

RESOLUTION NO. R-30-13

RESOLUTION OF THE MAYOR AND CITY COUNCIL OF GAITHERSBURG GRANTING APPROVAL OF SCHEMATIC DEVELOPMENT PLAN SDP-1747-2013, KNOWN AS CARMAX AUTO SUPERSTORES, INC., FOR APPROXIMATELY 10.07 ACRES OF LAND AT 16331 & 16401 SHADY GROVE ROAD IN THE MIXED USE DEVELOPMENT (MXD) ZONE, GAITHERSBURG, MARYLAND

SDP-1747-2013

OPINION

Schematic development plan (SDP) application SDP-1747-2013, 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 § 24-160D.9(b)(2) of the City of Gaithersburg Zoning Ordinance (Chapter 24 of the City Code), which authorizes the Council to conduct public hearings on a schematic development 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 10.07 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 known as part of Parcel A as shown on a plat of subdivision entitled "Parcel A – Sears Addition to Shady Grove" and recorded among the Land Records of Montgomery County, Maryland, as Plat Number 7952. 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 schematic development plan application was initially submitted to the City Department of Planning and Code Administration on January 8, 2013. This application was designated as SDP-1747-2013.

OPERATIVE FACTS

A. Background

A consolidated joint public hearing was held by the Mayor and City Council and the Planning Commission regarding this application and Amendment to Sketch Plan application ASK-1746-2013 on February 19, 2013. Bob Dalrymple and Erin Girard of Linowes and Blocher, counsel for the applicant, introduced the application for schematic development 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.

On March 20, 2013, the Planning Commission considered the plan at its public meeting and recommended approval of Schematic Development Plan SDP-1747-2013, finding the application is in conformance with the MXD (Mixed Use Development) Zone of the City's Zoning Ordinance with the following conditions:

- 1) Prior to final site plan, the applicant shall work with City and County staff to finalize the requirements of the January 29, 2013, letter and March 20, 2013, e-mail from Montgomery County Department of Transportation (MCDOT);
- 2) Prior to the issuance of a site development permit, the applicant shall obtain a permit from Montgomery County for the construction of an eight-foot sidewalk parallel to Shady Grove Road as required by MCDOT;
- 3) The style of monument sign may be allowed to be twelve (12) feet in height from the finished grade of the street as shown in Exhibit #17 of SDP-1747-2013, subject to the approval of the Planning Commission at Final Site Plan; and
- 4) The parking aisles in the vehicle display area shall be allowed to be twenty (20) feet in width as shown on Exhibit #49.

B. Evaluation and Findings

The City Council, upon careful review of the evidence of record, which includes 64 exhibits and the testimony that were presented at the consolidated joint public hearing, agrees with the findings, conclusions and the recommendation of approval for schematic development plan SDP-1747-2013 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.

In reviewing the subject application for the approval of Schematic Development Plan SDP-1747-2013, 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 (Zoning), Article III, Division 19 of the City Code.

Furthermore, the City Council finds from the evidence of record that the application for schematic development plan approval, SDP-1747-2013, as submitted, fulfills the findings required under § 24-160D.10(b):

- (1) The plan is substantially in accord with the approved sketch plan.

The schematic development plan is consistent with Amendment to Sketch Plan ASK-1746-2013 in terms of density, height of buildings, location of use, buildings, access, circulation, and amenities.

2. The plan meets or accomplishes the purposes, objectives and minimum standards and requirements of the zone.

Purposes, Objectives and Intent:

- a) The 2009 City of Gaithersburg Land Use Master Plan recommends that the subject property be designated as Commercial/Industrial-Research-Office with a zoning classification of MXD. The schematic development plan (SDP) is consistent with the purposes of MXD Zone and consistent with Amendment to Sketch Plan ASK-1746-2013, allowing 25,000 square feet for an automobile sales and service center, including an outdoor sales staging area, a non public car wash and non-public fuel station.
- b) The project, including all exhibits, has been evaluated for compliance with purposes, objectives, standards and requirements of the MXD Zone and the City Code and has been found to provide adequate circulation and access for automotive sales and services and ancillary uses. The zone provides a higher standard of development than under a conventional zoning category by requiring a higher amount of green space.
- c) The property is zoned in accordance with the 2009 Master Plan and the plan is designed to allow flexibility. This plan establishes architecture that is compatible with the surrounding buildings and enhances the area.
- d) The development will complement the surrounding uses and is located close to various modes of transportation for the future employees and clients of the property.
- e) The SDP provides a higher standard of development than that of a conventional zone by using enhanced site design, high quality architectural elements, and significant landscaping. 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 SDP 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.
- h) This SDP is the first phase of a two phase development and this application complies with the requirements of the City's adequate public facilities requirements by not increasing the number of vehicle trips from the property. Additionally, the property is served by adequate water and sewer facilities and emergency services.

