



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

Item # 12
MCPB 11-20-03

MEMORANDUM

DATE: November 14, 2003
TO: Montgomery County Planning Board
VIA: Joe R. Davis, Chief
Development Review Division
FROM: Michael Ma, Supervisor *Ma*
Development Review Division
(301) 495-4523



REVIEW TYPE: Site Plan Review
CASE #: 8-04005
PROJECT NAME: Gables Rothbury Square
APPLYING FOR: Approval of 203 multifamily dwelling units, including 41 MPDUs, and a waiver of parking standards for 19 parking spaces

ZONE: T-S (Town Sector) zone
LOCATION: On the north side of Rothbury Drive, approximately 1,000 feet west of Goshen Road, in Montgomery Village
MASTER PLAN: Gaithersburg & Vicinity
APPLICANT: Gables Residential Services Inc
FILING DATE: September 3, 2003
HEARING DATE: November 20, 2003

STAFF RECOMMENDATION: Approval of 203 multifamily dwelling units, including 41 MPDUs, and Approval of a waiver of parking standards to reduce the length of the parking space from 18 to 16.5 feet for 19 parking spaces with the following conditions:

1. Transportation

- a. Twenty percent of the proposed 203 apartment units, or 41 units, are to be rented to households at or below 50 percent of the area median income in accordance with Section TP3, "Special Ceiling Allocation for Affordable Housing Facilities" of the *FY 04 AGP* and requirements of the Housing Opportunities Commission.
- b. The proposed development shall provide road right-of-way dedication for 35 feet from the centerline of Rothbury Drive as a primary residential street, P-20.

- c. The applicant shall construct a pedestrian pathway connection to the Montgomery Village Foundation's pathway within the stream valley along the northern edge of property.
- d. Bike racks for bicycles for each building and a bicycle storage room in Building No. 7 shall be provided.

2. Environmental Planning

- a. The entire stream valley buffer within the subject property shall be placed into a Category I forest conservation easement.
- b. Prior to issuance of any building permit for the proposed development, the applicant shall develop and implement an invasive plant control program to control invasive and non-native plants located within the stream valley buffer.

3. Department of Permitting Services

The proposed development is subject to Stormwater Management Concept approval conditions dated July 30, 2003.

4. Recreation Facility

- a. Provide 1,000 square feet minimum area for the proposed tot lot.
- b. Provide benches and shade trees within the tot lot area.
- c. Provide adequate buffer between the proposed tot lot and adjacent parking area.

5. Open Space Covenant and Dedication

- a. At the time of recordation of a subdivision plat, the applicant shall subdivide and deed to Montgomery Village Foundation 2.5 acres of stream valley (Parcel B) on the north side of the proposed project. Prior to deeding of the stream valley, the Applicant shall install within the property limits a natural surface pedestrian path (with minimal grading) along the stream valley connecting to the existing path to the west.
- b. At the time of recordation of a subdivision plat, the applicant shall record a restrictive covenant over 2 acres of land on the western side of the subject property, between Patton Ridge Townhomes and the proposed parking areas. This two-acre land shall be maintained by the applicant as open space.

6. Site Plan Enforcement Agreement

Submit a Site Plan Enforcement Agreement including Development Program and Homeowner Association Documents for review and approval prior to approval of the signature set as follows:

Development Program to include a phasing schedule as follows:

- a. Streets tree planting shall progress as street construction is completed, but no later than six months after completion of the buildings adjacent to those streets.
- b. Community-wide pedestrian pathways and recreation facilities shall be completed prior to seventy percent occupancy of each phase of the development.
- c. Landscaping associated with each parking area and building shall be completed as construction of each facility is completed.
- d. Clearing and grading to correspond to the construction phasing, to minimize soil erosion.

- e. Coordination of each section of the development and roads.
- f. Phasing of dedications, stormwater management, sediment/erosion control, recreation facilities, and community paths.

7. Clearing and Grading

No clearing or grading prior to M-NCPPC approval of signature set of plans.

8. Signature Set

Prior to signature set approval of site and landscape/lighting plans the following revisions shall be included and/or information provided, subject to staff review and approval:

- a. Limits of disturbance.
- b. Methods and locations of tree protection.
- c. Forest Conservation easement areas.
- d. Note stating the M-NCPPC staff must inspect tree-save areas and protection devices prior to clearing and grading.
- e. The development program inspection schedule and Site Plan Opinion.
- f. Road right-of-way dedication for 35 feet from the centerline of Rothbury Drive.
- g. A pedestrian pathway connection to the Montgomery Village Foundation's pathway within the stream valley along the northern property line.
- h. Bike racks for each building and a bicycle storage room in Building No. 7.
- i. Additional plant materials between the proposed parking area and east property line.
- j. MPDU distribution.
- k. Footcandle information and deflectors on outdoor lighting fixtures on lighting plan.
- l. Correct numbers for all unit types.
- m. An access easement to be granted to Montgomery Village Foundation for maintenance access from Rothbury Drive to Parcel B.
- n. Details for the proposed tot lot.

PROJECT DESCRIPTION: Site Vicinity

The subject property is located on the north side of Rothbury Drive, approximately 1,000 feet west of Goshen Road, in Montgomery Village. It is bounded by Patton Ridge townhouse community to the west, a stream valley and a fourplex development to the north, and Goshen Crossing Shopping Center to the east. Across Rothbury Drive from the site to the south are a townhouse development and Goshen Plaza Shopping Center. The site and all surrounding properties are zoned T-S (Town Sector).



PROJECT DESCRIPTION: Site Description

The property is an undeveloped, irregularly shaped 11.75-acre parcel located in the T-S (Town Sector) zone. An unnamed tributary to the Great Seneca Creek runs along the northern property line. There is 1.71 acres of forest, 2.47 acres of stream valley buffers, and 0.72 acres of floodplain on site. The forested area is entirely within the stream valley buffer. The portion of the property outside of the stream valley buffer is flat and consists of shrub material, grasses, and some debris. The site was pervious graded but is reclaimed by grasses. There are no known historical buildings or archaeological sites on this site.



