

## **Statement of Adequate Public Facilities**

### **Kentlands Market Square Schematic Development Plan Amendment Application**

Pursuant to Article XV of the Gaithersburg City Code (“Code”) the adequacy of public facilities, including water and sewer service, emergency services, traffic impacts, and school capacity must be found adequate for an application to be approved.

The purpose of the proposed Kentlands Market Square schematic development plan amendment (“Amendment”) is to allow for additional uses within existing Market Square buildings and convert two standard parking spaces into a single handicap space in front of Building C. No new area is proposed as part of the Amendment and the potential of up to 10% office use and/ or educational use will not increase the project’s demand for public facilities, as explained more fully below.

#### **Water and Sewer Service**

Kentlands Market Square is currently within WSSC water and sewer categories W-1 and S-1, respectively. These category designations mean the property is currently served by both water and sewer service and any development could expand those services. Sufficient capacity exists to service Market Square as previously approved and constructed and the Amendment will not create the need for any additional capacity.

#### **Emergency Services**

The City’s APFO requires that any development project be served by at least two (2) fire stations with a ten (10)-minute response time. The subject property is within the ten (10)-minute response areas of Montgomery County Department of Fire and Rescue Services Stations 8 (Gaithersburg), 31 (Rockville), and 32 (Travilah).

#### **Traffic**

Pursuant to Section 24-245 of the Code, applications for development approvals shall be subject to the adopted Gaithersburg Traffic Impact Study Standards regulations. It further states that no application for development approval shall be approved unless it complies with the requirements of Traffic Impact Study Standards regulations, or the applicant has obtained a determination from staff that the standards are not applicable to the applicant's proposed development. The adopted Traffic Impact Study Standards require a traffic impact study (TIS) for any new development or redevelopment that generates thirty (30) or more total weekday trips in the AM and/or PM peak hours. As more fully explained in the Traffic Statement included in the application, office uses generate 2.24 trips per 1000 square feet in the PM peak, as opposed to 12.36 trips per 1000 square feet generated by retail in the PM peak. Thus, the introduction of up to 10% office/ educational uses in the center will decrease traffic to the property and, therefore, no traffic impact study is required.

## **School Capacity**

The Amendment does not propose any housing within Kentlands Market Square and therefore will have no impact on school capacity.

April 21, 2015

Planning and Code Administration  
 City of Gaithersburg  
 31 South Summit Avenue  
 Gaithersburg, MD 20877

Attn: Mr. Greg Mann

Re: Amendment to Schematic Development Plan, ASDP-6950-2015  
 Kentlands Market Square Traffic Study

Dear Greg

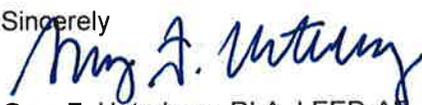
The proposed revision to the Market Square SDP would allow for up to 10% of the uses on the site to be office or educational. Since there is no change in the ability to have 100% retail uses there is no change to traffic. A Traffic Impact Study (TIS) is not required since the amendment does not generate 30 trips or more (AM or PM Peak). In the event the option of up to 10% combined office or education use occurs, the number of peak hour trips would be reduced as explained below. Thus, overall there would be a potential reduction in traffic with the amendment.

In accordance with Montgomery County LATR and ITE Guidelines, 9<sup>th</sup> Edition standards the existing traffic demands on the site will not be increased with the amendment. Market Square is a mix of uses and part of a larger neighborhood, but based on a straight up comparison of retail and office trip rates the amendment could result in a reduction in trips. The Montgomery County LATR 2013 (p.32) PM peak rate for general retail is 12.36 trips per 1,000 sq. ft. The AM peak rate is 25% of the PM peak; or 3.09 trips per 1,000 sq. ft. The general office PM peak rate is 2.24 trips per 1,000 sq. ft. The office AM peak is 1.38 trips per 1,000 sq. ft. Office is higher than education. There are a variety of trip rates for mixed used centers which includes, office, educational and retail uses. The PM peak is the highest rate in all cases. The AM peak rate is lower than the PM. All generate a reduction in trips as shown below.

