ORDINANCE NO. O-3-89

AN ORDINANCE TO APPROVE ZONING MAP AMENDMENT APPLICATION Z-262 FOR PROPERTY KNOWN AS "THE KENTLANDS" FROM THE R-A (LOW DENSITY RESIDENTIAL) ZONE TO THE MXD (MIXED USE DEVELOPMENT) ZONE, AND FURTHER, TO APPROVE A SKETCH PLAN SUBMITTED AS PART OF THIS APPLICATION

BE IT ORDAINED, by the Mayor and City Council of the City of Gaithersburg, in public meeting assembled, that they find the following facts from the evidence of record, and make the following findings with reference to Zoning Map Amendment Application Z-262.

1. This application, filed by Great Seneca Highway Limited Partnership, requests the reclassification of property known as The Kent Farm, containing 352.493 acres of land, from the R-A Zone to the MXD Zone, as well as approval of the accompanying sketch plan for overall development of the property. The subject property is identified as containing Parcels P211, P184, P780, P331 and P830, at 11725 Darnestown Road. The property is generally bounded by Quince Orchard Road to the west, a 4-lane roadway; Great Seneca Highway, a 4-lane divided road, on the north; and Md. Rt. 28, programmed to be widened to 6 lanes, on the south. The subject parcel is vacant, other than a small cluster of residentially oriented buildings near its eastern boundary with the National Geographic property, said buildings including two substantial residential units, one being known as the "Tschiffely-Kent" mansion, constructed in 1852. This property was annexed into the City of Gaithersburg in 1966 (Resolution No. R-22-66), and has been zoned R-A since that date as a "holding zone" for a future comprehensive form of development. Recently, the Neighborhood IV Land Use Master Plan Amendment was adopted in March 1988, designating the Kentlands in a wide variety of uses, including commercial and industrial/research/office, mixed residential, open space and institutional uses, with the understanding that the site would be comprehensively developed under a new Mixed Use Development Zone. The City Council thereafter adopted both a set of special conditions related to Neighborhood IV, a new MXD Zone, and undertook a comprehensive zoning to implement the Neighborhood IV Land Use Plan Amendment.

2. The City Council agrees with the City Planning Department and City Planning Commission that an appropriate zoning neighborhood would be defined as the geographical area within Neighborhood IV, which is an area of the City of Gaithersburg generally bounded on the north by portions of Quince Orchard Road, and the southerly boundary of the National Bureau of Standards; on the east, by Muddy Branch Road; on the south, by Md. Rt. 28; and, on the west, by a portion of Quince Orchard Road. Within this neighborhood area and to the north

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of the subject property, there is Quince Orchard Road, beyond which are the Fernshire Farms/Bridlewood Subdivisions, zoned R-90, and the Fernshire Farms/Coventry development in the RP-T Zone, respectively developed with single-family and townhouse units. In the northeast direction is I-3 zoned land under development as the Quince Orchard Corporate Park. To the east of the subject property are vacant lands owned by the National Geographic Society, zoned I-3 within the City limits, and an additional area owned by the Society in Montgomery County, zoned CP. Generally, to the south the property is bounded by Md. Rt. 28, beyond which exists the Quince Orchard Knolls Subdivision in the R-200 Zone within Montgomery County, consisting of single-family attached and detached units, as well as the Owens Glen Subdivision in the PD-3 Zone of Montgomery County, containing single-family attached and detached units. Also in a general southerly direction is the Orchard Subdivision, zoned RP-T, containing 166 single-family attached units, beyond which is the Potomac Valley Shopping Center, zoned C-1, consisting of local commercial uses. Finally, to the west, the property is bounded by Quince Orchard Road, beyond which lies the Orchard Hills Subdivision and the Quince Orchard Manor Subdivision, containing substantial single-family detached development within Montgomery County, under the R-200 Zone.

