

---

---

**MEMORANDUM TO:** Mayor and City Council  
Planning Commission

**VIA:** Tony Tomasello, City Manager  
John Schlichting, Director of Planning & Code Administration

**FROM:** Trudy Schwarz, Community Planning Chief

**DATE:** March 13, 2014

**SUBJECT:** Staff Analysis:  
SDP-3878-2013  
Washingtonian North  
Schematic Development Plan  
10000 Block of Washingtonian Boulevard

**OWNER/APPLICANT**

Washingtonian North Associates, LLC  
Jake Stroman/Boston Properties  
2200 Pennsylvania Avenue, NW  
Washington, DC 20037

**TAX MAP REFERENCE:**

Tax Sheet: FS 342 and FS 343  
Tax Parcel ID Number: N100, N010,  
N015, & PT. Parcel "3"

**TAX ACCOUNT NUMBERS:**

Lot 4 -	ID #09-03340871
Outlot B -	ID #09- 03340860
Lot 5 -	ID #09-03340882
Lot 6 -	ID #09-03340893

**REQUEST**

Washingtonian North Associates, LLC (Washingtonian North) has submitted Schematic Development Plan (SDP) Application SDP-3878-2013, Per Annexation & Sketch Plan X-159. Application SDP-3878-2013 proposes a 240,000-square foot office building, 128,200-square foot Health Club and 366 Multi-family Dwelling Units on approximately 26.94 acres of land located in the MXD (Mixed Use Development) Zone. The Property is located at the 10000 block of Washingtonian Boulevard, northwest of Sam Eig Highway in the City of Gaithersburg, Maryland.



Schematic Development Plan SDP-3878-2013 Location Map

## **GENERAL INFORMATION**<sup>1</sup>

### **LOCATION**

The property is located off Sam Eig/Interstate I-370, south of its intersection with Interstate I-270 and north of the intersection of Fields Road. The properties are currently addressed as 10000, 10100, 10101, 10201, 10225 Washingtonian Boulevard. The property includes three parcels and two outlots and consists of a gross tract area of approximately 26.94 acres of land.

### **JOINT PUBLIC HEARING**

The Mayor and City Council and the Planning Commission held a joint public hearing on application SDP-3878-2013 on February 3, 2014<sup>2</sup>. The Planning Commission record for

---

<sup>1</sup> Additional background information including Zoning & Site Plan History, Existing Land Characteristics, Environmental Setting, and Adequate Public Facilities can be found in the Preliminary Staff Report, Exhibit #54 of SDP-3878-2013

<sup>2</sup> The complete SDP-3878-2013 record can be found and reviewed on the City's website: <http://www.gaithersburgmd.gov> on the City Projects Page;

this application closed March 5, 2014 and the Mayor and City Council record closes on March 20, 2014

## **REQUIRED ACTIONS**

### **Chapter 24 – Zoning**

Section 24-160D.10(b) outlines the findings for approval of the schematic development plan (SDP), as follows:

- (1) *The plan is substantially in accord with the approved sketch plan; and*
- (2) *The plan meets or accomplishes the purposes, objectives and minimum standards and requirements of the zone, and other requirements of the City Code; and*
- (3) *The plan is in accord with the area master plan and any accompanying special condition or requirements 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 the provision of public facilities and private amenities to service the proposed development; and*
- (7) *That the plan, if approved, would be in the public interest.*

The applicant has the burden of proof of showing that this application complies with the schematic development plan findings of the MXD Zone.

### **Chapter 22- Trees and Forest Conservation – Tree Variance**

Due to the size of some of the trees to be removed, the application requests the granting of a variance pursuant to the provisions of § 22-12, Variance Provisions for removal of tree. Please see Exhibit #18 to review the applicant's request and Exhibit #19 to reference the City Code provision § 22-12.

### **Environmental Standards for Development Regulation**

The reconstruction of the sediment control pond to a stormwater management pond, the connection of the sewer to existing sewer lines and the connection to the tributary to Muddy Branch are within the Stream Valley Buffer. The applicant has requested the granting of a waiver of the Stream Valley Protection of the Environmental Standards for Development Regulation 01-10, Sec. 38. Please see Exhibit #20 to review the applicant's application and request and Exhibit #21 to reference the Environmental Standards for Development Regulation 01-10, Sec. 38.

