

THE EFFECTIVE DATE OF THIS ORDINANCE IS September 5, 2017

ORDINANCE NO. 17-04-004

ORDINANCE  
OF  
THE COUNTY COUNCIL OF FREDERICK  
COUNTY, MARYLAND

RE: VILLAGES OF URBANA PUD  
REZONING CASE R-16-01(A)

OPINION/FINDINGS

What is now known as the Villages of Urbana Planned Unit Development, was originally comprised of 596.6 acres, rezoned by Ordinance No. PUD 73-2, in 1973.<sup>1</sup>

In Ordinance No. 06-01-397, an additional 71.1 acres of land were rezoned from Agricultural to Planned Unit Development (PUD) and added to the existing PUD by an amendment to the original Phase I Plan. No additional residential units were requested in that application, and the approved number of dwelling units remained at 3,013.

By Ordinance No. 06-02-398, approval was given to rezone 0.62 acres of land from Agricultural to Planned Unit Development, and to incorporate that parcel into the PUD via a Phase I Plan amendment.

In June 2017, the Villages of Urbana PUD had approvals remaining for 131 dwelling units, 92 of which have been designated for the "Boxwood" area and 39 potential units that had not been assigned to any specific part of the PUD.

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<sup>1</sup> A retirement community was to be located on 346 acres, and a medium density community on 250.6 acres, with a maximum L.U.I. (Land Use Intensity) of 3.6 for the retirement community and 4 for the medium density portion of the development.

This application requested a Phase I Plan amendment to increase the overall number of residential units already allowed to be constructed in the PUD by 25 for a maximum of 3,038 dwelling units. The applicant indicated that the additional 25 residential units would be placed within the “Market District Area” of the PUD where the applicant still owns approximately 5 undeveloped acres.

The 39 potential units not assigned to any specific area of the PUD may also be placed in the Market District Area, where the Urbana Public Library, grocery store, and other retail uses are currently located.

The actual design and placement of additional units approved by this Ordinance would be subject to site development plan review and Adequate Public Facilities Ordinance (APFO) testing.

The Frederick County Planning Commission considered this request originally as part of a combined application containing two other requests affecting nearby properties on December 13, 2016 and recommended approval with conditions.<sup>2</sup>

The County Council held public hearings on February 21 and February 28, 2017, when this application was part of the “combined” application reviewed by the Planning Commission. The record was closed at the end of the February 28, 2017 discussion on the combined application. During the Council’s next meeting on March 7, 2017, the Council voted to deny the “combined” application for procedural reasons due to the lack of

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<sup>2</sup> The application was originally designated R-16-01, and included requests affecting two different MXDs and one PUD. The original application was later separated into three applications designated R-16-01(A), R-16-01 (B) and R-16-01 (C).

“contiguity” of all the properties included in the combined application, and because the two MXDs, and the PUD, had each received separate zoning approvals in the past.

On May 2, 2017, the Council approved a motion to: 1) postpone the signing of the Resolution which would have memorialized the denial of the “combined” application, and 2) to reopen the record for the limited purpose of considering two letters submitted on behalf of the applicant. A public hearing was scheduled for May 23, 2017 for that purpose.

Following the public hearing, on May 23<sup>rd</sup>, the Council determined it would continue to postpone signing the Resolution on the “combined” application, allow the applicant to amend its application, and have the Division of Planning and Permitting process separately and prepare separate reports for each of the three components of the previously “combined” application.

A hearing on this individual application, for the Villages of Urbana PUD, designated R-16-01(A) was then held by the Council on July 18, 2017. Near the end of the July 18<sup>th</sup> hearing, the Council voted to approve the request with conditions recommended by Staff.

Based upon all of the evidence submitted in this case, the County Council makes the following specific findings of fact on each of the items below as identified in the Ann. Code of Md., Land Use Article §4-204(b) and included in Chapter 1-19 of the County Code:

## § 1-19-3.110.4 (A) – Approval Criteria for Zoning Map Amendments

### *(1) Population change:*

The current population of Urbana proper is approximately 9,800. The proposed 25 additional dwellings will result in a population increase of approximately 67 people based on an average household size of 2.67 persons/household.

