



Maryland

DEPARTMENT OF PLANNING

May 20, 2021

Mr. Rob Robinson III
Long Range Planning Manager, Planning & Code Administration
City of Gaithersburg
31 South Summit Avenue
Gaithersburg, MD 20877-2038

Dear Mr. Robinson:

Thank you for forwarding the draft Land Use Element Amendment for the Lakeforest Mall, 2018 Master Plan Update (MP-1-21) and Special Conditions (MP-2-21). We appreciate your participation in the state plan review process.

The Maryland Department of Planning (Planning) feels that good planning is important for efficient and responsible development that adequately addresses resource protection, adequate public facilities, community character, and economic development. Keep in mind that Planning's attached review comments reflect the agency's thoughts on ways to strengthen the City's plan amendment as well as satisfy the requirements of the State Land Use Article.

The Department forwarded a copy of the draft amendment to State agencies for review including, the Maryland Historic Trust and the Departments of Transportation, Environment, Natural Resources, Business and Economic Development, and Housing and Community Development. To date, we have received comments from the Maryland Historic Trust (email indicating no comment), The comments from the departments of Maryland Housing and Community Development, Transportation, and the Environment have been included with this letter. Any plan review comments received after the date of this letter will be forwarded upon receipt.

Planning respectfully requests that this letter and accompanying review comments be made part of the City's public hearing record. Furthermore, Planning also asks that the City consider our comments as revisions are made to the draft Plan amendment, and to any future plans, ordinances, and policy documents that are developed.

Please feel free to contact me at (410) 767-1401 or Susan Llareus, Local Assistance & Training Planning Supervisor, at susan.llareus@maryland.gov

Sincerely,



Charles Boyd, AICP

Director, Planning Coordination

Cc: Susan Llareus, Planning Supervisor
Joseph Griffiths, Local Assistance and Training Manager



Maryland

DEPARTMENT OF PLANNING

Maryland Department of Planning Review Comments

May 20, 2021

City of Gaithersburg

Comprehensive Master Plan Amendment Lakeforest Mall Master Plan, MP-1-21

The Maryland Department of Planning (Planning) has reviewed the City of Gaithersburg Comprehensive Master Plan Draft Amendment (*Draft Amendment*) for the Lakeforest Mall Master Plan area and offers the following comments for your consideration. These comments are offered as suggestions to improve the *Draft Amendment* and better address the statutory requirements of the Land Use Article.

Summary of Proposed Draft Amendment

The *Draft Amendment* proposes a small area plan for eight parcels on approximately 102 acres of land known as the existing Lakeforest Mall, as shown on Map 1-21 (page 7). The existing features of the site include a total of approximately 1,036,000 square feet of floor area, that originally housed four anchor stores and approximately 409,500 square feet of multi-tenant retail. Surface parking lots including approximately 7,000 spaces surround the existing structures. Three stormwater ponds serve the mall and the surrounding area, leaving the “core area” for redevelopment. A ring road links the parking lots.

The main purpose of the Draft Amendment is stated in the subtitle; “An Amendment to the City of Gaithersburg Land Use Element” (page 2). The *Draft Amendment* reaffirms the recommendation from the adopted and approved City of Gaithersburg 2009 Land Use Element Master Plan to rezone this area from General Commercial (C-2) to MXD (Mixed Use Development). The proposal from General Commercial uses to Mixed-Use is intended to encourage a more flexible approach to market conditions and will integrate or replace office and residential uses into the exclusively commercial retail shopping center. The intention is to promote redevelopment of the mall to a mixed-use development, with specific emphasis on housing, including a variety of residential types such as multifamily and townhouses. Redevelopment of the site will include a maximum of 1,600 dwelling units, neighborhood retail of goods and services, 35 percent open space with outdoor recreation. This *Draft Amendment* will act as a small area plan, providing standards for the development of the site (that appear to be akin to development regulations), as well as general design guidance for redevelopment.

The mall site comprises 102 acres in 8 parcels. The acreage includes 7.9 acres for 3 stormwater ponds that serve the mall and the area, and another 7.7 acres of green space, leaving an 86.4-acre “core area” for redevelopment. A ring road links parking lots. Pages 11-14 describe the roads surrounding the mall as busy and not very pedestrian friendly: many crosswalks are absent and uncontrolled right turns are common. The land use map of the mall and surrounding area on page 25 shows Homeowners Association park/open space north of the mall but no city park/open space. Studies of the area within a one-half mile radius from the edges of the Lakefront Mall site show 22,344 people in the area, living in 8,545 households among 9,094 housing units. Just over 30% percent of the residents in the area are owners and just under 70% percent are renters. The population surrounding Lakeforest is diverse by race, age, and income; compared to Gaithersburg as a whole. Fewer residents in the Lakeforest area drive alone in a car to work and more people use transit or walk to work. (pages 33-38)

Minimum State Law Requirements for Municipalities

Maryland’s Land Use Article sets forth the required components of a local comprehensive plan but does not mandate a specific format. As such, local governments have addressed these required elements in a manner that fits the needs of their community and the resources available to respond to the issues explored during the planning process. The following checklist summarizes an assessment as to whether each required local plan element is addressed in the city’s small area plan.

Checklist of Maryland Code (Land Use Article) requirements for local comprehensive plans in Maryland			
State Comprehensive Plan Requirements	MD Code Reference	Additional MD Code Reference	Lakeforest Mall Draft Amendment page references
(1) A comprehensive plan for a non-charter county or municipality MUST include:	L.U. § 3-102(a)		
(a) a community facilities element	L.U. § 3-102(a)(1)(i)	L.U. § 3-108 -- Community facilities element.	Not included
(b) an area of critical state concern element	L.U. § 3-102(a)(1)(ii)	L.U. § 3-109 -- Areas of critical State concern element	Not included
(c) a goals and objectives element	L.U. § 3-102(a)(1)(iii)	L.U. § 3-110 -- Goals and objectives element	Throughout the plan
(d) a housing element	L.U. § 3-102(a)(1)(iv)	L.U. § 3-114 -- Housing element SB-687(2021)	Chapter 7 Residential pages 58-61
(d) a land use element	L.U. § 3-102(a)(1)(v)	L.U. § 3-111 -- Land use element	Entire document addresses the land use element
(e) a development regulations element	L.U. § 3-102(a)(1)(vi)	L.U. § 3-103 -- Development regulations element	Terms & Definitions Special conditions (pages 52&61)
(f) a sensitive areas element	L.U. § 3-102(a)(1)(vii)	L.U. § 3-104 -- Sensitive areas element	Not included
(g) a transportation element	L.U. § 3-102(a)(1)(viii)	L.U. § 3-105 -- Transportation element	Chapter 6 Transportation Pages 53-57
(h) a water resources element	L.U. § 3-102(a)(1)(ix)	L.U. § 3-106 -- Water resources element	Not included
(i) a mineral resources element, IF current geological information is available	L.U. § 3-102(a)(2)	L.U. § 3-107 -- Mineral resources element	Not included
(j) for municipalities only, a municipal growth element	L.U. § 3-102(a)(3)	L.U. § 3-112 -- Municipal growth element	Not included