3. As is required by the provisions of the MXD Zone, the applicant has submitted a sketch plan, generally reflecting the type and intensity of various forms of development, its locational aspects and important preservation and open space areas, as well as areas to be devoted to public/private use and recreational facilities. Residential densities, as denoted on the sketch plan, propose lower intensity adjacent to Md. Rt. 28, increasing in density approaching Longdraught Road Extended. The sketch plan generally reveals that non-residential uses are oriented toward Great Seneca Highway, while residential uses are situated in the Rt. 28 Corridor and an area designated as "Old Farm". The applicant has proposed fairly expansive density ranges to provide at this time in the approval process, maximum flexibility as intended by the MXD Zone. These densities range from 4-6 du/ac. upwards to 10-54 du/ac., producing an overall residential density of 6-7 du/ac., covering approximately 220 acres of residential land use. The sketch plan notes that under no circumstances will the densities in the sketch plan permit the overall unit count to exceed a maximum of 1400 dwelling units, with an additional 211 units (total 1611) which may be permitted in 1995 provided conditions stipulated in the adopted land use element staging are met, all of which corresponds to the density recommended in the Neighborhood IV Land Use Plan. The non-residential development element on the sketch plan reflects 2,200,000 square feet of phased development, described as follows:

100,000 sq.ft. of neighborhood office/retail

900,000 sq.ft. office

850,000 sq.ft. regional retail

350,000 sq.ft. regional retail expansion or office

Building heights, as presented in the sketch plan, reflect maximum building heights of 3-10 stories, dependent upon individual land use, and are reflected by type as follows:

Residential (attached and detached) - 3 stories

Multi-family - 3-6 stories

Elderly/adult - 4-10 stories

Regional retail - 3 stories

Office (within 500' of Rt. 124) - 4-6 stories

Office (other) - 4-10 stories.

As part of the overall plan for the Kentlands, there is included a sketch plan for public space. This plan shows general location for a lake, recreational facilities, buffer areas along Md. Rt. 28 and Quince Orchard Road, as well as potential areas for natural preservation, open space (including public park, school and recreational facilities). This complies with the overall purposes of the zone, to provide a superior natural environment by the preservation of trees, open spaces and other natural land features.

4. The City Council notes that one of the most important elements of the MXD Zone, recognized in the subject application and its accompanying sketch plan, is the proposed phasing of development to ensure the timely provision and adequacy of public facilities. The sketch plan denotes the following note with reference to the proposed phasing of development, which the City Council believes complies with the requirements of this zone.

[a]Prior to occupancy for any units permitted in 1990, the following projects must be complete and open to traffic: Muddy Branch Road; the Great Seneca Highway between Quince Orchard Road and Key West as a four-lane facility; Longdraft Road extension between Quince Orchard Road and Great Seneca Highway; and the Kent residential collector. A traffic study must be submitted for review, comment and approval by the City prior to the occupancy of the first residential unit in 1990. Unit phasing could be reconsidered as a part of traffic study review and could result in a modification thereof.☆☆

[b]Prior to the occupancy of any residential units in calendar year 1992, the following road projects must be complete and open to traffic: Longdraft Road widening north of Quince Orchard Road; Great Seneca Highway between Clopper Road and Quince Orchard Road; and Quince Orchard Road between the existing four-lane section and Cheyenne Road. A traffic study must be submitted to the City for review, comment and approval prior to the occupancy of the first residential unit in 1992. Unit phasing could be reconsidered as a part of traffic study review and could result in a modification thereof.

[c]Prior to the occupancy of any residential units in calendar year 1994, the following road projects must be complete and open to traffic: widening of Maryland Route #28 south of Quince Orchard Road by the State Highway Administration. Consideration will be given to accelerating the staging of units herein, if the widening of Quince Orchard Road between Maryland Route #28 and the Kentland residential collector were accelerated by the developer. Said acceleration must be approved by the Planning Commission and the Mayor and City Council.

