facilities. The area in red illustrates the required setbacks for a pool pursuant to § 27-5102(e)(8)(F) of the Current Zoning Ordinance and § 27-411 of the Prior Zoning Ordinance. Of particular concern to this development (and the process for redevelopment) is the requirement that:

Any outdoor swimming pool (including the apron, filtering and pumping equipment, and buildings) shall be located at least:

1. Seventy-five (75) feet from land in a Rural and Agricultural or Residential base zone, or land containing an existing or approved Residential use; and
2. 25 feet from land in a Nonresidential zone, or land containing an existing or approved Commercial or Industrial use.

(Emphasis supplied). To better understand what constitutes the “pool apron”, an informal request was submitted to Jeremy Hurlbutt, Supervisor of the Zoning Section for M-NCPPC. Mr. Hurlbutt advised that an answer to this question requires an official interpretation from M-NCPPC, which is initiated through the submission of a formal application.

It is recommended that before proceeding, we obtain a formal interpretation from M-NCPPC regarding what constitutes the pool apron. Depending upon this answer, we can determine the appropriate next step in the process. Ideally, it would be determined that the pool apron is outside the setback area and we are can proceed with a Minor Change to a special exception. If the pool apron is determined to be within the setback area, a decision must be made whether to redesign the pool or proceed with a Major Change to a special exception in conjunction with a variance application.

Conclusions:

1. If the term apron is deemed to include all the pool deck, the application must proceed under the prior Zoning Ordinance to obtain a variance of the setback. That may be a Minor or Major Change depending on Staff determination. Minor Changes are Staff level administrative reviews while Major Changes require the full public hearing process. Variances are not allowed

under the current Zoning Ordinance. The prior ordinance is usable for 24 months from April 1, 2022.

2. If the term apron is deemed to only include the edge or coping around the pool, we believe the application can proceed as a Minor Change under either ordinance. If there are substantial changes to the number of structures as opposed to a rebuild of existing features, it may trigger a Major Change process. We are told we must file a formal request for interpretation of the term apron.