
STAFF COMMENTS FOR PLANNING COMMISSION

MEETING DATE: July 15, 2009

TEXT AMENDMENT: T-391

TITLE: AN ORDINANCE TO AMEND 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

REQUEST: **RECOMMENDATION TO M&CC**

ADDRESS: N/A

ZONE: N/A

APPLICANT/REPRESENTATIVE/ATTORNEY/DEVELOPER: (as applicable)

STAFF PERSON: Louise Kauffmann, Housing and Community Development Director

Enclosures:

Staff Comments
Index of Memorandum and Exhibits (In **Bold**)

STAFF COMMENTS

This item is on the Commission's agenda for a transmittal of a recommendation to the Mayor and Council.

The consolidated joint public hearing on T-391 was held on July 6, 2009. The Planning Commission was asked to hold the record open until 5 PM on Thursday, July 9, 2009. There are seven (7) exhibits in the public record. A Video of the Mayor & City Council meeting can be viewed at:

http://www.gaithersburgmd.gov/poi/default.asp?POI_ID=994&TOC=107;81;88;385;994

Click on the July 6, 2009 meeting (not the agenda) and the meeting will begin. Move the bar under the screen to the hour/minute marker 1:23:50.

or

<http://www.gaithersburgmd.gov> Click on Agendas and Legal Ads on the left side of the web page. Click on the July 6, 2009 meeting (not the agenda) and the meeting will begin. Move the bar under the screen to hour/minute marker 1:23:50.

This is a proposed amendment to 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.

This amendment will reduce the income minimums for participation in the City's Moderately Priced Dwelling Unit (MPDU) program. The current income structure permits eligible households earning between 60 % and 80 % of the Area Median Income (AMI), established by the U.S. Department of Housing and Urban Development, and adjusted annually, to participate in the program. If approved, the amendment will drop the income minimum from 60% to 50 % of AMI.

The T-391 Amendment will also require amendment to the City's Affordable Housing Regulations. Included in the exhibits is a table comparing the currently in effect 60% of AMI to the proposed 50% of AMI.

Staff would like to offer a correction to the email testimony provided on June 23, 2009. That testimony stated that the Montgomery County income minimum for its MPDU program is 65% of AMI; in fact, the Montgomery County minimum income is set at \$30,000, and its maximum income is 65% of AMI.

At the Council meeting, staff was requested to correct the numeric error found in the draft ordinance from T-381 to T-391. A revised version of the draft ordinance has been attached.

Staff recommends that the Planning Commission RECOMMEND APPROVAL OF TEXT AMENDMENT T-391, AN ORDINANCE TO AMEND 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 TO THE MAYOR AND CITY COUNCIL.

INDEX OF MEMORANDA
T-391

1. Draft Ordinance
2. Copy of the Notice of Public Hearing as it appeared in the June 10 and June 17, 2009 issues of the Gaithersburg Gazette
3. Mayor and City Council Cover Sheet Consolidated Joint Public Hearing
4. **E-mail to *Gaithersburg Gazette* dated May 26, 2009, requesting a Legal Ad for June 10 and 17, 2009 issues.**
5. **E-mail testimony, received June 23, 2009, from Richard Koch, 103 Leekes Lot Way, opposing the text amendment.**
6. **Affordable Housing Regulations Chart**
7. **Revised Draft Ordinance**

Louise Kauffmann

From: Doris Stokes
Sent: Tuesday, May 26, 2009 11:00 AM
To: Geiger, Bonnie
Cc: Fred Felton; Greg Ossont; Jeff Baldwin; Myriam Gonzalez; Louise Kauffmann
Subject: AD for June 10 and 17
Attachments: T-391 jph affordable housing 070609.doc

Bonnie,

Please publish the attached ad for two successive weeks in the Gazette Newspapers on June 10 and June 17, 2009. Any questions, please email or call. Thanks.

From: JUD ASHMAN
To: rkoch@keystonerei.com
Sent: 6/23/2009 8:50:53 P.M. Eastern Daylight Time
Subj: Re: Proposal to Amend the MPDU Income Minimums

Hi Rich,

Just a quick note: I had the same concern based on the same initial understanding of what staff is proposing. According to staff's explanation, and my reading of the ordinance, the proposal would not do anything to change what a landlord is able to charge. For a rental MPDU, the max rent level would still be calculated based on what's affordable to folks making 60% AMI.

The proposal simply opens up the eligibility for consideration/lottery inclusion to those making as little as 50% AMI.

Hope that helps.

Yours,
- Jud

From: Richard Koch [mailto:rkoch@keystonerei.com]
Sent: Tuesday, June 23, 2009 4:39 PM
To: Sidney Katz; Henry Marraffa - External; Ryan Spiegel - External; cathy@drzygula.org; Michael Sesma - External; Jud Ashman - External; Angel Jones; jskline@mmcanby.com
Subject: Proposal to Amend the MPDU Income Minimums

Mayor and Members of the City Council:

During the June 15, 2009 Mayor and Council Meeting a proposal to amend the MPDU income minimums from 60 to 50 percent of the Area Median Income (AMI) was introduced. I want to note that the County MPDU income minimum is 65 percent of the AMI. Attached for your review is a chart that compares the MPDU rent under 65% of AMI to 50% of AMI. If the amendment is approved rent for MPDUs in the City will be 23% lower than rent for MPDUs in the County. It would be inconceivable for the Mayor to support and City Council to adopt this proposed amendment which will simply be another disincentive for investors and lenders to do business in the City, especially at this time when the City professes to want to do exactly the opposite.

Thank you for your consideration of my comments.

Best regards,

Richard Koch
Managing Member
KEYSTONEREI
103 Leekes Lot Way
Gaithersburg, Maryland 20878
301.840.5424 Tel
301.840.5859 Fax
rkoch@keystonerei.com E-mail
www.keystonerei.com Web Page

Attachment

Proposed Amendment to Lower MPDU Income Limits from 60 to 50 percent of AMI
 Comparison of County versus City MPDU Rent

Area Median Income effective 4/27/2009 102,700

Family Size	Income Limits 65% of AMI	Family Size	Income Limits 60% of AMI	Family Size	Income Limits 50% of AMI					
1	46,729	1	43,134	1	35,945					
2	53,404	2	49,296	2	41,080					
3	60,080	3	55,458	3	46,215					
4	66,755	4	61,620	4	51,350					
5	72,095	5	66,550	5	55,458					
Unit Size	Income Limits 65% of AMI	25% Rent	Unit Size	Income Limits 60% of AMI	25% Rent	Unit Size	Income Limits 50% of AMI	25% Rent	Monthly Rent Difference Between County and City	Annual Rent Difference Between County and City
0	46,729	974	0	43,134	899	0	35,945	749	225	2,696
1	50,066	1,043	1	46,215	963	1	38,513	802	241	2,888
2	60,080	1,252	2	55,458	1,155	2	46,215	963	289	3,466
3	69,425	1,446	3	64,085	1,335	3	53,404	1,113	334	4,005

Household Size	Income Minimum 60% of AMI (Currently in effect)	Income Minimum 50% of AMI (Proposed)
1	\$43,134	\$35,945
2	\$49,296	\$41,080
3	\$55,458	\$46,215
4	\$61,620	\$51,350
5 +	\$66,550	\$55,458

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>