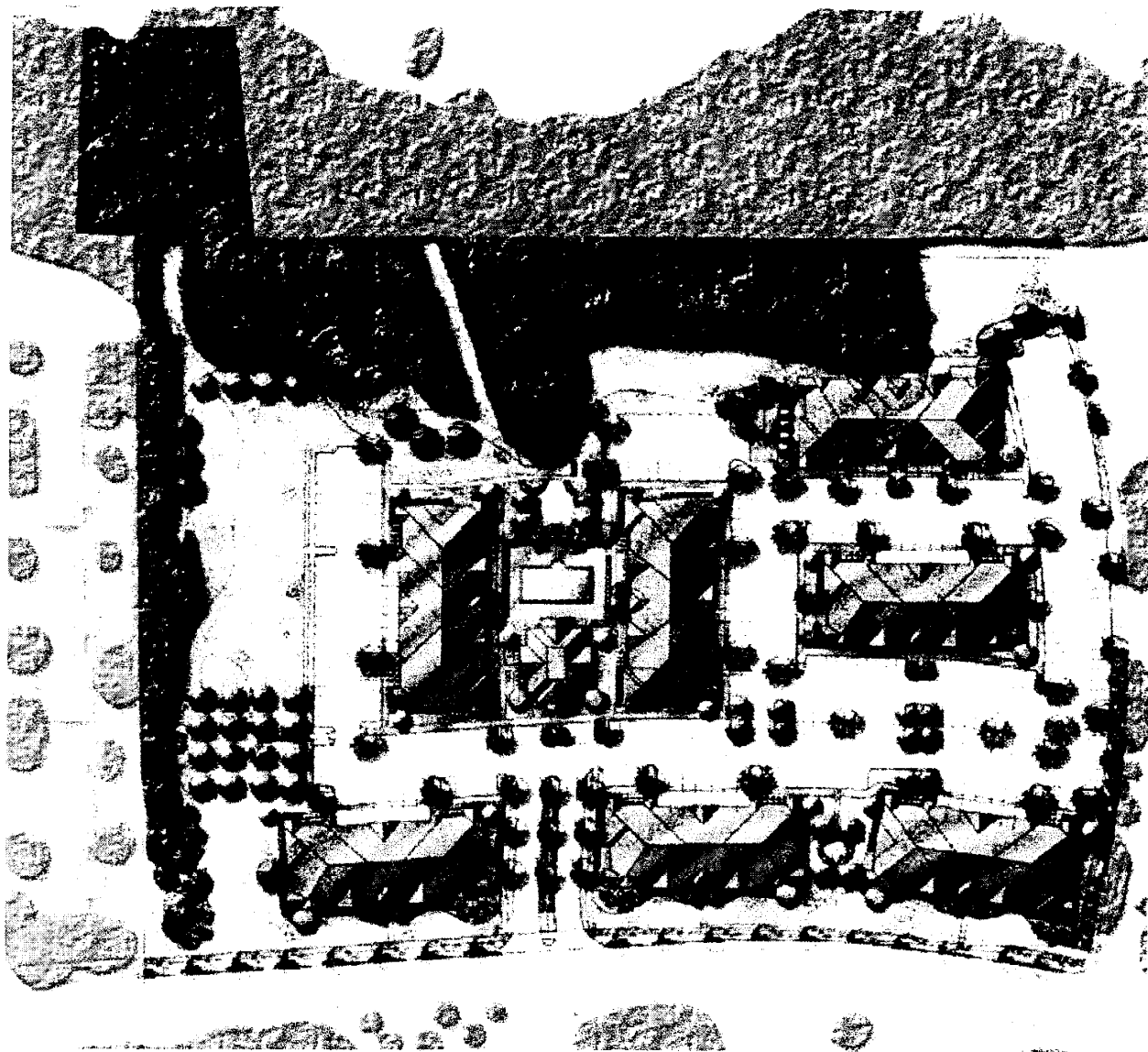
PROJECT DESCRIPTION: Proposal

The proposed development consists of seven buildings containing a total of 203 multi-family dwelling units, a clubhouse, a pool, a tot lot, a picnic area, and other indoor and outdoor recreation amenities. The unit types include one-, two- or three-bedroom units. Twenty percent of the units, or 41 units, would be rented at lower rates to families at or below 50 percent of the area median income, in compliance with the requirements of the Housing Opportunities Commission and Montgomery County requirements for Moderately Priced Dwelling Units (MPDUs). This would allow the Applicant to take advantage of the special ceiling allocation for affordable housing under the County's Annual Growth Policy (AGP). The Applicant intends the MPDUs to be physically indistinguishable from the standard market-rate units, including the square footage, finishes, and parking.

The development would include three three-story buildings facing Rothbury Drive, each approximately 174 feet long and containing 26 units. Behind those buildings in the middle of the site would be two four-story buildings, roughly 160 feet in length, with 33 and 32 units, respectively. These two buildings would face one another across an open area containing a free-standing clubhouse, a swimming pool and a picnic area, with a tot lot nearby. Two additional buildings would be located on the east side of the site, one with four stories and 36 units and the other with three stories and 24 units. Access to the development will be via a single monumental entrance sited to coincide with intersection of Rothbury Drive and Spur Hill Drive.

A two-acre area running along the western boundary of the property is to be reserved for green space, with appropriate landscaping that will serve as a buffer between the development and the townhouse community to the west. The northern boundary of the property contains 2.5 acres of stream valley buffer that would be preserved and, at time of subdivision, transferred to the Montgomery Village Foundation. To the west of the property, this stream valley is bordered by a pedestrian path that ends at the property's edge. The Applicant proposes to continue this path along the edge of the stream valley buffer through the property and along the rear of the adjacent shopping center, which would bring the path to the intersection of Goshen and Snouffer School Roads.





