

# MAYOR & COUNCIL AGENDA COVER SHEET

**MEETING DATE:**

**July 23, 2007**

**CALL TO PODIUM:**

**Fred Felton  
Assistant City Manager**

**RESPONSIBLE STAFF:**

**Caroline Seiden, Planner**

**Greg Ossont, Director of  
Planning and Code**

**AGENDA ITEM:**

(please check one)

<input type="checkbox"/>	Presentation
<input type="checkbox"/>	Proclamation/Certificate
<input type="checkbox"/>	Appointment
<input type="checkbox"/>	Public Hearing <b>"JOINT"</b>
<input type="checkbox"/>	Historic District Commission
<input type="checkbox"/>	Consent Item
<input type="checkbox"/>	Ordinance
<input type="checkbox"/>	Resolution
<input checked="" type="checkbox"/>	Policy Discussion
<input type="checkbox"/>	Work Session Discussion Item
<input type="checkbox"/>	Other:

**PUBLIC HEARING HISTORY:**

(Please complete this section if agenda item is a public hearing)

Introduced	
Advertised	11/17/04 11/24/04
Hearing Date	12/06/04
Record Held Open	5/31/07
Policy Discussion	6/18/07 07/09/07

**TITLE: SDP-04-001 Policy Discussion**

The application requests approval of Schematic Development Plan SDP-04-001, Quince Orchard Park, Parcel A – The Vistas, Winter Walk Drive and Quince Orchard Road

**SUPPORTING BACKGROUND:**

The applicant, Churchill Development Corp., requests approval of a Schematic Development Plan (SDP), known as Quince Orchard Park – The Vistas. The subject property is bounded by Winter Walk Drive, Orchard Ridge Drive, Twin Lakes Drive and Quince Orchard Road in the Quince Orchard Park development, and is located within the Mixed Use Development (MXD) Zone.

A joint public hearing was held regarding this application on December 6, 2004, and the record has been held open indefinitely. Two joint work sessions were held on April 11, 2005 and September 25, 2006, during which additional comments regarding overall density, neighborhood design, the quality of green/open space, on-site forest conservation requirements and desired annexation into the existing Quince Orchard Park community were discussed.

The applicant has made significant changes to the initial plan, including a reduction in density, compliance with forest conservation requirements, consolidation of open space and improved connectivity. The plan, as amended, includes 13 single family detached units, 38 townhouses and 32 two over two condominiums on approximately 13.05 acres of land.

On March 7, 2007, the Planning Commission recommended approval of the SDP with 13 conditions. The Mayor and Council record closed at 5:00 pm on May 31, 2007.

At Policy Discussion on June 18, 2007, the Mayor and Council expressed some concern about Condition #14 and stressed the importance of integration of the Vistas and Quince Orchard Park communities. Staff met with the applicant and the QOP Board on Thursday, July 5, 2007, but was unable to reach an agreement and policy discussion was again deferred on July 9, 2007.

Discussions between all parties are ongoing, and staff will provide an update to the Mayor and City Council during the July 23, 2007 meeting.

*Attachments:  
Draft Resolution from June 18, 2007 meeting*

**DESIRED OUTCOME:**

**Receive update from staff, and conduct policy discussion**

RESOLUTION No. \_\_\_\_\_

RESOLUTION OF THE MAYOR AND CITY COUNCIL  
OF GAITHERSBURG GRANTING APPROVAL OF  
SCHEMATIC DEVELOPMENT PLAN SDP-04-001,  
KNOWN AS THE VISTAS, FOR  
APPROXIMATELY 13.05 ACRES OF PROPERTY  
ZONED MIXED USE DEVELOPMENT (MXD)

**SDP-04-001**

**OPINION**

Application SDP-04-001 has come before the Mayor and City Council for approval of a schematic development plan (SDP) for land zoned Mixed Use Development (MXD). 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 within ninety (90) days of the close of the hearing record, following receipt of a recommendation by the City Planning Commission.

