Resolution No: _____
Introduced: October 6, 2009
Adopted: _____
Agenda Item No: 7

MONTGOMERY COUNTY, MARYLAND

MEMORANDUM

September 17, 2009

TO: County Council

FROM: Françoise M. Carrier
Director, Office of Zoning and Administrative Hearings

SUBJECT: Development Plan Amendment 09-3

Development Plan Amendment ("DPA") application No. 09-3 was filed on April 15, 2009 by Applicant Pettit Companies. The Applicant seeks to amend the Development Plan for Flower Hill Village Professional Center, a commercial area within the Flower Hill Subdivision, a community of some 2,000 homes in the Planned Neighborhood (PN) Zone in Gaithersburg. The subject property contains approximately 15 acres of land located in the southwest corner of the intersection of Woodfield Road (MD 124) and Muncaster Mill Road/Snouffer School Road. The property was designated for commercial use on the previously approved development plan and site plan and currently houses office buildings, a fast-food restaurant, a bank, a gas station, a convenience store and an undeveloped parcel that was originally slated for commuter parking but remains vacant.

The Development Plan was last amended on February 5, 2008, by DPA 07-2, in which the Applicant sought to add 66,000 square feet of commercial and retail space on the vacant area and areas covered by excess surface parking. The approval of DPA 07-2 permitted the construction of (1) a two-story, 12,000-square foot commercial building, (2) a two-story, 24,000-square foot commercial building and integrated parking structure; and (3) a two-story, 30,000-square foot office building with ground floor commercial uses and associated surface parking. The Applicant (the original developer of the site) now seeks to amend the development plan to relocate the approved 12,000-square foot office building to a different part of the 15-acre site and downsize it to 4,320 square feet, to be used as a one-story restaurant. This change would require related adjustments to the parking. It would

result in adding 58,370 square feet of new commercial and retail space, instead of 66,000 square feet. The proposed Development Plan would continue the extensive network of sidewalks within the site and along abutting roadways.

Technical Staff of the Maryland-National Capital Park and Planning Commission define the surrounding area as generally bound by the Montgomery Airpark to the north, Airpark Road to the east, Mid-County Highway to the south and Goshen Road to the west. Nearby land uses include a Giant grocery store, other retail uses, 2,025 units of mixed housing in a PD Zone, and a residential subdivision in an R-60 Zone.

Technical Staff and the Montgomery County Planning Board (the "Planning Board") recommend approval of this application. The Staff Report concludes that each of the findings that are required under Section 59-D-1.61 of the Zoning Ordinance to support the approval of a development plan amendment can be made in this case: the proposed development would be consistent with the use and density indicated in the *Gaithersburg Vicinity Master Plan,* which recommended retail, commercial and office development in this area; would comply with the purposes and standards of the PN Zone; would be compatible with nearby land uses in the surrounding area; proposes internal vehicular and pedestrian circulation systems and points of external access that are safe, adequate and efficient; proposes a new structure in an area that is already developed as part of a development that satisfied forest conservation requirements; and will be subject to stormwater management and water quality review during site plan review. *See* Staff Report, Ex. 24, at 6-8. Staff noted that covenants filed in the county land records confirm the ownership and perpetual maintenance of common areas. Staff also observed that the proposed development would be in the public interest, because it would promote the welfare of residents by providing more of the type of development called for in the Master Plan without adverse effect on public facilities. In particular, Staff noted, the proposed amendment would provide for a sit-down restaurant in an area with little choice beyond fast food. The Planning Board voted 3-to-0 to recommend approval for the reasons set forth in the Staff Report. *See* Ex. 25.

There is no opposition to DPA 07-1, the Planning Board does not recommend a public hearing in this case, and no request has been made for a hearing. Therefore, under the provisions of Zoning Code §59-D-1.74(c)(3), this matter can be considered directly by the District Council without the need for a hearing conducted by the Office of Zoning and Administrative Hearings. A proposed resolution is enclosed for your consideration.

