

**DISTRICT COUNCIL FOR PRINCE GEORGE'S COUNTY, MARYLAND
OFFICE OF THE ZONING HEARING EXAMINER**

ZONING MAP AMENDMENT

A-10011

DECISION

Application:	R-55 to M-X-T
Applicant:	Domain College Park, LLC
Opposition:	None
Date:	January 21, 2009
Hearing Examiner:	Maurene Epps Webb
Recommendation:	Approval with Conditions

NATURE OF REQUEST

- (1) A-10011 is a request for the rezoning of approximately 2.67 acres¹ of R-55 (One-Family Detached Residential) zoned land to the M-X-T (Mixed Use – Transportation Oriented) Zone. The subject property is located at the southwest quadrant of the intersection of Mowatt Lane and Campus Drive, in College Park, Maryland.
- (2) The Technical Staff recommended approval with conditions. (Exhibit 12) The Planning Board chose not to hold a hearing and adopted Staff's recommendation as its own. (Exhibit 17)
- (3) No one appeared in opposition to the Application. The University of Maryland and the adjacent University United Methodist Church expressed support for the request. (Exhibits 27(a) and (b), and 29) At the close of the hearing the record was left open to allow Applicant to submit additional information. It was received on March 3, 2009 and the record was closed at that time. (Exhibits 49 (a)–(e))

FINDINGS OF FACT

Subject Property and Surrounding Uses

- (1) The subject property is comprised of four (4) parcels (Parcels 36, 38 and 39, and Parcel E). Parcel 39, which is adjacent to the PEPCO substation, is improved with a

¹ Applicant "swapped" approximately 245 square feet of land with its adjacent neighbor, University United Methodist Church, to achieve a straightened property line to the east. Parcel 36 will become Parcel F-1. (Exhibits 30 and 49)

single-family dwelling that has a gravel drive access from Mowatt Lane. The remainder of the site is heavily wooded and generally flat.

(2) The subject property is surrounded by the following uses:

- North – Across Campus Drive, a parking facility in the R-R Zone, owned by the University of Maryland
- South – A PEPCO substation
- East – Across Mowatt Lane, the University of Maryland campus, in the R-R Zone
- West – University United Methodist Church and an undeveloped parcel in the R-55 Zone

(Exhibit 33)

(3) The neighborhood has the following boundaries:

- North – Stadium Drive to Field House Drive
- South – Notre Dame Street/Adelphi Drive intersection connecting with the northern end of Windsor Lane and Lowell Drive, continuing to the Mowatt Lane/Guilford Drive intersection
- East – Library Lane to the Guilford Drive/Mowatt Lane intersection
- West – Adelphi Road/University Boulevard

Master Plan/Sectional Map Amendment

(4) The subject property lies within Planning Area 66, described in the 1989 Master Plan for Langley Park–College Park–Greenbelt and Vicinity Plan.

(5) The Master Plan recommended medium-suburban density residential land uses for the site, with a density between 3.6 and 5.7 dwelling units per acre. It did not recommend mixed uses similar to those allowed in the M-X-T Zone. It noted that infill development should have “residential densities compatible with existing densities to preserve acceptable levels of public facility service, primarily an adequate transportation system.” (Master Plan, p. 65) Finally, guidelines on high-density housing (such as that sought in the instant Application) stressed:

- Direct access to arterial and/or collector roads;
- Maximization of use of the public and private service facilities for the greatest number of people in the area, in areas designated in the Master Plan; and
- Location within walking distance (usually a 1,500-foot radius) of public transportation access points.

(Master Plan, pp. 72-73)

(6) The property was retained in the R-55 Zone upon adoption of the 1990 Sectional Map Amendment for Langley Park–College Park–Greenbelt and Vicinity.

2002 General Plan

(7) The 2002 General Plan placed the site within the Developed Tier. The General Plan included the following goals that are relevant to the instant request – strengthening of existing neighborhoods; and, encouragement of appropriate infill.

Applicant's Request

(8) Applicant has a track record of developing luxury market-rate rental housing and retail adjacent to universities. (T. 67) Applicant seeks to rezone its property from the R-55 Zone to the M-X-T Zone to allow the development of a mixed-use building with approximately 240-300 rental apartment units, 9,000–12,000 square feet of storefront retail, and 4,000-6,000 square feet of amenities. The Floor Area Ratio will be $2.5 \pm$, not including the first floor parking area. The retail commercial uses will be located on the lower level of the apartments. The parking will be behind the retail façade and one level below.