PROPOSED CLUBHOUSE ELEVATION

PROJECT DESCRIPTION: Prior Approvals

Development Plan Amendment

Through Development Plan Amendment (DPA) 02-2 (approved July 1, 2003), the Montgomery County Council amended the approved land use plan for Montgomery Village in the Town Sector zone to remove a school designation for the subject property to allow for the development of a 203-unit, multi-building apartment complex, to be know as Rothbury Square.

Through a Resolution dated October 1, 2003, the Montgomery County Housing Opportunities Commission certified Rothbury Square as an affordable housing development pursuant to the Special Ceiling for Affordable Housing under the FY02 Montgomery County Annual Growth Policy. A copy of the Resolution is attached.

Preliminary Plan

Preliminary Plan 1-04016 for the proposed development is being reviewed concurrently with the subject site plan application.

ANALYSIS: Conformance to Development Standards

PROJECT DATA TABLE (T-S Zone)

Development Standard	Permitted/ Required	Proposed
Number of Dwelling Units	203	203
1-bedroom		45
2-bedroom		136
3-bedroom		22
Number of MPDUs	41 (20%)	41
Building Setbacks from Rothbury Drive (ft.)	30	30
Open Space (%)	10%	60.4%
Building Height (ft.):	3 and 4 stories plus loft space	3 and 4 stories plus loft space
Parking Spaces	306 ¹ 389 ²	389

1 per the Zoning Ordinance

2 per the binding elements of DPA 02-2 (the greater of 1 space per bedroom or 1.9 spaces per unit)

RECREATION CALCULATIONS

	Tots	Children	Teens	Adults	Seniors
Demand Points					
For 203 garden apartment units	22.3	28.4	24.4	239.5	32.5
Supply Points					
Nature Trails	1.1	2.8	3.7	35.4	4.9
Natural Areas	0.0	1.4	2.4	24.4	1.6
Swimming Pool	1.2	5.8	5.0	59.9	4.9
Indoor Community Space	2.2	4.3	2.3	71.9	13.0
Indoor Exercise Room	2.2	2.8	7.3	71.9	13.0
Tot Lot (1)	9.00	2.00	0.00	4.00	1.00
Pedestrian System	2.2	5.7	4.9	107.8	14.6
Picnic/Sitting Area	1.00	1.00	1.50	5.00	2.00
Open Play Area (1)	6.00	9.00	12.00	30.00	2.00
Total Supply Points	25.0	34.9	44.1	410.3	57.0
% Demand Met On-Site	112.0	122.7	180.9	171.3	175.4

ANALYSIS:

Parking Waiver Request

Pursuant Section 59-E-4.5 of the Zoning Ordinance, a waiver of parking space standards to reduce the length of the parking space from 18 feet to 16.5 feet is requested for 19 spaces located between buildings 6 and 7 as noted on the proposed plan.

The plan provides 389 parking spaces per DPA 02-2 binding elements, which are 83 spaces more than the number of spaces required by the Zoning Ordinance. The waiver is needed to increase the distance between the proposed dwelling units and parking areas near Buildings 6 and 7. It will improve pedestrian circulation in that area by providing a seven-foot-wide sidewalk and minimize the impact of parking on adjacent units.

Staff recommends approval of the requested parking waiver for 19 parking spaces.

Conformance to Binding Elements

As part of the Montgomery County District Council's approval of Development Plan Amendment 02-2, a total of 10 binding elements were adopted. As outlined below the proposed plan satisfies the binding elements.

1. *The project shall be limited to 203 multi-family dwelling units, consisting of three, three-story apartment buildings, plus loft space, fronting along Rothbury Drive, two, four-story buildings, plus loft space, located in the center of the subject property (to the east and west of a swimming pool), a freestanding clubhouse (providing amenity and management office space), located immediately to the south of the swimming pool, a three-story building, plus loft space, located along the eastern half of the property, and a four story apartment building, plus loft space, located in the north-east corner of the subject property (the "Project"). The Project shall also provide the greater of 1 parking space per bedroom, the number of parking spaces required by Article 59-E of the Montgomery County Code or 1.9 parking spaces per unit.*

As described in the Project Proposal and Project Data sections above, the proposed plan complies with the requirements of this binding element in total number of units, building types, and parking spaces.

2. *At the time of recordation of a subdivision plat, the Applicant shall subdivide and deed to Montgomery Village Foundation (the "Foundation"), the 2± acres of stream valley on the north side of the proposed project (as shown on the supplemental plan). Prior to deeding of the stream valley, the developer will install within the property limits a natural surface pedestrian path (with minimal grading) along the stream valley connecting to the existing path to the west. The Applicant shall also, consistent with recommendations of the Environmental Division of the Planning Staff: 1) mitigate its construction in the stream valley buffer by removing invasive species throughout the stream valley buffer on the property; 2) limit grading for other structures and facilities, including stormwater management facilities (aside from unavoidable outfalls) to outside the stream valley buffer; and 3) grant a conservation easement, for the stream valley on the property, to the Maryland-National Capital Park and Planning Commission. The Foundation shall assume maintenance responsibility for the stream valley (in accordance with the above) after it has been deeded to the Foundation.*

The Applicant has agreed to subdivide and deed the 2.5 acres of stream valley on the north side of the property to the Foundation and to install the natural surface pedestrian path. The Applicant has also agreed to remove invasive species throughout the stream valley buffer on the property, limit grading for other structures and facilities, including stormwater management facilities (aside from unavoidable outfalls) to outside the stream valley buffer; and grant a conservation easement, for the stream valley on the property, to the Maryland-National Capital Park and Planning Commission.

