



Gaithersburg

A CHARACTER COUNTS!

CITY OF GAITHERSBURG
MINUTES OF A REGULAR CITY COUNCIL MEETING
MONDAY, JULY 20, 2009

A meeting of the Mayor and City Council was called to order at 7:30 p.m., Mayor Katz presiding. Council Members present: Ashman, Drzyzgula, Marraffa, Sesma and Spiegel. Staff present: City Manager Jones, Assistant City Manager Tomasello, Planning and Code Director Ossont, Community Planning Director Schwarz, Animal Control Director Holland, Director of Housing and Community Development Kauffmann, City Attorney Board and Municipal Clerk Stokes. Planning Commissioners present for the consolidated joint public hearing: Hopkins, Kaufman, Lanier, and Levy.

I. PLEDGE OF ALLEGIANCE

The Pledge was led by Madeline and Pauline Preuninger, Gaithersburg, Maryland.

II. INVOCATION

In lieu of an invocation, Mayor Katz called for a moment of silence.

III. APPROVAL OF MINUTES

Motion was made by Council Member Ashman, seconded by Council Member Sesma, that the minutes of the Mayor and Council regular meeting held June 15, 2009, be approved.

Vote: 5-0

IV. APPOINTMENTS

A. Resolution Confirming an Appointment

This resolution confirmed the following: **Education Committee**, Dr. Marion Perry, 344 Tschiffely Square Road, 20878, two-year term.

Motion was made by Council Member Sesma, seconded by, Council Member Spiegel, that a RESOLUTION OF THE CITY COUNCIL CONFIRMING APPOINTMENT BY THE MAYOR TO THE EDUCATION COMMITTEE (Resolution No. R-54-09), be approved.

Vote: 5-0

V. PUBLIC APPEARANCES

1. *Tom Rouse, 101 Dogwood Drive*, attended the Olde Towne Business Watch meeting and shared information. Asked the Mayor and City Council to rely on staff for guidance on decisions for the Enterprise Zone, move forward and establish the proper criteria.
2. *Larry Seeger, 1015 Bayridge Terrace*, asked the City to investigate the recommendation for street lights in the Fernshire Farm community.

VI. FROM THE MAYOR AND CITY COUNCIL/ANNOUNCEMENTS**Council Member Ashman**

1. Congratulated staff on the recent Shakespeare in the Park event.
2. Attended the employee picnic and thanked staff for all their hard work.
3. Urged citizens to subscribe to Alert Gaithersburg, the City's emergency notification system.

Council Member Spiegel

1. Echoed thanks to staff for their service to the City.
2. Enjoyed Shakespeare in the Park and encouraged families to participate and enjoy the various City events.
3. Announced the 40th Anniversary of the moon landing and asked all to reflect on what's possible.
4. Reported the County Council will be considering the State's plan on the widening of I-270 and the construction of the Corridor Cities Transitway (CCT). Stated the City supports the CCT and urged residents and members of the community to weigh in on the various options.
5. The Metropolitan Council of Governments (COG) created a new committee to focus on climate, energy and environmental policies which he will be representing the City of Gaithersburg.

Council Member Marraffa

1. Announced an upcoming event, Hotel for Dogs, entertaining movie to be shown at Malcolm King Park on Thursday, July 30, 2009.
2. Attended the Olde Towne Watch Business meeting which was very productive.

Council Vice President Sesma

1. Mentioned the passing of veteran newsman Walter Cronkite, CBS Evening News, and asked the public to remember those historic moments in history.
2. Thanked those that submitted comments to the state and county on the I-270/CCT plans. Stated that the City has stated its position on the CCT which is vital not just to the region, but to several projects in the City.
3. Congratulated Council Member Ashman on his efforts to double the subscriptions for the City's Alert Gaithersburg mentioned above.

Council Member Drzyzgula

1. Attended the following events: Shakespeare in the Park, Employee Picnic, and the Olde Towne Business Watch meeting.
2. Attended the COG Chesapeake Bay Policy Committee and the need for a regional policy of nitrogen removal from septic systems was discussed. She reported that the 5 percent bag tax did pass in the District of Columbia; a regional recommendation is being considered.
3. Announced that National Night Out is scheduled for Tuesday, August 4th. All events will be held and organized by local communities in conjunction with the City.

