

MAYOR & COUNCIL AGENDA COVER SHEET

MEETING DATE:

August 17, 2009

CALL TO PODIUM:

Greg Ossont, Director
Planning & Code Administration

RESPONSIBLE STAFF:

Greg Ossont, Director
Planning & Code Administration

AGENDA ITEM:

(please check one)

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

PUBLIC HEARING HISTORY:

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

Introduced	
Advertised	
Hearing Date	
Record Held Open	
Policy Discussion	

TITLE:
Staff Guidance on the Summit Center Redevelopment Project as it Relates to the City's Adequate Public Facility Ordinance

SUPPORTING BACKGROUND:
As noted in the staff report prepared for the public hearing on Z-307(A)/SDP-09-002 held on July 20, 2009, staff has been working with the City Attorney on the City's Adequate Public Facility Ordinance (APFO) and its application to this particular project.
Since the public hearing, staff, in consultation with the City Attorney has determined that the Summit Center redevelopment project cannot be approved under existing regulations in the Adequate Public Facility Ordinance (APFO).
The attached memorandum explains the background in detail. Additionally, staff has included options for the Mayor and City council to consider.

DESIRED OUTCOME:
Provide staff guidance.

MEMORANDUM TO: Mayor and City Council

VIA: Angel L. Jones, City Manager

FROM: Greg Ossont, Director
Planning and Code Administration

DATE: August 6, 2009

SUBJECT: Residences at Hidden Creek - Summit Center
Redevelopment

As noted in the staff report for the public hearing on Z-307(A)/SDP-09-002 held on July 20, 2009, staff has been working with the City Attorney on the City's Adequate Public Facility Ordinance (APFO) and its application to this particular project. The following is a summary of the issue:

The Adequate Public Facilities Ordinance, § 24-246, states "With the exception of age restricted development, **schematic development plan or preliminary site plan for residential development shall not be approved** if the subject property is within the attendance area of a Montgomery County Public School that is forecasted to have a student population that exceeds 110% of Montgomery County Public Schools Program Capacity two (2) years in the future.."

At the time of the sketch plan approval in June 2008, the application complied with the school test requirements of the APFO based on the Adopted FY 2008 Education Facilities Master Plan and Amended FY2008-2013 Capital Improvements Program. However, since the ordinance states "schematic development plan" or "preliminary site plan" the APFO was applied again after the applicant submitted the SDP in June 2009.

In the latest FY 2010 Education Facilities Master Plan and Amended FY2009-2014 Capital Improvements Program approved on July 1, 2009, the County has revised their capacity and enrollment forecasts for Strawberry Knoll Elementary School. One classroom was converted to a kindergarten room and another for staff support, thus reducing the available enrollment capacity at the school. Further, the students for the Hidden Creek project were prematurely incorporated into forecasts by MCPS staff.

The combination of these two changes has placed Strawberry Knoll at 114% above capacity. Accordingly, a literal reading of the City's APFO precludes the City Council from approving the proposed schematic development plan.

The applicant has suggested the Mayor and City Council consider a text amendment that would allow the project to move forward. Staff has developed the following three options for the Mayor and City Council to review:

Option 1

Increase allowable school capacity to 120%, consistent with Montgomery County

Sec. 24-246. Adequacy of School Capacity

With the exception of age restricted development, schematic development plan or preliminary site plan for residential development shall not be approved if the subject property is within the attendance area of a Montgomery County Public School that is forecasted to have a student population that exceeds ~~110~~ **120** % of Montgomery County Public Schools Program Capacity two (2) years in the future subject to the following:

- (a) The program capacity for each school attended by Gaithersburg residents is determined annually by the Superintendent of Montgomery County Public Schools and reported to the board of education in the community facilities master plan and capital improvements program.
- (b) Capacity shall be reviewed individually for each elementary school, middle school, and high school. Sharing of capacity between schools shall not be permitted.
- (c) Upon review of the current communities facilities master plan and capital improvements program, the city manager shall determine on the first business day of each fiscal year whether or not each public school attended by Gaithersburg residents is forecasted to exceed ~~110~~ **120** percent of programming capacity two (2) years in the future.

Option 2

Increase allowable capacity only after MXD sketch plan test and SDP application within one year

Sec. 24-246. Adequacy of School Capacity

With the exception of age restricted development, schematic development plan or preliminary site plan for residential development shall not be approved if the subject property is within the attendance area of a Montgomery County Public School that is forecasted to have a student population that exceeds one hundred (110) percent of Montgomery County Public Schools Program Capacity two (2) years in the future subject to the following:

- (a) The program capacity for each school attended by Gaithersburg residents is determined annually by the Superintendent of Montgomery County Public Schools and reported to the board of education in the community facilities master plan and capital improvements program.

- (b) Capacity shall be reviewed individually for each elementary school, middle school, and high school. Sharing of capacity between schools shall not be permitted.
- (c) Upon review of the current communities facilities master plan and capital improvements program, the city manager shall determine on the first business day of each fiscal year whether or not each public school attended by Gaithersburg residents is forecasted to exceed one hundred ten (110) percent of programming capacity two (2) years in the future.
- (d) Notwithstanding the foregoing, a schematic development plan for residential development in the MXD zone may be approved if at the time of sketch , School Program Capacity as provided in this section was adequate, the schematic development plan was filed within a year of the effective date of the Ordinance approving the sketch plan and the School Program Capacity at the time of schematic development approval does not exceed 120% of programming capacity two (2) years in the future.

Option 3

Allow an increase in capacity to 120% under certain mitigating circumstances

Sec. 24-246. Adequacy of School Capacity

With the exception of age restricted development, schematic development plan or preliminary site plan for residential development shall not be approved if the subject property is within the attendance area of a Montgomery County Public School that is forecasted to have a student population that exceeds one hundred (110) percent of Montgomery County Public Schools Program Capacity two (2) years in the future subject to the following:

- (a) The program capacity for each school attended by Gaithersburg residents is determined annually by the Superintendent of Montgomery County Public Schools and reported to the board of education in the community facilities master plan and capital improvements program.
- (b) Capacity shall be reviewed individually for each elementary school, middle school, and high school. Sharing of capacity between schools shall not be permitted.
- (c) Upon review of the current communities facilities master plan and capital improvements program, the city manager shall determine on the first business day of each fiscal year whether or not each public

school attended by Gaithersburg residents is forecasted to exceed one hundred ten (110) percent of programming capacity two (2) years in the future.

- (d) Notwithstanding the foregoing, the City Council may approve, by resolution, a schematic development or preliminary site plan that does not exceed 120% of programming capacity two (2) years in the future upon a finding that:
- i. The project is necessary to implement the master plan or strategic directions and attract an appropriate and compatible type or caliber of user and;
 - ii. The project is compatible with exiting and proposed adjacent land uses and;

Option 4

No change to ordinance. Results in denial of Summit Center schematic development plan.

Staff is recommending the Mayor and City Council select Option 2 for a public hearing. Option 2 would increase capacity percentages consistent with those adopted by Montgomery County, but maintain a two year outlook.

While Option 3 would facilitate the Summit Center redevelopment project, staff believes it is short sighted and does not address the long term, detrimental impact that the current APFO by placing significant portions of the City in indefinite moratorium.

Staff will be seeking guidance during the regular meeting on August 17, 2009. Please contact me directly if you have any questions at 301-258-6330 or gossont@gaitersburgmd.gov.

Distribution:

L. Board
L. Pruss
T. Schwarz
Planning Commission