3. *At the time of recordation of a subdivision plat, the Applicant shall record a restrictive covenant over the 2± acres of land on the western side of the subject property, between Patton Ridge Townhomes and the parking facility serving the Project, which land shall be maintained by the Applicant as open space and which shall be landscaped pursuant to a landscape plan to be mutually agreed upon by Foundation, the Applicant and the Technical Staff of M-NCPPC (the "Technical Staff") prior to site plan approval¹. The Applicant will take all reasonable steps to preserve existing trees along the western property line near the Patton Ridge Homes Corporation.*

The Applicant has agreed that at the time of recordation of a subdivision plat it will record a restrictive covenant over the 2 acres of land on the western side of the Property and maintain this land as landscaped open space. The proposed landscape plan, which includes preservation of the existing trees along the western property line near the Patton Ridge Homes Corporation, has been approved by the Foundation and the Patton Ridge Homes Corporation. The stormwater management system for the facility will be located underneath the 2± acres of land on the western side of the Property.

- 4. The Applicant shall provide landscape and buffering to the perimeter edges of all parking facilities serving the Project, with particular attention to the provision of adequate plantings, berms, buffering and other screening techniques to screen the parking facilities on the southern and western boundaries of the property. Foundation input shall be provided in the development of the screening plans at the time of site plan approval.*

The parking areas will be screened from the southern boundary of the site by the three proposed buildings along Rothbury Drive. The two-acre green space located along the western boundary of the site, along with existing trees, proposed planting materials and two three-foot-high brick walls, will provide buffer between the parking areas and the community located to the west of the site.

- 5. Subject to Montgomery County approval, egress/ingress to the Project shall be by a single divided monumental entrance consisting of two ingress and two egress lanes (each lane approximately 10 feet in width) (while trying to maintain street parking on Rothbury Drive). In the event Montgomery County does not approve the use of a single divided monumental entrance, egress/ingress to the Project shall be by two entrances (in which case street parking is unlikely), either of which shall be designed to accommodate free flow of traffic onto the site without impeding through traffic on Rothbury Drive and to permit adequate stacking and safe egress for vehicles departing the site.*

The egress/ingress point shown on the proposed plan is a single divided monumental entrance consisting of two ingress and two egress lanes and has been approved by Montgomery County.

- 6. The Applicant shall join and be a participating member of the Foundation.*

The Applicant has committed to becoming a member of the Foundation.

- 7. The Project will be subject to the commercial architectural review process of the Foundation in accordance with the adopted guidelines of the Commercial Architectural Committee.*

The Foundation's Commercial Architectural Committee reviewed the proposed plan in September 2003 and recommends three changes (see attached letter). The proposed plan reflects changes the applicant made to address the Foundation's recommendations.

8. *Maintenance standards for maintenance of the Project shall be equivalent to or more stringent than the building maintenance standards of the Patton Ridge Homes Corporation and the adopted landscape maintenance guidelines of the Foundation.*

The Applicant has adopted the Foundation's landscape maintenance guidelines and has committed to maintaining the proposed development at standards equivalent to or more stringent than the building maintenance standards of the Patton Ridge Homes Corporation

9. *The Applicant, prior to subdivision approval for the Project, shall conduct a traffic signal warrant analysis for the intersection of Rothbury Drive and Goshen Road pursuant to Montgomery County's standards for traffic signal warrant analyses. If a signal is warranted pursuant to County standards, the Applicant shall design, permit and construct said traffic signal, including appropriate pedestrian controls. In the event that a traffic signal is not warranted under County standards, the Applicant will pay to the Foundation or Patton Ridge Homes Corporation (to be determined by those entities) the sum of Seventy-Five Thousand Dollars (\$75,000.00) to be applied toward the evaluation and improvement of on-site parking conditions for the existing residential uses comprising the Patton Ridge Homes Corporation properties.*

A traffic signal warrant analysis is currently being performed for the intersection of Rothbury Drive and Goshen Road pursuant to Montgomery County's standards. If this analysis demonstrates that a traffic signal is not warranted, the Applicant will pay to the Foundation or Patton Ridge Homes Corporation (to be determined by those entities) \$75,000.00 to be applied toward the evaluation and improvement of on-site parking conditions for the existing residential uses comprising the Patton Ridge Homes Corporation properties.

10. *Setbacks for the three apartment buildings fronting along Rothbury Drive shall be increased from that proposed in the supplementary plan dated April 2002 to that provided in the revised supplementary plan, approved by the Montgomery County Planning Board on October 17, 2002.*

Under the proposed plan, setbacks for the three apartment buildings fronting along Rothbury Drive comply with the thirty-foot setback provided in the supplementary plan approved by the Montgomery County District Council.

Conformance to Master Plan

The site is located in Montgomery Village, a planned community developed in Gaithersburg in the mid-1960s. This area is within the boundaries of the 1985 *Gaithersburg Vicinity Master Plan*. All of Montgomery Village is in the Town Sector Zone and land use is also guided by a Development Plan. The property was designated for a public elementary school on both the Development Plan and the 1985 Master Plan land use map. By 1996, Montgomery County Public Schools had determined that the property would not be needed for a public school.

Development Plan Amendment Number DPA 02-2 and an accompanying Supplementary Plan went to the Planning Board on October 17, 2002. The applicant requested an amendment to the Development Plan to change the land use designation from public school use to residential use. Staff supported housing at this site but it was difficult to make a finding that the DPA had met the intent of the Master Plan's guidance by providing a sufficient amount of open space for

active field sport recreation (based on language on pages 90 and 95 of the 1985 *Gaithersburg Vicinity Master Plan*). Staff also found the proposed development to be incompatible with the surrounding area in terms of its overall density as well as the size, height, and bulk of the proposed buildings.

