

RESOLUTION NO. R-29-13

RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF GAITHERSBURG GRANTING APPROVAL OF AMENDMENT TO PREVIOUSLY APPROVED SKETCH PLAN APPLICATION X-184 AND APPROVING A NEW SKETCH PLAN IDENTIFIED AS APPLICATION ASK-1746-2013, FOR 13.66 ACRES OF LAND IN THE MXD (MIXED USE DEVELOPMENT) ZONE, IN ACCORDANCE WITH § 24-198 (MAP AMENDMENTS) AND §§ 24-160D.9(a), 24-160D.10(a) AND 24-160D.11 OF THE CITY CODE. THE PROPERTY IS LOCATED AT 16331 & 16401 SHADY GROVE ROAD, GAITHERSBURG, MARYLAND.

**ASK-1746-2013**

OPINION

Amendment to Sketch Plan (ASK) application ASK-1746-2013, zoned Mixed Use Development (MXD), has come before the Mayor and City Council for approval. The City Council's authority in this matter is pursuant to §§ 24-198 (Map Amendments), § 24-160D.9(a)(2), 24-160D.10(a) and 24-160D.11 of the City of Gaithersburg Zoning Ordinance (Chapter 24 of the City Code), which authorizes the Council to conduct public hearings on an amendment to sketch 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 13.66 acres of land and concerns the property located 16331 and 16401 Shady Grove Road, Gaithersburg, Maryland, in the MXD (Mixed Use Development) Zone. The property is located on Shady Grove Road, south of its intersection with Oakmont Avenue and north of the intersection of North Frederick Avenue and Shady Grove Road. The amendment to sketch plan application was initially submitted to the City Department of Planning and Code Administration on January 8, 2013. This application was designated as ASK-1746-2013.

A. Application ASK-1746-2013, filed by CarMax Auto Superstores, Inc., requests to amend the Sketch Plan for 13.66 acres of land in the MXD (Mixed Use Development) Zone, for the development of a 25,000-square foot Automotive Sales Center and a 225,000-square foot Office/Commercial/Restaurant Building for a property formerly known as the Sears Warehouse and Great Indoors, is located at 16331 Shady Grove Road in Gaithersburg, Maryland. A Sketch Plan had been established as part of Annexation Petition X-184 by Resolution R-53-12, for the development of 204,490 square feet of Retail and Warehouse with additional development rights outlined in the Annexation Agreement. The metes and bounds of the property are shown on Exhibit #30 of the case file.

B. The Sketch Plan submitted as part of ASK-1746-2013, proposes a mix of uses, including a 25,000-square foot Automotive Sales Center and ancillary uses and a 225,000-square foot Office/Commercial/Restaurant Building. The project is to be developed in two phases. Phase 1 includes an area of approximately 10.07 acres and proposes a 25,000-square foot Automotive Sales Center and ancillary uses. Phase 2 consists of the balance of the project and is approximately 3.59 acres. A 225,000-square foot mixed use Office/Commercial/Restaurant Building is proposed in this phase.

C. A consolidated joint public hearing was held by the Mayor and City Council and the Planning Commission regarding this application on February 19, 2013. Bob Dalrymple and Erin Girard of Linowes and Blocher, counsel for the applicant, introduced the application for amended sketch plan and the proposed redevelopment. Presentations were made by the development team, JM Dixon and Brian Maslyk from CARMAX, and Matt Jones from Bohler Engineering. The Mayor and City Council and Planning Commission discussed the application with the development team. There were no speakers from the public. The Planning Commission voted to leave the record open for 22 days and the Mayor and City Council voted to leave the record open for 30 days.

D. The Planning Commission's record for ASK-1746-2013 closed on March 13, 2013. The Commission made its recommendation on March 20, 2013, and forwarded their recommendation of approval of the amendment to sketch plan to the Mayor and City Council for ASK-1746-2013. The Mayor and City Council closed their record on March 21, 2013.

F. During their policy discussion meeting on April 2, 2013, the City Council carefully reviewed the evidence of record, including 31 exhibits, and considered all submitted testimony, presented documents and correspondence, including the Planning Commission's recommendation for approval; and made the following findings with respect to Application ASK-1746-2013, as required under §§ 24-160D.9(a), 24-160D.10(a) and 24-160D.11 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) The property was annexed into the City in 2012, and zoned MXD in accordance with the recommended land use and zone of the 2009 City of Gaithersburg Land Use Master Plan. This amendment to the sketch plan proposes a mix of commercial and office use as recommended by the Master Plan. Additionally, the plan proposes revitalization and economic development of an underutilized property.
- b) The project proposes a mix of the office, retail and commercial uses to be developed in two phases. The first phase includes development of 10.07 acres of the property. There is currently no scheduled time line for the second phase of the project.

