
STAFF COMMENTS FOR PLANNING COMMISSION

MEETING DATE: September 19, 2007

SUBJECT: CSP-07-001

TITLE: GE Technology Park

REQUEST: **CONCEPT PLAN APPROVAL**
for three office/warehouse buildings

ADDRESS: 100 Edison Park Drive

ZONE: I-3 (Industrial Office Park)

Applicant: AvalonBay Communities – Jonathon Cox

Owner: SFHI, LLC c/o Global Exchange Services

STAFF LIAISON: Greg Ossont, Director
Planning and Code Administration

Jacqueline Marsh, Planner

Enclosures:

Staff Comments

Draft Resolution

STAFF COMMENTS

Attached is the Resolution denying CSP-07-001. Please feel free to contact staff with any questions or comments.

RESOLUTION No. _____

RESOLUTION OF THE PLANNING COMMISSION
OF GAITHERSBURG DENYING AN APPLICATION FOR
CONCEPT PLAN CSP-07-001,
KNOWN AS GE TECHNOLOGY PARK, FOR
THREE OFFICE/WAREHOUSE BUILDINGS IN THE I-3 ZONE

CSP-07-001

OPINION

Application CSP-07-001 has come before the Planning Commission for approval of a concept site plan for land zoned I-3. The Planning Commission's authority in this matter is pursuant to §§24-170, 24-170A and 24-171 of the City of Gaithersburg Zoning Ordinance (Chapter 24 of the City Code), which respectively require the Commission to make certain findings with regard to a plan's compliance with the general conditions of the City's master plan and any special conditions applicable to the subject property, and authorize the Commission to address a variety of site plan review matters.

The subject application proposes three one-story office/warehouse buildings, totaling 202,175 square feet with associated surface parking. The subject property ("Property") is located in what is known as the GE Technology Office park. It is bounded on the north by Lakelands Park and the Lakelands Park Middle School, on the south by MD Route 28 (Darnestown Road) and on the west by Lake Nirvana and the Kentlands Community. The concept site plan application was submitted to the City Planning and Code Administration, on February 9, 2007 and was designated CSP-07-001.

OPERATIVE FACTS

A. Background

The 98.8-acre GE Technology Park site was annexed into the City of Gaithersburg in 1989. The original annexation agreement was amended in 2000 upon a transfer in ownership.

The G.E. Technology Park site includes Lake Placid, Lake Edison, a tributary of the Muddy Branch Creek, a large open lawn between MD Route 28 and Lake Placid, a 5-story office building and a 1-story warehouse. There are currently two parcels of land that are undeveloped, Lot 3 and Parcel C.

The subject property was the focus of the Special Study Area 10: G.E. Technology Park, adopted by the Mayor and City Council on May 15, 2006, by Resolution R-53-06, as part of the Land Use Element of the Master Plan. Listed in the Special Study area review

were 15 baseline requirements. The plan proposed two land use options - (1) Land Use Option A: Research & Development and Office Park and (2) Land Use Option B: Mixed-Use Development. Included in the land use option for office and research & development was a Special Condition which states:

"Map Designation 1 shall be preserved as open space. Rezoning to R-A (Low Density Residential), recordation of an open space easement and/or covenant, and designation of open space shall occur at the time of development and/or subdivision of Lot 1 (Map Designation 4)."

The special condition was adopted by the Mayor and City Council on September 5, 2006, by Resolution R-92-06.

B. Current Application:

On February 9, 2007, the applicant, AvalonBay Communities, submitted the subject concept site plan application, CSP-07-001. The concept requested approval of three office/warehouse buildings totaling 202,175 square feet with surface parking. Two of the proposed office buildings were located in the large open lawn in between MD Route 28 and Lake Placid. The third building was located to the east of Main Street and behind the baseball fields at Lakelands Park.

The Planning Commission scheduled this matter for their regular meeting of June 20, 2007, which was canceled due to a lack of quorum. The meeting was rescheduled for July 25, 2007. The Commission discussed the concept and deferred action until the September 5, 2007, regular Commission meeting. The meetings were held at 7:30 P.M. in the Council Chambers in the City Hall. The property was properly posted and tentative agendas were sent to the applicant, the applicant's representatives, and adjacent and abutting property owners for each meeting. The exhibits for this application are listed on an Index of Memorandum in the subject file. At the hearings before the Planning Commission, the following testimony was given:

Minutes from July 25, 2007:

Planning Director Pruss reviewed the location and introduced the applicant.

Attorney for the applicant, Barbara Sears, Linowes and Blocher, introduced the applicant and its team and stated she represents Avalon Bay Communities who is the contract purchaser of the property.

