

RESOLUTION NO. R-86-09

RESOLUTION OF THE MAYOR AND CITY COUNCIL
OF GAITHERSBURG GRANTING APPROVAL OF
SCHEMATIC DEVELOPMENT PLAN SDP-09-002,
KNOWN AS RESIDENCES AT HIDDEN CREEK, FOR
APPROXIMATELY 6.58 ACRES OF PROPERTY
ZONED MIXED USE DEVELOPMENT (MXD)

SDP-09-002

OPINION

Schematic development plan (SDP) application SDP-09-002, zoned Corridor Development (CD), has come before the Mayor and City Council for approval. The City Council's authority in this matter is pursuant to §24-160D.9(b)(3) of the City of Gaithersburg Zoning Ordinance (Chapter 24 of the City Code), which authorizes the Council and Commission to conduct public hearings on a schematic development plan application following appropriate notification procedures and to take action on the application following receipt of a recommendation by the City Planning Commission.

The subject case involves approximately 6.58 acres of land and concerns the development of the subject property ("Property") known as Parcel 1, The Summit. The subject property is located at the northeast corner of the Goshen Road and Girard Street intersection, in the City of Gaithersburg. The schematic development plan application was submitted to the City Planning and Code Administration on June 12, 2009. This application was designated as SDP-09-002.

OPERATIVE FACTS

A. Background

On June 23, 2008, the City Council approved Ordinance No. O-6-08, granting Zoning Map Amendment Application Z-307 for the "Property" rezoning 6.58 acres from the C-2 (General Commercial) Zone to the MXD (Mixed Use Development) Zone. This approval included a sketch plan submitted as part of the application, and conditions of approval.

On November 16, 2009, the City Council approved Ordinance No. O-17-09 granting Amendment to Sketch Plan Z-307(A) for Residences at Hidden Creek. This application maintained 300 multi-family dwelling units, reduced the amount of retail/amenity square footage from 20,000 square feet (12,000 square feet of retail and 8000 square feet of amenity space) to 12,000 square feet (4,000 square feet of

retail and up to 8,000 square feet of amenity space), revised the layout of the buildings and setbacks, and amended the conditions of approval.

B. Current Application:

On June 12, 2009, Woodfield Investment submitted an application for schematic development plan, SDP-09-002. This application proposes to redevelop the existing shopping center with 300 multi-family dwelling units and 12,000 square feet of retail/amenity space (4,000 square feet of retail and up to 8,000 square feet of amenity space).

The Mayor and City Council and Planning Commission held a consolidated joint public hearing for applications Z-307(A) and SDP-09-002 on July 20, 2009. Testimony was received from interested and affected parties regarding the sketch plan amendment and the schematic development plan.

The public hearing records of the Commission and City Council closed on August 19 and September 3, 2009, respectively. After subsequent review at its meeting on August 6, 2009, the Commission reopened its record indefinitely, and, subsequently, the Mayor and Council voted to reopen their record indefinitely at their August 17, 2009, meeting. The Planning Commission's record closed on October 9, 2009, and the Commission made its recommendation to the Mayor and City Council on Z-301(A) on October 21, 2009. The Mayor and Council's record closed on October 26, 2009.

The Planning Commission recommended approval of Schematic Development Plan SDP-09-002, finding the application is in conformance with the MXD (Mixed Use Development) Zone of the City's Zoning Ordinance with the following conditions:

1. Future development of the site shall include up to 12,000 square feet of commercial-retail-office uses, of which no less than 4,000 square feet shall be leasable for commercial-retail-office and the balance may be used for the apartment management office and tenant amenities;
2. Future development of the site shall include up to 300 residential units in structures three to five stories in height;
3. The Applicant shall construct Cedar Spring Street to its full two-way width, as shown on the schematic development plan, within 180 days of the issuance of the first building permit for a residential structure;
4. The Final Site Plan and Construction Stormwater Management Plans for this site shall be approved prior to May 4, 2010. The Applicant shall also make a contribution to the City not to exceed \$41,004.00 toward

stream mitigation at the area of outfall, prior to the issuance of site development permits;

