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On again, off again: Montgomery council committee bumps Vitro site *Staff Writers*

A vacant office building in Aspen Hill, targeted as a Walmart, could sit empty another 12 years if it is officially bumped from the minor master plan amendment schedule, according to its owner.

But some Montgomery County Council members feel rezoning the site without considering the broader Aspen Hill area and the impact Walmart would have is bad planning.

A Montgomery County Council committee has recommended pulling the former Vitro/BAE Systems site from the list of minor master plan amendments scheduled to start in 2014. Instead, it is encouraging the council to have the Montgomery County Planning Board consider the entire retail area of Aspen Hill in a sort-of modified master plan process.

Citing the property owner's intent to bring Walmart to the area and the narrow scope of the minor master plan process as major concerns, the Planning Housing and Economic Development Committee (PHED) voted two-to-one to recommend a more comprehensive planning of the retail area, yet not so comprehensive as a full master plan, currently scheduled to begin in fiscal year 2016.

Councilman Marc B. Elrich, who sits on the committee, said the minor master plan amendment process was not intended to serve developer interests, but it has quickly become a vehicle for developer-driven spot-zoning.

"What park and planning is doing is disturbing," Elrich (D-At Large) of Takoma Park said Tuesday at a press conference against Walmart coming to Aspen Hill. "Spot-zoning is spot-zoning no matter how you dress the pig up."

"It's like taking the hole out of the donut," said Councilman George L. Leventhal, who is also on the committee. "How is that logical government?"

For the property owner, Lee Development Group, the committee's position is frustrating.

"I have to say if I'm Joe and Jane Citizen, watching this happen in my Aspen Hill community, we've really got to be scratching our heads as to what is our government doing or not doing," said Bruce Lee, president of Lee Development Group.

Lee Development Group applied for a minor master plan amendment to rezone the property at the corner of Aspen Hill Road and Connecticut Avenue from office to retail use.

The change is necessary for the company to bring Walmart to the community and turn the building from vacant to viable, he said.

However, Walmart on that corner conflicts with existing zoning and the 1994 master plan, which states that Aspen Hill is not to be a regional retail hub, Leventhal (D-At Large) of Takoma Park said.

"In this case, I feel like to accommodate a single property owner, we run the risk of ignoring other property owners' concerns," he said. With Kmart just feet away from the potential Walmart site, Leventhal said a minor master plan rezoning for Vitro is potentially trading vacant building for vacant building because Walmart would likely force Kmart, a competitor, out of business.

Acting Planning Director Rose Krasnow said that the minor master plan amendment was developed as a tool to update a small portion of the master plan to the community's benefit.

"We do have so many master plans, it takes us a very long time to go through the process," Krasnow said. "We needed to come up with a way to be more nimble."

The planning department had hoped to do the whole master plan for Aspen Hill, she said, but it has been pushed farther and farther down the list of the department's work program.

If the council adds Vitro to its list of minor master plan amendments, Krasnow estimated it would take 17 months from the start of planning in January 2014 until the zoning went in place.

But if the council pulls it from the list, the planning department would start work on the full master plan in fiscal 2016, Krasnow said.

"We can look at the whole area and recommend zoning," she said. "That doesn't mean we can make anything happen."

Yet it is also possible for Aspen Hill to get pushed even further down the list as planning is already burdened with multiple master plans.

Krasnow said the council's current schedule includes six master plans and the zoning code rewrite, marking an "unusual period" of high workload. It also includes as many as four minor master plan amendments.

"The workload on our staff and planning board and council, it's stressing everyone out," Krasnow said.

Elrich said the committee's recommendation — which also changes timelines for proposed minor master plan amendments in Pooks Hill and downtown Bethesda — could actually accelerate Aspen Hill.

"They [planning] could possibly do these projects in a slightly accelerated time frame, not on Walmart's time frame, but on a time frame of actually looking at Aspen Hill and not doing it two years out," he said.

Lee said the recommendation means more years of his company paying about \$700,000 annually just to have the Vitro building sit empty.

"In many ways it's not a surprise, but it's extremely disappointing considering how much the Aspen Hill community is behind our efforts," Lee said.

Lee said if his company is forced to wait for a full master plan review, based on the county's current development process, and considering that it has been vacant since 2010, the building could sit empty for 15 years before construction could begin.

"Montgomery County constantly comes across as anti-business and a lot of things they do are unfortunately anti-business," he said.

Despite the uncertainty, Lee said Walmart remains interested, even though it has been more than a year since the company announced plans for an Aspen Hill store.

"We're fortunate that Walmart, unlike a lot of retailers, understands long-term time frames and Montgomery County takes a long time to do things," he said.

Some council members have emphasized that their decision on the minor master plan work will have nothing to do with Walmart.

"We are not making a decision on which company gets to come on this site," Councilwoman Valerie Ervin, (D-Dist. 5) of Silver Spring said. "I think that started wrong from the very beginning and they're fighting a battle on Walmart when that is not even a battle, that is not our decision. That will be somewhere down the road."

However, divorcing the Walmart from the discussion is difficult given the reality that Lee Development Group has a signed letter of intent from the big-box retailer, Councilman Hans Riemer (D-At large) of Takoma Park said.

"It is certainly a reality," Riemer said of Walmart. "But I think the question is: What kind of review do we want to go through?"

"We cannot close our eyes to fact that Lee Development Group has a signed agreement with Walmart," Leventhal said. "Planning means looking ahead, not closing our eyes."

"When this comes up, I don't have any doubt that people will conclude that office is the wrong zone for that property," Elrich said. "We're going to have to look at other uses — housing, retail — but there is the issue of what kind of retail."

Councilwoman Nancy Floreen, chair of the PHED, voted against the recommendation in committee.

"We have a big empty building that has a wacky zoning that makes it very difficult for it to be used appropriately one way or another," she said.

The full nine-member council will have final say on what minor master plans the county planning department takes up next year and whether or not it asks planning to consider Aspen Hill a bit more broadly.

Ervin indicated she would support keeping the Aspen Hill site on the list of minor master plan amendments scheduled to start in 2014, as did Floreen (D-At large) of Garrett Park.

"I'm going to support what the community wants, but I'm not supporting a company or some multi-national something," Ervin said. "I'm supporting the landowner's ability to rezone their property."

Lee said his plans to rezone have received support from the community — which he said wants affordable shopping.

The building's long-term vacancy helped spur formation of the Aspen Hill Business Coalition, which supports the property's rezoning.

Boris Lander — a founder of the coalition and the owner of two Dunkin' Donuts stores in the community — said that he also thinks there is necessary support in the council to pass the amendment.

"We're working on some Plan B's, but I think we're in a good position," Lander said.

The coalition, which consists of about a dozen businesses, is ramping up its efforts with calls, emails and letters to various council members, Lander said. Coalition members are also scheduled to meet with Council President Nancy Navarro (D-Dist. 4) of Silver Spring on Wednesday.

For the coalition, the decision at present is not about Walmart, Lander said.

"We're not focused on Walmart," he said. "We're not here to support them or not support them."

Raise Maryland and the Working Families Party, a Brooklyn, N.Y.-based political movement that started a petition against the Aspen Hill Walmart, have found some broader community opposition to Walmart and the rezoning.

The petition gained 2,000 signatures — some local, some out of the area — in one week, which Raise Maryland presented Tuesday to members of the county council.

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