(9) As noted above, the property is located at the southwest corner of Campus Drive and Mowatt Lane at the entrance to the University of Maryland. Both roads are identified as collector roads in the Master Plan with Mowatt identified as a connection for Guilford Road. (1989 Master Plan for Langley Park-College Park-Greenbelt Master Plan, p. 131; T. 16) Campus Drive has sidewalks on both sides, while Mowatt only has a sidewalk on the side adjacent to the University. (Exhibits 35 (a) and (b))

(10) There is a University of Maryland bus stop directly across from the site and several Metro shuttle bus stops within a half-mile radius. (Exhibit 37) The subject property lies within 1.3 miles of the College Park Metro Station (Green Line) and two (2) miles of the Hyattsville Metro Station (Green Line). (Exhibit 38; T. 19) The proposed Purple Line is envisioned to be constructed within 1,370 feet of the site, along Campus Drive. (Exhibit 37; T.19-20) The site is also located within 1,800 feet of University Boulevard, and a half-mile of a major intersection (Adelphi Road and University Boulevard). Both are classified as arterials in the Master Plan (A-16 and A-10). (T. 27)

(11) Under existing conditions, all affected (*infra*) intersections operate at acceptable levels-of-service (“LOS”) ranging from “A”-“D”. If the Application is approved, the Applicant’s transportation planner noted that all intersections will continue to operate at these levels, although the Campus Drive and Mowatt Lane roundabout will drop from LOS “A” to LOS “B”. (Exhibit 10)

(12) Applicant agreed with the Technical Staff’s recommendations. (T. 4)

Agency/ Additional Comments

(13) The Technical Staff recommended that the Application be approved with conditions. In arriving at its recommendation, Staff reasoned as follows:

Staff finds that the subject property is eligible for a rezoning to the M-X-T Zone pursuant to Section 213(a)(1), (2) and (3) of the Zoning Ordinance. The subject property is within the vicinity of a major intersection and existing shuttle/bus service, and will be within walking distance of at least one proposed major transit stop (Purple Line). Staff further finds the proposed location will not substantially impair the integrity of the recommendations in the General Plan or College Park master plan and meets the purposes of the M-X-T Zone. Finally, Transportation Planning staff has determined that adequate transportation facilities exist, so long as required improvements are made. For these reasons, staff finds the project has sufficient merit to justify the requested rezoning [,] subject to ...conditions.....

(Exhibit 12, p. 15)

(14) The Urban Design Section recommended that certain conditions be imposed to insure "that the eventual development will conform to the concept and exhibits submitted by Applicant that depicted a building with minimal setbacks from the street, a pedestrian-friendly wide sidewalk, and high architectural standards". (Exhibit 19) Its conditions were included in the Technical Staff Report.

(15) The Transportation Planning Section found that the intersections most likely to be impacted by the Application are MD 193/Adelphi Road (signalized), Adelphi Road/Campus Drive (signalized), Campus Drive/Mowatt Lane (single-lane roundabout), US 1/Guilford Drive (signalized), Campus Drive/proposed site access (unsignalized), and Mowatt Lane/planned site access (unsignalized). Staff analyzed Applicant's traffic study which assumed the development of 258 garden/mid-rise residential apartment units and 9,000 square feet of commercial retail, and noted that the request would generate 149 AM and 199 PM peak hour trips and 2,073 daily vehicular trips. It concluded that all intersections should continue to operate acceptably if the request is approved:

Detailed transportation conditions will be imposed at time of the subsequent required development applications: the comprehensive design plan (CDP) and/or the preliminary plan applications. Nonetheless, based on the materials submitted, evidence is provided that shows that the transportation system as exists, with improvements to be funded and constructed by the applicant, will be adequate to carry the anticipated traffic generated by the proposed development levels....

The subject property is located in Planning Area 66, and is subject to the approved *Master Plan for Langley Park, College Park, Greenbelt and Vicinity, and the adopted Sectional Map Amendment for Planning Areas 65, 66, and 67*. Each of the roadway facility recommendations in the master plan is the result of a comprehensive analysis of existing traffic plus traffic that would result from planned land uses. It is clear that the transportation analysis done for the approved *Langley Park, College Park, Greenbelt, and Vicinity* [M]aster Plan assumed R-55 residential zone rather than the MXT zone being requested. Staff evaluation of roadway links or segments (either existing or planned) within the study area shows that the uses proposed will not generate traffic which would lower the level of service anticipated by the land use and circulation systems shown on the approved Area Master Plan.