Scenario	Sq. Ft.	Use	LATR Rate	Total
Existing	254,650	100% Retail	12.36 trips/1000 sq. ft. (PM)	3,148 Trips
Amendment	229,185	90% Retail	12.36 trips/1000 sq. ft. (PM)	2,833 Trips
	25,465	10% Office	2.24 trips/1000 sq. ft. (PM)	57 Trips
	254,650			2,890 Trips

Overall the traffic for the existing use and option of change in use will not increase the existing condition based on the Montgomery County LATR rates. With the amendment option of up to 10% office/education traffic could decrease.

If you have any questions, comments or concerns, please feel free to contact me at 301-948-4700.

Sincerely  
  
 Gary F. Unterberg, RLA, LEED-AP  
 Rodgers Consulting, Inc.

cc: Ken Miller, Beatty  
 Erin Girard, Linowes  
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Joint Hearing - MCC & PC  
 ASDP-6950-2015  
 Exhibit 7

## Gregory Mann

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**From:** Ollie Mumpower  
**Sent:** Thursday, April 23, 2015 2:08 PM  
**To:** Gregory Mann  
**Cc:** Martin Matsen; Ollie Mumpower  
**Subject:** RE: Kentlands Market Square Amendment - ASDP-6950-2015 - Traffic Study Letter  
**Attachments:** 2\_Traffic Study Letter.pdf

Engineering Services Division Chief Ollie Mumpower has reviewed the attached letter dated April 21, 2015, and agrees with its findings that this change will have minimal impact on the surrounding road system and, as such, a formal TIS is not required.

Ollie K. Mumpower  
Engineering Services Division Chief  
Department of Public Works  
800 Rabbitt Road Gaithersburg, Maryland 20878-1600 301-258-6370 Ext. 106  
301-258-6375 FAX  
301-258-6430 TTY  
[omumpower@gaithersburgmd.gov](mailto:omumpower@gaithersburgmd.gov)  
[www.gaithersburgmd.gov](http://www.gaithersburgmd.gov)

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**From:** Gregory Mann  
**Sent:** Thursday, April 23, 2015 2:00 PM  
**To:** Ollie Mumpower  
**Cc:** Martin Matsen  
**Subject:** Kentlands Market Square Amendment - ASDP-6950-2015 - Traffic Study Letter

Ollie,

As we discussed on the phone attached is the traffic study letter for the Kentlands Market Square amendment. The letter states that the new uses will not increase both the AM and PM peak trips. Can you please look this over and let me know if you are ok with it. Give me a call if you have any questions. Thanks!

Regards,

**Gregory P. Mann**  
Planner

**City of Gaithersburg**  
Planning and Code Administration  
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Gaithersburg, MD  
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- (iv) Increases by more than ten (10) percent or five (5) units the number of residential dwelling units whichever is greater, or
  - (v) Removes more than five (5) percent of area designated for conservation or other environmental preservation purposes.
- c. *No change in use involved.* When sections (a) and (b) are not applicable to the proposed amendment, the schematic development plan may be amended by submission to the planning commission for evaluation and approval in accordance with article V of this chapter.

(2) For amendments involving change in use or changes other than to use, plans may be amended at any time as follows:

- a. At any time before review and recommendation by the planning commission.
- b. At any time after planning commission review and prior to council action by resubmission to the planning commission for further review and recommendation.
- c. Subsequent to council action to approve as follows:
  - (i) Filing of a new application in accordance with section 24-160D.9.
  - (ii) Resubmission of the previous application to the mayor and city council for a courtesy review of the application, presented by the city planning staff, prior to action by the planning commission. The council shall either:
    - 1. Find that the application has a minor effect and thereby direct the planning commission to make a final decision on the amendment in accordance with the procedure set forth above in subsection 24-198(c)(1).
    - 2. Direct that the amendment be referred to the planning commission for further evaluation, public hearing and recommendation. The council shall thereafter approve or disapprove the recommendation of the planning commission without the necessity of public hearing, no later than forty-five (45) days after receipt of the commission's recommendation or may on its own motion, extend such time limit.

(d) The final site plan as required by Article V of this chapter must be in conformance with the schematic development plan as approved by the council, with the exception of amendments or modifications not involving a change in use requested pursuant to subsection (c)(3) of this section.