5. Prior to the submission of Final Site Plan, the Applicant shall submit letters affirming the applicant's ability to grade and construct improvements and obtain the necessary public right-of-way on Outlot C, Section Two, Woodwinds Park (Plat No. 9589). In the event that the Applicant does not obtain an easement on Outlot C, the Applicant shall submit an alternative plan without Outlot C as part of the Final Site Plan and amend the Schematic Development Plan, as necessary;
6. The Applicant shall obtain appropriate permits from Montgomery County Department of Public Works and Transportation for the portion of the Road Improvement Plan for Girard Street that intersects with Goshen prior to the issuance of the site development permit;
7. The Applicant is to complete the improvements for Girard Street prior to the approval of the final use and occupancy inspection of the residential units;
8. The Applicant shall coordinate with City staff and Montgomery County Ride-On to relocate the western bus stop and eastern bus shelter, currently located on Girard Street, and install a new bus shelter or provide funding not to exceed \$10,000.00 for the western stop; in addition, the applicant and the City need to coordinate adequate service to bus transportation during the construction, all prior to the issuance of the site development permit;
9. The Applicant shall comply with all conditions outlined in the July 15, 2009, letter to Trudy Schwarz from Gregory Leck, Development Review Team Manager of Montgomery County Department of Transportation (MCDOT) (Exhibit #42), and all conditions outlined in a letter from Sam Farhadi, MCDOT Traffic Engineering & Operation, dated August 16, 2007, to Trudy Schwarz prior to the issuance of a site development permit;
10. The Applicant is to obtain all required/necessary grading easements from adjoining properties prior to Final Site Plan approval;
11. The Applicant is to participate in the Art in Public Places program prior to the release of bonds for the project; and

12. Prior to the approval of Final Site Plan, the Applicant shall confirm that the swimming pool and deck area comply with Montgomery County Code 51.00.01.04,

C. Evaluation and Findings

The City Council, upon careful review of the evidence of record, agrees with the findings, conclusions and the recommendation of approval for schematic development plan SDP-09-004 by the City Planning Commission and City staff. The City Council finds those recommendations to be well reasoned and adopts and incorporates their findings as part of this action. The City Council further agrees with the Planning Commission in that the procedures governing the application for amendment to the sketch plan for the MXD Zone, and approvals necessary to seek building permits, are subject to a multi-step process; and that this is only one of several steps of the process, that subsequently includes Final Site Plan reviews and approvals.

In reviewing the subject application for the approval of Schematic Development Plan SDP-09-002, the City Council finds the application and development proposal meets or accomplishes the purposes, objectives, and minimum standards and requirements of the MXD Zone that are set forth in Chapter 24 (Zoning), Article III, Division 19 of the City Code.

The City Council finds that the application meets the submission requirements and the standards and requirements for approval of the subject schematic development plan, as set forth in § 24-160.D.9(b)(3) in that:

- 1) The applicant filed, together with the prescribed application fee, an application for approval of a schematic development plan;
- 2) The schematic development plan is scaled at one inch equals fifty (50) feet and contains: a) boundary survey; b) the uses of all buildings and structures within the schematic development plan area, as well as existing uses of adjacent property external to the MXD zoned area and proposed uses within adjoining zoned areas; c) the location, height, approximate dimensions and conceptual elevations of all buildings and structures, and the setbacks and densities and/or square footage thereof; d) the location of points of access to the site and all public and private roads, pedestrian and bike paths; e) the location and setbacks of parking areas; f) existing topography, including, contour intervals of not more than two (2) feet; an approved forest stand delineation and forest conservation plan; one-hundred-year floodplains; other natural features; utility easements; g) all landscaped areas, proposed conceptual screen planting, open spaces, plazas, malls, courts, community identification signage, recreation and amenity areas; i) demonstration of general compliance with any Master Plan recommendations for the property, including any special conditions or requirements related to the property set forth in the Master Plan;

- 3) The City Council and City Planning Commission have conducted a joint public hearing(s) on the application subject to the notification procedures in § 24-196 of this Code.
- 4) The Planning Commission delivered its recommendation to the City Council on October 22, 2009, within thirty (30) days of the close of the commission's hearing record of October 9, 2009.
- 5) The Council is taking action on the application within ninety (90) days after the close of the Council's hearing record on October 26, 2009;
- 6) The approval of this schematic development plan with its degree of detail shall substitute for preliminary site plan approval; and
- 7) The schematic development plan demonstrates compliance with Master Plan recommendations for the property, including any special conditions or requirements related to the property set forth in the master plan for among other reasons, the nature, and density, and mix of uses posed, future accessibility to public transportation improvements, retention of forested areas, and interrelationship and compatibility of uses.