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Adopted:

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS A DISTRICT COUNCIL FOR THAT PORTION
OF THE MARYLAND-WASHINGTON REGIONAL DISTRICT
WITHIN MONTGOMERY COUNTY, MARYLAND

By: District Council

Subject: Approval of Development Plan Amendment (DPA) 09-3

BACKGROUND

1. Development Plan Amendment ("DPA") application No. 09-3 was filed on April 15, 2009 by Applicant Pettit Companies. The Applicant seeks to amend the Development Plan for Flower Hill Village Professional Center, a commercial area within the Flower Hill Subdivision, a community of some 2,000 homes in the Planned Neighborhood (PN) Zone in Gaithersburg. The subject property contains approximately 15 acres of land located in the southwest corner of the intersection of Woodfield Road (MD 124) and Muncaster Mill Road/Snouffer School Road. The property was designated for commercial use on the previously approved development plan and site plan and currently houses office buildings, a fast-food restaurant, a bank, a gas station, a convenience store and an undeveloped parcel that was originally slated for commuter parking but remains vacant.
2. The Development Plan was last amended on February 5, 2008, by DPA 07-2, in which the Applicant sought to add 66,000 square feet of commercial and retail space on the vacant area areas covered by excess surface parking. The approval of DPA 07-2 permitted the construction of (1) a two-story, 12,000-square foot commercial building, (2) a two-story, 24,000-square foot commercial building and integrated parking structure; and (3) a two-story, 30,000-square foot office building, with ground floor commercial uses and associated surface parking. The Applicant now seeks to amend the development plan to relocate the approved 12,000-square foot office building to a different part of the 15-acre site and downsize it to 4,320 square feet, to be used as a one-story restaurant. This change would require related adjustments to the parking. It would result in adding 58,370 square feet of new commercial and retail space, instead of 66,000 square feet. The proposed

Development Plan would continue the extensive network of sidewalks within the site and along abutting roadways.

3. Technical Staff and the Montgomery County Planning Board (the "Planning Board") recommend approval of this application. The Staff Report concludes that each of the findings that are required under Section 59-D-1.61 of the Zoning Ordinance to support the approval of a development plan amendment can be made in this case: the proposed development would be consistent with the use and density indicated in the *Gaithersburg Vicinity Master Plan,* which recommended retail, commercial and office development in this area; would comply with the purposes and standards of the PN Zone; would be compatible with nearby land uses in the surrounding area; proposes internal vehicular and pedestrian circulation systems and points of external access that are safe, adequate and efficient; proposes a new structure in an area that is already developed as part of a development that satisfied forest conservation requirements; and will be subject to stormwater management and water quality review during site plan review. Staff noted that covenants filed in the county land records confirm the ownership and perpetual maintenance of common areas. Staff also observed that the proposed development would be in the public interest, because it would promote the welfare of residents by providing more of the type of development called for in the Master Plan without adverse effect on public facilities. In particular, Staff noted, the proposed amendment would provide for a sit-down restaurant in an area with little choice beyond fast food. The Planning Board voted 3-to-0 to recommend approval for the reasons set forth in the Staff Report.

4. There is no opposition to DPA 09-3, the Planning Board does not recommend a public hearing in this case, and no request has been made for a hearing.

5. The District Council has reviewed DPA 09-3 and concluded that the DPA meets the requirements of the Zoning Ordinance and its approval would be in the public interest.

ACTION

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District located in Montgomery County, approves the following resolution.

DPA 09-3, which requests an amendment to the Development Plan approved in DPA 07-2 to allow construction of a 4,320 square foot, one story restaurant building instead of a 12,000 square foot office building as part of the Flower Hill Professional Center, located in the southwest corner of the intersection of Woodfield Road (MD 124) and Muncaster Mill Road/Snouffer School Road in Gaithersburg, <u>is approved subject to the specifications and requirements of the Development Plan, Ex. 5, provided that the Applicant submits the Development Plan for</u>

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certification by the Hearing Examiner under the provisions of §59-D-1.64 within 10 days of the District Council action, with a certification block that correctly identifies the document as the Development Plan Amendment approved by the Council in DPA 09-3.

This is a correct copy of Council action.

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Linda M. Lauer, Clerk of the Council