### *(2) Availability of public facilities;*

Parks, libraries, and public safety facilities are currently adequate to serve the proposed residential development. The construction of a replacement Green Valley Fire Station scheduled in 2020 will help to maintain adequate fire/rescue services. For water/sewer service, the proposed 25 additional dwellings can be served by the existing water/sewer facilities. There is approximately 9 MGD of water supply and 9.3 MGD of sewage treatment capacity currently available in the New Design water system and the Ballenger-McKinney WWTP.

Regarding school adequacy, the Council finds that the impact of an additional 10 elementary pupils and 6 middle school pupils can be accommodated. At the elementary level there will be an additional 939 new seats in 2020 with the opening of Sugarloaf Elementary and a new Urbana Elementary, and capacity will likely be available to accommodate the elementary school students generated by the 25 new residential units. At the middle school and high school levels, there are no additional local school capacity projects in the CIP. However, the relatively small number of students generated by the additional dwellings will have a minimal impact on Urbana Middle School and Urbana

High School. It should be noted that these additional 25 dwellings will be subject to subsequent APFO testing for school adequacy.

*(3) Adequacy of existing and future transportation systems;*

The existing roads are adequate to accommodate the additional traffic that would be generated by the 25 dwellings. Both MD 80 and MD 355 throughout the immediate Urbana area have volume/capacity ratios less than 1.0, indicating the ability to accommodate additional traffic. Current Adequate Public Facility Ordinance (APFO) approvals will require additional improvements to MD 80 east of MD 355 and on MD 355 in the vicinity of the Urbana District Park. The potential daily weekday trip generation of 145 – 165 trips from the proposed residential (depending on dwelling type) can be adequately accommodated given current traffic volumes and volume/capacity ratios.

*(4) Compatibility with existing and proposed development;*

In the PUD Market District site, the Council finds that the proposed addition of 25 residential dwellings is compatible with the existing commercial and residential uses, including the commercial uses currently under construction on the south side of John Simmons Street. A mix of housing types, including multi-family dwellings and townhouses, would also be compatible and, in fact, more desirable within a town center growth area.

*(5) Recommendation of the Planning Commission:*

The Planning Commission recommended approval of the application.

*(6) Consistency with the comprehensive plan;*

The proposed amendment to increase the maximum number of dwellings permitted in the PUD is consistent with the Low Density Residential land use plan designation. Even with the increase, the gross density of the Villages of Urbana PUD would be 2.9 dwellings/acre, which is below the Low Density Residential density range of 3-6 dwellings/acre.

*(7) The timing of development and facilities.*

For the additional dwellings proposed in the PUD there are no new school capacity projects planned or programmed at the middle and high school levels for at least the next 10 years. At the elementary level, capacity provided by the new Sugarloaf Elementary School and an Urbana Elementary School replacement will not be available for new students until the fall of 2020. Approval of the application includes the condition that the proposed 25 additional dwellings will not be constructed until the opening of Sugarloaf Elementary to new students in the fall of 2020. These additional dwellings will also be subject to subsequent APFO testing for school adequacy.

**§ 1-19-10.500.3. – Approval Criteria for Planned Development Districts**

*(A) The proposed development is compact, employing design principles that result in efficient consumption of land, efficient extension of public infrastructure, and efficient provision of public facilities;*

The proposal for the Villages of Urbana Market District is compact and efficient in its consumption of land and makes efficient use of existing infrastructure. The mix of medium-density residential, commercial, and open space/recreational uses are woven together to maximize the interconnection between residential neighborhoods, the Market District retail and business area, and the services and facilities needed to sustain both.

