

ORDINANCE NO. O-17-09

AN ORDINANCE OF THE MAYOR AND COUNCIL
OF THE CITY OF GAITHERSBURG GRANTING APPROVAL
TO AMEND SKETCH PLAN Z-307, PREVIOUSLY APPROVED
AS PART OF APPLICATION Z-307 FOR RECLASSIFICATION TO
THE MXD (MIXED USE DEVELOPMENT) ZONE,
CONTAINING 6.58 ACRES OF LAND, KNOWN AS PARCELS 1 AND 2,
THE SUMMIT, PLAT 13724, LOCATED AT 559 GIRARD STREET,
IN ACCORDANCE WITH § 24-196, MAP AMENDMENTS,
§ 24-160D.11, PROCEDURES FOR AMENDMENT, AND
§ 24-198(c) OF THE CITY CODE

Z-307(A)

OPINION

BE IT ORDAINED by the Mayor and Council of the City of Gaithersburg, in public meeting assembled, that they find the following facts from the evidence of record in Zoning Map Amendment Application Z-307(A):

A. The original application (Z-307), filed by Barbara Sears and Yum Yu Cheng of Linowes and Blocher on behalf of Hearthstone Communities, LC, and Opus East, LLC, was approved for the reclassification of property known as the Summit Center, containing 6.58 acres of land, from the C-2 (General Commercial) Zone to the MXD (Mixed Use Development) Zone as well as for its accompanying sketch plan for the overall development of the property. The property was part of an area annexed into the City of Gaithersburg in 1971 (Resolution R-21-71), known as the Casey/Goshen Tract, which affixed and established zoning. Ordinance O-16-81 approved Comprehensive Zoning Map Amendment Application Z-223 reclassifying and establishing zoning for the property as C-2. A comprehensive zoning was last approved for the subject area in 1997 confirming the existing zoning of the property. Ordinance No. O-6-08 approved the sketch plan for the Summit Center on June 23, 2008, as part of Zoning Map Amendment Application Z-307. This map amendment approved a mixed development of 300 multi-family dwelling units and 20,000 square feet of retail development, which included 8,000 square feet of floor area to be used for the leasing office for the apartments and other amenities for the complex.

B. On June 12, 2009, Woodfield Investment submitted an application to amend the Sketch Plan application Z-307. The application designated as Z-307(A) proposes to maintain 300 multi-family dwelling units, reduce 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), revise the layout of the buildings and setbacks, and amend the conditions of approval as part of Zoning Map Amendment Application Z-307. The property is known as Parcel 1, The

Summit, on 6.58 acres located at Goshen Road and Girard Street, in Gaithersburg, Maryland, in the MXD (Mixed Use Development) Zone.

C. The applicants request to amend the sketch plan in accordance with the rezoning to the MXD Zone, to be accomplished under Zoning Ordinance §§ 24-196 (Map Amendments), 24-160D.11 (Procedures for Amendment), 24-198(c) (Schematic Development Plan Amendments) and 24-160D.10(a) (Findings Required). The City Council's authority in this matter is pursuant to § 24-160D.11 of the City of Gaithersburg Zoning Ordinance (Chapter 24 of the City Code).

D. The subject site was annexed into the City of Gaithersburg in 1971 as part of the approval of Annexation Application X-096 (the Casey-Goshen property), and it was assigned an R-20 (Medium Density Residential) Zone designation by Resolution R-21-71. In 1981, the property was part of a Master Plan Special Study Area and was comprehensively rezoned to the C-2 (General Commercial) Zone. The property was then developed as a shopping center between 1981 and 1983. The subject property was designated as part of Study Area 1, Map Designation 5 in Neighborhood One of the 1997 Land Use Plan of the Master Plan. The Master Plan recommended that the parcels be reclassified to a commercial-office-residential land use to allow for a mix of research and development, office building and a mix of residential units and suggested the property be rezoned to the MXD (Mixed Use Development) Zone in the future. The 2003 Gaithersburg Master Plan again recommended a land use designation of commercial-office-residential and that the property be rezoned to the MXD (Mixed Use Development) Zone. The plan suggested live-work units and office development. The property was rezoned MXD by Ordinance No. O-6-08 and received approval of the sketch plan for the Summit Center on May 21, 2001, as part of Zoning Map Amendment Application Z-307. This map amendment approved a mixed development of 300 multi-family dwelling units and 20,000 square feet of retail development, which included 8,000 square feet of floor area to be used for the leasing office for the apartments and other amenities for the complex

E. The sketch plan includes an illustrative plan, an engineered plan, and conceptual architectural elevations. It proposes 300 multi-family units and 12,000 square feet of retail development, which includes 4,000 square feet of retail and up to 8,000 square feet of amenity space.