4. Reported that the City's new recycling contract took effect July 1 which gives residents the option of using either their existing green bin or ordering a new 65-gallon wheeled recycling cart. Additional information on Gaithersburg's recycling program can be found on the City's website at www.gaithersburgmd.gov.

Mayor Katz

1. Announced that the CSX railroad crossing in Olde Towne will be closed to motorist from 9 a.m. on Monday, July 27 through 3 p.m. on Friday, July 31, 2009. Signage for alternate routes will be in place and the MARC train service will not be interrupted.
2. Announced the following meeting schedule:
 - no work session, Monday, July 27, 2009.
 - next regular meeting Monday, August 3, 2009.

VII. ORDINANCES, RESOLUTIONS, AND REGULATIONS

- A. **Introduction of an Ordinance to Amend Chapter 6C Entitled "Elections" of the City Code, Article 2 Entitled "Financial Contributions and Expenditures", Section 6C-12 Entitled "Limitations on Campaign Contributions"**

During the June 1, 2009 public hearing on Ordinance No.O-07-09, the Mayor and City Council indicated they would also like to consider an amendment to the Elections Ordinance that would require that all campaign contributions be deposited in a separate account with a financial institution, and not be commingled with any other funds. During the July 6, 2009 meeting, the Mayor and City Council also indicated that they would like the proposed amendment to clarify that electronic campaign donations are permissible. The proposed ordinance would accomplish the two items above. The ordinance will go to public hearing on Monday, August 3, 2009.

Motion was made by Council Member Sesma, seconded by, Council Member Spiegel, that AN ORDINANCE TO AMEND CHAPTER 6C ENTITLED "ELECTIONS" OF THE CITY CODE, ARTICLE 2 ENTITLED "FINANCIAL CONTRIBUTIONS AND EXPENDITURES", SECTION 6C-12 ENTITLED "LIMITATIONS ON CAMPAIGN CONTRIBUTIONS", be introduced.

Vote: 5-0

- B. **Resolution of the Mayor and City Council Approving a Community Legacy Application and Receipt of Financing for a Community Legacy Project in Gaithersburg, Maryland, to be Financed Either Directly by the Department of Housing and Community Development of the State of Maryland or Through Other Departments or Agencies of the State of Maryland**

The City of Gaithersburg is applying for grant funding under the FY 10 Community Legacy Program for a project that promotes Smart Growth initiatives in locally designated Community Legacy Areas. The program, administered through the Maryland Department of Housing and Community Development, provides a flexible source of funding in support of local revitalization efforts. This year's application in the amount of \$125,000 would allow the City to continue to support this facade improvement program within Olde Towne and in the adjacent historic districts. Eligible property owners would need to execute a grant agreement with the City and provide all receipts with flexibility on requiring the 1:1 match. A resolution from the Mayor and Council approving the project is a required component of the application.

Motion was made by Council Member Drzyzgula, seconded by, Council Member Ashman, that a RESOLUTION OF THE MAYOR AND CITY COUNCIL APPROVING A COMMUNITY LEGACY APPLICATION AND RECEIPT OF FINANCING FOR A COMMUNITY LEGACY PROJECT IN GAITHERSBURG, MARYLAND, TO BE FINANCED EITHER DIRECTLY BY THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT OF THE STATE OF MARYLAND OR THROUGH OTHER DEPARTMENTS OR AGENCIES OF THE STATE OF MARYLAND (Resolution No. R-55-09), be approved.