## **SCHEMATIC DEVELOPMENT PLAN SDP-3878-2013 PROPOSAL**

The Schematic Development Plan (SDP) for Washingtonian North includes approximately 27-acres of land (Exhibit #4). A colored rendering of the site plan is included in the exhibits to show the overall development (Exhibit #55). The SDP plan proposes a 240,000-square foot office building, 128,200-square foot Health Club and 366-unit Multi-family Dwelling Complex. Washingtonian North has submitted a statement outlining the proposed project and discussing the requirements for approval of a Schematic Development Plan. The property is proposed to be subdivided into three lots (Lots 4, 7 & 8) and two out lots (Out Lots C & D), as shown on Exhibit #15.



Schematic Development Plan SDP-3878-2013 Rendering, Exhibit #55

### **Project Phasing**

The applicant has submitted a phasing plan, Exhibit #77. The phasing is broken into five phases. Phase I-A includes the pond, Phase I-B is the private entry road and infrastructure plan (utilities and storm drains, etc.) to the project. These phases need to be completed in order for Phase II (the multi-family units), Phase III (the health club) or Phase IV to be constructed. As part of Phase I-A and I-B, the sites for Phase II and III will be “rough” graded and stabilized with state of the art sediment and erosion control measures. Phase IV has already been graded and will have limited disturbance. Once Phase I-A and I-B) are completed any of the other Phases may be constructed. Grading of the site would not begin until the plans for each phase have received final site plan approval and appropriate permit are obtained.

## Plans

In its evaluation of the property, the applicant has found that there are a number of easements on the property (Exhibit #75). In order to clarify the proposed final easements and lots, the applicant has submitted an additional easement plan (Exhibit #76). The applicant has provided a Fire (and Truck) Access Plan (Exhibit #70) and a Pedestrian and Vehicular Plan (Exhibit #10) to show the access through the site and around the buildings. Staff has recommended a condition for an easement through the site to allow for public access to Malcolm King Park. The Green Area Plan (Exhibit #71) shows that approximately 55 percent of the property is green area. The MXD Zone requires that 40 percent of the property be green space. The applicant has submitted a preliminary Forest Conservation Plan (Exhibit #81) and preliminary Landscape Plan (Exhibit #80) to enhance the green area. The Landscape Plan includes entry features to the Malcolm King Park. The Forest Conservation Plan also relates to a Tree Variance request, which will be reviewed further in this Report.

One of the amenities of this site is the pond at the mid-point of the tract. This pond is a wet pond, meaning that there will be water in it most of the time. The purpose of this pond is to handle stormwater runoff from the Washingtonian Center (Kohls and Target area). This was part of the original approval of that site and this site in the late 1990s. The applicant is using the pond as an amenity to the site. There will be a pathway around most of the pond. The applicant has received preliminary approval of Stormwater Management (SWM) Plans for all the lots (Exhibits #65) as of March 5, 2014.

As noted in the Preliminary Background Report by City Staff, Washingtonian North is to submit a Stream Restoration Plan prior to the approval of this SDP to comply with the Stream Restoration Exhibit, which was an exhibit of the Annexation Agreement.

The applicant has also submitted a proposed Utility Plan (Exhibit #16 and 79). Staff has asked Washingtonian North to submit a letter or other means showing that the local utility companies are satisfied with the width and location of the proposed plan. The letters were not submitted prior to the closing of the Planning Commission's record. Should the applicant not be able to submit these letters, staff recommends the following condition: "Prior to the submission of any Final Site Plan applications, the applicant shall obtain approval of the Utility Plan of the SDP from all utilities."