(Ord. No. O-31-80; Ord. No. O-7-82; Ord. No. O-22-84, 11-19-84; Ord. No. O-19-90, 9-17-90; Ord. No. O-15-91, 7-1-91; Ord. No. O-23-92, 12-7-92; Ord. No. O-5-01, 3-19-01; Ord. No. O-5-10, 4-5-2010; Ord. No. O-03-13, 5-6-2013 )

RESOLUTION NO R-18-05

RESOLUTION OF THE MAYOR AND CITY COUNCIL  
OF GAITHERSBURG GRANTING APPROVAL OF  
SCHEMATIC DEVELOPMENT PLAN SDP-04-002 AS  
AN AMENDMENT TO SCHEMATIC DEVELOPMENT PLAN SDP-7-1  
FOR THE CONVERSION OF 6,000 SQUARE FEET OF RETAIL SPACE  
TO RESTAURANT SPACE AND A 37- SPACE PARKING WAIVER,  
LOCATED AT 653 CENTER POINT WAY, KENTLANDS MARKET SQUARE,  
IN THE MIXED USE DEVELOPMENT (MXD), ZONE,  
GAITHERSBURG, MARYLAND

**SDP-04-002**

OPINION

This proceeding constitutes an action pursuant to §24-160D of the Zoning Ordinance (Chapter 24 of the Gaithersburg City Code) which permits the Mayor and City Council to review and approve a schematic development plan in the MXD (Mixed Use Development) Zone, and further, §§24-160 D 10 and 24-160D 11 in which the Mayor and City Council can approve an amendment to a schematic development plan, consistent with the procedures for an amendment of the optional method for application for local map amendment plans as provided in §24-198(c) of the City Code

The subject property, Parcel A, Block WW, is located at 653 Center Point Way, Gaithersburg, Maryland, in the MXD (Mixed Use Development) Zone

Operative Facts

The subject property is a vacant 6,000 square foot retail commercial building, located at 653 Center Point Way, Parcel A, Block WW, in the Kentlands Market Square, and is bordered by Center Point Way to the north and Market Street East to the east.

A joint public hearing was held on schematic development plan SDP-04-002 on Monday, November 15, 2004, before the Mayor and City Council and City Planning Commission This plan is an amendment to schematic development plan SDP-7-1 approved in July of 1997 The hearing had been advertised in the *Gaithersburg Gazette* on October 22 and 26, 2004, the required parties given notice, and the property posted per §24-196 of the City Code

The Mayor and City Council and Planning Commission reviewed the amendment of the schematic development plan submitted by the applicant and the evidence in the record at the joint public hearing

Joint Hearing - MCC & PC  
ASDP-6950-2015  
Exhibit 10

The applicant is proposing to occupy two separate restaurant businesses in the vacant building. The Star Diner Restaurant is adjacent to the subject property, across a paved pedestrian area located on the corner of Central Point Way and Market Street West. On the other side of the building is a movie theater. Directly to the west of the building is a concrete-pattern paved walkway that leads to the ice rink from Central Point Way.

The original amendment to the Schematic Development Plan, SDP-04-002, proposed a change in use at 653 Center Point Way, from 6,000 square feet of retail to restaurant, and an additional 6,500 square feet of restaurant space at 901 Center Point Way, Parcel A, Block TT, referred to as "Building K." At the joint public hearing, the applicant presented revised parking layouts for the Center with the additional restaurant uses.

The combined additional restaurant uses would exceed the restaurant use limit requirement for the Center, which is 15 percent. Rodgers Consulting, on behalf of the applicant, submitted two parking count studies for the Market Square area to support either a parking waiver request or parking table reconfiguration. The first study was conducted in April of 2004, on a Friday and Saturday night at hour intervals for eight hours total. These studies indicated surplus parking at peak periods in the southwest parking lot between the Michaels Arts and Crafts store and the Whole Foods building.

At the hearing, the Council and Commission expressed concerns over the applicant's parking studies and proposed parking calculations, and whether the Center could support additional restaurant uses when the lack of available parking was an issue. Following the public hearing, staff worked with the applicant to set parameters addressing the issues raised by the Council and the Commission, as well as the public.