Occupancies for the regional retail and office components in map designations 29, 30 and 52 will be linked to the developer-funded construction of two additional lanes of Great Seneca Highway between Quince Orchard Road and Sam Eig Highway and the completion of Sam Eig Highway by Montgomery County. Development of the retail and office components (100,000 square feet) shall not be bound by the aforementioned requirements. Collectively, the office component of map designations 29 and the retail/office components of map designations 30 and 52 shall not exceed 900,000 square feet; however, this recommendation is subject to the tenets of the proposed MXPD implementation vehicle.

The Mayor and Council have mandated that in connection with the above outlined staging guidelines a city wide transportation element will be initiated following the adoption of the Neighborhood Four Land Use Plan. If the results of said transportation effort disclose that development staging proposed for Neighborhood Four will cause irreparable negative impact on the transportation network, the staging mechanisms contained herein will be re-examined by the Mayor and City Council.

☆☆ A MINIMUM OF 2 LANES WILL BE BUILT FOR THE RESIDENTIAL COLLECTOR AND LONG DRAUGHT EXTENDED BY THE DATES SHOWN. THE REMAINDER OF LONG DRAUGHT EXTENDED WILL BE COMPLETED PRIOR TO THE OCCUPANCY OF THE RESIDENCES ALLOWED IN 1991.

5. A basic element for consideration is whether there has been a substantial change in the condition or character of the above-defined neighborhood to justify rezoning to the MXD Zone. In this regard, the City Council believes it appropriate, based on the size of the property under consideration and the size of the defined "neighborhood", as well as the overall scope of the intended development, to utilize the 1966 annexation and original zoning of the subject property as the date from which to evaluate change in the neighborhood, as opposed to the more recent 1988 comprehensive zoning, legislatively implementing the Neighborhood IV Land Use Plan. Significant portions of the surrounding residential development have occurred since 1966, as well as ongoing development in the Quince Orchard Corporate Park and the existence of the Potomac Valley Shopping Center. Furthermore, significant road improvements have been undertaken (and in some cases, continuing) along Quince Orchard Road, Md. Rt. 28 and the opening of Great Seneca Highway. Coupled with these changes are suburban intensification in population growth, in both a residential and employment mode. All of these changes must be considered substantial in light of the significant change in land use recommendations for this property by virtue of the adoption of the Neighborhood IV Land Use Plan in March 1988, envisioning considerable intensification and development of the property over and above the prior 1974 master plan. Many of the changes in Neighborhood IV outside of the subject property were likewise recognized at the time of the recent Neighborhood IV Land Use Plan adoption, as well as the recently approved comprehensive zoning implementing those planning policy recommendations. Consequently, the City Council finds that there has been substantial change in the condition of the character of the neighborhood, and that such change is sufficient to justify approval of the subject application.

6. The City Council has reviewed the evidence of record and agrees with the recommendations for approval by the City Planning Commission and City Planning Department that both the application and accompanying sketch plan permit the findings required by Section 24-160D.10 of the City Zoning Ordinance. The application and sketch plan meet and accomplish the purposes, objectives, minimum standards and requirements of the MXD Zone. The sketch plan will implement the City's adopted land use plan for Neighborhood IV with reference to the subject area known as the "Kentlands", by providing a mixed or multi-use development in an orderly staged fashion in connection with the provision of public facilities, particularly roads, schools and recreational facilities. The plan presents a full complement of varying land uses throughout the site, ensuring integration and internal compatibility of residential and non-residential uses; and allowing, through subsequent schematic development plans, the assurance of compatibility with internal and surrounding land uses, achieving higher standards for planning and site design than can be accomplished under conventional zoning categories. The sketch plan for public space denotes open space, a lake, parks,