The topography of the site and the proposed development requires the installation of several retaining walls throughout the site. The applicant has included cross sections for the retaining wall (with maintenance easements) on the northern portion of the site (Exhibit #73). This wall which is a maximum of 21 feet in height is adjacent to the Malcolm King Park and will require a construction and maintenance easement on City property as is allowed in the Annexation Agreement. The maintenance easement is shown on the SDP (Exhibit 68, Sheet C2.3). In order to protect the trees within the park adjacent to the maintenance area, staff is suggesting a condition of approval to the SDP for the applicant to provide a plan and schedule for the maintenance of any trees in

Malcolm King Park with critical root zones (as defined by the City's *Tree Manual*) extending within (1) the limit of disturbance of the project; (2) the 12-foot maintenance and construction easement; or (3) the outfall easements. The maintenance obligations for the subject trees will not extend beyond two years from the date of the final inspection of the grading permit (prior to the issuance of a use and occupancy of the subject buildings) for the project by the City for both Phase II (multi-family) and Phase III.

There are several retaining walls throughout the site. The tallest wall is 21-feet in height, adjacent to the Malcolm King Park. Staff has suggested a number of conditions below related to the retaining wall, which are shown as poured concrete walls throughout the site. Staff recommends that the applicant provide both texture and color to these walls. Staff also recommends that that applicant submit the construction drawings of the walls as a part of the Final Site Plan application.

## Parking

The applicant's plan provides 573 parking spaces for the multi-family units. Most of these spaces will be in the structured parking garage except for nine surface parking spaces. This provides approximately 12 percent more parking than is required by the Zoning Ordinance (509 spaces). The lot for the office building has 800 spaces as required by Code with 775 spaces located in the parking garage and 25 surface parking spaces. The health club plan provides a 412-parking space structured facility and 149 surface parking spaces. The applicant also proposes an optional 86-space parking level that could be added to the parking structure in the future, if necessary, to satisfy the operation of the club. The total number of spaces for the club with the additional level is 678, approximately 165 spaces above what the City has required for other health clubs.

	REQUIRED	PROVIDED
<b>Parking:</b>		
<b>Residential (Lot 8):</b>		
Studio – 1 space/du	47	47
One Bedroom – 1.25 space/du	237	237
Two Bedroom – 1.5 space/du	170	170
Three Bedroom and larger – 2 space/du	34	34
plus one spaces for each 400 square feet of assembly area required.	21	85
<b>Total Residential Spaces</b>	<b>509</b>	<b>573</b>
<b>Life Time Fitness Center - Lot 7 (4 space/1,000 sf of gross floor area)</b>	<b>513</b>	<b>678</b>
<b>Offices, general, business and professional (nonmedical) (Lot 4) (1 space/300 sf of gross floor area)</b>	<b>800</b>	<b>800</b>
<b>Total Non-Residential Spaces</b>	<b>1,313</b>	<b>1,478</b>

### **Tree Removal Variance Request<sup>3</sup>**

The Applicant has submitted a Tree Removal Variance request/justification letter as part of the subject application (see Exhibit #18). The request references the preliminary Forest Conservation Plan (Exhibit #17 & #81). The request pertains to § 22-12 of the City Code which states that trees having a diameter at breast height (DBH) of 30 inches or more must be left in an undisturbed state unless granted a variance from either the Council or Planning Commission. The approved NRI identifies 3.94 acres of forest on-site with 46 specimen trees with a DBH of 30" or larger. This number includes 35 specimen trees on-site of the proposed development and 11 specimen trees in the proposed storm water management pond outfall area in Malcolm King Park. The variance requests the removal of thirty-two (32) trees and critical root zone (CRZ) impacts to ten (10) trees, all 30 inches or greater in DBH. The removal or impact to these trees is necessary for the development of the subject project.

As part of the request letter, the Applicant has provided a detailed summary of the trees impacted and the purpose of disturbance. Staff acknowledges the needs for impacts as related to the proposed project design and notes the removal of trees is unavoidable in order for construction. Further, Staff notes that regardless of the subject SDP application, the same trees subject to this variance request would still similarly be impacted in implementing the previously approved SDP-W5(A). In short, Staff recognizes that Washingtonian North cannot be developed to any significant degree without the removal of specimen trees.

Per § 22-12(c) the Applicant has included in the justification letter responses to the following:

- (1) Describe the special conditions peculiar to the property which would cause the unwarranted hardship;
- (2) Describe how enforcement of these rules will deprive the landowner of rights commonly enjoyed by others in similar areas;
- (3) Verify that state water quality standards will not be violated or that a measurable degradation in water quality will not occur as a result of the granting of the variance; and
- (4) Provide any other information appropriate to support the request.

