

ORDINANCE NO. O-6-12

AN ORDINANCE OF THE MAYOR AND COUNCIL
OF THE CITY OF GAITHERSBURG GRANTING APPROVAL
OF Z-316, TO REZONE 62.83 ACRES OF LAND FROM THE R-A (LOW DENSITY
RESIDENTIAL) ZONE AND I-1 (LIGHT INDUSTRIAL) ZONE TO THE MXD (MIXED
USE DEVELOPMENT) ZONE IN ACCORDANCE WITH §24-196 (MAP
AMENDMENTS) AND §24-160D.9(a) AND §24-160D.10(a) OF THE CITY CODE.
THE PROPERTY IS LOCATED SOUTHEAST OF EXIT 11, I-270 INTERCHANGE,
NORTH OF THE CSX RAILROAD TRACKS, EAST OF PERRY PARKWAY, AND
WEST OF CHESTNUT STREET AND ADDRESSED AS 16 CHESTNUT STREET,
GAITHERSBURG, MARYLAND

Z-316

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-316:

A. Application Z-316, filed by James Clifford, for Montgomery County Agricultural Center, Inc., requests rezoning of 62.83 acres of land from the R-A (Low Density Residential) Zone and the I-1 (Light Industrial) Zone to the MXD (Mixed Use Development) Zone. The property is located southeast of Exit 11, I-270 Interchange, north of the CSX railroad tracks, east of Perry Parkway, and west of Chestnut Street and addressed as 16 Chestnut Street, Gaithersburg, Maryland.

B. The Sketch Plan submitted as part of Z-316, proposes a mix of uses, including, but not limited to, retail, office, and residential. The project is to be developed in two phases. Phase 1 includes an area of approximately 25 acres and proposes 600,000 to 750,000 gross square feet (gsf) of non-residential with a floor area ratio (FAR) of 0.55-0.69 and 550 to 700 Dwelling Units (du) at 22-28 du per acres. Phase 2 consists of the balance of the project and is approximately 37.8 acres. Approximately 200,000 to 400,000 gsf (.12-.24 FAR) and 550 to 650 residential units (14.5-17.2 du/ac) are proposed in this phase in addition to the mix of uses.

C. A joint public hearing was held by the Mayor and City Council and the Planning Commission regarding this application on February 22, 2011. Mr. James Clifford, counsel for the applicant, introduced the application for rezoning and sketch plan. Presentations were made by the development team, David Ager and Wes Guckert. In addition to the comments from the Mayor and City Council and Planning Commission, there was one speaker from the public. The Planning Commission and the Mayor and City Council voted to leave the record open indefinitely in order for the applicant to respond to questions raised at the hearing and to conduct a work session.

A joint work session was held by the Mayor and City Council and the Planning Commission regarding this application on March 26, 2012. Mr. Clifford and Mr. Ager reviewed the revised Sketch Plan and Design Guidelines. In addition to the questions and comments from the Commission and City Council, there were two other speakers.

D. The Planning Commission's record for Z-316 closed on April 25, 2012. The Commission made its recommendation on May 2, 2012, and forwarded their recommendation of approval of the rezoning and the Sketch Plan to the Mayor and City Council for Z-316. The Mayor and City Council closed their record on May 10, 2012.

F. During their policy discussion meeting on June 18, 2012, the City Council carefully reviewed the evidence of record, including 56 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-316 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-commercial with a zoning classification of MXD.
- b) The project encourages orderly staged development of a large-scale and multi-use project by staging the project into two phases as shown in the Project Description (Exhibit #25). Phase 1 incorporates a mix of commercial, office and residential development; and Phase 2 will also provide for a mix of uses, which will complement the development of the Frederick Avenue Corridor. The staging will be further monitored by the process and review of the schematic development and final site plans.
- c) The project proposes a flexible mix of residential and commercial/retail uses displayed on the Sketch Plan, Exhibit #36, that would not be allowed with Euclidian zoning categories. The Plan provides a higher standard of development than could be done under a conventional zoning category by using enhanced site design, a mix of uses, diverse and high quality architectural elements (to be further defined at Schematic Development Plan review with the Design Guidelines), structured parking and well landscaped amenity spaces.
- d) The project efficiently uses the land by retaining continuous circulation through the site by connecting to existing vehicular and pedestrian connections, and by enhancing those connections through new sidewalks and intersection improvements. A suitable residential environment is enhanced and complemented by uses such as commercial, recreation, open space,

employment and potentially institutional uses and amenities within a mixed-use design. The mix of uses will allow for less vehicle trips as the residential is convenient to existing and proposed retail and employment areas. In addition, the property is served by multiple Montgomery County Ride-On bus routes and a portion of the property is within a half-mile distance of a MARC train station.