Checklist of Maryland Code (Land Use Article) requirements for local comprehensive plans in Maryland			
State Comprehensive Plan Requirements	MD Code Reference	Additional MD Code Reference	Lakeforest Mall Draft Amendment page references
(k) for counties only if located on tidal waters, a fisheries element	L.U. § 3-102(a)(4)	L.U. § 3-113 -- Fisheries element	Not applicable
Optional: (2) A comprehensive plan for a non-charter county or municipality MAY include: (a) a community renewal element; (b) a conservation element; (c) a flood control element; (d) a natural resources element; (e) a pollution control element; (f) information concerning the general location and extent of public utilities; and (f) a priority preservation area (PPA) element	L.U. § 3-102(b)	L.U. § 3-102(b)(2)(i)	Community renewal elements throughout the plan
(3) Visions -- A local jurisdiction SHALL through the comprehensive plan implement the 12 planning visions established in L.U. § 1-201	L.U. § 3-201(c)	L.U. § 1-201 -- The 12 Planning Visions	Visions – Page 8 See discussion below
Optional: (4) Growth Tiers -- If the local jurisdiction has adopted growth tiers in accordance with L.U. § 1-502, the growth tiers must be incorporated into the jurisdiction's comprehensive plan	L.U. § 1-509		Growth tiers - not provided. See discussion below

As shown in the above checklist, not all required elements are included in the *Draft Amendment*. For an amendment addressing this specific part of the city, not including elements such as the mineral resources element, identified in §3-102 (a) of the Land Use Article (LUA) of the Maryland Annotated Code, is understandable. However, as referenced in previously approved plans, addressing the minimum requirements of the LUA should be included as the topics are addressed in the *Draft Amendment*. See the discussion below relating to the required elements of a comprehensive plan under the subheading Conformance to Section 3-201(a) of the Land Use Article.

In addition to the requirements of § 3–201(a) and (b) of this article, a planning commission must also implement the Maryland State Visions through the comprehensive plan, as discussed in the subheading Maryland State Visions Section 3-201(c) of the LUA immediately below.

Maryland State Visions Section 3-201(c) of the Land Use Article:

Maryland’s Planning Act of 1992, and subsequent legislation in 2000 and 2009, requires that the Twelve Visions (12 Visions) of the State of Maryland be included and implemented through the comprehensive plan. Those visions are found in the Maryland Economic Growth, Resource Protection, and Planning Policy, part of the State Finance and Procurement Article, Subtitle 5-7A. Maryland law requires all local comprehensive plans be consistent with the 12 Visions. Planning believes these visions can be integrated into the small area *Draft Amendment* while respecting the vision set forth for the redevelopment of the Lakeforest Mall. On page 8 of the *Draft Amendment*, the visions are referred to, but an analysis of each vision would ensure that the small area plan is consistent with the visions. Alternatively, statements

supporting the 12 Visions could be highlighted in the *Draft Amendment* in the areas that discuss the corresponding subject matter.

There are two specific visions that are most applicable to the redevelopment of the mall that should be emphasized in the *Draft Amendment*. The first is the vision relating to Quality of Life and Sustainability. The vision states “A high quality of life is achieved through universal stewardship of the land, water, and air resulting in sustainable communities and protection of the environment.” The second interrelated vision is related to Community Design. That vision states “Compact, mixed-use, walkable design consistent with existing community character and located near available or planned transit options is encouraged to ensure efficient use of land and transportation resources and preservation and enhancement of natural systems, open spaces, recreational areas, and historical, cultural, and archeological resources.”

The existing mall was designed as an auto-oriented mega-retail center at a time when suburban life was highly sought after, and the inner cities were neglected and falling into economic hardship. The mall was designed with little to no attention to the preservation of environmental features that may have existed on the site, as it is almost entirely covered by impervious surfaces, except for the stormwater management ponds in the southwest corner of the site. A significant challenge lies in the restoration of natural habitat, as it would significantly improve the livability of the area and provide a reduction of the heat island effect that is likely emanating from the property. A design strategy beyond minimum requirements of green area and open space requirements would be necessary to achieve a desirable urban setting. The establishment of a native tree canopy to provide shade and bird habitat should be considered, as well as the incorporation of green roofs, green walls, and bioretention areas to help bring nature into the city. Walkable neighborhoods, public transit, and recreational playgrounds should be considered for the youngest population, as well as convenient and desirable sitting areas to provide socialization opportunities for each smaller community within the overall site. These amenities are aspects of good community design, will lead to a better quality of life, and should be in the forefront of urban design. The need for quality outdoor spaces have never been more important than during the pandemic.

General Comments:

Please note that Maryland Law requires local jurisdictions to review their comprehensive plans every 10 years. It is understood that the city is working on updates to their comprehensive plan on a rolling basis. Planning encourages the city to consider a more integrated approach to their comprehensive planning in the future. As this *Draft Amendment* is a small area plan for only the land area of the Lakeforest Mall, its impact is not wide reaching. However, a small area plan is most effective as a refinement of comprehensive policies, goals and objectives, and acts as an implementation tool to incentivize investment in the area.

Planning commends the city for encouraging ongoing coordination and communication between the county and the City of Gaithersburg regarding areas of mutual interest and concern. The City of Gaithersburg may want to consider the status, goals, and strategies of Montgomery County Thrive 2050. It could be informative and helpful to consider the concepts being promoted at the county level in which the municipality resides. Here is a link to the website: <https://montgomeryplanning.org/planning/master-plan-list/general-plans/thrive-montgomery-2050/>

Comprehensive Plan Amendment Comments

The Lakeforest Mall was built in 1978 as an indoor mall and served as a regional shopping center for the county and beyond. The design is auto oriented and public transit has expanded to serve the area over the years, including the Lakeforest Transit Center. This *Draft Amendment* addresses the Land Use Element, which was most recently addressed in 2009 and the property was identified in the 2009 Land Use Element

as Map Designation 35, which recommended redevelopment of the property with a Commercial-Office-Residential mixed-use designation and a zoning change from C-2 to MXD. (page 8) This *Draft Amendment* confirms the same proposed land use change, but specifically states that comprehensive rezoning will not be implemented immediately following the adoption of the plan (page 67). The *Draft Amendment* states:

“The Plan notes that near-term market dynamics following adoption might not support the expressed long-term vision. What is not economically feasible now, however, could be within the coming decade. Phasing of the Plan’s implementation, coupled with interim uses under the current C-2 zoning, should be expected and may in fact provide a financial means to reach the ultimate visioning goals.” (page 66)

The *Draft Amendment* explains that it is anticipated that until such time as development proposals are supported by market conditions, a rezoning and conceptual site plan or sketch plan will be needed for development to proceed.

“A phased implementation of the Plan, via rezoning to MXD and an accompanying sketch plan, should be balanced as to what is being proposed. Phases are not required to include every aspect of mixed-use, but each phase should reflect more than one aspect or single building. Each phase’s extent should at a minimum address the incorporated amenities, open space, and road networks in addition to a particular land use. Design of these phases must express the logical connectivity points to adjoining future phases and clearly reflect its role in the Plan’s greater vision. The Plan strongly encourages any developer of a phase to engage and coordinate with adjacent property owners on the proposed layout and design guidelines before submitting an application to the City”. (page 66)

The *Draft Amendment* explains that this will allow the current uses permitted in the existing C-2 zone to continue unaffected by a rezoning of the property, perhaps to avoid nonconforming uses. Although that is a desired outcome, it also may make reinvestment more challenging from both a timing and cost perspective to the development community.