Lastly, the Applicant, in accordance with § 22-12(d) which defines that a variance must not be granted if granting the request, has submitted responses to the following:

- (1) Will confer on the applicant a special privilege that would be denied to other applicants;
- (2) Arises from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property; or
- (3) Will violate State water quality standards or cause measurable degradation in water quality.

---

<sup>3</sup> Prepared by Long Range Manager Robinson

Staff has also reviewed these responses and believes the Applicant has satisfactorily demonstrated compliance with this section. Further, as it relates to (2) above, Staff notes that the removal of trees related to the requested Environmental Waiver will be mitigated; has been justified through that request; and will actually result in improved water quality through the stream restoration. Staff would recommend approval of the requested Variance given the Applicant's submittal and the history of this project.

#### **Environmental Waiver Request ENV-4257-2014<sup>4</sup>**

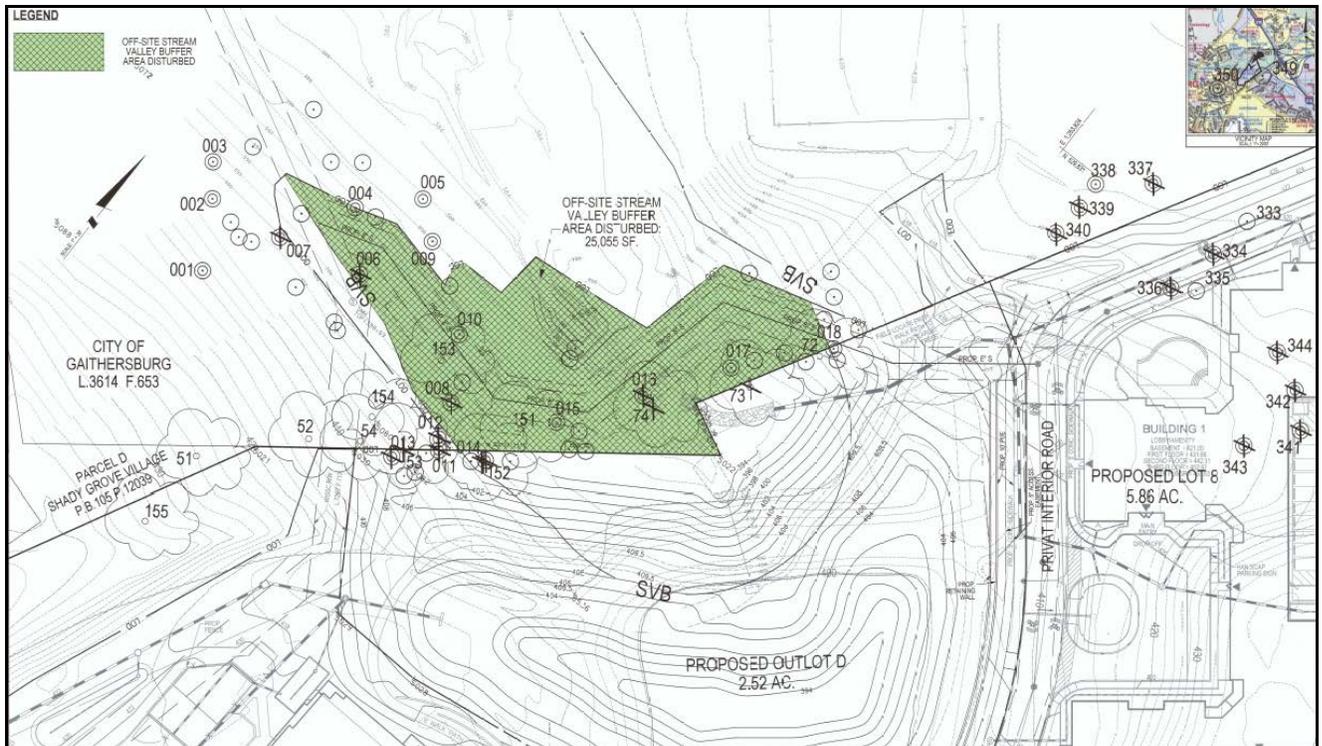
The Applicant has submitted an environmental waiver application and justification letter addressing the proposed waiver per Sec. 25-1-d. The application, identified as ENV-4257-2014, and the letter with exhibits are identified as Exhibits #20. The Applicant has requested an environmental waiver for 25,055 square feet of stream valley buffer disturbance, located in the City owned Malcolm King Park. The disturbance to the stream valley buffer (SVB) is required for the construction of a sanitary sewer line and an outfall for the storm water management pond serving the proposed project. The request is being made in accordance with the City's Environmental Standards for Development Regulation (Regulation No. 01-10), Article III, Sec. 25-1-d, which requires,