Furthermore, the City Council finds from the evidence of record that the application for schematic development plan approval, SDP-09-002, as currently amended, fulfills the findings required under §24-160D.10 (b):

- (1) The plan is substantially in accord with the approved sketch plan.

The schematic development plan is consistent with the amended sketch plan Z-307(A) in terms of nature, density, height of buildings, location of use, access, circulation, amenities, and afforestation and landscape features;

- (2) The plan meets or accomplishes the purposes, objectives and minimum standards and requirements of the zone.

PURPOSES AND OBJECTIVES OF THE MXD ZONE

(Section 24-160D.1 of the Zoning Ordinance)

It is the objective of this zone to establish procedures and standards for the implementation of master plan use recommendations for comprehensively planned, multi-use projects. It is also intended that this zone provide a more flexible approach to the comprehensive design and development of multi-use projects than the procedures and regulations applicable under the various conventional zoning categories. In so doing, it is intended that this zoning category be utilized to implement existing public plans and pertinent city policies in a manner and to a degree more closely compatible with said city plans and policies than may be possible under other zoning categories. The specific purposes of this zone are:

- (a) *To establish standards and procedures through which the land use*

objectives and guidelines of approved and adopted master plans can serve as the basis for evaluating an individual development proposal, as well as ensuring that development proposed will implement the adopted master plan and other relevant planning and development policies and guidelines for the area considered for MXD zoning.

The plan provides for a mixed-use development with a new housing type (multiple-family units) within the Hidden Creek neighborhood and provides commercial space, as recommended in the Master Plan and as demonstrated by the exhibits submitted.

- (b) To encourage orderly, staged development of large-scale comprehensively planned, multi-use developments by providing procedures for various zoning and plan approvals, including development phasing.*

The applicant intends to proceed with development in an orderly and continuous fashion consistent with market demand. The project will be developed in one phase.

- (c) To encourage design flexibility and coordination of architectural style building and signage.*

The dwelling units are proposed in 3- to 5-story structures with different heights, materials and architectural styles that will enhance the community and complement the surrounding area as shown in architectural elevations, and Architectural Design Guidelines. The plan will promote visible signage for the commercial use that integrates the signage with the location of the project and the architecture. The Architectural Design Guidelines establish guidelines promoting design flexibility for the proposed project and refine the architectural styles of the different buildings within the project.

- (d) To ensure the integration and internal and external compatibility of applicable residential and nonresidential uses by providing a suitable residential environment that is enhanced and complemented by uses such as commercial, recreational, open space, employment and institutional uses and amenities within a multi-use development. A multi-use development is defined as a single parcel or a group of contiguous parcels of land zoned MXD which, among the various parcels comprising that contiguous area, include residential, commercial, recreational, open space, employment and institutional uses and amenities.*

The plan for the property, which is contiguous to MXD property with mixed residential uses, will enhance and complement the neighborhood with a multi-use development, including multiple-family residential units, commercial-office-retail uses, open space, and amenities. In order to integrate the proposed development with the adjoining MXD neighborhood, the applicant is proposing connection of the project to the adjoining MXD neighborhood by the proposed roadway and sidewalks connecting to Raven Avenue, as previously envisioned during the development of the adjoining neighborhood. Also, the applicant is proposing both vehicular and pedestrian connections to Girard Street and a pedestrian connection to Goshen Road. As described above, the Property is located in close proximity to various

public transportation options, providing alternative connections to other commercial, employment, and recreational uses. Moreover, the integration of this project into the community will be further refined during the final site plan review process.

- (e) *To assure compatibility of the proposed land uses with internal and surrounding uses by incorporating higher standards of land planning and site design than could be accomplished under conventional zoning categories and to provide a superior quality of development exceeding that which could be achieved under conventional zoning regulations and procedures.*

The project proposes a mix of residential and commercial/retail uses that would not be allowed by conventional zoning categories. The project provides a higher standard of development than that of a conventional zone by using enhanced site design, a mix of uses, diverse and high quality architectural elements, structured parking, and well landscaped amenity spaces that are internally and externally linked by pedestrian and roadway connections as shown in the exhibits in the record.

