**County of Loudoun**

**Department of Planning and Zoning**

**MEMORANDUM**

| | |
|---|---|
| **DATE:** | September 13, 2016 |
| **TO:** | Jacqueline Marsh, Project Manager |
| **FROM:** | Theresa M. Stein, Planner TMS |
| **CC:** | Chris Mohn, Deputy Zoning Administrator |
| **CASE NUMBER AND NAME:** | ZMAP 2016-0009, ZMOD 2016-0010, SPEX 2016-0025, SPEX 2016-0026, Ashburn Village Development |

| **TAX/MAP PARCEL NUMBER** | **MCPI:** | **ACREAGE:** |
|---|---|---|
| /62//67/////3/ | 083-10-3527 | 52.34 |

The subject property (Property) contains a total of 52.34 acres, with approximately 1 acre on the south side of Russell Branch Parkway, and is currently zoned Planned Development – Industrial Park. The Property is part of a larger piece of land that was rezoned to PD-IP with ZMAP 1984-0007, and has been the subject of a variety of zoning concept plan amendments throughout the years, gradually reducing the original size of the zoning district. A small proportion of the Property is within the minor Floodplain Overlay District (FOD). The applicant seeks to rezone 21.4 acres of the Property to Planned Development – Office Park (PD-OP), 5.9 acres to Planned Development – Commercial Center – Neighborhood Center (PD-CC-NC), and 25 acres to Residential (R-24) under the Revised 1993 Loudoun County Zoning Ordinance (Ordinance), and is voluntarily providing 15 affordable dwelling units (ADU). The applicant also seeks approval of two special exception (SPEX) uses in the PD-CC-NC zoning district: (1) any one permitted use in excess of 5,000 sf in gross floor area and (2) any compatible use which serves the immediate neighborhood and is not a use already listed for any district in the Zoning Ordinance; however, the specifics of the use are not provided. The applicant also seeks to modify several regulations that apply to the PD-OP, PD-CC-NC, R-24, and ADU provisions, as well as landscaping and required setbacks from Route 7.

Staff reviewed the Statement of Justification (SOJ), dated June 28, 2016, the Zoning Map Amendment/Special Exception Plat (Plat), dated June 10, 2016, and the Ashburn Village Development Vision Book for the Gateway into Ashburn Village (Vision Book), dated June 2106, and has the following comments:

**CONFORMANCE TO R-24 DISTRICT REGULATIONS (§3-700):**

1. Direct access for the lots shall be provided only via minor collector roads. Sheet 5 of the Plat does not provide any detail to ensure that this requirement is met as it appears that direct access from the R-24 lots is directly onto Ashburn Village. Sheet 6 shows vehicular access but is illustrative only, therefore providing no commitment. Further, the access point does not appear in the same location as on sheet 5. Demonstrate that the requirement is met and ensure consistency in access location. (§3-702(A))

2. The Vision Book states that the access from the R-24 zoning district to Ashburn Village Boulevard is "optional"; however, sheet 5 of the Plat show that there will be access. If sheet 5 (CDP) shows such access, then it must be provided. Correct the inconsistency.
3. The Vision Book indicates that there is an "optional" entrance at the southwest corner of the proposed district, but no access point to Russell Branch appears on sheet 5 (CDP) of the Plat. There will not be an "option" to provide such access if it is not shown on the CDP. Correct the inconsistency.
4. Sheet 5 of the Plat (CDP) shows no pedestrian linkages to employment and shopping as required by Section 3-702(B). Demonstrate that the requirement is met.
5. The location of the proposed R-24 zoning district is not consistent with the Plan as required by Section 3-702(C). See Community Planning referral for additional information.
6. The R-24 zoning district shall be located in locations where there is planned or provided public transit or designated for public transit in the Plan. Demonstrate that the requirement is met. (§3-702(E))
7. Page 4 of the Plat, under the R-24 District states that "single family attached – townhouses" are proposed, however, that dwelling unit type is not permitted in the district. All the stated district regulations indicate that multi-family is proposed. Revise the label and demonstrate that the unit type proposed meets the definition of multi-family. (§3-703 an Article 8)
8. A modification of the height is requested to allow the buildings to be a maximum 75-feet without any additional setback provided; however, there is no justification for the request nor can it be determined that the modification is necessary. See comments below. (§3-707(B))
9. Off-street parking shall be permitted between buildings and streets if the parking area is sufficiently bermed and screened so that it is not visible from the street. The CDP does not demonstrate that parking will be screen and sheet 6 of the Plat indicates that off-street parking will be between Ashburn Village Boulevard and buildings. Demonstrate that said parking will be screened and the requirement met. (§3-708(B))
10. The one acre portion south of the proposed R-24 zoning district is not shown as being rezoned to R-24 from PD-IP on the CDP. However, the applicant is requesting a modification of Section 3-708(C) to waive the required 50' open space buffer for the one acre piece. Revise the CDP to clarify the proposed zoning of the piece and the use that will be on the site.
11. The applicant seeks a modification to waive the required 50' open space buffer where the proposal adjoins a district that has an allowable lot size of 8,000 sf or greater for the one acre piece on the south side of Russel Branch Parkway. The piece adjoins a PD-AAAR district, where the minimum lot size is less than 8,000 sf, therefore, there is no 50' open space buffer required. Remove the modification request. (§3-708(C))
12. If private roads are proposed throughout the R-24 zoning district, provide a note stating that the provisions of Section 3-710(A)(1) – (3) will be met with regard to the recordation of a covenant and notification to potential purchasers included to sales material.
13. The Vision Book references a "residential park" on page 16, however, no park is shown on the CDP. Highlight the park location on the Plat and provide details.