(Exhibit 20)

The Transportation Section did recommend that the Basic Plan be revised to show the correct right-of-ways for Campus Drive and Mowatt Lane.

(16) The Washington Suburban Sanitary Commission submitted comment that local service is adequate for the site, program-sized water main extensions are not required, and the impact from rezoning the property will be negligible. (Exhibit 23)

(17) The City of College Park recommended approval subject to the conditions that Applicant enter into a Memorandum of Understanding with it regarding annexation of the property, and a finding by M-NCPPC staff that the transportation facilities would remain adequate if the request is approved. (Exhibit 27 (a)) The University of Maryland expressed its support for the Application noting that it “is uniquely located to provide increased density and take advantage of several nearby mass transit facilities, a major principle of smart growth and a development goal supported by all levels of local government, as well as the University.” (Exhibit 27(b)) The adjacent property owner, the University United Methodist Church, also expressed its support of the request. (Exhibit 29)

APPLICABLE LAW

(1) Applicant’s request for a rezoning to the M-X-T Zone must satisfy the provisions of Section 27-213 of the Zoning Ordinance. This Section provides, in pertinent part, as follows:

(a) **Criteria for approval of the M-X-T Zone.**

(1) The District Council shall only place land in the M-X-T Zone if at least one (1) of the following two (2) criteria is met:

(A) Criterion 1. The entire tract is located within the vicinity of either:

(i) A major intersection or major interchange (being an intersection or interchange in which at least two (2) of the streets forming the intersection or interchange are classified in the Master Plan as an arterial or higher classified street reasonably expected to be in place within the foreseeable future); or

(ii) A major transit stop or station (reasonably expected to be in place within the foreseeable future).

(B) Criterion 2. The applicable Master Plan recommends mixed land uses similar to those permitted in the M-X-T Zone.

(2) Prior to approval, the Council shall find that the proposed location will not substantially impair the integrity of an approved General Plan, Area Master Plan, or Functional Master Plan and is in keeping with the purposes of the M-X-T Zone. In approving the M-X-T Zone, the District Council may include guidelines to the Planning Board for its review of the Conceptual Site Plan.

(3) Adequate transportation facilities.

(A) Prior to approval, the Council shall find that transportation facilities that are existing, are under construction, or for which one hundred percent (100%) of construction funds are allocated within the adopted County Capital Improvement Program, within the current State Consolidated Transportation Program, or will be provided by the applicant, will be adequate to carry anticipated traffic for the proposed development.

(B) The finding by the Council of adequate transportation facilities at this time shall not prevent the Planning Board from later amending this finding during its review of subdivision plats.

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(c) **Conditional approval.**

(1) When it approves a Zoning Map Amendment, the District Council may impose reasonable requirements and safeguards (in the form of conditions) which it finds are necessary to either:

(A) Protect surrounding properties from adverse effects which might accrue from the Zoning Map Amendment; or

(B) Further enhance the coordinated, harmonious, and systematic development of the Regional District.

(2) In no case shall the conditions waive or lessen the requirements of, or prohibit uses allowed in, the approved zone.

(3) All building plans shall list the conditions and shall show how the proposed development complies with them.

(4) Conditions imposed by the District Council shall become a permanent part of the Zoning Map Amendment, and shall be binding for as long as the Mixed Use Zone remains in effect on the property (unless amended by the Council).

(5) If conditions are imposed, the applicant shall have ninety (90) days from the date of approval to accept or reject the rezoning as conditionally approved. He shall advise (in writing) the Council accordingly. If the applicant accepts the conditions, the Council shall enter an order acknowledging the acceptance and approving the Map Amendment, at which time the Council's action shall be final. Failure to advise the Council shall be considered a rejection of the conditions. Rejection shall void the Map Amendment and revert the property to its prior zoning classification. The Council shall enter an order acknowledging the rejection, voiding its previous decision, and reverting the property to its prior zoning classification, at which time the Council's action shall be final.

(6) All Zoning Map Amendments which are approved subject to conditions shall be shown on the Zoning Map with the letter "C" after the application number.