The subject case involves approximately 13.05 acres of land and concerns the development of the property known as Parcel A, Quince Orchard Park. The subject property ("Property") is bounded by Winter Walk Drive, Orchard Ridge Drive, Twin Lakes Drive and Quince Orchard Road in the Quince Orchard Park development. The schematic development plan application was submitted to the City Planning and Code Administration on August 13, 2004. This application was designated as SDP-04-001.

**OPERATIVE FACTS**

A. Background

The subject Tax Parcel, 02304605, was annexed into the City in 1982 as part of the 212 acre Quince Orchard Park annexation known as X-129. The property was initially classified in the I-3 zone. On December 20, 1993, Zoning Map Amendment Z-275 was approved by the Mayor and Council and rezoned the entire Quince Orchard Park property to MXD (Mixed Used Development) Zone. For the purposes of the sketch plan, the property was divided into six (6) sections, each with different potential land uses and density ranges. The Z-275 Sketch Plan for the Vistas section of Quince Orchard Park consists of approximately 13.05 acres and was designated for either office use or residential use. On December 17, 2001, the Mayor and City Council approved Zoning Map Amendment Z-275(C), which provided for a residential density range of 75 to 125 units or 150,000 to 250,000 square feet of office for the Vistas property.

The property retained a residential-office land use designation in the 2003 Land Use Plan (Map designation #47), with which this application complies. Additionally, the applicant provided an analysis of how the application meets the Master Plan themes adopted in October 2002 (Exhibit #87).

B. Current Application:

In August 2004, William Wogatske of Churchill Development Corp. submitted an application for a mixed housing development on a 13.05 acre parcel, known as Quince Orchard Park – The Vistas. The Mayor and City Council and Planning Commission held a joint public hearing for SDP-04-001 on December 6, 2004. Based on Mayor and City Council and Planning Commission guidance, the plan was revised to reduce the density and enhance design elements required as part of the MXD review process. A revised plan was reviewed during a joint work session on April 11, 2005. During the course of this work session, the Mayor and City Council and Planning Commission raised a number of concerns about the revised plan, including compatibility with the existing Quince Orchard Park residential development, the quality of open space, design of alleys, pedestrian connectivity and on-site reforestation requirements. The applicant, working with City staff and the Quince Orchard Park community further refined the plan and the Mayor and City Council and Planning Commission held a second joint work session on September 25, 2006. The Mayor and City Council and Planning Commission expressed support of the design changes that had been made since their last review. Discussion at the second worksession centered on the Mayor and Council's desire to incorporate the Vistas into the existing Quince Orchard Park prior to approval of the schematic development plan. The Planning Commission also voiced an interest in reviewing design guidelines for the application.

After the second worksession, the Quince Orchard Park Community Association Board of Directors and Churchill Development Corporation entered into a Memorandum of Understanding which outlines conditions of the Vistas entrance into the HOA, should the homeowners approve the annexation. The Quince Orchard Park Community Association held a meeting on January 30, 2007 to vote on annexation for the Vistas. The required number of votes for annexation of the Vistas into the QOP Community Association was not achieved at that time and another annexation vote cannot be taken for one year from the date of the first vote.

The current application, as amended, includes a mix of 83 residential units, including 13 single-family detached, 38 townhomes and 32 two over two condominium units. Planned amenities include a pedestrian path system throughout the site, connecting the existing Quince Orchard Park community to the open spaces within the new community, a 1/2 acre open field for ball playing, a volleyball court, or other active play, and an all-purpose sport court which will include opportunities for basketball and other court games. In addition, a tot lot and additional green space form the interior courts surrounded by townhouses and 2/2 condominiums. A unique piece of public art will be located at the western edge of the eastern courtyard and will be visible as one enters the community.

