

Resolution No.: 15-1679
Introduced: October 31, 2006
Adopted: October 31, 2006

**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) 06-4

Background

1. Development Plan Amendment (“DPA”) application No. 06-4 was filed on May 23, 2006. The Applicant, the Donohoe Companies, Inc., seeks to amend the approved Development Plan applicable to 4.76 acres of land located on Old Georgetown Road, near its intersection with Rockville Pike, in the White Flint area of Rockville. The subject property is included within a 10.46 acre tract known as the “Montouri Property,” which was reclassified to the Transit Station-Mixed (TS-M) Zone in 1996 via Local Map Amendment (“LMA”) No. G-726.
2. The Development Plan for the Montouri Property was divided into two phases. Phase 1 (Windsor Villa) was constructed on 5.69 acres of land in the eastern half of the property, and Phase 2 was planned for the 4.76 acres of land left on the western side of the property. The Development Plan for Phase 2 was the subject of DPA 01-01, which was approved by the Council on January 16, 2001, by Resolution No. 14-735.
3. After the first part of Phase 2 (*i.e.*, Phase 2A, the “Gallery”) was completed, the Applicant sought a development plan amendment (DPA 04-1) to permit construction in Phase 2B of a 16-18-story multi-family building (“the Sterling”) consisting of approximately 235 units and a maximum of 15,000 square feet of ground floor, instead of the 10-story office building that was originally approved for the northeast portion of the subject property along Rockville Pike. DPA 04-1 was unopposed, and pursuant to the Planning Board’s recommendation, it was approved by the Council on March 30, 2004 in Resolution 15-564, without a public hearing by the Hearing Examiner.

4. Construction of both buildings in Phase 2 has been substantially completed, and Applicant now seeks, in DPA 06-4, to amend the Phase 2A portion of the Development Plan by replacing residential development on the first floor of "the Gallery" building with 2,400 square feet of non-residential, auxiliary retail use.
5. The 2,400 square feet of proposed additional development will increase the overall non-residential use in Phases 2A and 2B to a total of 17,400 square feet (including 10,000 square feet of cellar space). Residential space in Phase 2A would be reduced from 498,201 square feet to 495,801 square feet.
6. There would be no change to the building footprint or the development plan's overall 2.4 FAR, open space, or active/passive recreation space. Minor exterior changes are proposed to include signage. Parking would be increased slightly for Phase 2A with a new minimum requirement of 509 parking spaces (569 parking spaces are being provided).
7. The commercial use is "ancillary" in nature (to be primarily utilized for the convenience of the residents and workers in the buildings). Therefore, the traffic counts will not be significantly affected by the proposal. The overall peak-hour automobile trips for the entire project will likely be lower than that which was previously anticipated because not as many housing units were constructed as planned originally.
8. Technical Staff of the Maryland-National Capital Park and Planning Commission, by memorandum dated September 21, 2006, recommended approval of DPA 06-4, concluding that it conforms to the land use and zoning recommendations of the Sector Plan; that it is consistent with the purpose clause and development standards for the TS-M Zone; that the plan is appropriate for the location; and that the proposed changes will be compatible with the surrounding development. Technical Staff, noting the absence of any opposition, recommended that the proposed amendment be forwarded to the District Council without the necessity of a public hearing by the Hearing Examiner.
9. The Montgomery County Planning Board reviewed DPA 06-4 at its regular meeting on October 5, 2006 and, by unanimous vote, recommended approval for the reasons stated in the Technical Staff report. The Board emphasized that "there is no change to the building footprint or the development plan's overall FAR, open space, or active passive recreation space," and it recommended that the matter be "sent directly to the District Council for their approval." The Board concluded with a statement that the development plan amendment should be approved because the application and development plan conform to the land use,

zoning and transportation recommendations of the Sector Plan; the application and development plan are consistent with the purposes, standards and regulations of the TS-M zone; and the plan is appropriate for the location and is compatible with the surrounding development.

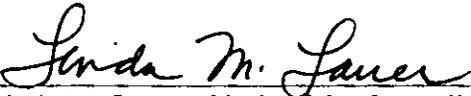
10. There is no opposition to DPA 06-4, the Planning Board does not recommend a public hearing in this case, and no request has been made for a hearing. Therefore, under the provisions of Zoning Code §59-D-1.74(c)(3), the matter can be considered directly by the District Council without the need for a hearing conducted by the Office of Zoning and Administrative Hearings.
11. The District Council has reviewed DPA 06-4 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 06-4, which requests an amendment to Phase 2 of the approved Development Plan for the Montouri Property, located on Old Georgetown Road, near its intersection with Rockville Pike, in the White Flint area of Rockville, to replace previously approved residential development on the first floor of "the Gallery" building (Phase 2A) with 2,400 square feet of non-residential, auxiliary retail use, is approved subject to the specifications and requirements of the Development Plan Amendment, Exhibit 6, provided that the Applicant submits the Development Plan Amendment for certification by the Hearing Examiner under the provisions of §59-D-1.64 within 10 days of the District Council action.

This is a correct copy of Council action.


Linda M. Lauer, Clerk of the Council