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 10.07 acres of land and is part of 13.66 acres of MXD zoned 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 pedestrian access adjoining the property 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. The preliminary sign package shows a thematic approach for the facility and complies with signage in the area. The application states:

"The proposed sign design is in accord with the purposes of the MXD zone and overall character of the surrounding neighborhood. CarMax does not use flags, balloons, inflatable gorillas (or any other animal), placards in open car hoods, painted window lettering, or any similar marketing gimmicks. Rather, CarMax relies on attractive, professionally designed and fabricated signage to welcome customers and associates into its high-end operation."

6. The property provides frontage on Shady Grove Road.
- (3) The application is in accord with the area master plan and any accompanying special conditions or requirements contained in said master plan for the area under consideration:

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 SDP proposes commercial use of an automobile sales and service facility with ancillary uses, including a non-public car wash, non-public fueling station and non-public whole sale auctions. There were no special conditions contained in the master plan for this property. The uses as stated by the applicant also complies with a number of strategies of the 2009 Process and Overview Element by providing development in an area that is presently served by adequate public facilities and promoting economic development.

- (4) The plan will be internally and externally compatible and harmonious with existing and planned land uses in the MXD zoned area and adjacent areas;

The SDP 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.

- (5) The existing or planned public facilities are adequate to service the proposed development contained in the plan;

As mentioned above, the property is currently served by all utilities and complies with the City’s Adequate Public Facilities requirement, including requirements for traffic and emergency services.

- (6) The development staging or phasing program is adequate in relation to the provision of public facilities and private amenities to service the proposed development;

As discussed above, this SDP is the first phase of a two-phase development and this application complies with the requirements of the City’s Adequate Public Facilities requirements by not increasing the number of vehicle trips from the property. Additionally, the property is served by adequate water and sewer facilities and emergency services.

- (7) The plan, if approved, would be in the public interest.

The revitalization of this property will remove a vacant building and provide a viable use for the property. Additionally, the SDP will enhance that area by improving the site with twenty five percent green space that includes landscaping and environmental design to reduce the stormwater runoff and improve the air and water quality.

Conclusion

In summary, the City Council finds that the schematic development plan is substantially in accord with the Sketch Plan ASK-1746-2013. The plan meets and accomplishes the purposes, objectives and minimum standards and requirements of the MXD Zone, as shown by the exhibits submitted into the record. The plan is in accord with the applicable master plan recommendations of the 2009 Master Plan. The plan is internally and externally compatible with existing and planned land uses in the MXD-zoned area and adjacent areas. The existing and planned public facilities are adequate to service the proposed development contained in the plan. The development phasing program is adequate in relation to the provision of public facilities and private amenities to service the proposed development. Finally, the schematic development plan is in the public interest as it will increase the economic value of the property and provide connectivity by various forms of transportation.

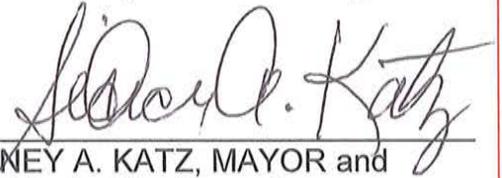
SCHEMATIC DEVELOPMENT PLAN SDP-1747-2013

RESOLUTION

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Gaithersburg, on the 2nd of April, 2013, that Schematic Development Plan SDP-1747-2013 is hereby approved, subject to the following condition:

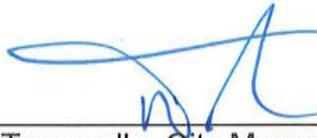
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- 2) Prior to the issuance of a site development permit, the applicant shall obtain a permit from Montgomery County for the construction of an eight-foot sidewalk parallel to Shady Grove Road as required by MCDOT;
- 3) The style of monument sign may be allowed to be twelve (12) feet in height from the finished grade of the street as shown in Exhibit #17 of SDP-1747-2013, subject to the approval of the Planning Commission at Final Site Plan; and
- 4) The parking aisles in the vehicle display area shall be allowed to be twenty (20) feet in width as shown on Exhibit #57.

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



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 2nd day of April, 2013.



Tony Tomasello, City Manager