The following excerpts provide for some of the highlights of the *Draft Amendment* that are encouraging and demonstrate that the City of Gaithersburg understands good planning and is poised to make the redevelopment the asset it desires:

- “Due to its large size and central location, the Lakeforest Mall site has great potential to be a unique asset in the City and a catalyst for revitalization in the surrounding area. The City is largely built-out with very limited greenfield development opportunities, so growth must be accommodated through redevelopment of existing areas.” (page 39).
- “...to be successful and provide the greatest benefit, amenity spaces in a Lakeforest Mall redevelopment should not be an afterthought but should be treated as an essential component of the overall development....” (page 43)
- “In order to ensure that there is adequate space to develop a truly useable open space network, the Plan establishes a 35% requirement for green area across the entire 102-acre Lakeforest Mall site. Staff estimates that this green area requirement will result in approximately 11 acres of useable green space outside of the pond areas, private lots, and right of ways....” (page 44)
- “Given the size of the developable area, a combination of neighborhood and pocket parks are the most appropriate for the Lakeforest Mall redevelopment.... It is important for these pocket parks to be usable by residents and visitors, and not solely taken up by stormwater management facilities or overly landscaped. While a neighborhood park can be as small as one-half acre, it is important to include “rightsized” parks that are large enough to function as a community gathering space. ...This

can help fulfill the goal discussed previously of Lakeforest having a distinctive, unifying public space that supports community gathering and diversity.” (page 45)

- “The stormwater management ponds are a unique asset that should be incorporated into any future redevelopment. These ponds function as regional stormwater management facilities. Additionally, one of the ponds will require a 100 foot stream valley buffer due to its hydrologic connection to nearby streams. The pond areas should be utilized to help fulfill the site’s forest conservation requirements and should be placed under a Category II forest conservation easement.” (page 45)
- Planning supports the recommendations for green spaces and open areas on page 52 as proposed in the Special Condition related to the 35 % green area requirement. Planning suggests that this requirement of green area or parkland could include an expansion of the area around the existing stormwater management ponds to enhance the area and serve as an amenity to the future residential community. Opening of views into the pond at strategic locations, supplementing landscaping, and removal of invasive plant materials, creating a trail system and the provision of sitting areas could provide for an asset to attract more investment into the area.
- The “Post Master Plan” recommendations on pages 66-67 will be effective for maintaining flexibility while keeping the plan on track:
 - “... any interim development must not detract from nor preclude the ultimate goals and visions of the Plan. For example, new buildings or pad sites approved under the current C-2 zoning should be designed to facilitate the Plan’s envisioned grid-based road and path interconnected network, future uses and open spaces, and eventual conversion of surface parking to structured parking, without having to actually incorporate these elements....
 - “The first phase of any multi-phased implementation must incorporate a minimum of 10 acres in conformance with the MXD Zone, exclusive of the pond areas.”

Conformance to Section 3-201(a) of the Land Use Article

The following is an analysis of the submitted *Draft Amendment* regarding the required elements, as stated in the Land Use Article for a local jurisdiction in accordance with Section 3-201(a):

The planning commission for a local jurisdiction shall include in the comprehensive plan the following elements:

(i) a community facilities element;

The *Draft Amendment* could provide a better explanation of the need for community facilities for the redevelopment of the Lakeforest Mall, especially the impact of 1600 residential units on the community and its infrastructure. The master planning process is the time to look at the bigger picture of the development. Specific to this issue is the statement on page 60 relating to school capacity.

“Lastly, the inclusion of residential always raises the issue of public school capacity. The Montgomery Village Master Plan has planned for a future middle school and at the time of this Plan’s adoption, elementary school capacity currently exists. The Plan therefore does not require any specific land reserve for a school; however, all residential development proposals should be coordinated with Montgomery County Public Schools (MCPS) to determine whether the existing and planned elementary and middle schools at the time of proposal can accommodate the projected student generation. If they cannot, the proposed redevelopment plan should then incorporate an applicable school site.”

When and where possible, potential public school sites should be identified in the master planning process, as the needed infrastructure to support an anticipated increase in population should investigate

the needs of the projected population. This approach provides opportunities for school siting when demand for such facilities arises. Coordination and communication among the City, Montgomery County and Montgomery County Public Schools (MCPS) can facilitate an understanding of these future needs. MCPS is required to document these needs in its annual Educational Facilities Master Plan (EFMP), where MCPS quantifies both current and projected school capacity, as well as future enrollment demand. The requirement that a developer should incorporate an applicable school site at the time of development application might not meet the test of rational nexus.

Planning also suggests that the city consider if there is an additional need for public facilities that have not yet been considered besides schools, such as medical and police service.

Planning noticed that the pandemic is mentioned in a discussion of green space and open space on page 44, but not elsewhere. Although it is impossible to know just how the pandemic will affect future development, perhaps that plan could make a few comments about how changes in the post-pandemic demand for institutional, retail and office space might affect the plan.

(ii) an area of critical State concern element;

Comment: Planning encourages the city to consider referencing the current “Areas of Critical State Concern” list as discussed within the A Better Maryland plan. Here is a link to the website:

<https://abetter.maryland.gov/plan/pages/areas-of-critical-state-concern.aspx>.

Through A Better Maryland, state agencies deemed these as important areas for collaboration between Maryland and its jurisdictions.

(iii) a goals and objectives element;

Section 3-110 of the Land Use Article states that the goals and objectives shall serve as a guide for the development, and for economic and social well-being of the community. The primary goal of the *Draft Amendment* is to set forth a vision for these 102 acres of the Lakeforest Mall that will “improve the quality of life of nearby residents by providing amenities and needed goods and services and spurring further reinvestment” (page 39). Chapter 4-Vision Framework and goals of the plan are stated in the form of a set of visions as follows (page 40):

- That a Lakeforest redevelopment should be mixed use and that mixed use means much more than retail and residential.
- That it should include a coordinated, well integrated horizontal and vertical mix of uses.
- That it is important for Lakeforest to become a destination with its own “sense of place” that draws people of all ages, including families, and offers unique experiences, amenities and opportunities.
- That connectivity with the surrounding area is important.
- That walkability and the inclusion of recreational, open and green spaces is a priority.
- That there be a focus on job creation generally and having a variety of jobs that offer new opportunities and upward mobility.
- That there be flexibility in the master plan to account for unforeseen challenges.

Planning suggests that the city consider an additional vision or goal on urban design elements, especially those that might provide for more emphasis on architectural design, parks and plazas, and landscape design elements for the redevelopment proposals, and suggests the city consider looking toward the

Design, Arts, and Culture; Investing in Building Community chapter of the Planning Board Draft version of Thrive Montgomery 2050 for ideas to be applied.

(iv) a housing element;

The passage of HB-1045 in 2019 has resulted in the requirement of a Housing Element in all comprehensive plans adopted after June 1, 2020. It should be noted the new law requires a comprehensive plan to address the need for low-income and workforce housing, using the definitions contained in [§3-114](#) of the Land Use Article and §4-1801 of the Housing and Community Development Article. Since this *Draft Amendment* will be adopted after June 1, 2020, and the redevelopment is clearly inclusive of new housing, the small area master plan should be evaluated by the city for conformance to the requirements of HB-1045, specifically the use of the terms low-income and workforce housing, as applied to both rental and homeownership. Further, a needs assessment for the area could be added to Chapter 7. Planning has developed Housing Element Models & Guidelines to address the recent legislation (HB 1045), which is contained within the [Maryland Department of Planning website](#) as a tool for local jurisdictions.

The *Draft Amendment* has provided a thorough description of the one-half mile surrounding the Lakeforest mall area, indicating that over one-fourth of the apartments in that area are age-restricted, but few are income-restricted (page 29). This indicates that the city does have some programs that serve low-income residents and perhaps workforce housing is available. Planning questions the housing recommendation “No additional regulated affordable housing above what is required under the City Code should be approved”. An explanation of this recommendation should be provided for justification, as it seems to limit affordable housing. Is this because there is a glut of affordable housing on the market. The needs analysis of HB-1045 would provide insight into the need for low-income and workforce housing.

