

Resolution No.: 17-79
Introduced: March 29, 2011
Adopted: March 29, 2011

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

By: District Council

SUBJECT: Approval of Development Plan Amendment (DPA) 11-2

OPINION

The application for Development Plan Amendment (“DPA”) No. 11-2 was filed by Avalon II Maryland Value I LP, on November 1, 2010. It seeks to amend the previously approved development plan for a portion of Montgomery Village in Gaithersburg to increase the maximum permitted number of dwelling units from 203 to 205 units. The property consists of approximately 11.76 Acres in the Town Sector (T-S) Zone, located on Rothbury Drive between Arrowhead and Goshen Roads, just southwest of the intersection of Snouffer School Road and Goshen Road. It is currently improved with a 203-unit multi-family complex developed in four 3-story buildings, three 4-story buildings, and a freestanding clubhouse building and pool. Also included within the existing complex is a business center and model sales unit which the applicant proposes to convert to the two residential units proposed.

Zoning Application E858, approved in August, 1968, reclassified approximately 2,434.8 acres, known as “Montgomery Village” to the Town Sector Zone. The subject property comprises 11.76 acres within Area III-F of the North Village, as shown the original development plan. Designated as a potential elementary school site on the original development plan, the Montgomery County Public School System determined in 1996 that the property was no longer needed for a school, thereby releasing it for development. While there have been several amendments to the original development plan for Montgomery Village since its approval in 1968, the Technical Staff Report does not indicate that any of these affected the site until the approval of DPA 02-02 on July 1, 2003. This DPA removed the public school designation and approved the development of multi-family residential units.

The 2003 development plan amendment contained a binding element limiting the total number of units to 203 units. Forty-one units approved were to be affordable units. A binding element of the DPA also required the developer to provide the “greater of 1 parking space per bedroom, the number of parking spaces required by Article 59-E of the Montgomery County

Code or 1.9 spaces per unit.” Applying the highest formula at the time, the property in 2003 was required to have 1.9 parking spaces per dwelling unit or 386 spaces.

This DPA amendment proposes a single change to the 2003 DPA: it would increase the maximum number of units permitted from 203 units to 205 units. The only textual change to the binding elements would delete the numeral “203” and replace it with “205”. No new external construction or site alterations are required. As proposed by the applicant, DPA 11-2 does not involve a change in the area zoned or the proposed uses.

Technical Staff of the Maryland-National Capital Park and Planning Commission recommended approval of the application, finding that the proposed amendment was minor in nature, consistent with the 1985 Gaithersburg Master Plan and in compliance with the standards and purposes of the Town Sector Zone. For the subject property, the Gaithersburg Master Plan recommends a base density of 15 dwelling units per acre with a maximum density of 18.3 dwellings per acre if affordable units are included. As the project did include MPDUs, the maximum allowable density for the subject site is 18.3 units per acre.¹ Existing density (203 units) is 17.2 dwelling units per acre; the addition of two proposed units will bring the density to 17.4 dwelling units per acre, under the maximum prescribed.

Technical Staff also concluded that the application met the requirements of T-S Zone, set forth in §59-C-7.2 of the Montgomery County Code. Because the District Council had already found that the development met the standards and requirements of the zone in the 2003 DPA, Technical Staff reviewed only those requirements affected by the addition of two dwelling units. Technical Staff examined whether the proposed amendment met the population limit for the T-S Zone established in §59-C-7.25 of the Zoning Ordinance. This section limits the average population of all T-S zoned property to 15 persons per acre. Based on the existing population established by the most recent approved site plan for T-S zoned property, Technical Staff advised that there remains capacity for development generating 238 persons. Applying the formula prescribed by the Zoning Ordinance for calculating population for this type of development, the additional two proposed units will add 6 persons to the existing T-S Zone population, leaving a balance of 232 persons for future development. In addition, Technical Staff found that the existing number of parking spaces within the development exceeded that required by the 2003 DPA and the amendment now proposed. The required parking for the existing units is 386 spaces. The additional two units would bring the required parking to 390 spaces. As the property is currently approved with 428 spaces, the amendment will require no additional parking spaces.

At its regular scheduled meeting on February 10, 2011, the Planning Board voted unanimously to recommend approval of DPA 11-2 as submitted. The Planning Board found that the application “will not have any substantive impact on the residential development objectives for the area.” Exhibit 25. The Board found the proposal to be consistent with the Gaithersburg Master Plan, compatible with surrounding development, consistent with the findings made by the District Council in the 2003 DPA, and in compliance with the purposes and standards of the T-S Zone.

¹Under the 2003 DPA, MPDUs comprised 20.197% of the total project. With the additional two units, MPDUs will constitute 20% of the residential units.

The Planning Board further determined that a public hearing by the Hearing Examiner would not be necessary unless there was opposition to the amendment and the case should be sent directly to the Council for final decision.

There has been no opposition to DPA 11-2, and no request has been made for a hearing. Therefore, under the provisions of Zoning Ordinance §59-D-1.74(c)(3), "the office of zoning and administrative hearings [OZAH] must forward the planning board's report and recommendation directly to the council," without a hearing by OZAH. In these kinds of cases, a draft resolution is prepared by OZAH based solely on the record prepared by Technical Staff, the Planning Board's transmittal letter and Applicant's compliance therewith.

The record is now complete, and the matter can be considered directly by the District Council without the need for a hearing or recommendation by the Hearing Examiner.

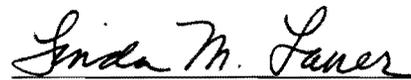
The District Council has reviewed DPA 11-2 and concluded that the DPA meets the requirements of the Zoning Ordinance, and its approval would be in the public interest. Based on this record, the District Council takes the following action.

Action

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

DPA No. 11-2, which requests an amendment to the Development Plan approved June 10, 2003, in DPA No. 02-02, to increase the maximum density permitted to 205 dwelling units, is hereby approved, provided that the DPA (Exhibit 19(a)) is submitted to the Hearing Examiner for certification within 10 days of the District Council's action, pursuant to the provisions of Zoning Ordinance §59-D-1.64.

This is a correct copy of Council action.


Linda M. Lauer, Clerk of the Council