**<u>CONFORMANCE TO PD-CC (CC) DISTRICT REGULATIONS (§4-200):</u>**

14. The type of commercial center is determined by the market served, the proximity to residential districts, and consistent with the Comprehensive Plan. The proposal is not in conformance with the Plan. Further comment is found in the Community Planning referral (§4-201)

15. The PD-CC-NC district is established to service the convenience needs of residential neighborhoods immediately adjacent or within walking distance, and shall be located on local access or two lane minor collector roads, designed, landscaped and buffered to be compatible with the neighboring development. The proposed district will be drawing and capitalizing upon the adjacent shopping center (Ashbrook), rather than serving the convenience needs of the immediately adjacent neighborhood, and it will not be within walking distance of immediately adjacent residential, except the residential proposed. Further, the district is being proposed to be located on a major collector road rather than a minor collect as required by the Ordinance. The center cannot be located on a major collector unless an additional modification is requested and approved. (§4-202(A))
16. Two SPEX uses are requested per Sections 4-204(A)(1) and (3), however, the location and extent of such proposed uses are not provided. See comments below.
17. A modification is requested to reduce the building yard and eliminate the parking yard adjacent to a residential district. A modification is also requested to reduce the building yard and eliminate the parking yard adjacent to other non-residential districts (PD-OP). No justification is provided and it has not been shown that such modifications meet the approval criteria, nor has it been demonstrated that the modifications are needed (see comments below). (§4-205(C)(2) and (3))
18. Commercial centers shall provide a vehicular circulation plan that minimizes direct vehicular access to parking stall from cartways and provide improvements that enhance pedestrian and vehicular circulation. No vehicular circulation plan was provided as required by the Ordinance. Sheet 6 of the Plat, which is illustrative, indicates that on-street parking will be conflicting with access from the major collector. (§4-206(D))
19. Neighborhood centers shall provide access from local access roads. The applicant is requesting a modification to allow access from a major collector, but the request is not substantiated nor has it been demonstrated that it is needed (see comments below). (§4-206(D)(2))
20. Community centers shall provide a pedestrian circulation plan identifying improvements that minimize conflict between pedestrian and vehicles, channelizes pedestrians to crossing areas, and which connects pedestrians to existing walkways as well as provide for connecting to future pedestrians walkways. Further, walkways shall provide convenient and safe access to surrounding residential and commercial areas. No pedestrian circulation plan was provided and the illustrative sheet 6 provides no specifics within the PD-CC-CC district. Provide a pedestrian plan that demonstrates compliance with the Ordinance. (§4-206(F)(1) and (2))
21. Commercial centers shall use landscaping to screen refuse and loading areas, and parking from streets and residential uses. The applicant has requested a modification to eliminate required landscape buffers between the commercial center and the residential district, in contradiction to the Ordinance, and the conceptual landscape plan (sheet 7) illustrates that no landscaping is provided. Demonstrate that such areas shall be screened or justify a modification to the requirement. (§4-207(C)(1))
22. Commercial center buildings shall be grouped in such a way as to allow customers to have minimal internal vehicular movement. The CDP does group commercial buildings, but essentially promotes separate areas where parking is not centralized to reduce internal vehicular movement. In addition, access routes for deliveries shall be separated from customer access routes and parking areas. Demonstrate that deliveries/maintenance areas have been located to minimize interference with customer access. (§4-207(D))