In the Surrounding Demographics discussion, beginning on page 33, the plan provides more information on the demographics of the area and provides the following insight into the surrounding community:

“The Lakeforest area has more persons, families, and households living below poverty as compared to the City as a whole, and there are more households earning less than \$50,000 per year and fewer households earning \$200,000 or more per year. In the interest of equity, the *Draft Amendment* should encourage the income diversity of the area by including housing that offers a variety of price points for both new and current residents. The Plan should discourage creating a predominance of higher-priced housing. The Plan should strive to ensure there are housing opportunities for a variety of socio-economic groups, including the current area residents with low and moderate incomes.”
(pages 34-35)

Chapter 7-Residential provides a discussion of the housing component as envisioned by the plan, including the breakdown of the percentages of townhouses (7%), missing-middle housing (20-30%), and multifamily (63-73%) as a special condition for redevelopment. It also states that single family detached housing is prohibited, although single-family detached units can also bring substantial density if designed to do so and provide for fee-simple ownership. Planning encourages more emphasis on fee-simple homeownership, and less on rental or condominium ownership, by including the duplex as a permitted unit type as well as any multi-unit housing form designed such that fee-simple ownership is feasible, through the sharing of vertical walls only. This suggestion is given to address an issue of equity, specifically related to wealth building for low-income housing.

It is noted that the “missing-middle” housing is favored over townhouse development, although, the universal concept of missing middle also addresses the concept of compatibility with single family homes, which the *Draft Amendment* is prohibiting. Small single-family homes designed to be interspersed with multi-tenant housing might lead to attractive neighbors and streetscapes. Since this situation for redevelopment is a greyfield, it provides for many areas on-site that are flat and lends to development of structures built on slab. It would be unfortunate if the community resulted in a large uniform component of townhouses, two-over-two stacked/attached dwellings, and five over two (five stories of wood construction over two stories of concrete podiums) housing stock. The use of architectural design standards to avoid a monotonous streetscape with a variety of architectural massing and form is essential to creating an architecturally diverse streetscape adding visual interest and quality design to the neighborhoods as they evolve.

The city should also be aware of the recent passage of [Senate Bill 687](#) (2021) relating to State and Local Housing programs – Affirmatively Furthering Fair Housing. The intent of the bill is as stated in the preamble of the bill. Section 3-114 of the Land Use Article is amended in the bill (effective January 1, 2023) to include the following:

- (d) (1) Local jurisdictions have a duty to affirmatively 24 further fair housing through their housing and urban development programs.
- (2) The housing element of a comprehensive plan that is enacted or amended on or after January 1, 2023, shall include an assessment of fair housing, to ensure that the local jurisdiction is affirmatively furthering fair housing.
- (3) On request of a local jurisdiction, the Department of Planning shall provide technical assistance for the purpose of developing the housing element of the comprehensive plan.
- (4) This subsection does not require a local jurisdiction to take, or prohibit a local jurisdiction from taking, a specific action to affirmatively further fair housing.

Planning is collaborating with state agency partners to develop guidance and resources for jurisdictions to address these new housing element requirements.

(v) a land use element;

Section §3-111 of the Land Use Article states “On a schedule that extends as far into the future as is reasonable, the land use element shall propose the most appropriate and desirable patterns for the general location, character, extent, and interrelationship of the uses of public and private land.”

The most recent adoption of an amendment to the Land Use Element to the 2009 Master Plan was adopted by the Mayor and City Council on December 19, 2011 by Resolution R-88-11. That amendment indicated the subject land area to be Commercial-Office-Residential on the Land Use Map found on page 9 of the 2009 Mater Plan dated December 20, 2011. This amendment does not really change the previous designation, as a mixed-use community is still being proposed. The *Draft Amendment* explains the purpose of the small area plan:

“Given this current climate of uncertainty, the Plan is not intended to be a detailed block-level design plan. To this point, the Plan will express, through narratives and recommendations, elements to be included, or – perhaps more importantly – to be excluded, in any future redevelopment.”

The current housing market is extremely strong, so it is likely that redevelopment of the mall will primarily consist of residential development. Under that assumption, combined with the decline of the

mall and others across the nation, design standards relating to housing compatibility with the surrounding neighborhood and to internal uses is an important factor, during the transition period. The uses, zoning and existing structures of the surrounding neighborhood and internally should be taken into consideration to encourage an appropriate horizontal and vertical mix of land uses which blend together harmoniously, and to create vibrant, functional relationships among individual uses with a distinctive visual character.

(vi) a development regulations element;

The plan is generally not prescriptive, and is flexible about allowing interim development during the timeline for implementing the plan:

“Any future redevelopment will reflect the Plan’s narratives and recommendations, unless a recommendation is a ‘special condition,’ in which case strict adherence to the recommendation is required. The intent of the Lakeforest Mall Master Plan is to provide flexibility in responding to changing times, increase the value of and incentivize redevelopment of the Mall, and meet the goals and visions of the City” (page 8).

The *Draft Amendment* includes an extensive list of terms and definitions that apply to the subject land area. These terms and definitions should be carefully compared to other city and county code ordinances and for the purpose of clarity state that these terms and definitions apply to the subject land area only, and supersede terms and definitions in other ordinances, if that is appropriate. Otherwise, terms or definitions would normally apply as they do with any other development. Since uses are governed under the zoning ordinance, each of the residential uses described in the list of terms and definitions should be clarified as either a single-family detached or attached, or as a multifamily dwelling type. This will help at the time of site plan and permit review to understand the appropriate regulations to apply.

The proposed small area plan will provide for a framework for future development and includes a recommendation for a “special condition” in which the idea is that these will be regulatory, as opposed to a guideline for development. (Page 8)

The *Draft Amendment* also includes Chapter 5 Amenities that envisions the redevelopment and discusses green and open space, the programming of these spaces, possibilities for addressing the existing stormwater management ponds, the pedestrian realm, buildings and centers, and connectivity (pages 43-51). These discussions of the amenities are followed by a set of recommendations and a single special condition, which states:

“Establish an overall minimum of 35% green area, as defined in the MXD zone, for the entire 102-acre Plan area.”

Planning commends the city for recognizing the importance of using the small area plan as a tool to guide redevelopment of the mall, and the emphasis on green area. Other special conditions relate to the breakdown of unit types as mentioned in the housing element discussion and limiting certain auto-oriented uses.

It appears that any development proposal will be required to file for rezoning and submit a sketch plan. Planning recommends that any sketch plan for the development include a full analysis of public realm such as spaces, structures, and objects that are physically and visually accessible to the public. Spaces include public plazas, courtyards, parks, and green spaces. Streets, streetscapes, alleys, and laneways are also part of the public realm and proportion matters. Buildings and lower levels of buildings, wall to window ratios, materials, textures, and colors influence the experience of the public realm. Ground level architecture is the primary influencing factor of impacting the public realm, whereas the architecture of

the buildings above ground level are secondary factors: Materiality, Color, Texture, and Scale (spatial relationships). Environmental conditions such as sun/shade, noise, wind, etc. also impact the public realm. Planning also recommends the use of place makers and activation elements through signage and artwork. Offering a variety of public spaces for social interaction, including intimate spaces, active spaces, passive spaces, natural spaces, and urban spaces all contribute to the concepts of quality of life post-COVID.