- (f) *To encourage the efficient use of land by: locating employment retail uses convenient to residential areas; reducing reliance upon automobile use and encourage pedestrian and other nonvehicular circulation systems; retaining and providing useable open space and active recreation areas close to employment and residential populations; and providing for the development of comprehensive nonvehicular circulation networks, separated from vehicular roadways, which constitute a system of linkages among residential areas, open spaces, recreational areas, commercial and employment areas, and public facilities.*

The proposed project efficiently uses the property by retaining continuous circulation through the site by linking to existing pedestrian connections. As shown on the plan, the proposed commercial area is convenient to the residents on the property and to the residents in the surrounding area through the proposed pedestrian and roadway connections. In addition, the property is currently served by Ride-On bus service along Goshen Road and Girard Street and is an approximate 8-minute walk to Montgomery County's Ride On Bus Transfer Center at Lakeforest shopping center. The property is also within a 15-minute walking distance to the MARC Station in Olde Towne and is only a 10-minute bus ride to the Shady Grove Metro Station. Accordingly, the Property's proximity to the various transportation options will reduce reliance upon automobile use and encourage use of the pedestrian system. In addition, the property is located in close proximity to, and is linked to the Green Trail and other recreational, commercial and employment areas.

- (g) *To provide superior natural environment by the preservation of trees, natural topographic and geologic features, wetlands, watercourses and open spaces.*

The Natural Resource Inventory/Forest Stand Delineation (NRI/FSD), which had been previously approved by the City, was recertified and made a part of Zoning Map Amendment Application Z-307. The recertified NRI/FSD identified no wetlands, 100-year

floodplains, streams, stream valley buffers, or other environmental features on the property. Because the property was developed as a strip shopping center with surface parking, there was no natural preservation area. The applicant proposes to create 0.99 acre of forest conservation area and tree cover throughout the site as shown on the preliminary Forest Conservation. Approximately 44 percent of the property will be green space. In addition, the applicant will comply with the current State and City stormwater management laws and regulations, which will reduce the impact of water run off, improve the water quality coming from the Property, and minimize erosion of existing water courses as shown on the approved Concept Stormwater Management Plan. Additionally, the applicant will contribute funds to provide restoration and mitigation at the off-site outfall area. As a result, the environment will be greatly enhanced by this proposed development.

- (h) *To allow development only in a phased or staged fashion to ensure the adequacy of the provision of public facilities and the concurrent implementation of community amenities.*

As discussed above, the proposed project will be developed in one phase. Electric, gas, phone lines, public water and sewer are available at the site as shown on the Conceptual Utility Plan which has been approved by PEPCO and Verizon. The applicant proposes to remove the existing surface stormwater management facility and construct an underground stormwater management facility and infiltration ponds on the Property in accordance with the Concept Plan Stormwater Management. In addition, the applicant proposes to make improvements to Girard Street in order to facilitate vehicular circulation and safety along that road and into and out of the property. Furthermore, emergency vehicles, including fire trucks, will have sufficient space on the proposed private road to move in and out of the property, as shown on the Turning Radius Study. With the approval of Text Amendment T-392, the plan will conform to requirements for school capacity.

MINIMUM LOCATION AND DEVELOPMENT REQUIREMENTS

(Section 24-160D.2 of the Zoning Ordinance)

- (a) **Master plan.** *No land shall be classified in the Mixed Use Development Zone unless the land is within an area for which there is an approved and adopted master plan which recommends mixed use development for the land which is the subject of the application, or unless the proposed development otherwise satisfies the purposes and objectives of the MXD Zone. Approval of the MXD Zone for land which is not recommended for this zone in an approved master plan shall require the affirmative vote of four (4) members of the city council.*

The proposed project is in compliance with the 2003 City of Gaithersburg Master Plan recommendations as the Property has been rezoned from the C-2 Zone to the MXD Zone by the Mayor and Council (Ordinance No. O-6-08). The applicant proposes a mixed use development with additional housing opportunities within the City (300 dwelling units including 15 percent affordable housing units) and commercial space, two access points to the property, and placement of buildings in a manner to provide a pedestrian-safe

environment that is consistent and compliments the surrounding residential development.