The Planning Commission record closed on the Schematic Development Plan SDP-04-001 as of January 26, 2007. The Planning Commission reviewed the SDP-04-001 proposal of 83 residential units at their March 7, 2007 meeting. Based on their review of the evidence, the Planning Commission recommended approval of SDP-04-001 with the following conditions required of the applicant:

1. Prior to submission of any permits, dedication for the 50' transit way, as shown on the SDP, shall be recorded by Quadrangle Development Corp or Churchill Development Corp;
2. Applicant to complete on-site community amenities, including the basketball and volleyball courts prior to the occupancy of the 55<sup>th</sup> home and complete the two interior courtyards concurrently with the completion of adjacent dwelling units to each interior courtyard;
3. Applicant shall receive final approval letters from appropriate utility agencies including, but not limited to, Washington Gas, PEPCO, Verizon, and WSSC prior to the approval of final site plan;
4. The final utility plan shall be revised and approved by the Department of Public Works, Park Maintenance and Engineering (DPWPM&E) prior to the issuance of Public Works permits;
5. A comprehensive community sign package is to be approved by the Planning Commission at the time of final site plan approval;
6. At the time of final site plan, applicant is to provide additional data confirming that the 60 dBA exterior noise level and 45 dBA interior noise level guidelines have been maintained;
7. Applicant to submit at time of final site plan an enhanced architectural design plan indicating color palette, identifying units treated with four-sided architecture, identifying and detailing end units and highly visible units, and indicating the minimum number of units with specific design details, such as porches, bay windows, dormers, and other architectural details in order to show compatibility with Quince Orchard Park. The plan must ensure that no identical elevations shall be sited within a four-lot envelope;
8. Applicant to work with Pepco to establish additional utility easements for transformers at time of final site plan;
9. Applicant to provide Art in Public Places program and commit funding to be approved by city staff and AIPP committee during final site plan stage;
10. Applicant to obtain approval of a Road Code Waiver from the Mayor and City Council at the time of SDP approval;

11. Prior to final site plan submission, the applicant shall submit to the City Attorney for review and approval, the Homeowners Association documents, including architectural regulations similar to those for Quince Orchard Park;
12. Applicant to continue to work with City staff to meet all reforestation requirements either on-site or within the greater Quince Orchard Park community; and
13. Applicant to continue to coordinate with the Quince Orchard Park community to develop a program ensuring integration of the communities through shared common amenities and reciprocal uses, prior to final site plan.

Additionally, the Planning Commission advised that the type of program, referenced in Condition #13, could include several alternative programs such as an annexation agreement whereby the two communities are folded into one Homeowners Association, development of cross easements, or an agreement whereby there is a shared use of community facilities or any other type of agreement that physically integrates the two communities.

Although annexation has not been achieved, a letter from the QOP Community Association (Exhibit #145) indicates the community's support for some type of agreement should the Vistas application be approved, using a Memorandum of Understanding signed between Churchill Development Corp and Quince Orchard Park Community Association Board of Directors in October 2006 as a minimum basis of agreement. As an alternative, the applicant submitted an expanded on-site amenities package should the integration into Quince Orchard Park never be realized. The expanded amenities package includes two additional playground structures, a tennis court, beach volleyball court, horseshoe pit, pocket park with gazebo, and a picnic pavilion with associated picnic tables and grills. The alternative plan would be implemented only in the event that the Vistas and Quince Orchard Park communities never implemented a program to integrate the two communities.

### C. Evaluation and Findings

The City Council agrees with the findings, conclusions and recommendations of approval of Schematic Development Plan SDP-04-001 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 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-04-001, 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 Article III, Division 19 of the City Zoning Ordinance.

The City Council finds that the application meets the submission requirements and the standards and requirements for approval of the subject schematic development plan in that:

- 1) the applicant filed, together with the prescribed application fee, an application for approval of a schematic development plan which is consistent with the approved sketch plan in terms of nature, density, location of use, access, circulation, and preservation features;
- 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 MXD 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; h) proposed phasing or staging plan of development and information relating to such plan's consistency with the provision of public facilities; 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; and j) a proposed covenant or other form of agreement indicating how the area will be included in any homeowners association or other organization, and how any open space, community space or amenities located within the area subject to review will be perpetually maintained;
- 3) the schematic development plan is in substantial compliance with the approved sketch plan [Z-275(c)];
- 4) the schematic development plan, while it does not contain a minimum of two hundred (200) dwelling units and/or one hundred thousand (100,000) square feet of proposed retail/office development, or a comparable equivalent mix on its own, is part of a larger approved sketch plan which divided the Quince Orchard Park community into six separate land areas for schematic development approval that does include the minimum required mix of housing and retail/office development;