A joint public work session of the Mayor and City Council and the Planning Commission was held on January 24, 2005. The applicant revised the request to include only the conversion of 6,000 square feet of retail to restaurant at 653 Center Point Way. In response to requests from staff, the applicant provided an updated parking study and a revised parking layout for the east and west parking lots of Market Square.

The applicant submitted a second parking study for the January 24, 2005, joint public work session. This study counted vacant parking spaces over four different days for twenty time intervals from December 17-21, 2004. This parking study supported the determination that the southwest parking lot was underutilized and a majority of the vehicles were parked in the east parking lot near the movie theatre. The parking studies showed that an average of 25-30 percent of the parking spaces remained vacant.

The applicant presented a revised parking layout for Market Square, showing an additional six new parking spaces by converting four handicap spaces and adding parking spaces at specific locations throughout the center. Using the new and converted parking spaces, there was a thirty-three space parking deficit, which would require a waiver at schematic development and site plan approval.

Prior to the closing of the Planning Commission's record on February 9, 2005, staff received additional exhibits, including testimony from Kentlands and Lakelands residents, in the form of letters and e-mails objecting to parking waivers for the center, the transcript for the joint public hearing, the staff analysis, and amended site plans and parking charts from the applicant's engineer.

The Planning Commission, at their regular meeting of February 16, 2005, reviewed the complete record and voted to recommend approval of SDP-04-002, as amended, to the City Council with seven conditions as stated in Planning Commission recommendation (Exhibit #44 of the record). The seventh condition was added by Commissioner Winborne, who stated that providing directional signage for the parking lots at Market Square would be beneficial for drivers seeking vacant parking.

Prior to the closing of the City Council's record on February 17, 2005, additional testimony was received from community residents voicing objections to the parking waiver and an additional restaurant at Market Square. One resident supported the proposal.

The Mayor and City Council discussed this matter in a public session in the form of a policy discussion on February 22, 2005, and agreed with the Planning Commission's recommendations of February 16, 2005, and the recommended conditions. After discussion of the proposed parking plan, the Council discouraged the elimination of handicap spaces for the center, and preferred an increase of the parking waiver instead. Therefore, the parking waiver shall be for thirty-seven (37) spaces.

The City Council directed staff to schedule final action for SDP-04-002 on March 7, 2005, and prepare a draft approval resolution with the seven conditions as more fully set forth in this opinion and resolution.

#### 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 City Council's review powers for amended schematic development plans in the MXD Zone.

#### **Sec 24-160D 9 Application and processing procedures.**

The procedures governing the application for the MXD Zone and approvals necessary to seek building permits were followed per the listings in §24-160D 9(b).

**Sec. 24-160D 10 Findings required**

\* \* \* \*

(b) The City Council may approve a schematic development plan only upon the finding that:

- (1) The plan is substantially in accord with approved sketch plan, and
- (2) The plan meets or accomplishes the purposes, objectives, and minimum standards and requirements for the zone, and
- (3) The plan is in accord with the area master plan and any accompanying special condition or requirement contained in said master plan for the area under consideration, and
- (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, and
- (5) That existing or planned public facilities are adequate to service the proposed development contained in the plan, and
- (6) That the development staging or phasing program is adequate in relation to provisions of public facilities and private amenities to service the proposed development; and
- (7) The plan, if approved, would be in the public interest.

\* \* \* \*

**Sec. 24-160D 11 Procedures for amendment.**

Amendments to a sketch plan or schematic development plan may be permitted, consistent with the procedures for amendment of optional method plans as provided in §24-198(c) of this Code

\* \* \* \*

**Sec 24-198 Findings required**

\* \* \* \*

(c) The schematic development plan may be amended

\* \* \* \*

(3) Subsequent to council action to approve as follows

- a. Change in use involved By either the filing of a new application or resubmission to the planning commission for further evaluation, public hearing and recommendation to the council The council shall approve or disapprove the recommendation of the planning commission, without the necessity of a public hearing, no later than forty-five (45) days after receipt of the commission's recommendation or may, on its own motion, extend such time limit.