- e) The proposed sketch plan has been divided into three areas and locates uses within the plan in such a way as to be compatible with the existing adjacent uses. Each of the areas will transition to the next area and the adjoining uses. The MXD Zone and the proposed design standards provide the opportunity to incorporate higher standards of land planning and site design.
- f) The Applicants have submitted and received approval of a Natural Resource Inventory/Forest Stand Delineation (NRI/FSD). The proposed sketch plan will enhance the environment by maintaining some of the wooded area of the property. By complying with stormwater management regulations, which will reduce the impact of water runoff, the water quality coming from the property will be improved. Additionally, erosion will be minimized on existing water courses. At the time of schematic development plan, the applicant will need to receive an approved LOMR from FEMA in order to development that portion of the property.

Minimum Standards:

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 land area for the zone. Additionally, it complies with other elements of the master plan related to transportation, water resources, community facilities, visions of the plan and municipal growth.

- (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 Master Plan Land Use Element* recommends that the subject property be developed as a mixed use residential-office-commercial area as a location for future redevelopment of higher density residential and/or office uses. The Property has been identified as a key growth area, and is strategically located in close proximity to Olde Towne and the Frederick Avenue redevelopment corridor. Olde Towne is the major Activity Center of the City and its Central Business District. Therefore, the plan is in accord with the *2009 City of Gaithersburg Master Plan*. There were no special conditions or requirements contained in the master plan. Additionally, it complies with other elements of the master plan related to transportation, water resources, community facilities, visions of the plan and the municipal growth.

- (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 sketch plan and other exhibits, such as the project description and the design guidelines of this application create a development that is compatible and harmonious to the surrounding areas by creating vehicular and pedestrian connections. The planned uses for this project fully support and augment the existing uses in the area. The project has carefully located uses and used design solutions that provide internal and external compatibility. It is harmonious in design within the MXD area and with adjacent areas.

G. The Mayor and City Council also reviewed the request of the Montgomery County Agricultural Center, Inc. to establish the current approved site plans, identified as Exhibits #40 through #53 of this application, as Final Site Plan for the Center. This will allow the Center to continue maintaining and improving the current facilities. It is required that at the time of Schematic Development Plan review and approval of this property in accordance with the Sketch Plan, that the Center's Board shall establish a phasing plan for the Mayor and City Council's review and approval that will include a transition plan of the existing structures, should they be a part of the plan.

Conclusion

Application Z-316 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, water resources, community facilities, visions of the plan and municipal growth. The densities and uses proposed in this sketch plan are harmonious and consistent with the proposed surrounding development. The plan is integrated into the area, with both varied transportation modes. Use of the MXD Zone will provide a higher standard of development than could be provided under conventional zoning, and will allow for a more successful implementation of these Master Plan recommendations. The MXD Zone will allow a compatible and harmonious design with existing and planned land uses in the surrounding area. Therefore, this property is appropriate for rezoning to MXD, Mixed Use Development. Additionally, the current approved Site Plans (Exhibits #41 through #53) shall be established as Final Site Plans.

For the reasons stated above, application Z-316 is granted.

ADOPTED by the City Council this 18th day of June, 2012.

SIDNEY A. KATZ, MAYOR and
President of the Council

DELIVERED to the Mayor of the City of Gaithersburg, Maryland, this 18th day of June, 2012. APPROVED by the Mayor of the City of Gaithersburg, this 18th day of June, 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 18th day of June, 2012, and that the same was approved by the Mayor of the City of Gaithersburg on the 18th day of June, 2012. This Ordinance will become effective on the 9th day of July, 2012.

Tony Tomasello, Acting City Manager