***(B) The proposed development design and building siting are in accordance with the County Comprehensive Plan, and any applicable community and corridor plans;***

The general Phase I design components of the Villages of Urbana proposal are consistent with the County's Comprehensive Plan goals regarding efficient and well planned development patterns supporting a mix of residential opportunities for current and future County residents and employment areas. Currently, there are no Community or Corridor Plans for this area.

***(C) The proposed development is compatible with existing or anticipated surrounding land uses with regard to size, building scale, intensity, setbacks, and landscaping, or the proposal provides for mitigation of differences in appearance or scale through such means as setbacks, screening, landscaping; or other design features in accordance with the County Comprehensive Plan, and any applicable community or corridor plans;***

To the extent discernible in a Phase I Land Use Concept Plan, the proposal for the Villages of Urbana PUD Market District reflects a development scheme that makes wise use of the physical design and site layout of the existing surrounding structures and open spaces to diminish differences in intensity, building scale, and appearance between the existing employment and civic uses and the proposed residential or mixed use development planned for the site.

***(D) The proposed development provides a safe and efficient arrangement of land use, buildings, infrastructure, and transportation circulation systems. Factors to be evaluated include: connections between existing and proposed community development patterns, extension of the street network; pedestrian connections to, from, and between buildings, parking areas, recreation, and open space;***

The proposed development of the Villages of Urbana PUD Market District provides a safe and efficient arrangement of land uses. The existing road network provides multiple

vehicular access points while providing multi-modal connections to adjoining and nearby uses.

The proposed arrangement of land uses in the Villages of Urbana PUD Market District makes good use of the remaining vacant land in the commercial center of the PUD by seeking to increase both residential density and commercial/retail activity in the center of the community's business district.

*(E) The transportation system is or will be made adequate to serve the proposed development in addition to existing uses in the area. Factors to be evaluated include: roadway capacity and level of service, on-street parking impacts, access requirements, neighborhood impacts, projected construction schedule of planned improvements, pedestrian safety, and travel demand modeling;*

The transportation system is adequate to accommodate additional traffic from the 25 dwellings. Both MD 80 and MD 355 throughout the immediate Urbana area have volume/capacity ratios less than 1.0 indicating the ability to accommodate additional traffic. Current Adequate Public Facilities Ordinance (APFO) approvals will require additional improvements to MD 80 east of MD 355 and on MD 355 in the vicinity of the Urbana District Park.

*(F) The proposed development provides design and building placement that optimizes walking, biking, and use of public transit. Factors to be evaluated include: extension of the street network; existing and proposed community development patterns; and pedestrian connections to, from, and between buildings, parking areas, recreation, and open space;*

The Market District area of the PUD is essentially developed with an interconnected, gridded street and pedestrian network. The passage of MD 355/Worthington Blvd through the center of the Market District greatly increases the likelihood of viable public transportation service in future years.



- (G) Existing fire and emergency medical service facilities are or will be made adequate to serve the increased demand from the proposed development in addition to existing uses in the area. Factors to be evaluated include: response time, projected schedule of providing planned improvements, bridges, roads, and nature and type of available response apparatus;***

The Urbana Fire Station is within 2 miles of the Market District, and has professional staff and a full complement of fire and rescue equipment. The Green Valley Station is approximately 5 miles from the development and would serve as the second due station. County Fire and Rescue Services plans to add career staff to support tactical staffing of equipment to better serve the community.

- (H) Natural features of the site have been adequately considered and utilized in the design of the proposed development. Factors to be evaluated include: the relationship of existing natural features to man-made features both on-site and in the immediate vicinity, natural features connectivity, energy efficient site design, use of environmental site design or low impact development techniques in accordance with Chapter 1-15.2 of the Frederick County Code;***

The site has been graded and finished as a result of surrounding development and does not have any natural features to be accommodated.