### Findings

The City Council has reviewed the evidence of record in this case, and agrees with the findings and recommendations of the City staff and the City Planning Commission and accordingly finds.

1 The plan is substantially in accord with approved sketch plan and schematic development plan SDP-7-1 Because the building already exists and there is no additional square footage being added to the subject site, the footprint remains the same as shown in previously approved SDP-7-1 The parking utilizes the current existing spaces which were developed and constructed as part of SDP-7-1 Due to the change of use from retail to restaurant, the parking calculations and parking studies show a deficit of 37 spaces for which the applicant is requesting a waiver Because the applicant has shown there is a moderate vacancy of parking spaces within a short walking distance of the proposed restaurant site, the waiver is justified

2 The plan meets or accomplishes the purposes, objectives, and minimum standards and requirements of the MXD Zone as stated in §24-160 D 1 The plan is accordance with the purposes of the MXD Zone, which encourages multi-use development and will add to the existing integration of uses in Market Square The incoming restaurant will provide more vitality to the center area with outdoor seating, and the new use and business will enhance the redevelopment to the ice rink area as a public space

3 The plan remains in accord with the area master plan as approved in SDP-7-1 in 1997 The plan proposes a change in use, however, the building footprint will remain the same Uses have been expanded from retail to restaurant which is in accord with the master plan recommendations for this area. Further, the applicant agrees to participate in the next phase of the City's Land Use Master Plan, as Market Square is a Special Study Area to be comprehensively studied during community based planning exercises The applicant also acknowledges that no further density will be approved in Market Square until such time as the community based planning exercises have been completed

4 The plan will be internally and externally compatible and harmonious with existing and planned land uses in the area. The existing building, when converted into restaurant use will promote community and social gathering in a harmonious manner. The applicant is to modify the architecture to the building in such a manner that will uniquely identify the building, which will keep in character with the Market Square Center. The buildings within the Center retain an individual character, which provide a more interesting element than traditional building facades.

5 The 6,000 square foot building, while vacant since its completion in 1998, is already served by the existing public facilities and no evidence has been presented to suggest the current service will be discontinued.

6 It would be in the public interest for this plan to be approved. The vacant building will now be utilized as a viable use and the proposed outdoor seating will create a sense of place that has always been synonymous with the goals and purposes of Market Square.

#### Conclusion

Upon consideration of all the evidence pertaining to Schematic Development Plan SDP-04-002, an amendment of SDP-7-1, the City Council concludes that the applicant has met the burden of proof that Schematic Development Plan SDP-04-002 meets the requirements of the MXD Zone, with the seven conditions as listed in the Resolution.

#### RESOLUTION

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Gaithersburg, on March 7, 2005, that Schematic Development Plan SDP-04-002 is hereby approved subject to the following conditions:

- 1 At the time of site plan approval, the Planning Commission shall grant the applicant a thirty-seven (37) space parking waiver;
- 2 The applicant shall submit elevations for façade modifications and landscaping upgrades for the building at the time of final site plan,
- 3 The applicant shall submit a waste removal schedule to be approved at the time of final site plan,

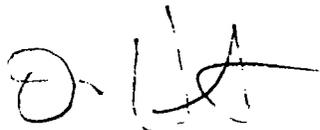
- 4 The applicant shall participate in the Market Square Special Study Area process and community based planning exercise as part of the City's Master Plan update and acknowledges no additional approvals will be granted for Market Square until such time as the community based planning exercises have been completed,
- 5 Any future density build-out for Market Square shall require a Schematic Development Plan amendment and City approval,
- 6 The applicant shall continue negotiations with City staff to create a public/private partnership and enhance the ice rink area prior to the issuance of final occupancy; and
- 7 The applicant shall work with staff to provide a directional signage plan for the parking areas at the time of final site plan approval

ADOPTED by the City Council of the City of Gaithersburg on the 7<sup>th</sup> day of March, 2005



SIDNEY A. KATZ, MAYOR and  
President of the Council

THIS IS TO CERTIFY that the foregoing Resolution was adopted by the City of Gaithersburg Mayor and City Council in a Public meeting assembled on the 7<sup>th</sup> day Of March, 2005



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David B Humpton  
City Manager