*"Waivers for minimal buffer intrusions may only be approved by the granting of a waiver on a case by case basis pursuant to Section 38 of this Regulation for construction of suitable SWM facilities, non-erosive storm drain outfalls, and unavoidable and consolidated sanitary sewer connections."*

It is noted the proposed disturbances have been recognized as necessary for any development to occur on this site as far back as 2000 by Council and staff with the approval of schematic development plan SDP-W5(A) and the subsequent final site plan SP-01-0006 in 2001; reapproved (now expired) as SP-05-0007 in 2005.

---

<sup>4</sup> Prepared by Long Range Manager Robinson



Stream Valley Buffer Disturbance Plan (Exhibit #20 & #78)

The current environmental waiver request has been submitted concurrently with the subject SDP application because the engineered limits of disturbance (LOD) have been defined. The outfall is necessarily located proximate to the stream within the SVB. The sewer line is a gravity line and must be located at the proposed location, at a lower elevation from the residential and health club buildings to provide necessary sewer service to the Project. The sewer line provides sewer service for the Project, and the outfall is for the storm water management pond on the property that serves off-site areas south of Sam Eig Highway, an annexation agreement term.

The aforementioned disturbed stream valley buffer areas associated with this waiver request are located entirely within City owned Malcolm King Park. Of note, the removal of twenty-seven (27) specimen trees with a diameter at breast height of 24 inches or more are included in this disturbance. The Applicant has proffered a two-part mitigation strategy to help offset the disturbance created by the two necessary facilities. The Applicant has proposed monetary contributions to the City's Tree Fund to offset the 27-tree loss. Staff is supportive of this approach and, should the waiver be granted, will work with the Applicant on the final contribution amount at the time of review and approval of the Forest Conservation Plan. At this time staff is recommending a payment of \$120 per tree ( $\geq 12$  inches DBH) replacement fee-in-lieu payment to the City. Depending on when the grading is completed, the cost per tree may be increased based on the current cost of trees.

To mitigate the actual SVB disturbance, the Applicant has proposed a comprehensive stream mitigation plan for the associated channel network. The proposed stream restoration downstream of the existing stream includes:

- 1) Step Pool conveyance to reduce velocity and mitigate grade change from existing scour. The Step Pool Storm Conveyance Systems are open-channel conveyance structures that safely convey, attenuate, and treat the quality of storm flow. There are different design configurations for this kind of system to accommodate various site implementation conditions.
- 2) Cross-Vane and J-Hook to redirect thalweg, reduce velocity, and provide stream habitat. Cross-Vane and J-Hook Vane are grade control structures that decrease near-bank shear stress, velocity and stream power. Using natural material, they are designed to reduce bank erosion and provide stream habitat.
- 3) Grade back stream banks to reconnect to floodplain and plant vegetation for bank stabilization.
- 4) Remove PVC piping and install large stepping stones across mulch path.

Staff has reviewed the proposed plan and agrees the stream restoration methods will help improve the quality of the stream and its buffer area. Staff is supportive of this proposal. The Applicant, in the justification letter, provides findings per Article III-Sec.-38(1) of the City's Environmental Standards. Staff has reviewed these and is in agreement, including namely:

- The proposed disturbances have been through the City of Gaithersburg approval process previously.
- The Applicant has clearly demonstrated meeting the requirements of Article III, Sec. 25-1-d.
- The proposed sewer line connects to an existing sewer line to the east of the property and must be located at the lower elevation of the SVB in order to function properly. No other sewer lines are available to serve these uses and the Project could not proceed without adequate sewer service. With regard to the outfall, the associated SWM pond on the property is sized and designed to provide quantity and quality control for storm water runoff from portions of Washingtonian Center across Sam Eig Highway. The SWM pond has been an integral part in the development proposals for the property approved by the City since 2000.