**CONFORMANCE TO PD-OP DISTRICT REGULATIONS (§4-300):**

23. The purpose of the district is to provide office and supporting accessory uses in a park-like atmosphere with environmentally sensitive design including extensive landscaping and attention to aesthetic considerations. The CDP (sheet 5) does not provide sufficient detail to confirm that the purpose of the district is met. Further, the applicant is eliminating the landscaping between the PD-OP and the PD-CC-NC zoning district, which does not conform to the purpose of providing extensive landscaping. Demonstrate how the purpose of the district is fulfilled with this proposal. (§4-301)
24. The building requirements of the district require a maximum lot coverage and height. State on sheet 4 the maximum lot coverage and height provided. (§4-306(A) and (B))
25. Within the PD-OP district, landscaping and buffering shall be used to screen areas of refuse and parking from streets and residential. Demonstrate that sufficient landscaping and buffering will be provided. (§4-307(E))
26. The Vision Book indicates that there is a plaza in the PD-OP district. The SOJ states that the pond is preserved as civic space. Show the location of the plaza and describe the pond/civic space in order to determine if it complies with the definition of civic uses.

**CONFORMANCE TO SETBACKS FROM SPECIFIC ROAD REGULATIONS (§5-900):**

27. The building setback along Route 7 is 300' and the parking setback is 100'. The applicant seeks a modification to reduce the building setback to 100' and the parking to 35'. No justification specific to the modification was provided as discussed below. Further, it is clear from sheet 6 of the Plat that the majority of the buildings could not be provided without the modification, thereby indicating that the modification is solely for the purpose of density, which is not permitted. (§5-900(A)(1)(b)
28. Buildings must be setback 75' and parking setback 35' at grade separated interchanges. Show the location of the grade separated interchange to demonstrate that the building and parking setback is correctly reflected on the CDP. (§5-900(A)(13))
29. New access points to major collectors are limited to locations at existing or planned median breaks or at other locations approved by VDOT and the County. Provide evidence that the second access point on Ashburn Village Boulevard from the R-24 zoning district is at a planned median break or has been approved by VDOT because one is not existing. (§5-900(C))

**CONFORMANCE TO OFF-STREET PARKING REQUIREMENTS (§5-1100):**

30. Be advised that required off-street parking shall be provided pursuant to the proposed use and provided on the same lot being served. Provide the zoning district lines on sheet 6 of the Plat as it appears that required off-street parking may not be on the lot. Parking may be provided on a separate lot within 500' of the principal entrance of the building lot being served if the zoning classification of said lot is the same or less restrictive than the lot upon which the use is located, but there is not sufficient detail to make such a determination, therefore, it will need to be determined at site plan. (§5-1103(A))
31. Remove the note under the Off-street Parking tabulation on sheet 4 as no shared parking agreement has been approved. Shared parking may be requested at the time of site plan when greater detail can be provided or it must be requested as a separate special exception per Section 5-1102(F)(6).

**CONFORMANCE TO BUFFERING AND SCREENING REGULATIONS (§5-1400):**

32. Sheet 7 of the Plat is labeled as a conceptual landscape buffer plan and is illustrative only, therefore its purpose is unclear as it provides little value if not proffered. Further, Note 12 on sheet 1 of the Plat states that the landscaping will be provided in accordance with the Ordinance. Remove sheet 7 or include as a proffered sheet and revise the note. In addition, determination of whether buffers are front, side or rear cannot be determined at this time because it is unclear how the lot lines will be configured at the time of site plan.
33. The applicant seeks to waive the required landscape buffer on the one acre parcel that is required per Section 5-1403(E). No justification was provided for the modification to eliminate landscaping (see comment below) and a modification is unnecessary. No use is proposed on the site and it is illustrated as open space on sheet 6, therefore, a buffer can be accommodated.
34. The applicant seeks to eliminate the required buffer (Type 1) between the R-24 and PD-CC-NC zoning districts on the R-24 side. No justification was provided (see comments below). Further, the required buffer on the PD-CC-NC side will continue to be required, however, sheet 7 indicates that provision of such buffer is not anticipated. The applicant must clarify if all buffers are subject to the request to be eliminated. (§5-1414(A))
35. The applicant seeks to eliminate the required buffer between the PD-CC-NC district and the PD-OP district on the PD-OP side. Retail and office are both Group 6, therefore, no buffer is required. However, without a clearer commitment to the uses proposed within the zoning districts, it cannot be determined that a Type 1 buffer will required. (§5-1414(A))

