



MONTGOMERY COUNTY PLANNING BOARD
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

OFFICE OF THE CHAIR

July 6, 2016

The Honorable Nancy Floreen, President
Montgomery County Council
100 Maryland Avenue
Rockville, Maryland 20850

SUBJECT: City of Gaithersburg Revised Annexation, X-7067-2015, for Johnson Property

Dear Council President Floreen:

At its regularly scheduled meeting on June 23, 2016, the Montgomery County Planning Board reviewed the revised Annexation petition, X-7067-2015, for the Johnson Property located at 12201, 12251, 12301, and 12311 Darnestown Road in Gaithersburg, within the 2010 *Great Seneca Science Corridor (GSSC) Master Plan* area. Within this 23.45-acre Property, Parcel E is currently zoned R-200 while the remaining parcels are zoned NR 0.75 H45.

The Planning Board received presentations from the planning staff, the Property owner and their representatives, and heard testimony in opposition from citizens and civic associations from the surrounding area. The Board also received more than 210 emails and approximately three phone calls expressing the concerns of the adjoining communities with respect to traffic and safety, an increase in school enrollment in a cluster that is already overcrowded, significant change in the character of the area, and inconsistency with the recommendations of the GSSC Master Plan. They also questioned how the development of 110 townhomes could be allowed on Parcel E that is currently zoned R-200. (In Montgomery County, development of Parcel E could only be approved for up to 34 single-family units under the MPDU optional method of development. In an annexation, the annexing municipality cannot approve development exceeding 150% of what would be allowed under the County zoning for 5 years without the approval of the County Council.) In addition to those who testified that the proposed annexation should be denied, there were others who asked that, in accordance with the State annexation law, the Property should be prohibited from being rezoned to the City's MXD Zone after it is annexed into the City. The Planning Board received six emails supporting the proposed development, stating that it offers smarter urban development that blends with its context.

The Planning Board recognized that its review of annexation cases is limited to a determination of whether the proposed uses and density were substantially different from

Mayor and City Council
X-7067-2015
124

The Honorable Nancy Floreen, President
Montgomery County Council
July 6, 2016
Page Two

what could be achieved under the current zoning. The Board also considered whether the Property is contiguous to the City's incorporated limits.

Some of the citizens' testimony stated that, contrary to the Staff's analysis contained in the attached report, the current split zoning of the Property necessitated that the density calculations for the R-200 and the NR zoned portions be kept separate so that the comparison of Parcel E's existing and proposed density is limited to that piece of land only and not aggregated with the rest of the property zoned NR. The Applicant's proposal calculates the overall density for the Johnson Property rather than evaluating the densities for the differently zoned parcels separately; this approach was reflected in the staff report.

The Planning Board agreed with its Staff that Section 4-416(b) of the State Annotated Code may be interpreted to analyze the property to be annexed either as two separately zoned pieces of land or as one comprehensive tract. While the Board did not formally commit to either of these approaches, it recognized that under both interpretations of the law, the overall unit yield on the entire Property will be the same. However, under the former interpretation, the density would have to be spread out over the entire Property. The Planning Board also noted that, even under the narrower interpretation of the law, the County Council could not deny the annexation request; it could only delay the rezoning of the Property to the City's MXD Zone for five years.

The 2010 GSSC Master Plan recommended that the R-200 portion of the Johnson Property be acquired for park land, but stated that residential use would be appropriate if the land could not be acquired for active recreation. The Parks Department has been unsuccessful in its efforts to acquire Parcel E, but the Applicant has proffered a commitment to provide a significant open space, consistent with the Master Plan recommendations for this Property. This may not happen if the Property is required to wait for five years before being rezoned.

On a motion by Commissioner Fani-Gonzalez, seconded by Vice-Chair Wells-Harley, with Commissioner Presley and Chairman Anderson voting in favor of the motion, and Commissioner Dreyfuss absent, the Board unanimously recommended approval to transmit the following comments to the Montgomery County Council for your consideration:

1. The development proposed with the annexation petition does not include land uses that are substantially different than the authorized uses under the current zoning and is not more than 150% of the density that could be generated for the entire Property under the current zoning.

The Honorable Nancy Floreen, President
Montgomery County Council
July 6, 2016
Page Three

2. The applicant is committing to be subject to certain “binding elements consistent with the Sketch Plan such as single-family and townhouse uses only, a maximum of 110 units (including Moderately Priced Dwelling Units and Workforce Housing Units), and a minimum size open space of at least one acre.” (April 25, 2016 letter from Stuart Barr, Esq. representing the applicants.)

Thank you for the opportunity to provide the Planning Board’s comments on this annexation petition.

Sincerely,

A handwritten signature in black ink, appearing to read 'Casey Anderson', written in a cursive style.

Casey Anderson
Chair

CA:mb:ha

cc: Rob Robinson, Long Range Planning Manager, City of Gaithersburg

Attachment: Staff Report