(vii) a sensitive areas element;

In 1978 when the mall was built, there were few environmental regulations that required preservation of existing natural features on the site. Today, the only feature on the site that is serving an ecosystem is the stormwater management ponds with the associated trees and other vegetation surrounding the ponds, and existing shade and evergreen trees throughout areas of the site lining parking compounds and on slopes where changes in grade provide for planting areas. The ponds serve not only the subject site, but also the surrounding area. (page 48) Planning commends the city on the following concept for restoring habitat, protecting clean water, and considering the pond area as a transformation area and amenity to the site:

“Additionally, one of the ponds will require a 100 foot stream valley buffer due to its hydrologic connection to nearby streams. The pond areas should be utilized to help fulfill the site’s forest conservation requirements and should be placed under a Category II forest conservation easement. This type of easement functions as a tree save area and allows the incorporation of paths, furniture, and public art.”

This area around the stormwater management might be a good place to consider the creation of a public park. It might also be worthwhile for Gaithersburg to participate in Montgomery County’s current 2022 Land Preservation, Parks, and Recreation Plan (LPPRP) effort for park and open space projects at the subject area to be listed for long-term funding in the plan’s Capital Improvements Plan. The redevelopment of the mall is also an opportunity to take advantage of the newest technology related to climate change adaptation and resiliency, as well as encourage solar energy as part of the housing components in the community. Planning commends the plan for addressing open space and greenspace programming with the concept of providing internal and external connections via sidewalks, bicycle lanes or multi-use paths.

(viii) a transportation element; and

Chapter Six-Transportation provides a well-written planning and visioning document which identifies transportation goals and strategies to address site access, a mix of land uses, a diverse population, high transit dependency, and economic development. The *Draft Amendment* envisions the transformation of a suburban-style, automobile-centric shopping mall to a walkable and mixed-use community while helping to accommodate Gaithersburg's future growth and economic development goals. It is anticipated that redevelopment of the site will provide an opportunity for an area with robust transit, bicycle, pedestrian, and automobile access. Multimodal transportation access and connectivity help to “open up” the site to the community.

Planning commends the *Draft Amendment* for applying Gaithersburg’s adopted Street Design Standards and Traffic Calming Best Practices to the surrounding roads and corridors, which will help to address low automobile access in the surrounding communities.

- The return of a street grid as identified in the plan will make it easier and safer for pedestrians and bicyclists to access the site.
- The addition of on-site micro mobility transportation can help users reach their last-mile destinations.

Planning recommends the City of Gaithersburg continue coordinating with Montgomery County and the Maryland State Highway and Transit Administrations to identify priorities, timeframes and funding mechanisms for proposed roadway, sidewalk, transit stop and other improvements.

Planning also supports the *Draft Amendment's* incorporation of a future transit stop at Lake Forest Boulevard for the MD-355 Bus Rapid Transit project. This will supplement plans for additional transit at the Lake Forest Transit Center, which is planned for renovation adjacent to the site.

Planning agrees with the statement on page 38 "Fewer people drive alone in a car to work and more people use transit or walk to work in the Lakeforest area. These tendencies should be encouraged and expanded as part of the Plan."

The *Draft Amendment* includes several City Road Code Typologies (pages 23-24) that could be used in the redevelopment of the site including the following:

Commercial Service Road
Alley
Neighborhood residential
Park boulevard
Main street

Each of these road types should be vetted with the local transportation department to ensure that the descriptions are consistent with their standards, details, and specifications. If the city is trying to provide walkable neighborhoods, the reduction of curb radii at intersections is often cited as an area of careful consideration to narrow the distance of crosswalks to accommodate the pedestrian and to slow traffic.

(ix) a water resources element.

The City of Gaithersburg approved and adopted the Water Resources Master Plan on February 16, 2010. Since this small area plan is for a redevelopment site, that is nearly completely impervious in nature, the redevelopment will provide for additional green area and should include bio-retention area and water treatment facilities in addition to the existing ponds on-site. This should provide for better water treatment than exists today.

(2) If current geological information is available, the plan shall include a mineral resources element.

The *Draft Amendment* does not address the above issue if current geological information is available.

(3) The plan for a municipal corporation that exercises zoning authority shall include a municipal growth element.

The City of Gaithersburg approved and adopted the Municipal Growth Element Master Plan on April 6, 2009. The subject area is within the City of Gaithersburg and does not address any future annexation of land outside of the city limits.

Suggested Technical Edits

Planning reviewed the *Draft Amendment* with attention to these sections under Existing Conditions and Context: Expected City Growth and Trends (pages 26-27) and Surrounding Demographics (pages 33-38). Generally, the information is valuable, but some clarification is needed, as well as documentation of source information, especially for the charts. For example, to evaluate Charts 6 to 13 (pages 34-37), which are based on census block group data, it would be helpful if the data sources were provided. For example, was it the 2010 Decennial Census or the American Community Survey (ACS) and if the ACS which vintage, or were the statistics provided by a third-party vendor?

The following are specific items needing clarification or correction: See page 26, column 1: "...staff reviewed various studies to help frame elements that should be addressed in the Plan..." Recommend that next to each study listed add in parentheses the year released.

- Also highlighted on page 26 are forecasted population, jobs, and housing unit figures. It is preferable to provide the primary source of the forecast— perhaps in a footnote— than refer to a secondary or tertiary study.
- See page 26, Column 2, bullet 7: "The projected strongest future job growth is in Professional, Scientific, Technical and Healthcare jobs. The weakest is in Retail." That sentence seems vague. Consider including the percentage growth for each industry. The *Draft Amendment* might specify over what projection horizon the job growth or growth rates are reported. Please also clarify which industry is forecasted to have the stronger growth, is it the Professional, Scientific, Technical industry or is it the Healthcare industry?
- See page 28, Key Points, 3rd Sentence: "New commercial space to accommodate job growth in the professional/scientific/technical and healthcare sectors should be encouraged..." The *Draft Amendment* might consider replacing the highlighted part of the sentence with "in all high wage industries including professional/scientific/technical and healthcare industry sectors should be encouraged..."
- See page 28, Surrounding Land Uses: "...staff looked at demographic, employment, and land use information for the surrounding area... [The Surrounding area covers] one-half mile from the mall... [where mall refers to] the outer boundary of the seven parcels that form the 'core' area of redevelopment". The *Draft Amendment* should explain how population and housing numbers were determined for that custom area.
- See page 29. A count of occupied housing units is a rough measure of the number of households. Apparently 6,893 housing units, in the custom area, are occupied: "...15,782 people live in 6,893 dwelling units." How is it that the percent of single-family households (Chart 2) is greater than the percent of single-family housing units (Chart 1). The *Draft Amendment* should provide in tabular form a total count of housing units in the custom area as well as a count of occupied and vacant housing units.
- The city might also provide, in appendix, a table showing the average number of persons per household for each geography (state, county, city, and study area) and housing type (single family, multifamily, and missing middle).
- See page 33, Map 13. Census Blocks Surrounding Lakefest Mall. Planning recommends providing, in an appendix perhaps, the list of census tracts and blocks in tabular format.
- The *Draft Amendment* may need to reconcile the analysis in Charts 1 to 5 with the analysis in Charts 6 to 13 as each represents a unique geography. Charts 1-5 refer to just the area within a half-mile of the mall. Chart 6-13, which are based on whole census block groups, cover an area that extends beyond the half-mile.
- See page 34, Chart 6, Age Groups. There appear to be either data or calculation errors in this chart and the one below (Chart 7). Each bar in the Chart represents a share or percent "of the total. The sum

of the shares must equal 100 percent, they do not. Recommend verifying and correcting the data as needed.

