

MAYOR & COUNCIL AGENDA COVER SHEET

MEETING DATE:

August 17, 2009

CALL TO PODIUM:

Louise Kauffmann

RESPONSIBLE STAFF:

**Louise Kauffmann
Fred Felton**

AGENDA ITEM:

(please check one)

<input type="checkbox"/>	Presentation
<input type="checkbox"/>	Proclamation/Certificate
<input type="checkbox"/>	Appointment
<input type="checkbox"/>	Public Hearing
<input type="checkbox"/>	Historic District
<input type="checkbox"/>	Consent Item
<input type="checkbox"/>	Ordinance
<input type="checkbox"/>	Resolution
<input checked="" type="checkbox"/>	Policy Discussion
<input type="checkbox"/>	Work Session Discussion Item
<input type="checkbox"/>	Other:

PUBLIC HEARING HISTORY:

(Please complete this section if agenda item is a public hearing)

Introduced	n/a
Advertised	6/10/09
	6/17/09
Hearing Date	07/06/09
Record Held Open	07/27/09
Policy Discussion	

TITLE: T-391

An Amendment of Chapter 24 Of The City Code (City Zoning Ordinance), Article XVI, Entitled "Affordable Housing Requirements", To Modify The Income Restrictions for Participation In The Program

SUPPORTING BACKGROUND:

When the City's Affordable Housing Ordinance was first adopted in 2006, eligibility for Moderately Priced Dwelling Units (MPDUs) was set for income between 60 percent and 80 percent of Area Median Income (AMI). Eligibility for Work Force Housing Units (WFHUs) is limited to incomes between 80 percent and 120 percent of AMI.

The City's first rental MPDUs are now available for occupancy at Amber Commons, and we are finding that the income limits for market-based units are actually lower than the income limits for MPDUs. Accordingly, staff is recommending that the City lower the minimum income for MPDUs to 50 percent of AMI.

On June 1, 2009, the Mayor and City Council agreed to sponsor a text amendment to amend the zoning ordinance to reduce minimum income for a rental MPDU to 50 percent of AMI. This change also required an amendment to the Affordable Housing Regulations which was heard concurrently with T-391 on July 6, 2009.

On July 15, 2009, the Planning Commission unanimously recommended approval of T-391.

The Mayor and City Council's record closed at 5:00 pm on July 27, 2009. The only additions to the record since the Public Hearing was the Planning Commission recommendation and a letter dated July 27, 2009 from the Gaithersburg Affordable Housing Coalition.

Attachments:

1. T-391
2. Planning Commission recommendation dated July 15, 2009.
3. Letter dated July 27, 2009
4. July 15, 2009 Planning Commission meeting minutes

DESIRED OUTCOME:

The Ordinance is ready for final action.

DRAFT
ORDINANCE NO. _____

Text Amendment: **T-391**

AMENDMENT OF CHAPTER 24 OF THE
CITY CODE (CITY ZONING ORDINANCE), ARTICLE XVI, ENTITLED “AFFORDABLE
HOUSING REQUIREMENTS”, TO MODIFY THE INCOME RESTRICTIONS
FOR PARTICIPATION IN THE PROGRAM

BE IT ORDAINED, by the City Council of the City of Gaithersburg, in public meeting assembled, that Chapter 24 of the City Code, (City Zoning Ordinance) Article XVI entitled “Affordable Housing Requirements” is hereby amended to modify the purpose and intent of the Article, Section 24-249 and Section 24-250 to read as follows:

ARTICLE XVI: AFFORDABLE HOUSING REQUIREMENTS

Sec. 24-249. Purpose and intent.

It is the purpose and intent of this Article to ensure that affordable housing opportunities are created for both homeownership and rental units within the City of Gaithersburg for households earning ~~60~~ **50** to 120 percent of Area Median Income.

Sec. 24-250. Definitions.

For the purposes of this Article, the following definitions shall apply:

Area Median Income (AMI): the median income for the Washington Metropolitan Area, adjusted for household size, as determined by the U.S. Department of Housing and Urban Development (HUD).