- 5) the City Council and City Planning Commission have conducted a joint public hearing on the application subject to the notification procedures in section 24-196 of this Code.
- 6) the Planning Commission delivered its recommendation to the City Council on March 8, 2007, within thirty (30) days of the close of the commission's hearing record of February, 2007.
- 7) the Council is taking action on the application on June 18, 2007, within ninety (90) days after the close of the Council's hearing record;
- 8) the approval of this schematic development plan with its degree of detail shall substitute for preliminary site plan approval; and
- 9) the schematic development plan demonstrates compliance with Master Plan recommendations for the property, including 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.

The Schematic Development Plan meets the ten (10) acre minimum area requirement of the MXD Zone by containing 13.05 acres and the zoning ordinance locational requirements being adjacent to existing land zoned MXD.

The City Council finds the subject development proposal to be in accordance with the themes and land use recommendations of the 2003 Master Plan Land Use Element, which envisioned either office or residential for this site. Further, the schematic development plan is consistent with the approved sketch plan Z-275(c), which envisioned 75 to 125 residential units for this property. The mix of residential uses will provide a range of housing opportunities, complementing the existing Quince Orchard Park community and in direct proximity to an extensive road network and planned transit network, which conforms to the Land Use Master Plan's vision of for the property.

The City Council finds from the evidence of record that the application for schematic development plan approval as currently amended fulfills the purposes and objectives of the MXD Zoning of this property and will in this regard implement the City Master Plan recommendations for residential development on this site. The schematic development plan provides recreational amenities such as a non-programmed open space, playgrounds, and sports courts. The schematic development plan also provides a significant public amenity, the dedication of 1.36 acres of land for the Corridor City Transitway right-of-way along the western and northern edge of the site. The subject plan encourages the efficient use of land by integrating the proposed community with existing residential development in close proximity with opportunity for improved pedestrian circulation between various community amenities. Also the plan reflects convenient pedestrian access to adjoining communities and provides recreation facilities.

The City Council finds that the Schematic Development Plan will be internally and externally compatible and harmonious with the existing land uses and planned land uses in the MXD zoned areas and adjacent areas. The site has office uses to the north and west and residential uses to the south and east.

The City Council further finds that the level of development reflected by the Schematic Development Plan can be accommodated adequately by existing and planned public facilities. There is evidence to indicate that public water, sewer, transportation and school facilities can adequately handle the needs of this development. Public water and sewer service presently serves adjacent development and is available to this site. No inadequacy or other concerns with respect to the provision of these facilities has been identified in the record. The access is adequate based upon accepted sketch plan traffic studies more fully explained below. Traffic circulation will be adequately accommodated through established, adjacent residential communities designed to accommodate future development on this site. Quince Orchard Park is also currently served by two Ride-On bus routes, including Route 56 on Quince Orchard Road and Route 74 on Great Seneca Highway. Interior site traffic circulation will provide adequate vehicular access to all parts of the proposed development without creating points of congestion. An extensive pedestrian circulation system will connect various components of this development.

The City Council concurs with the finding of Montgomery County Public Schools (MCPS) staff that the current Montgomery County Annual Growth Policy schools test finds school capacity adequate in the Northwest cluster (where the Vistas is located). The schools that currently serve the proposed development are Diamond Elementary School, Lakelands Middle School and Northwest High School. Information obtained from Montgomery County Public Schools (MCPS) indicates that enrollment projections show that upon final build out, the development will generate approximately 19 elementary school students, 9 middle school students, and 9 high school students. The projected enrollment for all the schools will accommodate these students.

The City Council finds that the plan is in the public interest. The applicant will be dedicating land for a planned transit route that will provide significant regional benefits.

In addition, the City Council finds that under Paragraph III of the first amendment to the Annexation Agreement for Quince Orchard Park, dated August 1991, of which the Vistas is a part, the applicant is exempt from the City's affordable housing requirements, the adequate public facilities requirements and from the requirement to complete design guidelines as part of their plan. "Any portion of the Subject Property that is rezoned by the City with GERECCO's consent, from I-3 to another zoning classification shall be governed by those zoning and subdivision laws and regulations which are applicable as of the final date of any such rezoning." As a result, zoning and subdivision laws in effect at the time the Vistas was rezoned to MXD, in January 1994, remain in effect. Any zoning or subdivision laws enacted after 1994 would not be applicable to this property, in accordance with the terms of the Annexation Agreement.