The Planning Board approved the Development Plan Amendment and the Supplementary Plan. Key components in the Board's approval of the project included an agreement by the applicant to reduce the density from 230 units to 203 units with 41 affordable units; the provision of approximately 4 acres of open space, including 2 acres of landscaped buffer adjacent to the existing townhouses; and a minimum of one parking space per bedroom. The applicant also amended the Supplementary Plan to address concerns regarding the scale and massing of one of the buildings. With these changes, the project is more consistent with the intent of the 1985 Master Plan and more compatible with the surrounding development. Staff is currently updating the 1985 Master Plan and the provision of additional housing will be a top priority of the revised Master Plan for Gaithersburg Vicinity.

Forest Conservation

The property contains 1.77 acres of existing forest. In addition, to the existing forest the site includes shrubs, unmowed fields, and invasive trees, shrubs, and vines. The stream valley buffer includes numerous invasive shrubs and vines. Environmental Planning requests the applicant to develop and implement an invasive plant control program to contain and reduce the spread of invasive materials onto other portions of this property and onto adjoining properties. The applicant will remove a small amount of forest for necessary utility connections. The site is exempt from forest conservation and was granted a forest conservation exemption August 16, 2002. Therefore there are no forest conservation planting requirements for this application.

Environmental Guidelines

The application does not propose any encroachment into the stream valley buffer except for necessary utility connections and for a natural surface pathway.

FINDINGS: For Site Plan Review

1. *The Site Plan is consistent with an approved development plan or a project plan for the optional method of development if required.*

If amended in accordance with the recommended conditions, the proposed plan is consistent with the approved development plan DPA 02-2 in density, building types, open space dedication and public amenities as described in Conformance to Binding Elements section above.

2. *The Site Plan meets all of the requirements of the zone in which it is located.*

The Site Plan meets all of the requirements of the TS zone as demonstrated in the project Data Table above.

3. *The location of the building and structures, the open spaces, the landscaping, recreation facilities, and the pedestrian and vehicular circulation systems are adequate, safe and efficient.*

a. Buildings

The development would include three three-story buildings facing Rothbury Drive, each approximately 174 feet long and containing 26 units. Behind those buildings in the middle of the site would be two four-story buildings, roughly 160 feet in length, with 33 and 32 units, respectively. These two buildings would face one another across an open area containing a free-standing clubhouse, a swimming pool and a picnic area, with a tot lot nearby. Two additional buildings would be located on the east side of the site, one with four stories and 36 units and the other with three stories and 24 units. These buildings are sited away from the adjacent townhouse community to the west of the site to provide an open space parcel as a buffer.

b. Open Spaces

The T-S Zone requires a 10% open space requirement. The proposed plan exceeds this requirement by providing approximately 60.4% open space (7.1± acres of open space on a 11.75 acre property). This open space calculation includes the 2.5 acres of stream valley buffer that will be preserved and deed to the Foundation and the 2 acres of landscaped open space along the western property line.

The stormwater management concept for the proposed development consists of on-site channel protection measures via underground detention, on-site water quality control via a stormfilter, and onsite recharge beneath the water quality storage pipes. These facilities will be located in the western portion of the site.

c. Landscaping and Lighting

The proposed landscaping on the site consists of a mix of shade, evergreen and flowering trees along the internal driveways, around the proposed recreational facilities, and along the street frontage. Substantial amount of existing trees will be preserved within the stream valley along the north property lines. Evergreen trees are proposed along the east property line to provide buffer between the proposed dwelling units and adjacent shopping center.

The proposed lighting plan shows post-mounted outdoor lights throughout the parking areas. The lighting poles are 14 in height. Deflectors should be installed on the perimeter lighting fixtures to minimize potential glare or excess illumination on adjacent residential properties.

d. Recreation

Recreation demand is satisfied as shown in the recreation calculations table above. The proposed recreation facilities, including a picnic/setting area, a nature trail, natural areas, a swimming pool, an indoor community space, an indoor exercise room, a pedestrian system, an open play area, and a tot lot will provide future residents with a variety of passive and active outdoor exercise and play opportunities throughout the site. Pathways will be provided to connect these facilities with apartment buildings.

e. Vehicular and Pedestrian Circulation

Vehicular access to the proposed development will be via a single divided monumental entrance consisting of two ingress and two egress lanes off Rothbury Drive. Off this entrance drive are driveways leading to individual buildings.

The proposed development will have sidewalks throughout the site connecting individual buildings with parking areas, recreation facilities, and open space areas. A natural surface trail will also be provided along the north property line within the stream buffer area.

4. *Each structure and use is compatible with other uses and other Site Plans and with existing and proposed adjacent development.*

The proposed development is bounded by Patton Ridge townhouse community to the west, a stream valley and a fourplex development to the north, and Goshen Crossing Shopping Center to the east. Across Rothbury Drive from the site to the south are a townhouse development and Goshen Plaza Shopping Center. The proposed three- to four-story apartment buildings will be compatible with the adjacent residential development in building scale and residential character. A two-acre, landscaped open space parcel will be provided along the west property line to serve as a buffer between the new development and adjacent townhouses.

5. *The Site Plan meets all applicable requirements of Chapter 22A regarding forest conservation.*

The site is exempt from forest conservation and was granted a forest conservation exemption August 16, 2002. Therefore there are no forest conservation planting requirements for this application.

APPENDIX

- A. Development Plan Amendment (DPA) 02-2 resolution.
- B. Letter dated September 22, 2003 from Montgomery Village Foundation, Inc. to Gables Residential.