Engineer for the applicant, Gary Unterberg, Rodgers Consulting, described the site plan. He explained the site is zoned I-3 and that a concept plan has been submitted. Mr. Unterberg outlined the three buildings proposed and their locations and reviewed the proposed development and site using a PowerPoint presentation. Ms. Sears requested that Mr. Unterberg's exhibits and presentation be entered into the record. Chair Bauer and Director Ossont confirmed that the information would be entered into the record.

Ms. Sears emphasized they are referring to one record lot of approximately 51.57 acres. She noted the entire 99-acre property was annexed into City in 1989 by the National Geographic Society. The property was then subdivided in anticipation of individual lot sales. Ms. Sears contended that the application should be governed by the development standards and requirements of the I-3 Zone and the Annexation Agreement along with § 24-170 of the City Code. Ms. Sears stated [her client's position that] the Special Condition of the Master Plan that indicates that the Map Designation 1 area remain undeveloped is unlawful and contrary to the Annexation Agreement. In closing, Ms. Sears requested that the Planning Commission approve the Concept Site Plan, allow the proposed development and acknowledge that the Annexation Agreement should take precedent over the Master Plan.

Vice-Chair Levy moved, seconded by Commissioner Hopkins, to DEFER further consideration of CSP-07-001 – GE Technology Park, to a later meeting in order to obtain additional direction from staff.

Vote: 5-0

September 5, 2007:

Planner Marsh indicated that a memorandum had been provided to the Planning Commission from Director Ossont in order to address the Commission concerns from the previous meeting.

C. Relevant Statutory Provisions

The following statutory provisions from the City Zoning Ordinance (Chapter 24 of the City Code) are among the provisions which define the nature of the Planning Commission's site plan review powers and the extent of the Commission's oversight.

Sec. 20-11. Preliminary subdivision plan required

Every proposed plan for subdivision or resubdivision shall be submitted to the planning commission for tentative or conditional approval in the form of a preliminary subdivision plan prior to the submission of a final subdivision plat for recording; unless such plan complies with the provisions for minor subdivisions in section 20-34. The plan shall be accompanied by a processing fee established by resolution of the city council. The plan shall show graphically all facts necessary to enable the commission to determine whether the proposed layout is satisfactory in promoting the public health, safety, and welfare, and complies with applicable standards, ordinances, and laws necessary for approval. The planning commission shall have a reasonable time, not to exceed four (4) months from the date of receipt of a complete preliminary subdivision plan application, for the review of same and action thereon, unless otherwise agreed upon by the applicant and in accordance with section 20-13(b). **The applicant may submit a concept plan concerning those major aspects of the submission on which the decision of the commission is requested prior to preparation and submission of a preliminary plan.** The concept plan shall be in accordance with the concept plan check list and shall include

any information that the city manager or his designee require.

Sec. 24-170. General Conditions

The city planning commission shall approve the site development plan only upon a finding by it that the buildings, structures and uses proposed will not:

- (a) Adversely affect the health or safety of persons residing in or working on the land in question or in the neighborhood thereof.
- (b) Be detrimental to the public welfare or adversely affect the use or development of adjacent or surrounding properties.
- (c) Constitute a violation of any provisions of this chapter or any other applicable law, regulation or ordinance.
- (d) Be incompatible or inharmonious with other existing uses or with existing and proposed adjacent development.
- (e) Be inharmonious or inconsistent with the environmental standards of the city adopted by the city council pursuant to section

Sec. 24-170A. Special conditions.

The city planning commission may approve a site development plan for properties specifically identified in a master plan or amendment thereto having special conditions or requirements for the development and use thereof, or special conditions and requirements as to availability of public facilities only upon a finding that said site development plan is consistent with the conditions and requirements specified in the master plan or amendment regarding said property.

The special conditions and requirements for the development and use of these properties or public facilities requirements applicable thereto shall be imposed and set forth in the master plan or amendment thereto only after notice to the property owner and general public and a public hearing thereon as part of the master plan process. All such site development plans shall be subject to enforcement procedures and requirements applicable to site development plans generally as established by this Code.

The provisions of this section shall apply only to master plans and amendments thereto adopted after December 24, 1984.

Sec. 24-171. Site plan review.

In the review and approval of a site development plan, the planning commission shall have the following powers which shall be exercised for the purpose of avoiding adverse impact on the neighboring properties and public facilities, reducing traffic hazards

and improving traffic circulation within or without the property which is the subject of the plan, preserving existing desirable natural features, protecting environmental resources, assuring adequate light and air to buildings within or without the subject property, providing adequate access to such buildings by fire and rescue equipment, providing convenient access to such buildings from off-street parking spaces, avoiding overcrowding of persons and buildings within the development, ensuring the provision or development of recreational and other amenities, and facilitating the creation and maintenance of common or public open space, parking areas and private drainage systems.