F. The Mayor and City Council and the Planning Commission conducted a joint public hearing on July 20, 2009, during which testimony was received from interested and affected parties regarding the sketch plan amendment. 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.

G. The Planning Commission recommended approval of the Amendment to Zoning Map Amendment Z-307 and approval of the sketch plan finding that the Z-307(A) 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 maintain the setbacks established on both the revised Sketch Plan and Schematic Development Plan (Exhibits # 42);
4. The Applicant shall construct Cedar Spring Street to its full two-way width as shown on the on the schematic development plan within 180 days of the issuance of the first building permit for a residential structure;
5. 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 issuance of site development permits;
6. The Applicant shall submit and have approved a preliminary Forest Conservation Plan showing required afforestation to be met onsite prior to the approval of the Schematic Development Plan;
7. 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, as necessary;
8. The Applicant, at the time of submission of Schematic Development Plan, shall provide a Road Improvement Plan for Girard Street, including the intersection at Goshen (North Summit) Road in accordance with the approved Traffic Impact Study to both the City and Montgomery County Department of Public Works and Transportation for review and approval;

9. 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;
10. 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; and
11. 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.

H. On November 16, 2009, during their policy discussion meeting, the City Council carefully reviewed the evidence of record and considered all submitted testimony, documents and correspondence presented, along with the Planning Commission's recommendation for approval, and made the following findings in accord with §§ 24-10A(2) and 24-160D.1 through 24-160D.13 of the City Code:

(1) The application meets (complies) or accomplishes the purposes, objectives, (intent) and minimum standards and requirements of the zone:

Purposes, Objectives and Intent:

- a) 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. The sketch plan for Z-307 ("The Plan") provides for a mixed use development with a new housing type within the Casey-Goshen/Hidden Creek neighborhood and provides commercial space, as recommended in the Master Plan and as demonstrated by the exhibits submitted by the Applicants.
- b) Because this is only a 6.58-acre parcel that adjoins an existing mixed use development, the Applicants propose to develop the property in one phase, which will be the final stage of the Casey-Goshen/Hidden Creek neighborhood.

- c) The plan shows 3- to 5-story structures that utilize different heights, materials and architectural styles; which complement those in the adjoining neighborhood. In addition, the architectural styles of the building enhance the surrounding area by adding a different design type to the neighborhood. The schematic drawings promote visible signage for the commercial use, which integrates the signage to the location of the project and the architecture. The Architectural Design Guidelines will continue to establish guidelines to promote design flexibility for the project and refine the architectural styles of the different buildings within the project.
- d) The plan for the property, which is contiguous to an MXD property with mixed residential uses, will add two more use categories to the neighborhood; multiple-family units, including affordable housing, and commercial/retail uses. In order to integrate the proposed development with the adjoining MXD neighborhood, as required for a parcel less than 10 acres, the Applicant, has proposed connecting the developments by vehicular access via Raven Avenue, as was envisioned during the development of Hidden Creek Land Bay III. Additionally, the sketch plan provides continuous pedestrian access to the adjoining neighborhood and also to the Girard Street and Goshen Road corridors. Further, the project provides access to different venues of public transportation. The proposed sketch plan provides employment, residential, and open spaces. With the proposed conditions and continuing refinement of the integration of this project into the community at the time of Schematic Development Plan, the project will become an integrated part of Gaithersburg.
- e) The project proposes a mix of residential and commercial/retail uses that would not be allowed with Euclidian zoning categories. The Plan provides a higher standard of development than could be done under a conventional zoning category by using enhanced site design, a mix of uses, diverse and high quality architectural elements (to be further defined at Schematic Development Plan review), structured parking and well landscaped amenity spaces.
- f) The project efficiently uses the land by retaining continuous circulation through the site by connecting to existing vehicular and pedestrian connections. As shown on the illustrative sketches, the retail area is convenient to existing and proposed residential areas to promote pedestrian access. In addition, the property is served by a Montgomery County Ride-On route and within walking distance of a METRO bus station (Lakeforest Transfer Center), the State of Maryland MARC train station. These options plus the proximity of the property to the Shady Grove METRO rail station provide opportunities to reduce reliance upon automobile use.
- g) The Applicants have submitted and received approval of a Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) with one

condition. Because the property was developed as a shopping center, there was no natural preservation area. The proposed plan will enhance the environment by adding afforestation (tree planting) areas on the property. Additionally, compliance with current stormwater management regulations will reduce the impact of water runoff, improve the water quality coming from the property, and minimize erosion of existing water courses.

- h) Due to its small size, the property will be developed in one phase. In accordance with the approved Traffic Impact Study (TIS), the Applicants will be required to improve the intersection of Girard Street and Goshen Road to improve the vehicular circulation of that intersection.