- See page 35, Chart 9, Poverty Status and Income: The Household Income categories in the chart—under \$50,000 and \$200,000 plus--- capture just under 45 percent of all Households in the Lakeforest Area. What income categories do the other nearly 55 percent of households fall into?
- The existing land use map, Map 10, page 28 does not have a legend. It would be helpful to see the land use on the map.
- Housing projections were taken from other plans (page 26). It would be helpful to know how recent the plans listed on page 26 are in order to accurately predict the housing needs. Overall, the master plan shows a thorough analysis of the need for additional housing and of various types and the residential unit cap of 1,600 units (15.6 du/acre) seems reasonable. (page 59)
- The *Draft Amendment* follows many principles discussed in [The Montgomery Village Master Plan \(2016\)](#) in relation to the redevelopment of [Lakeforest](#) Mall area.
- This *Draft Amendment* suggests using Pedestrian Realm Zones. This concept looks similar to the complete street principles. It may be helpful for the public to refer to the complete street name as well which is used in previous plans such as the Montgomery Village Master Plan (2016).
- It would be worth emphasizing that an adequate number of parking spaces will be provided and to ensure parking structures for residential parking are easily accessible, secure, and separate from commercial parking, for multi-family units (about 1,000 to 1,150 units) which their residents can easily and safely access to.

The City of Gaithersburg is a Sustainable Community

Planning notes that the City of Gaithersburg is part of the Montgomery County Sustainable Community Action Plan. As part of the Sustainable Community designation, quality of life, environment, economy, transportation, housing and local planning and land use are all subjects of the Action Plan. Planning suggests the city review the Action Plan for consistency with the *Draft Amendment* and consider if any of the actions it includes can support implementation of the *Draft Plan's* strategies. The following is a link to the Sustainable Communities designation for the following areas, noting that this includes the City of Gaithersburg:

[Unincorporated Areas: Aspen Hill, Bethesda/Chevy Chase vicinity, Burtonsville, Clarksburg, Fairland, Gaithersburg vicinity, Germantown, Olney, Wheaton, White Oak and North, West and East Silver Spring Incorporated Municipalities: Barnesville, Chevy Chase,](#)

In addition, the city should be aware that Montgomery County recently submitted an amendment to the Sustainable Community Action Plan, which has been approved. That application focuses on the issue of affordable housing and is attached to this review for reference.

As an additional resource relating to the redevelopment of suburban malls in general, the Urban Land Institute, *Urban Land Magazine* (Spring 2021 issue) published an interesting article titled “Mall Redevelopment Can Achieve Sustainable, Equitable, Diversity in American Suburbs” by Sean Slater. [Here](#) is a link to the article.

If Planning can be of any further assistance or facilitate assistance/information from other State agencies as the City of Gaithersburg continues the processing of this small area plan, please contact Susan Llareus, Planning Supervisor for the Maryland Capital Region, at susan.llareus@maryland.gov

**Maryland Department of Planning Review Comments
May 20, 2021
2018 Draft City of Gaithersburg Comprehensive Plan**

STATE AGENCY COMMENTS

The following pages contain comments from other State agencies in support of the Maryland Department of Planning (Planning) review of the Comprehensive Plan as part of the standard 60-day review period for municipalities. Comments not included here may be submitted under separate cover, or via the State Clearinghouse. If comments from other agencies are received by Planning, they will be forwarded to the County in a timely manner.

Attachments

Page 17: Maryland Department of the Environment

Page 19: Maryland Department of Housing and Community Development

Page 20: Maryland Department of Transportation

Page 22: 2020 Montgomery County Sustainable Communities Action Plan Modification

Maryland Historical Trust reviewed the plan amendment and indicated no comment.



Maryland

Department of the Environment

Larry Hogan, Governor
Boyd K. Rutherford, Lt. Governor

Ben Grumbles, Secretary
Horacio Tablada, Deputy Secretary

April 19, 2021

Susan Llareus
Maryland Department of Planning
301 West Preston Street
Suite 1101
Baltimore, MD 21201

RE: Local Plan Review: Draft Lakeforest Mall Master Plan (Plan) of the 2018 Master Plan Update (MP-1-21) and Associated Special Conditions
MD20210319-0203

Dear Ms. Llareus,

Below are the comments from the Maryland Department of the Environment regarding the above referenced project. Our response code is R1.

1. Any above ground or underground petroleum storage tanks, which may be utilized, must be installed and maintained in accordance with applicable State and federal laws and regulations. Underground storage tanks must be registered and the installation must be conducted and performed by a contractor certified to install underground storage tanks by the Land and Materials Administration in accordance with COMAR 26.10. Contact the Oil Control Program at (410) 537-3442 for additional information.
2. If the proposed project involves demolition – Any above ground or underground petroleum storage tanks that may be on site must have contents and tanks along with any contamination removed. Please contact the Oil Control Program at (410) 537-3442 for additional information.
3. Any solid waste including construction, demolition and land clearing debris, generated from the subject project, must be properly disposed of at a permitted solid waste acceptance facility, or recycled if possible. Contact the Solid Waste Program at (410) 537-3315 for additional information regarding solid waste activities and contact the Resource Management Program at (410) 537-3314 for additional information regarding recycling activities.
4. The Resource Management Program should be contacted directly at (410) 537-3314 by those facilities which generate or propose to generate or handle hazardous wastes to ensure these activities are being conducted in compliance with applicable State and federal laws and regulations. The Program should also be contacted prior to construction activities to ensure that the treatment, storage or disposal of hazardous wastes and low-level radioactive wastes at the facility will be conducted in compliance with applicable State and federal laws and regulations.
5. The proposed project may involve rehabilitation, redevelopment, revitalization, or property acquisition of commercial, industrial property. Accordingly, MDE's Brownfields Site Assessment and Voluntary Cleanup Programs (VCP) may provide valuable assistance to you in this project. These programs

involve environmental site assessment in accordance with accepted industry and financial institution standards for property transfer. For specific information about these programs and eligibility, please Land Restoration Program at (410) 537-3437.

6. Borrow areas used to provide clean earth back fill material may require a surface mine permit. Disposal of excess cut material at a surface mine may requires site approval. Contact the Mining Program at (410) 537-3557 for further details.

7. If a project receives federal funding, approvals and/or permits, and will be located in a nonattainment area or maintenance area for ozone or carbon monoxide, the applicant needs to determine whether emissions from the project will exceed the thresholds identified in the federal rule on general conformity. If the project emissions will be greater than 25 tons per year, contact Brian Hug, Air and Radiation Management Administration, at (410) 537-4125 for further information regarding threshold limits.

8. If any project can be considered regionally significant, such as a shopping mall, a sports arena, industrial complex, or an office complex, the project may need to be identified to the regional Metropolitan Planning Organization (MPO). Project managers who need a permit to connect their projects to a State or federal highway should contact the Planning Division of the Planning and Monitoring Program, Air and Radiation Management Administration, at (410) 537-3240 for further guidance.

Please let me know if you have any questions or concerns.