(a) To determine the location, size and shape of buildings;

(b) To determine the location, design and dimensions of streets, driveways and parking areas;

* * *

(e) To determine the location of common open space;

* * *

(i) To impose other conditions upon the approval of the plan where necessary to assure that the use of the property will be consistent with the purpose and intent of this chapter;

(j) To determine whether the site development plan will achieve a maximum of compatibility, safety and efficiency, considering but not limited to the following functions: Height, building design, arrangement and scale of development; vehicular circulation system, including access and off-street parking and loading; environmental impact, landscaping, screening, buffering, open space, lighting, signage and pedestrian circulation. The fact that a site plan complies with all of the stated general regulations, development standards or other requirements of the zone shall not, by itself, be deemed to create a presumption that the proposed site development plan is, in fact compatible with adjacent land uses and development and, in itself, shall not be sufficient to require approval of the site plan;

EVALUATION AND FINDINGS

The Planning Commission finds that, based upon the record before the Commission, including the staff analysis, the subject application does not comply with the master plan requirements generally, and the special condition included in the master plan for this property specifically.

The subject property was the focus of Special Study Area 10: G.E. Technology Park, adopted by the Mayor and City Council on May 15, 2006 by Resolution R-53-06, as part of the Land Use Element of the Master Plan. The Special Study Area included 15 baseline requirements. Also included in the land use option for office and research and development was a special condition, adopted by the Mayor and City Council as Resolution R-92-06 on September 5, 2006, which states in pertinent part: "Map Designation 1 shall be preserved as open space."

The subject concept plan fails to preserve Map Designation 1 as open space, in violation of the special condition. Therefore, the plan constitutes a violation of the provisions of Chapter 24, specifically section 24-170A of the City Code.

The Commission also finds that the plan is incompatible and inharmonious with existing uses at the property and with adjacent uses, and is similarly inharmonious with the environmental standards of the city adopted by the City Council and any amendments thereto.

More specifically, the concept application does not provide a harmonious integration with adjacent properties and land uses. As noted in the staff analysis, the master plan baseline requirements for such things as a pathway around Lake Placid and pathway connections to adjacent neighborhoods, schools, recreation areas and adjacent development uses have not been provided. No green or landscaped connections between Lakelands Park and the end of the Stream Valley Buffer at Lake Edison on the property have been provided. The views and vistas to the existing office building and natural landmarks at the property have not been preserved by the proposed development and will, in fact, block such views and vistas.

Additionally, the baseline requirements applicable to environmental issues have not been properly addressed. For example, the green space totals have not been properly calculated, the Forest Conservation Plan shows the removal of over 160 trees, and many trees in the buffer area are slated for removal.

While the Commission finds that the proposed land use is a permitted use in the zone, the decision is based on findings of Master Plan compliance and whether the proposed application was harmonious and compatible with surrounding uses. The resolution of denial is not based on considerations of land use or architecture, but land planning and site design.

The Commission further found that the Master Plan does not discourage development at the property. In fact, the Commission noted that the Master Plan specifically designates the property as a Special Study Area because of the likelihood of future development proposals. Accordingly, the Commission's decision is not based on any such consideration that the property should not be developed. Rather, the proposed application fails to comply with the requirements for such development under the Master Plan and the aforementioned applicable code provisions.

CONCLUSION

Upon consideration of all the evidence of record, and the testimony in favor of and in opposition to concept site plan CSP-07-001, the Planning Commission concludes that the plan does not meet the statutory criteria necessary for approval as specified above. Therefore, application CSP-07-001 is denied.

RESOLUTION

NOW, THEREFORE BE IT RESOLVED, by the Planning Commission of the City of Gaithersburg, on the 19th day of September, 2007, that Concept Site Plan application CSP-07-001, be DENIED¹.

John Bauer, Chairman
Planning Commission

THIS IS TO CERTIFY that the foregoing resolution was adopted by the City of Gaithersburg Planning Commission in a public meeting assembled on the 19th day of September, 2007.

Greg Ossont, Director
Planning and Code Administration

¹ Any decision by the Planning Commission may, within seventeen (17) days after the date of the action or decision is rendered, be appealed by any person aggrieved by the decision to the City Board of Appeals pursuant to the provisions of Article VII of Chapter 24 of the City Code.