In conclusion, the City Council finds SDP-04-001, as amended containing 83 units (13 single family detached, 38 townhomes, and 32 two over two condominium units) on 13.05 acres of land to be in accordance with §§ 24-160D.9.(b) and 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 MXD Zone, reflects an internally and externally compatible form of development, and is consistent with the purpose of the 2003 Master Plan Land Use Element, the Master Plan Themes, as well as generally accepted City planning and land use policies, subject to the applicant complying with the conditions stated in this Resolution.

## SCHEMATIC DEVELOPMENT PLAN SDP-04-001

### RESOLUTION

NOW, THEREFORE BE IT ORDAINED by the City Council of Gaithersburg, that SDP-04-001, being an application filed by Churchill Development Corp., requesting approval of Schematic Development Plan is hereby approved subject to the following conditions required of the applicant:

1. Prior to submission of any permits, dedication for the fifty foot (50') transit way, as shown on the SDP, as well as all remaining acreage related to the 6.2 acres for transit right-of-way and 10.16 acres for transit station and related facilities shall be recorded by Quadrangle Development Corp or Churchill Development Corp in accordance with the Fourth Amendment to Annexation Agreement X-129;
2. Applicant is to complete on-site community amenities, including the basketball and volleyball courts prior to the occupancy of the 42nd home and complete the two interior courtyards concurrently with the completion of adjacent dwelling units to each interior courtyard.
3. Applicant shall receive final approval letters of the inclusive utility plan from appropriate utility agencies including, but not limited to, Washington Gas, PEPCO, Verizon, and WSSC prior to the approval of final site plan;
4. Applicant is to work with Pepco to establish additional utility easements for transformers at time of final site plan;
5. The final utility plan shall be reviewed and approved by the Department of Public Works, Park Maintenance and Engineering (DPWPM&E) prior to the issuance of Public Works permits;
6. A comprehensive community sign package is to be approved by the Planning Commission at the time of final site plan approval;
7. At the time of final site plan, applicant is to provide additional data and plans confirming that the 60 dBA exterior noise level and 45 dBA interior noise level guidelines have been maintained;

8. Applicant is to submit at time of final site plan an enhanced architectural design plan indicating color palette, identifying units treated with four-sided architecture, identifying and detailing end units and highly visible units, and indicating the minimum number of units with specific design details, such as porches, bay windows, dormers, and other architectural details in order to show compatibility with Quince Orchard Park. The plan must ensure that no identical elevations shall be sited within a four-lot envelope;
9. Applicant is to provide Art in Public Places program and commit funding to be approved by city staff and AIPP committee during final site plan stage;
10. Applicant is to finalize Road Code Waiver request and obtain approval from the Mayor and City Council prior to submission of final site plan;
11. Prior to final site plan submission, the applicant shall submit to the City Attorney for review and approval, the Homeowners Association documents, including architectural regulations similar to those for Quince Orchard Park;
12. Applicant is to meet all reforestation requirements either on-site or in right-of-ways immediately abutting the Vistas parcel;
13. Applicant is to continue to coordinate with the Quince Orchard Park community to develop a program ensuring integration of the communities through shared common amenities and reciprocal uses, prior to final site plan; and
14. Prior to approval of the final site plan, applicant is required either to 1) enter into an agreement with the Quince Orchard Park Community Association that physically integrates the two communities through annexation, cross easements or shared facility agreement using the October 2006 Memorandum of Understanding as a minimum basis for such agreement; or 2) incorporate the expanded amenities package presented in Exhibits #147-#156 into the final site plan with completion of the amenities to be established by the Planning Commission in a time frame similar to Condition #2.

ADOPTED by the City Council this 9<sup>th</sup> day of July, 2007.

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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 9<sup>th</sup> day of July, 2007.

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David B. Humpton, City Manager

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