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(2) The Application must also further the purposes of the M-X-T Zone, found in Section 27-542(a) of the Zoning Ordinance. This Section provides as follows:

(a) The purposes of the M-X-T Zone are:

(1) To promote the orderly development and redevelopment of land in the vicinity of major interchanges, major intersections, and major transit stops, so that these areas will enhance the economic status of the County and provide an expanding source of desirable employment and living opportunities for its citizens;

(2) To conserve the value of land and buildings by maximizing the public and private development potential inherent in the location of the zone, which might otherwise become scattered throughout and outside the County, to its detriment;

(3) To promote the effective and optimum use of transit and other major transportation systems;

(4) To facilitate and encourage a twenty-four (24) hour environment to ensure continuing functioning of the project after workday hours through a maximum of activity, and the interaction between the uses and those who live, work in, or visit the area;

(5) To encourage diverse land uses which blend together harmoniously;

(6) To create dynamic, functional relationships among individual uses within a distinctive visual character and identity;

(7) To promote optimum land planning with greater efficiency through the use of economies of scale and savings in energy beyond the scope of single-purpose projects;

(8) To permit a flexible response to the market; and

(9) To allow freedom of architectural design in order to provide an opportunity and incentive to the developer to achieve excellence in physical, social, and economic planning.

CONCLUSIONS OF LAW

(1) The Application must be found to comply with the requirements of Section 27-213 and the purposes of the M-X-T Zone found in Section 27-542. Compliance with each provision of law will be addressed seriatim.

(2) The subject property is located within the vicinity of a major intersection - University Boulevard and Adelphi Road - that it is less than a quarter mile from the site. (Section 27-213 (a)(1)(A)(i))

(3) The 1989 Master Plan for Langley Park-College Park-Greenbelt and Vicinity recognized the importance of infill development and linking residential densities to adequate transportation systems, but also recommended medium-suburban density for the site. The 2002 General Plan placed the property within the Developed Tier and recognized the need for more mixed-use development in the area to capitalize on the Metro Stations and reduce transportation system demands. The Zoning Ordinance does not expressly define the term "substantially impair"; accordingly, we look to the generally recognized usage. See, Section 27-108.01(a)(7). "Substantial" is generally defined as "considerable; ample; large". (Webster's New World Dictionary, 2nd College Edition) Approval of the request further the specific goals of the General Plan concerning infill development near Metro Stations. Since that Plan arguably supercedes the earlier Master Plan, the Application cannot be said to substantially impair the integrity of the General Plan, Area Master Plan, or Functional Master Plan. (Section 27-213(a)(2))

(4) The Application furthers the purposes of the M-X-T Zone since it will provide quality housing, and some much needed retail; these uses, so close to Metro bus shuttles, relatively close to Metro Stations, and directly next to the University of Maryland, should encourage a 24-hour environment. Thus, Sections 27-213(a)(2) and 27-542(a) are satisfied.

(5) Finally, with the imposition of the transportation conditions, transportation facilities are adequate to carry anticipated traffic for the proposed development. (Section 27-213(a)(3))

RECOMMENDATION

APPROVAL of A-10011, subject to the following conditions:

1. The Preliminary Plan shall dedicate the required right-of-way for Campus Drive and Mowatt Lane.

2. Road improvements necessary for Campus Drive and Mowatt Lane shall be coordinated with planned improvements by the University of Maryland and Mosaic at Turtle Creek.
3. At the time of preliminary plan and detailed site plan, sidewalk improvements, internal pedestrian connections, connectivity with adjacent properties, and other pedestrian-oriented development and transit-oriented development features will be evaluated.
4. The detailed site plan shall show the following:
 - a. The building shall feature vertical mixing of uses with residential space in the upper stories above ground-floor retail oriented towards the public streets.
 - b. Parking shall be primarily provided in a parking garage. The building shall be designed to minimize the visibility of the garage through screening and attractive design of the garage façade.
 - c. The façades of the building shall utilize high-quality building materials such as brick, stone, and stucco.
 - d. The floor plans shall feature closed corridor design and shall not provide for open corridors or breezeways.
5. Sidewalk improvements, internal pedestrian connections, connectivity with adjacent properties, and other pedestrian-oriented development and transit-oriented development features shall be evaluated at the time of preliminary plan and detailed site plan.