

**From:** [Matthew Gordon](#)  
**To:** [Laura Mehfoud](#)  
**Cc:** [Maureen Walker](#); [Rob Robinson](#); [Gregory Mann](#); [C. Robert \(Bob\) Dalrymple](#)  
**Subject:** RE: Casey Affordable Housing Waiver Request  
**Date:** Wednesday, September 24, 2025 5:34:52 PM  
**Attachments:** image002.png  
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image009.png  
EXT Language for Waiver.msg

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Thanks Laura. This is very surprising given that we met with Brittany (before she left) and the City Attorney's Office to discuss the justification for the waiver. Based on that coordination, Erick sent the attached email outlining the rationale for the granting of the waiver. It is also discouraging that we are getting this feedback at a time when multi-family construction has grounded to halt in this County and this is a project that is not only proposing multi-family construction, but plus/minus 321 regulated affordable multi-family dwelling units.

Please see below for some additional context on the rationale behind the waiver. We can discuss as needed, or just supplement the record with a revised letter incorporating these points, but we fail to see how it would not be in the public interest to grant a waiver in this instance where the City is receiving five (5) times the amount of regulated affordable units required by City law, and the waiver is sought simply to allow for administration of the affordable units in a more practical manner.

1. Expand upon why you are requesting the waiver. There was some confusion as to why you would need the waiver if you are still going to provide affordable units anyway.
  - The waiver is being requested so that the Foundation can manage the project in an efficient and logical manner. The Foundation will satisfy the necessary reporting requirements and verify incomes of tenants as necessary to maintain 75% of the units as regulated affordable units under the IRS guidelines.
  - If the Foundation is also required to designate 15% of the units in the City's MPDU program (and then separate the other 60% affordable units for the IRS requirements), it will create an undue hardship and burden on the Foundation from an operating and reporting perspective. It is not practical for the Foundation to satisfy two (2) separate sets of regulatory reporting requirements (City and IRS), when they can otherwise administer all of the affordable housing units on the property under one set of reporting requirements and achieve the City's affordable housing goals.
  - Adding to the complexity of this dual-reporting requirement, only a portion of the project (the portion of the site that was not annexed into the City) would be subject to the City's MPDU program (if the waiver is not granted). Thus, the Foundation would have to apply different reporting requirements for a portion of the redevelopment than what will be required on the portion of the site annexed into the City. The primary rationale for annexing into the City was to have one set of regulatory requirements for the

redevelopment (not separate processes for County and City land). This is the same rationale for the waiver from the City's MPDU program in that the Foundation needs to have one regulatory framework applied to the affordable units (not multiple regulatory standards).

- Requiring the Foundation to adhere to both the City's MPDU program requirements and IRS requirements on a portion of the site/units will result in an administrative barrier with added costs that detracts from the Foundation's ability to achieve its philanthropic mission.
2. Provide more to back up the argument that there is no reasonable nexus. Based on internal discussions, focusing the argument on the IRS guidelines may not be sufficient.
    - There is no reasonable nexus between the City' affordable housing provisions and the Foundation's voluntary commitment to restrict 75% of the units as affordable (5 times the City's code requirement) as an alternative to strict application of the City's affordable housing requirements. Section 24-13.1(A) of the Zoning Ordinance states, "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 fifty (50) percent to one hundred twenty (120) percent of area median income." The requested waiver is necessary to allow a charitable foundation the flexibility to effectively manage five (5) times the number of affordable units (within the defined AMI level) under one set of regulatory requirements. Absent the granting of the waiver, the Foundation will bear additional operating expenses that detract from its ability to allocate the maximum extent of resources to the benefit of the residential community and its residents.
  3. Specify which aspects of the affordable housing requirements you are requesting relief from. Staff would like to see it narrowed down instead of just a blanket waiver.
    - The Foundation is requesting relief from designating 15% of units as MPDUs in the City's MPDU program and the associated reporting requirements. The Foundation will exceed the affordable requirements defined in Section 24-13.3(B) of the Zoning Ordinance (and comply with the housing design requirements). The waiver is simply requested to allow for the regulated affordable units (75% of the total project) to be administered under the IRS guidelines as opposed to both City and IRS regulatory reporting requirements. The Foundation is amenable to providing an annual statement to the City identifying how it satisfied the relevant IRS reporting requirements.
    - Similar to the waiver granted as part of Annexation Agreement, the Foundation would accept a condition as part of this SDP/rezoning that "if the provision of affordable rental housing changes on the Property, either by Casey or any successive property owner, such that the required proportion of the rental units restricted to occupancy pursuant to the IRS Guidelines is reduced to 15% or less (as described above, but currently requiring that 75% of the units be between 50 – 80% AMI) then the City's Affordable Housing requirements in effect at the time of such change, if they require a proportion of rental units so restricted to 15% or more, shall be applied to the Property." To this end, 15% of the units would be required to be subjected to the City's MPDU program in the future if the circumstances described above occur.



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**From:** Laura Mehfoud <Laura.Mehfoud@gaitthersburgmd.gov>

**Sent:** Wednesday, September 24, 2025 11:29 AM

**To:** Matthew Gordon <mgordon@sgrwlaw.com>

**Cc:** Maureen Walker <Maureen.Walker@gaitthersburgmd.gov>; Rob Robinson <Rob.Robinson@gaitthersburgmd.gov>; Gregory Mann <Greg.Mann@gaitthersburgmd.gov>

**Subject:** [EXT] Casey Affordable Housing Waiver Request

Hi Matt,

We've had some discussions with legal and Housing Services regarding your affordable housing waiver request and would like some more clarification. We all support the project, but need more clarity on the following to help make this go smoothly with Council. Can you provide a revised request that addresses the following:

1. Expand upon why you are requesting the waiver. There was some confusion as to why you would need the waiver if you are still going to provide affordable units anyway.
2. Provide more to back up the argument that there is no reasonable nexus. Based on internal discussions, focusing the argument on the IRS guidelines may not be sufficient.
3. Specify which aspects of the affordable housing requirements you are requesting relief from. Staff would like to see it narrowed down instead of just a blanket waiver.

I'm happy to set up a time for you to meet with me and Maureen Walker to go over this a little more. Let me know your availability this week and next.

| Laura Mehfoud, AICP



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