**CONFORMANCE TO ZONING AMENDMENT REGULATIONS (§6-1200):**

36. Section 6-1210(E)(1) states that a rezoning application shall address whether the proposed uses are appropriate based upon the Plan. Retail and high density residential was not envisioned for this area, regardless if there have been changes to development trends as stated in the SOJ. The SOJ calls the development "mixed use" however, the zoning districts are segregated into traditional zoning districts and is therefore, not truly a mixed use development. If mixed use is desired, the applicant should propose to rezone to the PD-TC zoning district.
37. In the SOJ, the applicant states that they are providing measures to address unmet housing needs and capital facility recommendations, however, the application has provided no details or information. (§6-1210(E)(4))
38. The SOJ states that the proposed development has been designed to respect and preserve the environmental features and that the preservation of those areas will result in open space that preserves the green infrastructure. Sheet 9 of the Plat indicates that there is significant tree cover on the site and that there are several specimen trees, however, no areas are shown as being preserved on the CDP and no attempt being made to preserve specimen trees. Detail how environmental features and green infrastructure are being preserved.
39. A CDP shall be sufficiently detailed in order to be evaluated with respect to the criteria of Section 6-1210. Revise sheet 5 to provide greater detail in order for the application to be evaluated.
40. The CDP shall provide the FAR and the maximum gross floor area of the civic uses. State the minimum amount of civic space that will be provided with the development on sheet 4 of the Plat and include what will be provided that meets the definition of civic uses. (§6-1215(C))

41. The CDP shall provide the location and nature of the active and/or passive recreation areas and the areas to remain open space. Revise sheet 5 to reflect the location and nature of the open space. (§6-1215(F)
42. Section 6-1215(G) states that the concept development plan shall provide the location, text and a clear description of any ordinance modifications. Section 6-1217 states that no modification shall be approved unless it is found that such modification achieves an innovating design, improves upon the existing regulation, or exceeds the public purpose of the existing regulation. Further, requests for modifications shall include material demonstrating how the modification will be used in the design of the project. The applicant has provided a generalized justification for all the modifications but has not demonstrated how each modification provides for an innovative design. In fact, there is little detail provided that would indicate that the proposal has any innovative features. The modification speaks to "logical series of complete streets, trails and additional open spaces" that knits the community together, however, it appears that the pond area purpose is to buffer the office park from the residential rather than knitting it together. The modification also speaks to an integrated mix of uses but its unclear how those uses are integrated when they are three separate and distinct zoning districts. There is discussion of open space but the CDP shown none and there is no evidence to suggest that any more than the minimal is being provided. More importantly, sheet 5 (CDP) provides no detail that would indicate that any of the modification are actually needed. The Ordinance modifications are centered on reducing yards and setbacks, eliminating buffers, and increasing height. The facilities standards manual is also being modified to reduce street lane widths and parking space widths. With no details provided, it appears that the modifications are for the purpose of increasing density on the site. Therefore, demonstrate that the development density can be achieved without the use of modifications and provide details on how the modifications will be used in the design of the project, and provide justifications for the modifications that illustrates that they will achieve an innovative design, improve upon the regulations or exceed the public purpose, and provide commitments to evidence.
43. The modification justification in the SOJ states that sheets 6 and 8 of the Plat shows the streetscape on a functional level and that the defined architecture and landscape reinforces viewsheds and screens unwanted views of parking fields. Sheets 6 and 8 are illustrative and provide no commitments that protects viewsheds or screens parking. Further, the illustrations provide no guidance on architecture, and since parking surrounds the residential and office buildings, it is unclear how the landscaping protects viewsheds or screens parking. Provide more details and commitments.