- (I) The proposed mixture of land uses is consistent with the purpose and intent of the underlying County Comprehensive Plan land use designation(s), and any applicable community or corridor plans;***

The proposed development will include a mix of residential and commercial uses either within the same building or as individual buildings. This is consistent with the concept of a mixed use town center that the Market District and development on the south side of MD 355 seek to implement.

- (J) *Planned developments shall be served adequately by public facilities and services. Additionally, increased demand for public facilities, services, and utilities created by the proposed development (including without limitation water, sewer, transportation, parks and recreation, schools, fire and emergency services, libraries, and law enforcement) shall be evaluated as adequate or to be made adequate within established county standards.*

Parks, libraries, and public safety facilities are currently adequate to serve the proposed residential development. The construction of a replacement Green Valley Fire Station scheduled in 2020 will help to maintain adequate fire/rescue services. For water/sewer service the proposed 25 dwellings will require a marginal percentage of the approximately 9 MGD of water supply and 9.3 MGD of sewage treatment capacity currently available in the New Design water system and the Ballenger-McKinney WWTP.

The Council determined based upon the evidence in the record that it is appropriate to grant the request to increase the total number of units to be allowed in the PUD by 25 as requested.

### ORDINANCE

BE IT ENACTED AND ORDAINED BY THE COUNTY COUNCIL OF FREDERICK COUNTY, MARYLAND, that for the reasons set forth above, the request to increase by 25, the number of units allowed to be constructed in the PUD, is granted subject to the following conditions:

1. A maximum of 3,038 total dwelling units may be constructed within the Villages of Urbana PUD.

2. Construction of the additional 25 dwelling units shall be limited to the area known as the Market District as delineated on the Concept Plan (approximately 19 acres).
3. Building permits for the 25 additional dwellings in the Market District (beginning with the 3,014<sup>th</sup> dwelling permit) shall not be issued any earlier than January 1, 2020 so that occupancy of the dwellings would not occur until after Sugarloaf Elementary is open to new students in August 2020.
4. The additional 25 dwellings may consist of single-family, townhouses, live-work units, multi-family dwellings, or a combination of these housing types.

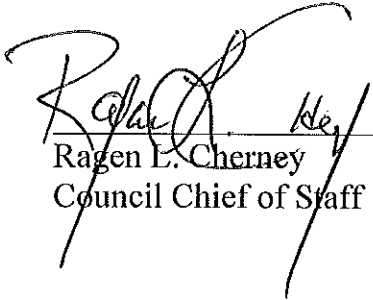
These conditions, included as part of the granting of the request to approve 25 additional residential units to be built in the PUD, are an integral part of the decision to amend the PUD Phase I Plan, and are not severable from the decision to amend the Phase I Plan.

If for any reason a court of competent jurisdiction finds any condition or portion thereof to be invalid or unenforceable, the PUD property shall revert to its prior Phase I Plan approval.

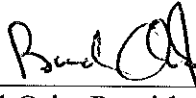
AND BE IT FURTHER ENACTED AND ORDAINED, that the Zoning Administrator is hereby authorized and directed to make the appropriate changes to the PUD Phase I Plan as reflected in this decision.

The undersigned hereby certify that this Ordinance was approved and adopted on the 5<sup>th</sup> day of September, 2017.

ATTEST:

  
Ragen L. Cherney  
Council Chief of Staff

COUNTY COUNCIL OF  
FREDERICK COUNTY, MARYLAND

By:   
Bud Otis, President

  
Tony Chmelik, Council Member

  
Jessica Fitzwater, Council Member

  
Billy Shreve, Council Member

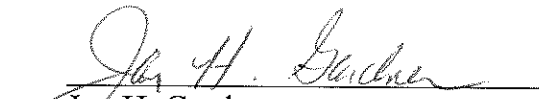
  
Kirby Delauter, Council Member

*WL 9/5/17*

Council Member Keegan-Ayer and Council Member Donald voted against the motion to approve the request.

COUNTY EXECUTIVE ACTION:

Approved  Vetoed

  
Jan H. Gardner  
Frederick County Executive