Vote: 5-0

VIII. CONSOLIDATED PUBLIC HEARING

- A. **Joint, Z-307(A), Application Requests to Amend the Approved Zoning Map Amendment Z-307 Sketch Plan. Additionally, the Application Proposes to Revise the Conditions of Approval of Z-307. The Property is a 6.58-Acre Parcel, Currently Known as Parcel 1, The Summit, in the City of Gaithersburg. The Parcel is Located in the Northeast Quadrant of Goshen Road and Girard Street at 559 Girard Street, in Gaithersburg, Maryland, in the MXD (Mixed Use Development) Zone.**
- B. **Joint, SDP-09-002, Applicant Requests Approval for the Schematic Development Plan (SDP), per Sketch Plan Z-307(A), Known as the Residences at Hidden Creek (Former Summit Center Shopping Center), on Parcel 1, The Summit, in Gaithersburg, Maryland. The Proposed Plan Includes a Mix of Uses, Including 300 Multi-Family Units and 12,000 Square Feet of Retail and Amenity Uses on Approximately 6.58 Acres of Land. The Parcel is Located in the Northeast Quadrant of Goshen Road and Girard Street at 559 Girard Street, in Gaithersburg, Maryland, in the MXD (Mixed Use Development) Zone.**

Community Planning Director Schwarz stated that the hearings were advertised in the *Gaithersburg Gazette* on July 1 and 8, 2009, 11 exhibits are currently in the record file of Z-307(A) and 40 exhibits in the record file of SDP-09-002. The applicant, Woodfield Investments, LLC, is seeking to revise the approved sketch plans by revising the layout of the buildings and setbacks, and reducing the amount of retail/amenity square footage (sq. ft.) from 20,000 sq. ft. (12,000 sq. ft. retail and 8,000 sq. ft. amenity space) to 12,000 sq. ft. (4,000 sq. ft. retail and up to 8,000 sq. ft. amenity space). The number of multi-family dwellings will remain as approved at 300 units. Additionally, the application proposed to revise the conditions of approval of Z-307. The original rezoning was approved by the Mayor and City Council on June 1, 2008. Staff had submitted a preliminary report concerning both requests. The applicant submitted the subject Schematic Development Plan SDP-09-002 concurrently with the amendment to Sketch Plan Z-307(A). The Council and Commission were oriented with the property located north of the Spring Ridge Apartments, east of Asbury Methodist Village, south and west of Hidden Creek Land Bay III.

Scott Wallace, Linowes and Blocher LLP, introduced the various architects, engineers, developers, and consultants for the project representing the applicant Woodfield Investments, LLC. The applicant continues to propose 300 multi-family units with 15 percent MPDUs. To feasibly improve and implement the project, the applicant has proposed changes to the proposed sketch plan to include two parking structures to be integrated into a single parking structure, increased in greenspace and forestation area, lower building heights and elevations, changes to grading and commercial/retail office space. He spoke on the reduction in retail and the challenges with the MXD project and current market. Reviewed the public and private street network for the project. Stated that based on community involvement and participation, several changes have been made since the applicant's submission.

Chad Askew, Housing Studio, gave an overview of the revised site layout and changes mentioned above. He stated that parking has been oriented to be consolidated for a visual improvement for the neighbors. The layout creates a more cohesive urban streetscape. The

applicant is proposing for multi-family units, 1.6 parking spaces per unit ratio which will provide 480 parking spaces in addition to leasing, club and retail uses, for a total of 504 spaces. He further reviewed the elevations and traditional architect which echoes the adjacent homes and surrounding neighborhoods.

Todd Jacobus, Woodfield Investments, clarified that commercial and residential previously proposed 602 parking spaces and is now proposing 504, taking into account the reduction in the commercial/office/retail space and a lower parking ratio for the residential portion of the project.

Aerial views of the buildings, parking and bridge connections to the residential units were shown. Mr. Wallace concluded that the proposed amendments have been thoughtfully planned with community involvement and working with City staff. Stated that the goal is to make the redevelopment of the vacant site feasible for all. He added that the project does meet the requirements of the MXD Zone and the applicant will continue to redefine and improve the plan.

Concerns were expressed regarding the following: parking ratio; use of public transportation by residents; egress and ingress of the parking garage; bridge connections from the parking decks to residential units; usable greenspace; grade changes and its impact on the site; loading spaces for pick up and drop off; elevator usage for move ins and outs; one-way traffic; location of garbage removal and recycling for both buildings; reduced retail space for a mixed use project and lack of a plans for future retail; street parking for retail; and parking burdens for abutting neighborhoods. Staff was asked to provide a profession opinion on parking numbers for the proposed project and other projects.