**<u>CONFORMANCE TO SPECIAL EXCEPTION REGULATIONS (§6-1300):</u>**

44. Section 6-1301 states that the SPEX procedures are designed to provide the Board with an opportunity to review SPEX uses that may have adverse impacts on the surrounding area and allows the Board to impose conditions that mitigate those impacts. The applicant has not provided any details on what uses are proposed with the SPEX nor has the location of uses been provided, thus preventing a productive review that would allow the crafting of appropriate conditions. Further, because the SPEX uses are blanket and provide no details, there is no way to know which use would exceed 5,000 sf and if it is necessary to grant a SPEX for a use that is not listed, as the use is unknown. Provide information about the use proposed to be in excess of 5,000 sf and the use(s) that are compatible with the neighborhood

but not listed in the Ordinance. The SOJ speaks to an "outdoor office", but it is not clear that this is the proposed use for which SPEX approval is sought.

45. The SOJ, in its discussion of the SPEX uses, states that the SPEX requests will provide a broader range of uses and accommodate emerging trends such as outdoor offices which is outdoor informal work spaces accessory to restaurants and other uses. The proposed SPEX use is either the principal or it is accessory. If the use is accessory, it must be clearly incidental and subordinate to the principal use. The applicant appears to be requesting a SPEX for an accessory use, which, if it meets the definition, is not warranted. Clarify the SPEX uses.
46. Revise the Issues for Consideration as each issue should be addressed specifically for each SPEX use and not be generalized.
47. The Plat is titled "Zoning Map Amendment/Special Exception Plat", however, there is no sheet indicated as the SPEX plat. Provide a SPEX plat showing the location and extent of the proposed SPEX uses.
48. The fifth Issue for Consideration states that the proposed SPEX uses will be "easily accessible via an internal pedestrian and vehicular network" to both residents and employees. No SPEX plat has been provided to demonstrate that there is easy access. Further, sheet 6 is titled "Conceptual Vehicular & Pedestrian Circulation Plan" and is labeled as illustrative, so it provides no guarantees. Revise the sheet to remove "conceptual" and "illustrative" and add as a SPEX/proffered sheet to ensure that there is sufficient pedestrian and vehicular access.
49. In considering a special exception application, the applicant shall address whether the proposal is consistent with the Comprehensive Plan. As mentioned above, this application does not comply with the Plan. Staff defers to Community Planning for further comment. (§6-1309(1))

**CONFORMANCE TO ADU DEVELOPMENT REGULATIONS (§7-100):**

50. The modification to the front yard requirement is not justified as required by the Ordinance. See general comment above. (§7-1003(C)(1))
51. Active recreation space is defined as flat, open and well-drained usable space configured in squares or greens that includes facilities that activate the space. State the amount of active recreation space that is provided in the active recreation space tabulation on sheet 4 and show the location on sheet 5 of the Plat. In addition, the Neighborhood Plan – Residential in the Vision Book shows a single green space that could potentially contain active recreation, but it is not reflected on the CDP. (§7-1003(E) and Article 8)

**PLAT:**

52. Note 4 on sheet 1 of the Plat states that the intent of the application is to provide a mixed use development. However, the proposal is not mixed use in that there are three separate and distinct zoning districts and uses proposed. The uses are not mixed within a single lot. Revise the note.
53. In the Legend of sheet 6 of the Plat, a gray line is shown to represent "ex. Private Travelway" however, said line does not appear on the Plat. Remove or show existing private travelways.
54. Explain the purpose of the "Conceptual Landscape Buffer Plan" which is marked as illustrative. A note on sheet 1 states that buffers will provided as required at the time of site plan, and as an illustrative, the sheet provides little value, and may, in fact, represent incorrect buffers because

the required buffers will be determined at site plan. They are representing what is adjacent to the Property today and not what may exist at the time of site plan.

55. Sheet 6 shows two vehicular access points along the western boundary from the proposed residential district that adjoins a church. Explain the need to provide access through the proposed residential to an industrial zoning district.

**OTHER/GENERAL:**

56. Provide the disposition of all roads accessing the various districts. Access is not permitted through a district where the use is not allowed. For example: an educational institution is permitted in the PD-OP district, but is not an allowed in the PC-CC-NC district, therefore an educational institution is not allowed to access the PD-OP district through the PD-CC-NC landbay.
57. The Vision Book provides a "Streetscape Typology" for neighborhood, retail and minor streets, but there is no definition or specified location of said streets. Tie the street typology to its location on the CDP. Further, bike lanes are shown in neighborhood streets, but it is not clear what those bike lanes will connect to as retail and minor streets do not contain bike lanes.