- c) The building design as amended includes a balance of architectural materials and finishes that is compatible with the buildings in the surrounding area.
- d) The development includes a mix of commercial and office uses, as residential land use is currently prohibited in accordance with a covenant on the land. The proposed commercial and office use will complement the surrounding uses. The plan provides green space for landscaping and open space for the employees and customers.
- e) The Amendment to the Sketch Plan provides the higher standard of development by implementing the requirements of the MXD Zone. The design includes significant buffers and environmental design standards.
- f) As stated in the applicant's statement, "*The Amendment efficiently uses the Property by locating a new commercial use and its associated employment opportunities proximate to other commercial, retail and residential uses, at a highly-accessible location. The proposed commercial use is convenient to residents in the surrounding area.*" The location of the property provides several transportation alternatives to single occupancy automobiles, including, bus, pedestrian access, and Metro.
- g) The Sketch plan provides an increase of green space to twenty-five percent of the property and proposes several environmental standard design measures to reduce the impact of water runoff from the property. All these measures will enhance the environmental condition of the property.

Minimum Standards:

1. As stated above, the property was annexed and zoned in 2012, in conformance with the 2009 Master Plan Land Use Element, which proposes Commercial/Industrial-Research-Office land use development for this site.
2. The property includes 13.66 acres of land which is above the 10-acre minimum size for MXD-zoned area.
3. As noted on the plan and discussed in the applicant's statement, the "*Property is in close proximity to a well established transportation network including Shady Grove Road, Mid-County Highway, Maryland Route 355, I-370, MD 200 (the InterCounty Connector) and I-270.*" The property is served by the RideOn bus, there is a bike path on the north side of Shady Grove Road and it is in close proximity to the Shady Grove Metro station.

4. The property is currently serviced by all utilities, including water and sewer. The utility companies have been given the opportunity to review the plans.
  5. Signage for the property will be reviewed at the next stages of development.
  6. The property provides frontage on Shady Grove Road.
- (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, the 2009 City of Gaithersburg Land Use Master Plan recommends that the subject property be developed as a Commercial/Industrial-Research-Office area. The Sketch Plan proposes Commercial and Office uses. There were no special conditions contained in the master plan for this property.

- (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 (surrounding) areas:

The Amendment is compatible to the adjoining industrial sites. This plan will “*reactivate and revitalize the Property*” and the surrounding area. The site will continue to be compatible and harmonious to the adjoining properties.

#### Conclusion

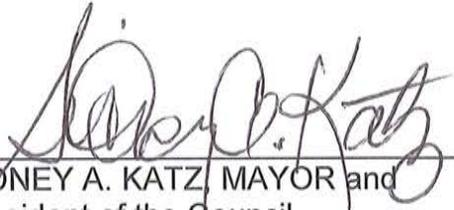
Application ASK-1746-2013 conforms to the purpose of the MXD Zone and is consistent with the purpose of the *2009 Master Plan Land Use Element* and the *Master Plan* themes. Additionally, it complies with other elements of the master plan related to transportation. The proposed uses will be compatible, harmonious and continue to enhance the surrounding area. The proposed use will provide economic stimulus to the area and reduce blight in the area. Additionally, the proposal will enhance the environment by providing measures to improve stormwater management. The application, including the exhibits, complies with the requirements of § 24-160D.10(a) of the City Code.

AMENDMENT TO SKETCH PLAN ASK-1746-2013

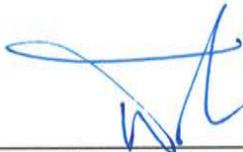
RESOLUTION

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Gaithersburg, on the 2<sup>nd</sup> day of April, 2013, that for the reasons stated above, that Amendment to Sketch Plan ASK-1746-2013 is hereby approved.

ADOPTED by the Mayor and City Council of the City of Gaithersburg on this 2<sup>nd</sup> day of April, 2013.

  
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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 of the City of Gaithersburg, in public meeting assembled, on the 2<sup>nd</sup> day of April, 2013.

  
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Tony Tomasello, City Manager