

ORDINANCE NO. 0-7-12

AN ORDINANCE OF THE MAYOR AND COUNCIL
OF THE CITY OF GAITHERSBURG GRANTING APPROVAL
OF Z-317, TO REZONE 33.54 ACRES OF LAND FROM THE R-A (LOW DENSITY
RESIDENTIAL) ZONE TO THE MXD (MIXED USE DEVELOPMENT) ZONE IN
ACCORDANCE WITH §24-196 (MAP AMENDMENTS), §24-160D.9(a) AND §24-
160D.10(a) OF THE CITY CODE. THE PROPERTY IS LOCATED AT 700, 704 AND
707 CONSERVATION LANE, GAITHERSBURG, MARYLAND

Z-317

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-317:

A. Application Z-317, filed by Jody Kline, for Izaak Walton League of America, Inc., requests rezoning of 33.54 acres of land from the R-A (Low Density Residential) Zone to the MXD (Mixed Use Development) Zone. The property is located at 700, 704 and 707 Conservation Lane, off Muddy Branch Road, Gaithersburg, Maryland. The metes and bounds of the property are fully described in Exhibit #2 of the case file.

B. The Sketch Plan submitted as part of Z-317, proposes a mix of uses, including: office (both philanthropic and regular), telecommunications facility, single-family residential and outbuildings to be housed in the existing buildings and structures that are currently on the site.

C. A consolidated joint public hearing was held by the Mayor and City Council and the Planning Commission regarding this application and Schematic Development Plan SDP-12-001 on September 4, 2012. Mr. Jody Kline, counsel for the applicant, and Scott Kovarovics, Acting Executive Director for the Izaak Walton League of America, Inc ("IWLA"), introduced the application for rezoning and sketch plan. In addition to the comments from the Mayor and City Council and Planning Commission, there was one speaker from the public. The Mayor and City Council voted to leave the record open for 16 days. Subsequently, on September 5, 2012, the Planning Commission voted to leave their record open for seven days.

D. The Planning Commission's record for Z-317 closed on September 12, 2012. The Commission made its recommendation on September 19, 2012, and forwarded their recommendation of approval of the rezoning and the Sketch Plan to the Mayor and City Council for Z-317. The Mayor and City Council closed their record on September 20, 2012.

E. During their policy discussion meeting on October 1, 2012, the City Council carefully reviewed the evidence of record, including 31 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-317 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 2009 City of Gaithersburg Land Use Master Plan recommends that the subject property be designated as mixed use residential-office with a zoning classification of MXD, as shown in Exhibit #9 of the application. The owner applicant is of the opinion that the rezoning to the MXD Zone is consistent with the current and potential future of the IWLA property.
- b) The project proposes a mix of the current uses, which are two single-family residences, office space for philanthropic use and regular office space and a telecommunications facility. The zone provides a higher standard of development than could be done under a conventional zoning category.
- c) The property is contiguous to MXD-zoned property and in the vicinity of approved MXD developments.
- d) The development will continue to provide superior natural environment by the continued preservation of the Muddy Branch stream valley and floodplain and, as in the past, the IWLA will continue to promote best practices to maintain the natural environment. The majority of the parcel is within a conservation easement, as shown on the plat of the property that follows the Muddy Branch stream valley limiting future expansion of the existing office and residential uses.
- e) The applicant has stated that this rezoning will not change any existing use or design of the property. Both staff and the applicant agree that the property and uses are both internally and externally compatible. The rezoning will allow for additional rental opportunities for already constructed space; therefore, the actual use and infrastructure of the property will not change.

Minimum Standards:

- 1. As stated above, the application and exhibits comply with the 2009 Master Plan Land Use Element, which proposes mixed use development for this site. The application complies with the minimum area and is adjacent to existing MXD-zoned property.

2. The property includes 33.54 acres of land and is contiguous to existing MXD-zoned area. There will be connectivity to the adjoining property via a proposed bicycle and pedestrian pathway.
3. The subject property is located adjacent to existing roadway of Muddy Branch Road, which, according to the Traffic Impact Analysis, is adequate to service the development. Additionally, the applicant/owner is working with the City to create an easement for a link to the City's Proposed Bikeway Plan.
4. The property is currently serviced by all utilities, including water and sewer. The utilities have been given the opportunity to review the plans.
5. 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 2009 City of Gaithersburg Land Use Master Plan recommends that the subject property be developed as a mixed use residential-office area. The majority of the parcel is within a conservation easement that follows the Muddy Branch stream valley, as shown on the recorded plat (final subdivision) of the property. The stream valley and the easement limit future expansion. As mentioned above, the applicant is working with the City to implement a link for the City's Bicycle Path System.

(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 (surrounding) areas:

The plan, which incorporates the existing uses of the two single-family homes, the three-story office building and the telecommunications facility, continues to maintain the park-like setting that enhances the neighborhood and protects the Muddy Branch and floodplain area. The easement for the City's bicycle network will increase the connectivity for adjacent areas. The site will continue to be compatible and harmonious to the adjoining neighborhoods as shown on the Sketch Plan, Exhibit #30 of the case file.

Conclusion

This application Z-317 conforms to the purpose of the MXD Zone and is consistent with the purpose of the *2009 Master Plan Land Use Element* and the *Master Plan* themes. Additionally, it complies with other elements of the master plan related to transportation. The proposed/existing uses will be compatible, harmonious and continue to enhance the surrounding area. The ability to lease space to a variety of office users will provide economic stimulus to the Izaak Walton League to further their conservation values, education and priorities not only in Gaithersburg but throughout the nation. The application including the exhibits, complies with the requirements of §§ 24-10A(2) and 24-160.10 of the City Code.

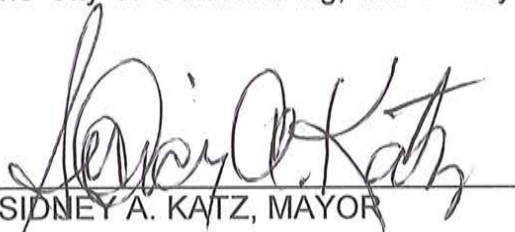
For the reasons stated above, application Z-317 is granted.

ADOPTED by the City Council this 1st day of October, 2012.



SIDNEY A. KATZ, MAYOR and
President of the Council

DELIVERED to the Mayor of the City of Gaithersburg, Maryland, this 1st day of October, 2012. APPROVED by the Mayor of the City of Gaithersburg, this 1st day of October, 2012.



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 1st day of October, 2012, and that the same was approved by the Mayor of the City of Gaithersburg on the 1st day of October, 2012. This Ordinance will become effective on the 22nd day of October, 2012.



Tony Tomasello, Acting City Manager