Approved Sale Price: price at which a for-sale unit is determined to be affordable. For Moderately Priced Dwelling Units, the approved sales price will be affordable to households earning 70 percent of Area Median Income adjusted for household size. For Workforce Housing Units, the approved sales price will be affordable to households earning 90 percent of Area Median Income adjusted for household size.

Approved Rental Price: price at which rental units are determined to be affordable. The approved rental price will be affordable to households earning 60 percent of Area Median Income adjusted for household size.

Affordable: as defined in the Administrative Regulations adopted pursuant to Section 24-256 of this Article.

Affordable Housing Fund: a fund established to support the creation and maintenance of affordable housing in the City of Gaithersburg and to which payments will be made by developers in lieu of construction of units required but not built.

Moderately Priced Dwelling Unit (MPDU): MPDU that is offered to eligible participants under the terms of the affordable housing program and is affordable to households earning at least ~~sixty~~ **fifty (50)** percent of AMI, but not more than eighty (80) percent of AMI, adjusted for household size.

Undue Economic Hardship: the deprivation of all viable economic use of land.

Work Force Housing Unit (WFHU): WHFU that is offered to eligible participants under the terms of the affordable housing program and is affordable to households earning at least eighty 80 percent of AMI, but no more than one hundred twenty (120) percent of AMI adjusted for household size.

* * * * *

ADOPTED this ____ day of _____, 2009 by the City Council of Gaithersburg, Maryland.

SIDNEY A. KATZ, MAYOR and
President of the Council

DELIVERED to the Mayor of the City of Gaithersburg, Maryland, this ___ day of _____, 2009, APPROVED by the Mayor of the City of Gaithersburg, Maryland, this ___ day of _____, 2009.

THIS IS TO CERTIFY that the foregoing ordinance was adopted by the City Council of Gaithersburg, in public meeting assemble, on the ___ day of _____, 2009 and that the same was approved by the Mayor of the City of Gaithersburg on the ___ day of _____, 2009. This Ordinance will become effective on the ___ day of _____, 2009.

Angel L. Jones, City Manager

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
Single strikethrough	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by Amendment.</i>
Double boldface strikethrough	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

COMMUNICATION: PLANNING COMMISSION

MEMORANDUM TO: Mayor and City Council

VIA: Angel L. Jones, City Manager

FROM: Planning Commission

DATE: July 15, 2009

SUBJECT: T-391 -- The Application Requests Amendment Of Chapter 24 Of The City Code (City Zoning Ordinance), Article Xvi, Entitled "Affordable Housing Requirements", To Modify The Income Restrictions For Participation In The Program

At its regular meeting on July 15, 2009, the Planning Commission made the following motion:

Commissioner Kaufman moved, seconded by Commissioner Hopkins, to recommend Text Amendment T-391 for ADOPTION to the Mayor and City Council.

Vote: 4-0

The Commission voiced no concerns regarding this amendment and moved as follows:

Commissioner Kaufman moved, seconded by Commissioner Hopkins, to recommend to the City Council ADOPTION of Text Amendment T-391.

Vote: 4-0

Chair Bauer suggested discussing later this evening, under the From The Commission portion the meeting, the relevance of income-related issues as part of a zoning review.

IV. SITE PLAN

SP-07-0017 -- Spectrum at Watkins Mill MXD Zone
North Frederick Avenue/Watkins Mill Road Extended
Phase 1A and Infrastructure Plan
6th District Police Station
FINAL PLAN REVIEW

Planner Seiden located the property on an aerial photograph and noted this is the first site plan following schematic development plan approval (SDP-07-001), granted in August 2007.

Attorney for the applicant, Jody Kline, Esq., Miller, Miller and Canby, stated that the applicant is in agreement with the staff-recommended conditions for plan approval.

Engineer for the applicant, Gary Unterberg, Rodgers Consulting, presented a colored phasing plan, showing Phases 1A and 1B and reviewed the progression of submittals and approvals associated with this project since August 2007. He discussed the components of this plan, namely, Watkins Mill Road, the police station site, and the infrastructure for the project, including forest conservation, storm water management and the wild life management plan. He indicated that if the subject plan is approved this evening, the next submittal would include the detailed police station plan, followed by Phase 1B. He noted that Montgomery County will be putting the Watkins Mill Road extension out to bid and construction would follow.