- (b) *Minimum area. No land shall be classified in the Mixed Use Development Zone unless it contains a minimum of ten (10) acres. Parcels or tracts less than the minimum acreage may be permitted if they are contiguous to an existing MXD zoned area and may be harmoniously integrated into the MXD area, consistent with the objectives and purposes of this zone. Such parcels are not required to contain multiple uses but contribute to a multi-use development and are subject to the provisions of 24-160D.9(a)(1).*

The Mayor and Council found this requirement satisfied when they approved rezoning of the Property to the MXD Zone by Ordinance No. O-6-08 as the property is contiguous to an existing MXD zoned area (Hidden Creek Land Bay III) and will be integrated into that development by vehicular and pedestrian connections.

- (c) *Location. Such land shall be located adjacent to and readily accessible from existing or planned highways that are in an approved construction program and are adequate to service the proposed development. It is intended that adequate access be available to such sites so that traffic does not have an adverse impact on the surrounding area or cause internal circulation or safety problems.*

As previously mentioned, the Property is in close proximity to a well-established transportation network including the Mid-County Highway, Goshen Road, Montgomery Village Avenue, Maryland Route 355, and I-270. The property is served by Ride-On bus service along Goshen Road and Girard Street and is an approximate 8-minute walk to the County's Bus Transfer Center at Lake Forest Mall. The property is also within a 15-minute walking distance to the MARC Station in Olde Towne and is only a 10-minute bus ride to the Shady Grove Metro Station. Accordingly, adequate access is available to the Property so that traffic does not have an adverse impact on the surrounding area or cause internal circulation or safety problems. Additionally, the applicant will be required to either widen Goshen Road or agree to pay a prorated share of the construction cost to Montgomery County.

- (d) *Public water and sewer. No development shall be permitted unless served by public water and sewer.*

The property is currently served by all utilities, including public water and sewer.

- (e) *Signage. Signage shall be coordinated between adjoining uses and be thematic in approach, in accord with the purposes of this zone and overall character of the surrounding area.*

The applicant has submitted Design Guidelines that incorporate sign design as part of the Final Site Plan. The proposed sign design has been coordinated between adjoining uses within the development and is thematic in approach in accord with the purposes of the MXD zone and overall character of the surrounding neighborhood.

- (f) *Frontage on public streets. Anything to the contrary notwithstanding in any regulation in this Code, lots in this zone shall not be required to have direct access to a public street provided that such condition will promote the creation of affordable housing, or will be designed in such a way as to foster the purposes and objectives of this zone, provided that satisfactory access to a public street is provided over private rights-of-way.*

The property has frontage on three public streets – Goshen Road, Girard Street, and Raven Avenue.

COMPATIBILITY STANDARDS

(Section 24-160D.5 of the Zoning Ordinance)

- (a) *All uses shall conform to the purposes of the Mixed Use Development Zone and shall be compatible with all uses, existing or proposed, in the vicinity of the area covered by the proposed planned development. In order to assist in accomplishing such compatibility, the following requirements shall apply:*
- (1) *All right-of-way requirements, setbacks, height limits, open space or buffer areas recommended in an area master plan or special conditions or requirements stated therein to protect properties adjacent to the MXD zoned areas shall be incorporated into all plans subject to approval under the zone.*

There were no special conditions or requirements for the property in the Master Plan.

- (2) *Where setback, height limits, open space or buffer areas are not recommended in an area master plan or special conditions or requirements stated therein to protect properties adjacent to the MXD zoned areas, the following requirements shall be incorporated into all plans subject to approval under this zone.*
- a. *No buildings other than single-family detached dwellings shall be constructed within one hundred (100) feet of adjoining property not zoned MXD or in a residential category that is developed with one-family detached homes unless the city planning commission finds that topographical features permit a lesser setback. In all other situations, setbacks from adjoining properties may be less than 100 feet, with the setback approved by the city planning commission.*

The properties adjoining the subject property are zoned MXD, C-2, CBD, and R-90. This provision is not applicable to the Property because these adjoining properties are zoned MXD or commercial, or, if in a residential zoning category, are developed with other than one-family detached homes. Specifically, the property to the south is zoned CBD, and is,

therefore, not in a residential zoning category. Further, this property is developed with multi-family garden apartments. Finally, the properties to the north and east are zoned MXD, and, therefore, the provision requiring a 100-foot setback does not apply.