Staff recommends approving Environmental Waiver ENV-4257-2014 with the condition that the applicant provide a replacement fee-in-lieu payment to the City for all trees removed from the stream valley buffer area that are greater than or equal to 12 inches DBH.

### **Stormwater Management & Sediment & Erosion Control**

The applicant has submitted preliminary stormwater management and sediment and erosion control applications for each of the phases of the development. They have been reviewed and approved by the Department of Public Works. The applicant will be utilizing a number of Environmental Site Design (ESD) measures throughout the site to channel the water into the ground without causing erosion.

## Affordable Housing

In accordance with Article XVI of the Zoning Ordinance (Chapter 24 of the City Code), Affordable Housing Requirements and the requirement for the submission of a Schematic Development Plan, Section 24-160D.9.(b), the applicant has submitted a preliminary Affordable Housing Plan, Exhibit #28, which proposes to provide 54 affordable units (one unit above what is required.) The Housing and Community Development staff has reviewed the Plan and noted that approval will be issued at the time of Final Site Plan, Exhibit #29.

## Architecture

A perspective of the proposed architecture of the Office Building is shown below. The materials of the building consist of energy-efficient ribbon windows, precast concrete and metal panels. The building is proposed to be seven stories at the front of the building, which faces south. The rear of the building has another level due the topography being lower on the side facing the pond. The parking garage is proposed to be constructed with precast concrete. The building and parking garage elevations and heights are the same as the plans that received Final Site Plan Approval in 2001, and again in 2005. The architectural plans for the seven-story office building and the associated two-and-a-half-level garage are shown in Exhibit #22 (and include 17 sheets). The applicant, Washingtonian North Associates LLC, has submitted a preliminary Leadership in Energy and Environmental Design (LEED) Checklist (Exhibit #23) and is committed to achieve LEED Silver certification, but would like to be able to analyze the City's sustainable requirements at the time of Final Site Plan review and adjust to most cost-effective certification process approved by the City.



Perspective of front (southern side) of Office Building

Staff would recommend that a condition of the SDP approval be that prior to the submission of Final Site Plan, Boston Properties review elevations and materials of the garage to create a more distinctive façade.

The Health Club identified as Lifetime Fitness is a three-story building. Materials proposed for the architectural elevations (Exhibit #24) include quarried limestone, accent, field and soldier brick, architectural precast concrete panels, metal panels, aluminum curtain wall, aluminum mullion system and hollow metal doors and frame. Both the parking garage, which is three and a half levels (with an optional fourth level), and one-story outdoor bistro on the pool deck, have similar materials. The applicant has submitted a LEED Checklist for the building (Exhibit #25). The building will not be required to receive Silver LEED certification in accordance with the Annexation Agreement, but will certify with a commissioning plan to obtaining at least 50 LEED points pursuant to the 2009 LEED for New Construction.



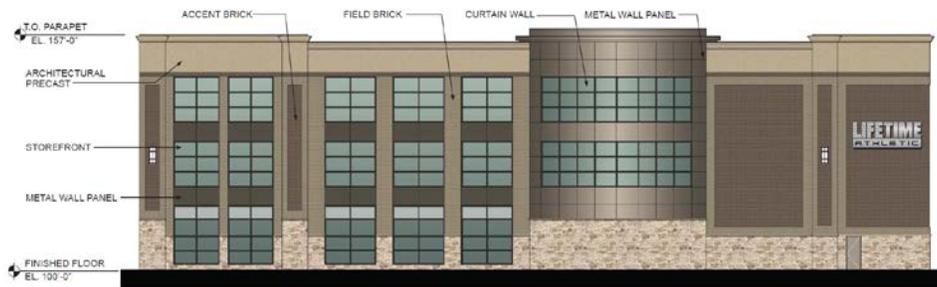
SOUTH ELEVATION

Elevation facing Sam Eig Highway (Exhibit #24)