Sincerely,

Amanda R. Redmiles

Amanda R. Redmiles
Clearinghouse Coordinator
Maryland Department of the Environment

LARRY HOGAN
Governor

BOYD K. RUTHERFORD
Lt. Governor

KENNETH C. HOLT
Secretary

OWEN McEVOY
Deputy Secretary



March 25, 2021

Mr. Joseph Griffiths
Manager of Local Assistance and Training
Maryland Department of Planning
301 West Preston Street, 11th floor
Baltimore, MD 21201

Dear Mr. Griffiths:

Thank you for the opportunity to review the City of Gaithersburg Lake Forest Mall Master Plan (the Plan). The comments below are based on a review of the plan by staff in the Maryland Department of Housing and Community Development (DHCD) Division of Neighborhood Revitalization. Department overall supports this master plan. The following comments relate to specific elements of the Plan:

- It is understood that in order to accommodate the recommendations of the Plan, the zoning is being changed to MXD (mixed use development) to allow more flexible planning.
- MDE/DNR should comment on planned retention of the three stormwater ponds under a forest conservation easement (Page 52).
- The Department supports the housing types proposed for this site (i.e. multifamily and missing middle) to promote affordability and income diversity. Developers should be encouraged to explore financing opportunities through the Department's housing development programs including grant, loan and tax credit programs. For information regarding our multifamily financing programs visit:
<https://dhcd.maryland.gov/HousingDevelopment>
- We recommend promoting affordable housing development above the threshold required under the City Code, recognizing housing needs, while acknowledging constraints of developer capacity and resources.
- We support creating jobs at varying pay scales and designing the project to accommodate changing uses as market conditions and demand shifts (Page 62).

Again, thank you for the opportunity to comment on the Plan. If you have any questions regarding our comments, please email me at john.papagni@maryland.gov or call me at 410-209-5807.

Sincerely,

A handwritten signature in black ink, appearing to read "John Papagni".

John Papagni
Program Officer
Division of Neighborhood Revitalization

Cc: Ashlee Green, DHCD Division of Neighborhood Revitalization



MARYLAND DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
7800 HARKINS RD • LANHAM, MD 20706 • DHCD.MARYLAND.GOV
301-429-7400 • 1-800-756-0119 • TTY/RELAY 711 or 1-800-735-2258



April 15, 2021

Ms. Susan Llareus
Maryland Department of Planning
301 West Preston Street
Suite 1101
Baltimore MD 21201

Dear Ms. Llareus:

Thank you for coordinating the State of Maryland's comments on the Town of Gaithersburg's draft Lakeforest Mall Master Plan update of the 2018 Master Plan (MP-1-21) and Associated Special Conditions (MP-2-21), hereafter referred to as the "Plan." The Maryland Department of Transportation (MDOT) offers the following comments from The Secretary's Office and the MDOT State Highway Administration (MDOT SHA).

General Comments:

- Please refer to the Maryland Department of Transportation State Highway Administration as "MDOT SHA" in instances where "SHA" is used.

Section 6 – Transportation

- Page 53 – Given the close proximity to existing local streets, a third access to MD 124 from a redeveloped Lakeforest Mall site would require further evaluation by MDOT SHA District 3. To coordinate future development on new access points, please contact Mr. Kwesi Woodroffe, MDOT SHA Regional Engineer, at 301-513-7347 or via email at kwoodroffe@mdot.maryland.gov.
- Page 53 – Existing MD 124 access points to the Lakeforest Mall (currently the signalized MD 124 intersection at Lakeforest Mall entry/exit point) is without pedestrian amenities. Further evaluation should be made to accommodate marked crosswalks with accessible pedestrian signal/countdown pedestrian signal (APS/CPS) functionality, ADA ramp upgrades, and signing and pavement marking upgrades to reflect current MDOT SHA standards.
- Page 54 – MDOT SHA works with local governments to identify opportunities to construct new sidewalk or shared-use paths along MDOT SHA roadways as part of MDOT SHA's Sidewalk Retrofit Program. Requests for new pedestrian paths must be made by the applicable local jurisdiction—in this case, the City of Gaithersburg—as such requests require a commitment to cost-sharing and maintenance. The MDOT SHA prioritizes requests for MDOT SHA Sidewalk Retrofit Program funding based on available funding and an evaluation of how the requested facility meets the Program's purpose and need scoring criteria as compared to other requests, statewide.

Ms. Susan Llareus
Page Two

- Page 55 – The Lakeforest Mall Master Plan area is located in a Suburban Activity Center context, as developed and identified in MDOT SHA’s *Context Driven: Access & Mobility For All Users 1.0 guide*. The recommendation to remove free-right movements, as the plan proposes along MD 124 at Lost Knife Road and Russell Avenue, can be an appropriate pedestrian and bicyclist safety countermeasure in a Suburban Activity Center. The MDOT SHA does note though that such proposed treatments would require appropriate technical engineering analyses to determine feasibility and operational impacts at such time improvements would proceed and must be designed in accordance with the Maryland Manual on Uniform Traffic Control Devices (MdMUTCD). For additional information, please contact Ms. Kandese Holford, MDOT SHA Assistant Chief, Regional and Intermodal Planning Division and Bicycle & Pedestrian Coordinator, at 410-545-5678 or via email at kholford@mdot.maryland.gov.

Thank you again for the opportunity to review the Plan. If you have any questions or concerns, please do not hesitate to contact Ms. Kari Snyder, Regional Planner, MDOT Office of Planning and Capital Programming (OPCP) at 410-865-1305, toll free at 888-713-1414, or via email at ksnyder3@mdot.maryland.gov. She will be happy to assist you.

Sincerely,



Heather Murphy
Director, OPCP, MDOT

cc: Ms. Kari Snyder, Regional Planner, OPCP, MDOT

APPROVED
SGCC
8/12/2020

SUSTAINABLE COMMUNITY DESIGNATION

2019 Minor Modification Form

Eligible Applicants:

- *Local governments or local government consortia with an already designated Sustainable Communities Area*

Maryland Department of Housing and Community Development
Division of Neighborhood Revitalization
2 N Charles Street, Suite 450

Baltimore, MD 21201

410-209-5800

www.mdhousing.org



DEPARTMENT OF HOUSING
AND COMMUNITY DEVELOPMENT

II. SUSTAINABLE COMMUNITY MODIFICATION DESCRIPTION

Existing Sustainable Communities may find it useful, or necessary, to alter their strategic plan or geographic area to reflect a new approach or add regions targeted for revitalization. Please be advised that any approved changes will not extend beyond the Sustainable Community's five-year designation period.

Please specify if the proposed change is a boundary modification or a strategy modification.

Boundary

Strategy

1. What is the reason/justification for your proposed modification? What are the proposed projects or activities that will take place as a result of this modification? What State resources do you anticipate using as a result of this modification?

Montgomery County is committed to the development and preservation of affordable housing (AH) for all its residents. With that, Montgomery County is requesting a modification to our current Sustainable Communities (SC) designation to add targeted affordable housing properties, primarily existing and naturally occurring, that will increase the County's stock of affordable housing units.

The development and preservation of affordable housing generally involves the partnership investment of private and public resources. Generally, all affordable housing projects have a financing gap between what the project can support in repayable debt and the total development cost of a project. The gap exists as the income generated by the affordable units (either rental or sale) is insufficient to pay the total development cost of the property. Unless this "financing gap" is filled, affordable housing would not be developed.

One specific example of this is Snowden's Ridge, a 100 percent Section 8 supported community serving 87 families in the Silver Spring/Colesville area. This property was the impetus for this modification request. The use of federal resources like the nine percent Low Income Housing Tax Credit (LIHTC) can provide approximately 30-40 percent of a project's total development cost, reducing the drain of limited state and local government resources. The property is over 40 years old and was purchased by a capable non-profit organization whose mission is the creation and preservation of affordable housing. No project in the history of the LIHTC program has been awarded the 9 percent without receiving community context points, for which properties located in a DHCD designated Sustainable Community have the greatest chance of earning. Since Snowden's Ridge is not currently within a state designation area, the County cannot effectively compete in securing an award of LIHTCs that would provide approximately \$9 million in equity financing needed for the acquisition and renovation of this Section 8 community.