Speakers from the public:

1. *Chantal Preuninger, 4 Sanders Court*, opposition to the number of units proposed for the plan, parking ratio and increased traffic.
2. *Julian Greenspun, Hidden Creek resident*, in favor of the project, but disappointed in the reduction of retail space. Asked for a compromise on requiring the number of MPDUs proposed.
3. *Madeline Preuninger, 4 Sanders Court*, concern with the increased population and traffic from the proposed redevelopment and its impact on the surrounding neighborhoods.
4. *Kelly Rush, 525 Cedar Spring Street*, expressed concern with the one-way of Raven Street and traffic pattern through the Hidden Creek neighborhood. The applicant responded that Cedar Spring is current one-way, but the rezoning will require the street to be two-way.
5. *(sp?), 622 Hurdle Mill Place*, in favor of the project stating it would encourage growth in other areas in the future and help property values and prevent crime.
6. *Shahzad Shaikh, 589 Raven Avenue*, questioned the heights of the proposed development, concern with lack of greenspace on the east side of Building 2, and suggested that 100 percent of the MPDU be allocated to lower income senior citizens.
7. *Tony Hudson, 214 Tulip Drive*, in favor of the MPDUs.
8. *Reed Johnson, 593 Raven Avenue*, asked for an estimated time of construction once City approvals are received. Response was approximately six to nine months. Demolition of existing structures will occur once the HUD application process is completed.
9. *Pam Lindstrom, 421 Gaither Road, member of Gaithersburg Affordable Housing Coalition*, MPDUs is not just for low income citizens, but also for moderate incomes.

There were no other speakers.

Motion was made by Commissioner Kaufman, seconded by Commissioner Lanier, that the Planning Commission hold the record on Z-307(A), open until 5 p.m., August 19, 2009.

Vote: 4-0

Motion was made by Council Member Sesma, seconded by Council Member Spiegel, that the Mayor and City Council hold the record on Z-307(A), open until 5 p.m., September 3, 2009.

Vote: 5-0

Motion was made by Commissioner Hopkins, seconded by Commissioner Lanier, that the Planning Commission hold the record on SDP-09-002, open until 5 p.m., August 19, 2009.

Vote: 4-0

Motion was made by Council Member Sesma, seconded by Council Member Spiegel, that the Mayor and City Council hold the record on SDP-09-002, open until 5 p.m., September 3, 2009.

Vote: 5-0

IX. POLICY DISCUSSION AND STAFF GUIDANCE

A. An Ordinance to Amend Chapter 4 of the City Code Entitled "Animals and Fowl"

City staff and the Animal Control Board conducted a review of Chapter 4 of the City Code, which has not been updated since 2000, and animal control ordinances from other jurisdictions. A public hearing was held on July 6, 2009 on the proposed amendments to Chapter 4. Based on comments made at the public hearing, minor revisions had been made to Section 4-3 to clarify the language of said section. The revisions were made to the tethering section on page 6 of the ordinance.

Support was expressed for the revisions referred to above, but concerns were raised with the enforceability issue for a breeders license and the bureaucracy it creates for those that abide the laws. It was further stated that language for neglect, abuse and abandonment were addressed in other parts of the ordinance and the proposed language would be redundant. It was suggested to make amendments to the fee schedule for unsterilized pets instead of having the language for the breeders license and use that opportunity to educate the public and lessen the amount of strays. Concern was also expressed that the breeders license will cause people to neglect animals instead of paying the fee. It was suggested to try what is being suggested by staff and provide a tool for animal control officers to identify breeders, educate pet owners and encourage them to avoid bad behavior.

Motion was made by Council Member Spiegel, seconded by, Council Member Marraffa, that An Ordinance to Amend Chapter 4 of the City Code Entitled "Animals and Fowl" (Ordinance No. O-9-09), be adopted.

Vote: 3-2 (Opposed: Ashman and Drzyzgula)

X. **ADJOURNMENT**

There being no further business to come before this session of the City Council, the meeting was duly adjourned at 10:02 p.m.

Respectfully submitted,

Doris R. Stokes

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Municipal Clerk