Resolution No: 15-257
Introduced: June 10, 2003
Adopted: July 1, 2003

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: Development Plan Amendment Application 02-2 for Amendment of Montgomery Village Town Sector Plan, Area III-F, Gables Residential, Inc., Applicant

BACKGROUND

Development Plan Amendment ("DPA") No. 02-2, filed April 18, 2002, seeks to amend the approved land use plan for Montgomery Village in the Town Sector Zone to remove a school designation for an 11.76-acre parcel of undeveloped land and allow construction of a five-building multi-family rental apartment complex on the site, to be known as Rothbury Square. The subject site is located on Rothbury Drive in Montgomery Village between Arrowhead Road and Goshen Road, southwest of the intersection of Snouffers School Road and Goshen Road.

In a Report and Recommendation issued on January 3, 2003, the Hearing Examiner recommended a remand of the application on the basis that while the proposed development satisfied all the requirements of the Town Sector Zone and some of the findings required to approve a DPA, not all of the required findings were fully supported by the evidence. Technical Staff of the Maryland-National Capital Park and Planning Commission ("M-NCPPC") reviewed the application initially and, in a report dated October 11, 2002, recommended denial of the DPA and accompanying Supplementary Plan. Four members of the Montgomery County Planning Board ("Planning Board") considered the matter and, in a memorandum dated October 8, 2001, unanimously approved the Supplementary Plan and recommended approval of the DPA. After considering the recommendations of the Hearing Examiner, the Planning Board and Technical Staff, the District Council voted to remand the matter to the Hearing Examiner for further proceedings and additional Planning Board review.

The Applicant submitted supplemental exhibits to the Hearing Examiner on February 7 and 14, 2003. Technical Staff submitted a supplemental memorandum on February

21, 2003 stating that Staff remained opposed to the proposal due to concerns about Master Plan compliance and compatibility. Staff recommended, however, that the Planning Board continue to support the DPA and the amended Supplementary Plan because none of the features that had led the Planning Board to recommend approval of the earlier proposal had changed. The Planning Board considered the matter on February 27, 2003 and voted, 3-to-1, to approve the Supplementary Plan and to recommend approval of the DPA. After conducting a supplemental public hearing, on April 16, 2003 the Hearing Examiner recommended denial of the application on the basis that the proposed development would not be in substantial compliance with the use and density indicated by the applicable Master Plan and would not be compatible with adjacent development.

The District Council agrees with the Planning Board's conclusions.

The subject property is located on Rothbury Drive in Montgomery Village between Arrowhead Road and Goshen Road, southwest of the intersection of Snouffers School Road and Goshen Road and southeast of the intersection of Montgomery Village Avenue and Arrowhead Road. This location is in North Village, in Area III-F of the Montgomery Village Town Sector Plan. The irregularly shaped property is comprised of 11.76 acres of land and has approximately 760 feet of frontage along Rothbury Drive. The site is dominated by tall grass, with approximately 1.77 acres of forest in a single contiguous tree stand. There are no specimen trees on the property. An unnamed tributary to Great Seneca Creek runs through the northernmost portion of the site for a distance of approximately 140 feet. There are no wetlands on the site. Steep slopes exist only along the stream valley buffer abutting the tributary.

The surrounding area is zoned Town Sector and contains a mixture of residential and commercial land uses. Adjacent land uses consist of the Ruxton Place townhouse development to the west (also known as Greentee II), a stream valley buffer to the north, with the Overlea townhouse development north of the buffer, and a retail commercial center anchored by a Giant grocery store to the east (Goshen Crossing Shopping Center). Rothbury Drive forms the southern boundary of the site. South of the site, immediately across Rothbury Drive, are the Partridge Place North townhouse development and, slightly to the east across from Goshen Crossing, a retail center (Goshen Plaza Shopping Center).

The *Gaithersburg Vicinity Master Plan* (the "Master Plan") designates the subject property as a future elementary school site. However, the Master Plan anticipates the possibility that property reserved for school use may ultimately become available for other development. In 1996, Montgomery County Public Schools determined that the subject property was no longer needed as a potential school site and relinquished its future claim on the property in writing, releasing the property for development.

Town Sector zoning was applied to Montgomery Village, consistent with the master plan, in 1968. The Town Sector Zone is intended to apply to planned communities, to allow development of towns that contain residential, commercial, community and industrial facilities. All uses authorized in any zone, by right or special exception, may be similarly authorized in the Town Sector Zone.

The Applicant proposes to build and manage a luxury multi-family rental community with seven buildings containing a total of 203 units, each with one, two or three bedrooms. Market rental rates are expected to be roughly in the vicinity of \$1,000 to \$1,800 per month. Twenty percent of the units would be rented at lower rates to families at or below 50 percent of the area median income, in compliance with the requirements of the Housing Opportunities Commission and Montgomery County requirements for Moderately Priced Dwelling Units ("MPDUs"). This would allow the Applicant to take advantage of the special ceiling allocation for affordable housing under the County's Annual Growth Policy ("AGP"). The Applicant intends the MPDUs to be physically indistinguishable from the market-rate units, including the square footage, finishes, and parking. The Applicant does not intend to make use of a Zoning Ordinance provision permitting 50% fewer parking spaces for MPDUs than for market-rate units.

The development would include three three-story buildings facing Rothbury Drive, each approximately 175 feet long and containing 26 units. Behind those buildings in the middle of the site would be two four-story buildings, roughly 160 feet in length, with 33 and 32 units respectively. These two buildings would face one another across an open area containing a free-standing clubhouse, a swimming pool and a picnic area, with a tot lot nearby. Two additional buildings would be located on the east side of the site, one with four stories and 36 units and the other with three stories and 24 units. The Applicant proposes a single monumental entrance off of Rothbury Drive.

A two-acre area running along the western boundary of the site is to be reserved for green space, with appropriate landscaping. The rear of the site contains 2.4 acres of stream valley buffer that would be preserved. To the west of the subject site, this stream valley is bordered by a pedestrian path that ends at the edge of the subject site. The Applicant proposes to continue this path along the edge of the stream valley buffer through the subject site and along the rear of the adjacent shopping center, which would bring the path to the intersection of Goshen and Snouffer School Roads.