Minimum Standards

1. As stated above, the application and exhibits comply with the 2003 Master Plan Land Use Element, which proposes mixed use development for this site. The application complies with the minimum area because 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 access.
2. The subject property is located adjacent to existing roadways, Raven Avenue, Girard Street and Goshen Road, which, according to the Traffic Impact Study, are adequate to service the development. The traffic operations of the area will be enhanced with the condition to improve Girard Street at its intersection with Goshen Road. The buildings will be accessed via a private street that connects to public roadways.
3. The property is currently serviced by all utilities, including water and sewer. Both PEPCO and Verizon have reviewed and accepted the proposed utility plan.
4. The sketch plan proposes 44 percent of the site to be green area. The phasing for the recreational amenities will be finalized at Final Site Plan review.
5. As noted above, the proposed parking as shown on the sketch plan is similar to area standards and also former parking requirements of the City.

(2) The application is in accord with recommendations in the applicable master plan for the area and is consistent with any special conditions or requirements contained in said master plan:

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.

(3) The application and sketch plan will be internally and externally compatible and harmonious with existing and planned land uses in the MXD zoned areas and adjacent areas (surrounding areas):

The Plan, schematic architecture and other exhibits of this application creates a development that is compatible and harmonious to the surrounding MXD zoned areas by creating vehicular and pedestrian connections. The new architectural design is complementary to the character of the adjoining Hidden Creek community and other buildings in the surrounding areas.

In conclusion, the City Council finds that Z-307(A), as submitted in accordance with §§ 24-160D.10(a), 24-160D.11, 24-196 and 24-198(c) of the City Code and hereafter conditioned, conforms to the purpose of the MXD Zone, is consistent with the purpose of the 1997 Land Use Plan of the Master Plan, the 2003 Master Plan Land Use Element and the Master Plan themes. The densities and uses proposed in this sketch plan are harmonious and consistent with the proposed surrounding development, Hidden Creek Land Bay III, and Spring Ridge Apartments. The plan is integrated into the adjoining property, Hidden Creek Land Bay III, with both vehicular and pedestrian access. The architecture, as shown in the exhibits, will be compatible and harmonious to the architecture in the surrounding area. The proposed plan will provide much needed redevelopment of a currently-vacant and blighted shopping center.

SKETCH PLAN Z-307(A)

ORDINANCE

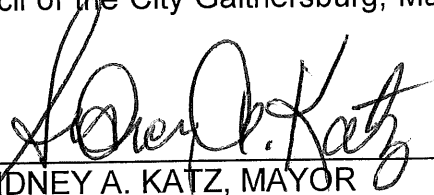
NOW, THEREFORE, BE IT ORDAINED by the City Council of Gaithersburg, that Application Z-307(A), being an application filed by the Woodfield Investment, is hereby approved with the following conditions required of the applicant:

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 maintain the setbacks established on both the revised Sketch Plan and Schematic Development Plan (Exhibits # 42);
4. The Applicant shall construct Cedar Spring Street to its full two-way width as shown on the on the schematic development plan within 180 days of the issuance of the first building permit for a residential structure;
5. The Applicant shall meet stormwater management quantity and quality requirements onsite. 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;
6. The Applicant shall submit and have approved a preliminary Forest Conservation Plan showing required afforestation to be met onsite prior to the approval of the Schematic Development Plan;
7. 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, as necessary;
8. The Applicant, at the time of submission of Schematic Development Plan, shall provide a Road Improvement Plan for Girard Street, including the intersection at Goshen (North Summit) Road in accordance with the approved Traffic Impact Study to both the City and Montgomery County Department of Public Works and Transportation for review and approval;
9. 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; and

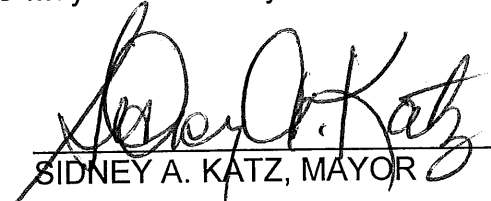
10. Applicant shall coordinate with City staff and Montgomery County Ride-On to relocate the western bus stop and eastern bus shelter, currently located on Girard Street, and install a new bus shelter or provide funding in an amount to cover the costs of the installation of a new bus shelter, not to 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.

ADOPTED by the Mayor and Council of the City Gaithersburg, Maryland, on the 16th day November, 2009.




SIDNEY A. KATZ, MAYOR
and President of the Council

DELIVERED to the Mayor of the City of Gaithersburg this 16th day of November, 2009. APPROVED by the Mayor of the City of Gaithersburg this 16th day of June, 2009.



SIDNEY A. KATZ, MAYOR

THIS IS TO CERTIFY that the foregoing Ordinance was adopted by the City Council in public meeting assembled on the 16th day of November, 2009. This Ordinance will become effective on the 6th day of December, 2009.



Angel L. Jones, City Manager