

ORDINANCE NO. O-6-10

AN ORDINANCE OF THE MAYOR AND COUNCIL
OF THE CITY OF GAITHERSBURG GRANTING APPROVAL
TO Z-312, TO RE-ZONE 43.33 ACRES OF LAND FROM THE R-20 (MEDIUM
DENSITY RESIDENTIAL) ZONE TO THE MXD (MIXED USE DEVELOPMENT) ZONE
IN ACCORDANCE WITH §24-196 (MAP AMENDMENTS) AND §24-160G.6
(PROCEDURE FOR APPLICATION AND APPROVAL) OF THE CITY CODE. THE
PROPERTY IS BOUNDED BY CLOPPER ROAD (MD 117), QUINCE ORCHARD
ROAD (MD 124), AND METROPOLITAN GROVE ROAD AND
A STATE HIGHWAY FACILITY

Z-312

BE IT ORDAINED, by the Mayor and Council of the City of Gaithersburg, in public meeting assembled, that they find the following facts from the evidence of record in Zoning Map Amendment Application Z-312:

A. The application Z-312, filed by Jody Kline, for 893 Clopper Road Investors, requests rezoning 43.33 acres of land from the R-20 (Medium Density Residential) Zone to the MXD (Mixed Use Development) Zone. The property is bounded by Clopper Road (MD 117), Quince Orchard Road (MD 124), and Metropolitan Grove Road and a State Highway Facility.

B. The Sketch Plan submitted as part of Z-312, proposes a mix of uses, including retail, office, hotel and residential. The project is to be developed in two phases. Phase 1 includes an area of 11.14 acres and proposes a four-story residential building with 410 units, a structured parking garage and 9,000 square feet of amenity/retail-ready space. Phase 1 is also the subject of the Schematic Development Plan (SDP 09-001). Phase 2 consists of the balance of the project and is approximately 32.22 acres. Approximately 700-1,000 residential units are proposed in this phase in addition to the mix of uses.

C. A consolidated joint public hearing was held by the Mayor and City Council and the Planning Commission regarding these applications on January 4, 2010. Mr. Jody Kline, counsel for the applicants, introduced the applications for rezoning and schematic development plan. Presentations were made by the development team. In addition to the comments from the Mayor and City Council and Planning Commission, there were two speakers from the public. The Planning Commission made a motion to close their records for Z-312 and SDP-09-001 on January 27, 2010, and the Mayor and City Council made a motion to close their records on February 4, 2010.

It was determined that a work session was necessary to respond to the issues raised at the joint public hearing. Accordingly, at their January 20, 2010, meeting, the Planning Commission moved to extend their records until March 17, 2010. Subsequently, the Mayor and City Council moved to extend their records until March 26, 2010.

A joint work session was held on March 8, 2010. The purpose of this work session was for the development team to present the Orchard Pond rezoning and schematic development plans in more detail and respond to issues raised at the joint public hearing.

D. The Planning Commission's record for Z-312 closed on March 17, 2010. The Commission made its recommendation on March 24, 2010, and forwarded their recommendation of approval to the Mayor and City Council for Z-312. The Mayor and City Council closed their record on March 26, 2010.

F. During their policy discussion meeting on April 5, 2010, the City Council carefully reviewed the evidence of record, including 28 exhibits, and considered all submitted testimony, documents and correspondence presented, including the Planning Commission's recommendation for approval, and made the following findings with respect to Application Z-312 as required under §§ 24-10A(2) and 24-160D.1 through 24-160D.13 of the City Code:

(1) The application meets (complies) or accomplishes the purposes, objectives, (intent) and minimum standards and requirements of the zone:

Purposes, Objectives and Intent:

- a) The 2003 City of Gaithersburg Land Use Master Plan recommends that the subject property be redesignated as mixed use residential-office-commercial with a zoning classification of MXD. "This is another ideal location for future redevelopment of higher density residential and/or office uses. The site has immediate access to three roadways and is in close proximity to the transit station."
- b) The project proposes a flexible mix of residential and commercial/retail uses that would not be allowed with Euclidian zoning categories. The Plan provides a higher standard of development than could be done under a conventional zoning category by using enhanced site design, a mix of uses, diverse and high quality architectural elements (to be further defined at Schematic Development Plan review), structured parking and well landscaped amenity spaces.
- c) The project encourages orderly staged development of a large scale project by staging the project into two phases. Phase 1 incorporates a new residential development, and Phase 2 will provide for a mix of uses which will interrelate with the other new mixed use developments such as Watkins Mill Town Center and the Spectrum project.
- d) The project efficiently uses the land by retaining continuous circulation through the site by connecting to existing vehicular and pedestrian connections and enhancing those connections through new sidewalks and intersection improvements. The residential project is convenient to existing and proposed retail, residential and employment areas. In addition, the property is served by

multiple Montgomery County Ride-On routes and is within walking distance of a MARC train station and future CCT transit stations.

- e) The Applicants have submitted and received approval of a Natural Resource Inventory/Forest Stand Delineation (NRI/FSD). The proposed plan will enhance the environment by adding passive amenities to the stream valley buffer area, performing stream remediation and complying with stormwater management regulations which will reduce the impact of water runoff, improve the water quality coming from the property, and minimize erosion of existing water courses.

Minimum Standards:

1. As stated above, the application and exhibits comply with the 2003 Master Plan Land Use Element, which proposes mixed use development for this site. The application complies with the minimum land area for the zone.
2. The subject property is located adjacent to existing roadways, Clopper Road (MD 117), Quince Orchard Road (MD 124), Metropolitan Grove Road and Firstfield Road which, according to the Traffic Impact Analysis, are adequate to service the development.
3. The property is currently serviced by all utilities, including water and sewer. The utilities have been given the opportunity to review the plans.
4. As mentioned above, the public facilities comply with the requirements of the City's Adequate Public Facility Ordinance (APFO).

(2) The application is in accord with recommendations in the applicable master plan for the area and is consistent with any special conditions or requirements contained in said master plan:

As stated above, the 2003 City of Gaithersburg Land Use Master Plan recommends that the subject property be developed as a mixed use residential-office-commercial area as a location for future redevelopment of higher density residential and/or office uses. Therefore, the plan is in accord with the 2003 City of Gaithersburg Master Plan. There were no special conditions or requirements contained in the master plan.

(3) The application and sketch plan will be internally and externally compatible and harmonious with existing and planned land uses in the MXD zoned areas and adjacent areas (surrounding areas):

The plan, schematic architecture, and other exhibits of this application create a development that is compatible and harmonious to the surrounding areas by creating vehicular and pedestrian connections. The planned uses for this project fully support and augment the existing uses in the area. The architectural design is complementary and enhances the character of the area.

Conclusion

This application Z312 conforms to the purpose of the MXD Zone, is consistent with the purpose of the 2003 Master Plan Land Use Element and the Master Plan themes. The densities and uses proposed in this sketch plan are harmonious and consistent with the proposed surrounding development. The plan is integrated into the area, with both vehicular and pedestrian access. The architecture, as shown in the exhibits, will be compatible, harmonious and enhance the architecture in the surrounding area. The proposed plan will provide redevelopment of an aging apartment community and provide an economic stimulus to the area with the increased number of apartment units.

For the reasons stated above, application Z-312 is granted.

ADOPTED by the City Council this 5th day of April, 2010.

SIDNEY A. KATZ, MAYOR and
President of the Council

DELIVERED to the Mayor of the City of Gaithersburg, Maryland, this 5th day of April, 2010. APPROVED by the Mayor of the City of Gaithersburg, this 5th day of April, 2010.

SIDNEY A. KATZ, MAYOR

THIS IS TO CERTIFY that the foregoing Ordinance was adopted by the Mayor and Council of the City of Gaithersburg, in public meeting assembled, on the 5th day of April, 2010, and that the same was approved by the Mayor of the City of Gaithersburg on the 5th day of April, 2010. This Ordinance will become effective on the 25th day of April, 2010.

Angel L. Jones, City Manager