The Applicant proposes a number of binding elements intended to respond to concerns voiced by Technical Staff and the community. The binding elements include the following commitments: the project will be limited to 203 multi-family dwelling units with the

seven buildings described earlier; on-site parking will be provided equal to the greater of one parking space per bedroom, the number of parking spaces required by the Zoning Ordinance (1¼ spaces for a one-bedroom unit, 1½ for two bedrooms, 2 for a three-bedroom or larger, with 50% fewer parking spaces for moderately-priced dwelling units), or 1.9 parking spaces per unit; the Applicant will deed to the Montgomery Village Foundation ("MVF") the 2+ acres of stream valley on the north side of the proposed project after installing a path along the stream valley connected to the existing path to the west; the Applicant will remove invasive species throughout the stream valley buffer on the property, limit grading (aside from unavoidable stormwater management outfalls) to outside the stream valley buffer, and grant a conservation easement for the stream valley on the property to the M-NCPPC; the Applicant will record a restrictive covenant to protect the two-acre area along the western property line as perpetual open space; and parking facilities shall have landscaping, buffering and screening. The binding elements also contain the Applicant's commitment to conduct a traffic signal warrant analysis for the intersection of Rothbury Drive and Goshen Road. If the study indicates that a signal is warranted, the Applicant will design, permit and construct the signal. If the study indicates that a traffic signal is not warranted, the Applicant will pay to the MVF or Patton Ridge Homes Foundation (the community association for much of the area surrounding the subject site) the sum of \$75,000 to be used for evaluation and improvement of on-site parking conditions in Patton Ridge.

The District Council finds that the current proposal satisfies all the requirements for a development plan amendment under Code §59-D-1.61(a)-(e). Each of the required findings is addressed below.

§59-D-1.61(a). The proposed DPA would be in substantial compliance with the use and density indicated by the Master Plan. The Master Plan states that if the subject property is not used as a public school site, "it is important that at least a portion of [the site] be transferred to the [MVF] for field sport recreation. . . ." See Master Plan at 95. Rigid adherence to the recommendation for a field sport recreation area is not necessary to substantially comply with the Master Plan, and the evidence reflects that the MVF does not desire a field sport recreation area at this location. The DPA includes a two-acre area of landscaped open space, providing an aesthetic amenity and an open space buffer, in keeping with the general intent of the Master Plan. Moreover, the Planning Board has specifically stated its support for the amount of open space shown on the Supplementary Plan. For these reasons, the District Council concludes that the open space as proposed would substantially comply with the Master Plan.

The residential density proposed in this case, 17.2 dwelling units per acre of the entire site, is consistent with the upper limit of the base densities recommended for adjacent properties in the Master Plan (5 to 7 d.u./acre on property to the west and 8 to 15 d.u./acre to the north and south). A density of 17.2 d.u./acre is the equivalent of 15 d.u./acre with a density bonus for MPDUs, as provide for in the Master Plan. For all of these reasons, the District Council concludes that the DPA would substantially comply with the Master Plan.

§59-D-1.61(b). The proposed development would comply with the purposes, standards, and regulations of the Town Sector Zone. The DPA would comply with the purpose clause of the Town Sector Zone by providing a multi-family residential project that adds to the variety of housing types available, contributing to the self-sufficiency of Montgomery Village. The development would add both market rate and affordable housing units, enhancing the mix of housing types and pricing available in the Town Sector Zone. The Supplementary Plan provides for a layout with an efficient and orderly relationship among the proposed buildings and a safe, orderly traffic circulation plan. The open-space element of the purpose clause is satisfied by the two-acre open space along the western border of the property. The proposed units would be within walking distance of nearby employment and commercial centers, and would be served by adequate transportation facilities. Rothbury Drive provides access to Goshen Road and Snouffer School Road, which in turn provide access to the rest of Montgomery Village and the County. Mass transit is available from a bus stop located adjacent to the site. Public utilities, including water and sewer, also are available. In addition, this DPA would add to the recreational facilities available to all the residents of Montgomery Village by extending the existing system of pedestrian paths along the rear of the subject parcel and the adjacent commercial center.

The DPA would comply with parameters set in the Town Sector Zone for minimum open space in the zone, population density, building height, and utilities. See Code §§ 59-C-7.24 through 7.27.

The proposed development would provide for the maximum safety, convenience, and amenity of the residents of the development by providing well-designed buildings in an attractive setting, convenient access to public roads and shopping, substantial on-site amenities, adequate parking, and pedestrian and vehicular circulation systems that are safe, adequate and efficient.

The District Council finds that the proposed development would also be compatible with adjacent development. The Planning Board, Technical Staff and the Hearing Examiner all agree, as does the District Council, that multi-family residential development is an appropriate use for the subject site. Rental apartments serve as transitions between

commercial space and townhouses in other areas of Montgomery Village, and could compatibly serve the same function at this location. Moreover, the development would support the important public policy goal of addressing the County's housing needs, and particularly the need for affordable housing units. The proposed residential density of 17.2 d.u./acre is slightly higher than the highest density in the immediate vicinity (15.3 d.u./acre in the nearby Overlea development), but this difference is consistent with providing a density increase for MPDUs. The proposed density at the subject property is lower than all but two of the eleven existing multi-family developments in Montgomery Village, including two that are located adjacent to townhouse communities.

While the multi-family apartment buildings proposed for the subject property would be taller than surrounding residential development, the District Council is persuaded that the height differences are not great enough to destroy compatibility. The proposed buildings would be separated from the nearest townhouses to the west by a two-acre green space and a large parking area, from the nearest townhouses to the south by setbacks and a public road, and from the nearest townhouses to the north by the stream valley buffer. Thus, adjacent townhouse communities would be buffered by distance and, in two of three cases, landscaping and vegetation. The only adjacent development lacking a substantial buffer is the shopping center, which does not raise serious compatibility issues due to the nature of the use and its level of activity.