- b. No building proposed for commercial/employment/industrial use shall be constructed less than one hundred (100) feet from any adjoining property not zoned MXD recommended for residential zoning and land use on the applicable master plan. The setbacks shall be determined as part of the final site plan approval.*

The building proposed for commercial use will not be less than 100 feet from any adjoining property not zoned MXD nor recommended for residential zoning and land use on the applicable master plan. The proposed setbacks are shown on the SDP and will be determined as part of the final site plan approval.

- c. No building shall be constructed to a height greater than its distance from any adjoining property not zoned MXD recommended for residential zoning and land use of the applicable master plan, unless the city planning commission finds that approval of a waiver of this requirement will not adversely affect adjacent property.*

The proposed development is in compliance with this provision.

MINIMUM GREEN AREA

(Section 24-160D.6 of the Zoning Ordinance)

(a) The amount of green area, including designated parks, public and private open space, active and passive recreational areas, required for the residential portion of a mixed use development shall be not less than forty (40) percent of the total area shown for residential use. ... for the commercial/employment/industrial portion of a mixed use development shall be not less than twenty-five (25) percent of the total area devoted to commercial/employment/industrial uses, except that comparable amenities and/or facilities may be provided in lieu of green area if the city council determines that such amenities or facilities are sufficient to accomplish the purposes of the zone, and would be more beneficial to the proposed development than strict adherence to the specific green area requirement.

The approved Sketch Plan proposed approximately 41.7 percent green area. The amended Sketch Plan and this schematic development plan propose approximately 45 percent green area to satisfy this requirement (see SDP and Open Space Exhibit).

(b) All recreation areas, facilities and amenities, and all open space and landscaped areas shall be reflected on the final site plans for approval by the city planning commission.

All recreation areas, facilities and amenities, and all open space and landscaped areas are shown on the schematic development plan, Open Space Exhibit and Conceptual Landscape Plan. These items also will be reflected on the final site plans for approval. The recreational amenities will be built in conjunction with the development plan.

(3) The plan is in accord with the area master plan and any accompanying special condition or requirements contained in said master plan for the area under consideration;

As stated above, both the 1997 and 2003 City of Gaithersburg Land Use Master Plans recommend that the subject property be developed as a mixed use development that will provide additional housing opportunities within the City. This plan provides for a mixed use development with a different housing type within the Casey-Goshen/Hidden Creek neighborhood and, in addition, will provide commercial space as proposed in the Master Plan and demonstrated by the exhibits submitted by the applicant. Therefore, the plan is in accord with the 2003 City of Gaithersburg Master Plan. There were no special conditions or requirements contained in the master plan.

(4) The plan will be internally and externally compatible and harmonious with existing and planned land uses in the MXD zoned area and adjacent areas;

As discussed above, the plan enhances and complements the neighborhood with additional use types of multi-family residential units and commercial-office space. The plan creates a development that is compatible and harmonious with the surrounding MXD zoned neighborhood.

(5) That existing or planned public facilities are adequate to service the proposed development contained in the plan;

As mentioned above, the property is currently served by all utilities. Electric, gas, phone lines, public water and sewer are available at the site and adequate to serve the proposed development. The applicant proposes to remove the existing surface stormwater management facility and construct an underground stormwater management facility and infiltration measures on the Property in accordance with the Concept Stormwater Management Plan. In addition, the Applicant proposes to make improvements to Girard Street in order to improve vehicular circulation and safety along that road and into and out of the Property. Additionally, the applicant will be required to either widen Goshen Road or agree to pay a prorated share of the construction cost to Montgomery County. Furthermore, emergency vehicles, including fire trucks, will have sufficient space on the proposed private road to move in and out of the property, as shown on the Turning Radius Study. With the approval of Text Amendment T-392, the plan will conform to requirements for school capacity.

(6) That the development staging or phasing program is adequate in relation to the provision of public facilities and private amenities to service the proposed development;

As discussed above, the proposed project will be developed in one phase, which will be adequate in relation to the provision of public facilities and private amenities to serve the proposed development.

- (7) That the plan, if approved, would be in the public interest.

This plan will implement the Master Plan recommendations for the property and replace an abandoned shopping center. The environment also will be substantially improved through the provision of a forest conservation area, green space, and stormwater management facilities.