In response to Chair Bauer, Mr. Unterberg provided information as to the extent of the improvements for Watkins Mill Road included with each phasing. Mr. Unterberg also discussed the record plat waiver request accompanying the subject plan, noting that it relates only to the timing of its submittal.

There was no testimony from the public.

Ms. Seiden noted that revised conditions were provided to the Commission and made available to the public before the meeting. Planning Director Pruss referenced her letter to the applicant, Peter Henry, B.P. Realty Investments, Inc., which discussed each of the revised conditions, and noted that some of the original conditions have been completed and others will be addressed at future plan reviews.

Commissioners Hopkins and Kaufman applauded the work of the City and the applicant to achieve resolution of outstanding issues and move this project forward.

Commissioner Kaufman moved, seconded by Alternate Commissioner Lanier, to grant SP-07-0017 - Spectrum at Watkins Mill, FINAL PLAN APPROVAL, finding it in compliance with Zoning Ordinance §§ 24-160D.10(c), 24-170 and 24-171, with the following conditions:

To: Mayor & City Council
Gaithersburg, MD

JUL 27 2009

From: Gaithersburg Affordable Housing Coalition

Date: July 27, 2009

Subject : Amendments to the City Affordable Housing Regulations and Affordable Housing Ordinance.

Honorable Mayor & Councilmembers:

Although several members of the Gaithersburg Affordable Housing Coalition attended and spoke during the Joint Public Hearing July 6th we write to add to those comments.

In Section One Paragraph 1. the income eligibility is lowered from 60 percent of Area Median Income to 50 percent, however there is not a corresponding reduction in paragraph 3 (f) or paragraph 3(g), which defines MPDU Sales price and MPDU rental price. Unless the pricing is changed it does not appear that the issue of affordability is being addressed.

In Section Two Paragraph 8. the for sale MPDU pricing needs to be reduced to the midpoint between 50 percent of AMI and 80 percent of AMI, which would be 65 percent instead of 70 percent.

We contend that Section Four Paragraph 2 (b) is in direct conflict with the stated purpose of the Affordable Housing Ordinance. It removes the current regulation provision requiring a reset of the thirty year control period when the rental unit is converted to a for sale condo MPDU. This change clearly sets the table for a more rapid loss of MPDUs than envisioned in the current regulation and we strongly disagree with this change. Furthermore, in Section Four Paragraph 10(a) the proposed regulations allow the further loss of MPDUs because it allows half of them to become WFHUs upon conversion from rental to a for sale condo. Also, Section Four Paragraph 10(e) prohibits the piecemeal selling of rental MPDUs without the express permission of the City Manager or designee. We believe that the decision to grant the piecemeal selling of rental MPDUs is a policy change of significant magnitude and should require approval of the Mayor and City Council.

The maximum rental price for MPDUs set in Section Four Paragraph 8(a) should be set so as to render them affordable to households earning 50 percent of AMI adjusted for household size not 60 percent. Once again it does not effect affordability if the income eeligibility is lowered to 50 percent but the rental price continues to be based upon 60 percent.

Finally, the proposed regulations are silent about the distribution of equity upon the conversion of rental units to for sale units in the event a building is sold in its entirety at the time of conversion.

Thank you for your interest and concern for retention of decent and affordable rental housing.

Finally, the changes in Section Four Paragraph 9 (“Developer Marketing Requirements”) need some clarification. We heartily applaud the striking of the phrase that permits leasing of MPDU’s to tenants who are not income-eligible and the addition of opening the MPDU’s to income-eligible Montgomery County residents if Gaithersburg citizens do not come forward. We are concerned, though, that 45 days is a very short period of time in which to make the initial offering to citizens of Gaithersburg and recommend that that period be lengthened to at least 60 days. Also, the added phrase under (b) “who do not live or work within Montgomery County” should be clarified to include Gaithersburg residents that come forward after the initial offering period ends. While the intent of the change surely must not be to exclude Gaithersburg residents, this should be made explicit in the ordinance.

The Coalition is grateful to the Staff and the Mayor and Council for striving to keep affordable housing a possibility in Gaithersburg.