For all of these reasons, the District Council concludes that the proposed DPA would be compatible with adjacent development.

§59-D-1.61(c). The proposed internal vehicular and pedestrian circulation systems and points of access would be safe, adequate, and efficient.

§59-D-1.61(d). Efforts were made to fit the plans for the subject site into the existing topography to preserve natural vegetation and other natural features of the site. No excess grading or filling would be necessary because the layout steps down as the property moves towards its low point in the stream valley area. The proposed DPA is exempt from forest conservation requirements and would comply with Chapter 19 water resource protection requirements. In addition, the binding elements include commitments by the Applicant to implement recommendations made by Environmental Planning staff at the M-NCPPC for the preservation of natural vegetation and other natural features of the site. Accordingly, the District Council concludes that the finding required by this subsection may be made.

§59-D-1.61(e). The Applicant has committed as a binding element of its proposal to impose a restrictive covenant on the two-acre area along the western property line that it intends to preserve as landscaped open space. The text of the proposed restrictive

covenant has been submitted into the record, with the Applicant's oral commitment during the hearing to record the covenant as written, with the final dates and other remaining details, at the appropriate time. This covenant adequately and sufficiently memorializes the ownership and method of assuring perpetual maintenance of the area in question.

The Applicant also has committed as a binding element to transfer title to the stream valley buffer to the MVF. The binding elements specify, in an adequate and sufficient manner, that the MVF shall assume maintenance responsibility for the stream valley after accepting title.

In examining the relationship between the DPA and the public interest, the District Council notes that the proposed development would substantially comply with the recommendations of the Master Plan, would serve the important public policy of adding to the County's housing stock, including 41 affordable units, and would enhance recreational opportunities for area residents by extending the existing pedestrian pathway system. The evidence indicates no adverse effect on public facilities. Accordingly, the District Council concludes that approval of the proposed DPA would be in the public interest.

The District Council notes that the proposed DPA contains textual binding elements that are made contingent on the Applicant's receipt of all required approvals for the project. To avoid a potential, unintended ambiguity, this contingency should be removed from the DPA prior to certification. This change will be consistent with the Applicant's intent as expressed in the public hearing.

For these reasons, the application will be approved in the manner set forth below.

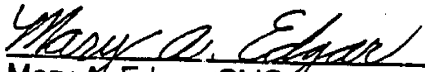
ACTION

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 02-2, which requests an amendment to the approved land use plan for Montgomery Village in the Town Sector Zone to remove a school designation for an 11.76-acre parcel of undeveloped land and allow construction of a multi-family rental apartment complex on the site, located on Rothbury Drive in Montgomery Village between Arrowhead Road and Goshen Road, southwest of the intersection of Snouffers School Road and Goshen Road in the 1st Election District, is approved subject to the specifications and requirements of the amended DPA, Ex. 142, provided that the applicant submits the DPA for certification by the hearing examiner under the provisions of §59-D-1.64 within 10 days of the District Council action, (1) with the word "Proposed" deleted from the heading above the binding elements applicable to

this DPA 02-2; and (2) with the following language deleted from the binding elements: "These proposed Binding Elements are contingent upon the Applicant receiving all final approvals for the Project including 20% of the dwelling units being approved and reserved for affordable housing, pursuant to the Special Ceiling Allocation Element for Affordable Housing as outlined in the Montgomery County Annual Growth Policy."

This is a correct copy of Council action.



Mary A. Edgar, CMC
Clerk of the Council

AUG 15 2003

**MONTGOMERY VILLAGE FOUNDATION, INC.****10120 APPLE RIDGE ROAD
MONTGOMERY VILLAGE, MARYLAND 20886-1000****(301) 948-0110 FAX (301) 990-7071 www.mvf.org****COMMERCIAL ARCHITECTURAL REVIEW COMMITTEE**

September 22, 2003

Gables Residential
Attn: Carole E. Walker
8280 Greensboro Drive, Suite 605
McLean, Virginia 22102
Re: Gables Rothbury Square, Montgomery Village

Dear Ms. Walker,

The Montgomery Village Foundation's Commercial Architectural Review Committee thanks Gables Residential, Linowes and Blocher, and The Lessard Architectural Group for the excellent presentation for Gables Rothbury Square at the September 5, 2003 meeting.

In reviewing the plans for the proposed apartment complex, the Committee agreed that the submitted elevations and the selection of materials to be used were attractive. There was discussion, however, that from a planning and design perspective, the project was not integrated with the surrounding community. It was also noted that more screening was needed between the project and the adjacent shopping center, and that some of the planned trees to be planted in the parking lots may not thrive.

In the discussions, the Committee made the following recommendations:

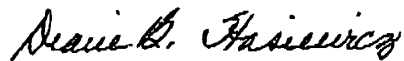
- The brick on the front of the three buildings that face Rothbury Drive should be elevated.
- More of a buffer should be created between the development and the adjacent shopping center.
- The two-acre open space easement should be integrated with the adjacent Patton Ridge community.

Understanding that the County still needs to approve the site plan, Gables Residential is requested to provide MVF with a materials specification board naming the materials to be used throughout the project, including the name and dimension of the proposed roof shingle, and plans for all signage including the permanent monument sign.

The next meeting of the CARC is scheduled to take place on October 3, 2003 at 9:00 AM at the Foundation's Administrative Office on Apple Ridge Road. If Gables Residential wishes to be placed on the agenda for that meeting, please contact me at 301-948-0110 extension 345.

Your continued cooperation in the MVF commercial and non-residential review process is greatly appreciated.

Sincerely,



Diane B. Stasiewicz, Director
MVF Achitectural Standards
/dbs

cc: Gary Unterberg, RLA, Vice President
Rogers Consulting