In summary, the City Council finds SDP-09-002, containing 300 multi-family dwelling units and 12,000 square feet of retail/amenity space (4,000 square feet of retail and up to 8,000 square feet of amenity space) to be in accordance with Zoning Ordinance §§ 24-160D.9(b) and 24-160D.10(b) and, as hereafter conditioned, is in the public interest and should be approved due to the presence of substantial evidence in the record to indicate that the subject Schematic Development Plan has accomplished the purposes of the Mixed Use Development (MXD) Zone, as well as generally accepted City planning and land use policies, subject to the applicant complying with the conditions listed below.

SCHEMATIC DEVELOPMENT PLAN SDP-09-002

RESOLUTION

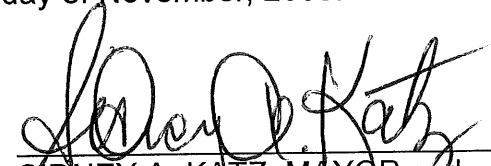
NOW, THEREFORE BE IT ORDAINED by the City Council of Gaithersburg, that SDP-09-002, being an application filed by Woodfield Investment, requesting approval of Schematic Development Plan is hereby approved subject to the following conditions required of the applicant:

1. Future development of the site shall include up to 12,000 square feet of commercial-retail-office uses, of which no less than 4,000 square feet shall be leasable for commercial-retail-office and the balance may be used for the apartment management office and tenant amenities;
2. Future development of the site shall include up to 300 residential units in structures three to five stories in height;
3. The Applicant shall construct Cedar Spring Street to its full two-way width, as shown on the schematic development plan, within 180 days of the issuance of the first building permit for a residential structure;

4. The Construction Stormwater Management Plans for this site shall be approved prior to May 4, 2010. If the Construction Stormwater Management Plans are not approved prior to May 4, 2010, the Applicant shall revise the Stormwater Management Plan as part of the Final Site Plan or as an amendment to the Final Site Plan, and amend the Schematic Development Plan, if necessary. Additionally, the Applicant shall make a contribution to the City in an amount to cover the cost of stream mitigation, not to exceed \$41,004.00, prior to issuance of site development permits;
5. Prior to the submission of Final Site Plan, the Applicant shall submit letters affirming the applicant's ability to grade and construct improvements and obtain the necessary public right-of-way on Outlot C, Section Two, Woodwinds Park (Plat No. 9589). In the event that the Applicant does not obtain an easement on Outlot C, the Applicant shall submit an alternative plan without Outlot C as part of the Final Site Plan and amend the Schematic Development Plan, as necessary;
6. The Applicant shall obtain appropriate permits from Montgomery County Department of Public Works and Transportation for the portion of the Road Improvement Plan for Girard Street that intersects with Goshen prior to the issuance of the site development permit;
7. The Applicant is to complete the improvements for Girard Street prior to the approval of the final use and occupancy inspection of the residential units;
8. The Applicant shall coordinate with City staff and Montgomery County Ride-On to relocate the western bus stop and eastern bus shelter, currently located on Girard Street, and install a new bus shelter or provide funding in an amount to cover the costs of the installation of a new bus shelter, not to exceed \$10,000.00 for the western stop; in addition, the applicant and the City need to coordinate adequate service to bus transportation during the construction, all prior to the issuance of the site development permit;
9. The Applicant shall obtain all required Montgomery County Department of Transportation (MCDOT) permits for work within the right of way of Goshen Road prior to the issuance of a site development permit;
10. The Applicant is to obtain all required/necessary grading easements from adjoining properties prior to Final Site Plan approval;
11. The Applicant is to participate in the Art in Public Places program prior to the release of bonds for the project; and

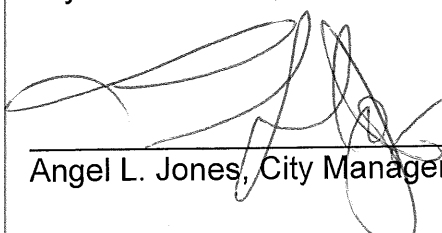
12. Prior to the approval of Final Site Plan, the Applicant shall confirm that the swimming pool and deck area comply with Montgomery County Code 51.00.01.04.

ADOPTED by the City Council this 16th day of November, 2009.



SIDNEY A. KATZ, MAYOR and
President of the Council

THIS IS TO CERTIFY that the foregoing Resolution was adopted by the City Council in public meeting assembled on the 16th day of November, 2009.



Angel L. Jones, City Manager