an elementary school and recreational facilities, which produces a system of linkages and open space between different land uses. The sketch plan for public open space further aligns with the zone's purpose clause "to provide a superior natural environment by preservation of trees, wetlands, water courses," etc. The use of various densities and housing types in relation to employment and retail uses will reduce reliance upon the automobile and encourage pedestrian and non-vehicular circulation systems. These systems constitute linkages among residential areas, open spaces, recreational areas, public facilities, and the commercial and employment elements of the project. The sketch plan suggests residential phasing, adopted as part of the 1988 Land Use Plan, in a phased fashion between between 1989 and 1995, capping such development at 1611 dwelling units, the final 211 units to be permitted in 1995 only under certain conditions, and staging such development in accord with road linkages and improvements necessary to serve the subject development. Major recreational facilities are also noted on the sketch plan and are to be staged and completed by the occupancy of the 700th dwelling unit. The sketch plan reflects a school site designation of approximately 12 acres along Md. Rt. 28, in conformance with the Neighborhood IV Land Use Plan. Further, the sketch plan is in accord with both the land use plan and special conditions amendment, requiring a 25' buffer on Md. Rt. 28, Quince Orchard Road and Great Seneca Highway; a 50' conservation easement adjacent to the Orchards Subdivision; and a minimum 50' building setback along the common property line between the Kentlands and the National Geographic Society. Densities shown on the "Hill District" adjacent to the Orchards are also in compliance with the master plan land use element, which recommended no more than 6 residential units per acre, and affixes a 3-story above-ground height limitation adjacent to the Orchards Subdivision.

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 areas. External compatibility will be assisted with the setbacks noted on the plan, and shall be supplemented with any additional setbacks noted in the Planning Director's communication to the Mayor and Council of January 9, 1989 (Exh. 23). Densities, as reflected on the sketch plan, propose lower intensities adjacent to Md. Rt. 28, increasing in density approaching Longdraught Road Extended. Non-residential uses are oriented toward Great Seneca Highway, while residential uses are situated in the Rt. 28 Corridor, the Quince Orchard Road Corridor, and the Old Farm area. Internal compatibility is reflected by an expansive range of densities, with an overall residential density of 6-7 du/ac. over approximately 220 acres of residentially designated land. Internal and external compatibility is further heightened by the proposed maximum building heights, ranging from 3-10 stories, dependent upon land use, and will be subject to further schematic development plan review to ensure compatibility with adjacent land uses.

7. Based upon the evidence of record, the City Council finds that approval of the subject MXD Zone, subject to incorporating the comments of the Planning Director in her memorandum to the Mayor and Council, dated January 9, 1989, under the headings of "Public Space and Facilities" (with the modification that the school site is to be deeded to the City of Gaithersburg no later than April 15, 1989), and "Roads, Traffic and Staging" will provide, based upon the evidence of record, for a comprehensive and systematic development of the City; is capable of accomplishing the purposes of the MXD Zone; is an internally and externally compatible form of development, consisistent with the applicable master plan and special conditions within such plan relating to the subject property; and is consistent with applicable planning and land use policies of the City. It is further noted that areas of responsibility for maintenance and/or control of natural open spaces will be decided at the time of schematic development plan approval. Thus, to approve the application and accompanying sketch plan, as modified by the above-noted considerations in this Paragraph 7, will be in the public interest, provided, however, that any inconsistency between the above-noted comments of the Planning Director and the sketch plan are to be resolved in favor of the sketch plan.

ADOPTEd, by the City Council this 6th day of February, 1989.

SIDNEY A. KATZ, MAYOR PRO TEM AND
VICE PRESIDENT OF THE COUNCIL

DELIVERED to the Mayor of the City of Gaithersburg, this 9th day of February, 1989. APPROVED/~~VETOED~~ by the Mayor of the City of Gaithersburg this 9th day of February, 1989.

W. EDWARD BOHRER, JR., MAYOR

THIS IS TO CERTIFY that the foregoing Ordinance was adopted by the City Council of Gaithersburg, in public meeting assembled, on the 6th day of February, 1989 and that the same was APPROVED/~~VETOED~~ by the Mayor of the City of Gaithersburg on the 9th day of February, 1989. This Ordinance will become effective on the 2nd day of March, 1989.

Sanford W. Daily

SANFORD W. DAILY, City Manager