Without the option of competing for this beneficial and significant equity financing, Montgomery County would need to provide up to \$6.5MM to preserve this fully Section 8 supported community. This level of County funding is very uncertain given the unprecedented and extremely challenging budget climate we are in due to COVID19.

These federal resources, combined with state resources like Rental Housing Works, allow local governments like Montgomery County to also invest in affordable projects, often as the lowest tiered lender. The availability and use of federal and state funding resources is essential to the preservation and creation of housing by allowing local government to leverage and expand its resources. The requested modification will also assist Montgomery County in integrating housing and neighborhood revitalization projects which would qualify for Community Legacy and other funding from the State.

2. If this is a boundary modification, provide the following information:

- a. **Size of modified area:** 500 acres
- b. **Description of area being included: current zoning, adopted growth tier, current land use, vacancy rate (if applicable), etc.:**

Beyond the immediate focus to include Snowden's Ridge in the County's Sustainable Communities designation, as referenced above, was a desire by DHCA's community development team to take a more comprehensive approach to this SC modification application. With that, we sought to identify as many targeted naturally occurring AH communities as well as existing AH properties with local, state or federal income restrictions expiring in the next decade.

Montgomery County has 47,656 total affordable housing units with 18,495 (or 39%) having some type of price restriction control. About 60% of these price restricted units are occupied by individuals and/or families earning 40-60% AMI, but just under 60% of these units are currently in a designated Sustainable Community. This modification request seeks to add several of the remaining 42% of AH properties NOT currently in a SC to the County's SC designation. The proposed additions will add approximately ten AH properties containing nearly 900 price restricted units, 800 of which are at 60% AMI or below, to the County's SC designation. Maintaining these much-needed naturally occurring and price restricted affordable units in the County is of utmost importance and priority to DHCA.

In addition to Snowden's Ridge, this modification application also requests the addition of the following areas/properties to the County's SC designation:

- 18 properties located within one mile of the new Bethesda Purple Line Station, currently under construction. These 18 properties have 1,718 units, all of which have average rents below \$2,000 for a one or two-bedroom unit, making them some of the select few affordable units in the Bethesda area. All these properties are contiguous to the existing SC in the Bethesda area and align with the County's and State's strategy to create and preserve affordable housing near public transit, including Purple Line stations; and
- the addition of eight properties with pricing restrictions set to expire within the next 10 years that will retain more than 800 restricted affordable units – of which about 500 are for families earning 60% AMI or below - in the County; and

- several targeted apartment and townhome communities near the properties noted above that the County could exercise its Right of First Refusal in the future to maintain as affordable units that are also in proximity to small, neighborhood commercial centers where DHCA's Neighborhood Revitalization section could pursue potential façade improvement projects in the future.

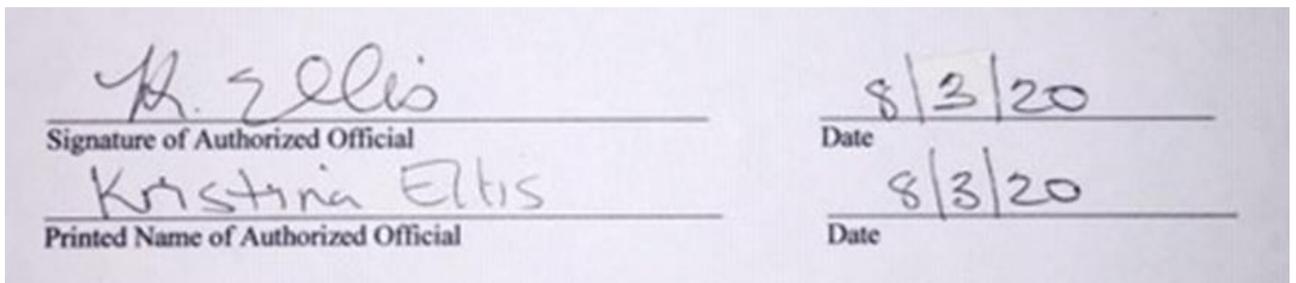
Following are the specific properties/areas included in this modification request:

- Willow Manor at Clopper's Mill - 18003 Mateny Road, Germantown 20874
 - Senior apartment community with 102 total units, 82 price restricted for seniors at 40-60% AMI or below
- Park at Kingsview Village - 13414 Daventry Way, Germantown 20874
 - 326 total units, 41 price restricted for families at 60-80% AMI
- Shady Grove Apartments - 16125 Crabbs Branch Way, Rockville, MD 20855
 - 144 total units all restricted at 40-60% AMI
- Redland Crossing Townhomes – 170 townhomes built in 1981, located one half mile from the Shady Grove Metro; 32 of the units are already in a SC, this would add the remaining 138 units on the other side of Crabbs Branch Way to the SC designation
- Gardens of Traville – 14431 Traville Garden Circle, Rockville, MD 20850
 - 230 total units, 187 price restricted for families at 40-60% AMI
- Arbor Crest of Silver Spring - 12801 Old Columbia Pike, Silver Spring 20904
 - Senior apartment community with 24 total units, all price restricted for seniors at 60% AMI or below
- Spring Parc Apartments - 11 Featherwood Court, Silver Spring 20904
 - 100 total units all price restricted for families at 30% AMI or below
- Snowden's Ridge - 2105A Harlequin Terrace
 - 87 total units all 100% Section 8
- Snowden's Mill – a single-family home community in the Colesville/Silver Spring area including three separate townhome sections with a total of roughly 125 units
- Pooks Hill Towers Apartments – 3 Pooks Hill Road, Bethesda 20814
 - 239 total units, 136 restricted with:
 - 5 at 30% AMI or below
 - 74 at 40-60% AMI
 - 57 at 60-80% AMI
- Bethesda Hill Apartments – 195 rental units built in 1986

Over the past five years, Montgomery County has seen an annual average of \$1.5 billion in real estate sales. Since 2017, purchases in the County have been more concentrated on the lower-class B and class C properties as well as older, naturally occurring affordable housing projects. Since Montgomery County has a Right of First Refusal law allowing us to match a sales contract for properties with four or more units, we sought to identify communities in strategic areas with the potential to become County-supported affordable units in the future. Examples of such communities included in our request are Bethesda Hill Apartments, Redland Crossing Townhomes and roughly 125 townhomes in the Snowden's Mill community, in which Snowden's Ridge is also located.

The goal, again, was to undertake a more comprehensive approach in linking DHCA's preservation of affordable housing with its broader yet related Neighborhood Revitalization efforts, in particular those in proximity to targeted AH properties and communities in the County. Finally, the approval of our requested modification areas will help better leverage county, state and federal resources to better support our continued affordable housing initiatives and efforts in Montgomery County.

- 3. If boundary-related, please also submit an electronic GIS shapefile and a PDF map on a CD-ROM with your application.**



The image shows a scanned document with two columns of handwritten information. The left column contains a handwritten signature 'K. Ellis' above a horizontal line, with the printed text 'Signature of Authorized Official' below it. Below that is the printed name 'Kristina Ellis' above another horizontal line, with the printed text 'Printed Name of Authorized Official' below it. The right column contains the date '8/3/20' above a horizontal line, with the printed text 'Date' below it. Below that is the date '8/3/20' above another horizontal line, with the printed text 'Date' below it.

Please send all completed forms and files to Olivia Ceccarelli-McGonigal at the address or email listed below:

Maryland Department of Housing and Community Development
Division of Neighborhood Revitalization
2 N Charles Street, Suite 450 | Baltimore, MD 21201
olivia.ceccarelli@maryland.gov