



Heather Dlhopsky
hdlhopsky@wiregill.com
301-263-6275

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Via Email to jasmine.forbes@gaitthersburgmd.gov
Ms. Jasmine Forbes
Community Planning, City of Gaithersburg
31 S. Summit Avenue
Gaithersburg, MD 20877

Re: 333 Ellington Boulevard, Downtown Crown, Gaithersburg (the "Property"): Request for Briefing of City of Gaithersburg Mayor and Council on Minor Amendment to Schematic Development Plan No. 11-001 (the "Briefing Request")

Dear Ms. Forbes:

On behalf of Fairfield Residential Company LLC (the "Applicant"), we are submitting this Briefing Request, requesting that the City of Gaithersburg Mayor and Council (the "Mayor and Council") be briefed regarding the upcoming minor amendment to Schematic Development Plan No. 11-001 (the "SDP"). Specifically, and as described in further detail below, the Applicant will be submitting a Final Site Plan in the coming weeks for development of the Property with a multi-family residential building (the "Project"). The SDP envisions a five-story multi-family residential building on the Property. That is what the Final Site Plan will propose. However, due to the established grades at the corner of Ellington Boulevard and Diamondback Drive, of which the Applicant has no control or ability to change, the bottom of the building "pops" out at the very corner, which is the location of the main residential lobby. The Project is well within the height restriction in feet for the Property – the SDP provides that a five-story building may have a maximum building height of 75 feet, and the proposed Project height is less than 70 feet in height. However, because the SDP specifically identifies five stories for the Property, City Staff has determined that a minor amendment of the SDP is needed. Because this is not a substantive change and rather simply a notational change (i.e., the Project is well within the maximum permissible height in feet), we are requesting that the Mayor and Council permit the City of Gaithersburg Planning Commission (the "Planning Commission") to review and act on the amendment to the SDP in conjunction with the Planning Commission's review and action on the Final Site Plan.

The SDP, approved by the Mayor and Council on April 4, 2011 through Resolution No. R-28-11, pertains to the redevelopment of Neighborhood 1 and Neighborhood 2, as originally identified in Sketch Plan No. Z-315, which was approved by the Mayor and Council through Ordinance No. O-27-10 on December 6, 2010. The SDP identifies the Property as Lot 3 of Block C within the Plan I and Plan II areas of Neighborhood 1. The SDP (Sheet 88 – Building Height Exhibit) reflects a multifamily building five (5) stories tall on the property (relevant excerpts of the SDP are attached as Exhibit 1, marked to show the proposed revisions with this amendment to the SDP). The SDP also notes (Sheet 2 – Notes, Details & Lot Typical) that a 5-story building may have a maximum building height of 75 feet (Note 9) (included in Exhibit 1).



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As noted, the proposed Project is well within the permissible 75 feet in height for the Property. However, due to a drop in grade across the site, generally running from north to south, at the southern corner of the site where Ellington Boulevard and Diamondback Drive meet, the established grade on the Property is actually below the elevation of the first floor of the proposed building. The small portion of the Project where the building presents as six stories has been marked on the Overall Building Elevation (attached as Exhibit 2). Therefore, the building, which presents as five stories across the vast majority of the Project, has one of two options for addressing this low corner on the site:

- (1) In order to strictly adhere to the five-story requirement set by the SDP, the portion of the building that pops out at the corner could be a useless, unoccupied space and essentially present as a blank wall.
- (2) A usable space could be established in order to activate the corner and present as a far more attractive façade than a blank wall, and offer a pedestrian experience that corresponds with the Crown Farm Design Guidelines for Neighborhoods 1 and 2. However, due to the definitions contained in the Zoning Ordinance, this would technically be deemed an additional “story,” necessitating a minor amendment to the SDP to permit a sixth story in this small portion of the Property.

Per Section 24-1 of the City of Gaithersburg Code (the “Zoning Ordinance”), a “story” is defined as “[t]hat portion of a building included between the surface of any floor and the surface of the floor next above it or, if there be no floor above it, the space between such floor and the ceiling next above it. A basement shall be counted as a story, if it is used for business or dwelling purposes.” Section 24-1 defines “basement” as “[t]hat portion of a building below the first floor joists having at least one-half of its clear ceiling height above the main level of the adjacent ground.”

In the case of the Project, the small sixth story space at the corner of Ellington Boulevard and Diamondback Drive is considered a basement because at least one-half of its clear ceiling height is above the main level of the adjacent ground. Per the definition of “story,” a basement is counted as a story if it is used for business or dwelling purposes. No dwelling units are proposed in this space, and neither are any independent businesses proposed in this space (e.g., no retail uses are proposed). However, as noted, this corner is the location of the main residential lobby for the building. This location was chosen due to its visibility, and the Applicant’s desire to activate the corner and overall frontage, in alignment with the goals of the Mayor and Council approved Design Guidelines for Neighborhoods 1 and 2.

As the building’s main residential lobby, uses ancillary to the multi-family residential building are proposed to be located in this space – for example, the mail room, resident fitness room, pet spa, and restrooms. The leasing office is also located in this space, and City Staff has determined that under the Zoning Ordinance definitions, this qualifies as a “business” use and thus this space is considered a “story,” rendering the Project six stories in this small location and necessitating the minor amendment to the SDP. The Applicant did consider moving the leasing office to the next floor above (i.e., what is through the vast majority of the Project actually the first floor of the building). However, it is important that the leasing office be co-located with the main lobby, for purposes of visibility, operational efficiency, safety and security, as well as marketing.



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In summary, the Applicant is submitting this minor amendment to the SDP, which we are requesting that the Mayor and Council permit the Planning Commission to act upon concurrent with their review of the Final Site Plan. We believe that this is reasonable and efficient given that the minor amendment to the SDP is not a substantive change so much as a notational change, as discussed above and summarized here:

- At less than 70 feet in height, the Project is well within the 75-foot height limit established for the site.
- The building presents as a sixth story at the corner adjacent to Ellington Boulevard and Diamondback Drive, due to established grades across the site over which the Applicant has no control or ability to change.
- In order to have an attractive and activated corner in this location, rather than a blank wall and unusable space (that conflicts with the Design Guidelines for Neighborhoods 1 and 2), the Applicant has designed a usable space that will serve as the building's main residential lobby.
- Because the leasing office needs to be co-located with the residential lobby, under the Zoning Ordinance's definitions, this "basement" area is considered a "story" because it has a business use in it.

For reference, we have included with this Briefing Request conceptual renderings of the Project which reflect the proposed design for the Project as a whole, and specifically the subject corner where the building presents as six stories (please see Exhibit 2, in which the portion of the building presenting as six stories has been outlined in blue).

We thank you for your review of this information, and look forward to the briefing session before the Mayor and Council. Please contact us should you have any questions or require any additional information.

Sincerely,

Wire Gill LLP

A handwritten signature in black ink that reads "Heather Dlhopsky".

Heather Dlhopsky

cc: Mr. Gregory Mann, City of Gaithersburg
Mr. Bryan Condie, Fairfield Residential Company
Mr. Trey Kirby, Fairfield Residential Company
Mr. Chip Baker, Dwell Design Studio
Mr. Nathan Hayes, Dwell Design Studio
Mr. Max Lee, Dwell Design Studio
Mr. Stephen Moriak, Dwell Design Studio