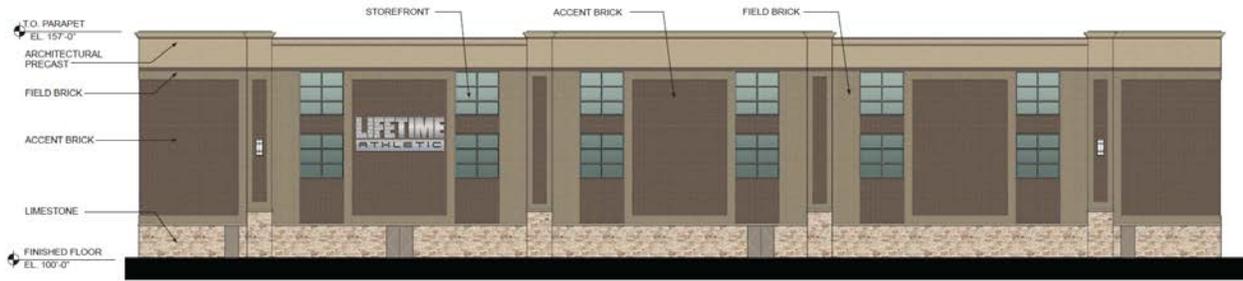
WEST ELEVATION

Elevation facing the Outdoor Pool (Exhibit #24)



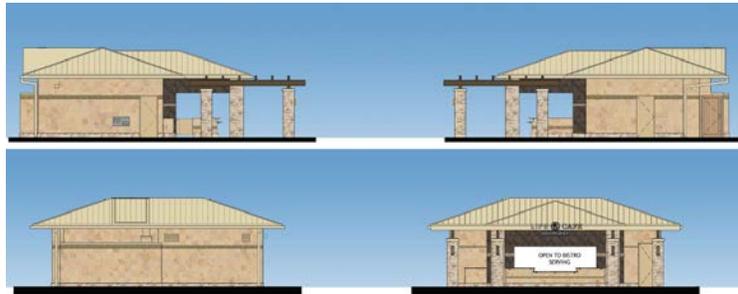
EAST ELEVATION

Elevation facing the Parking Garage (Exhibit #24)

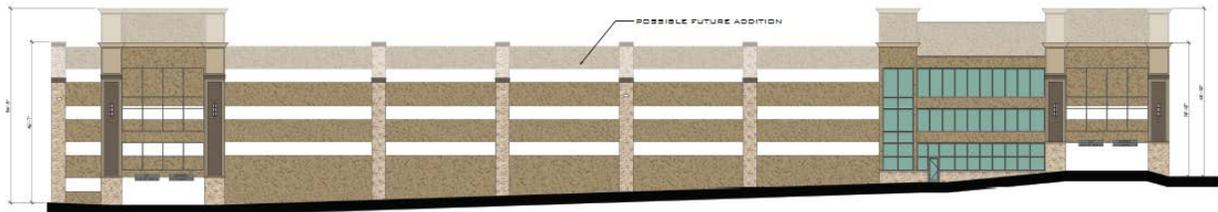


NORTH ELEVATION

Elevation facing the Multi-Family Units (Exhibit #24)



Outdoor Bistro (Exhibit #24)



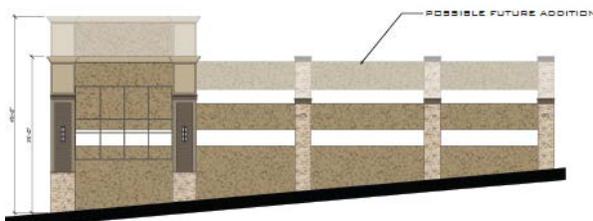
WEST ELEVATION

Parking Garage facing the Lifetime Fitness Building (Exhibit #24)



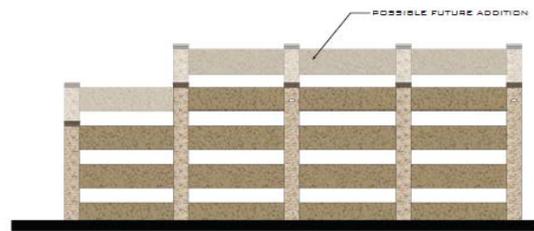
EAST ELEVATION

Elevation facing Malcolm King Park (Exhibit #24)



SOUTH ELEVATION

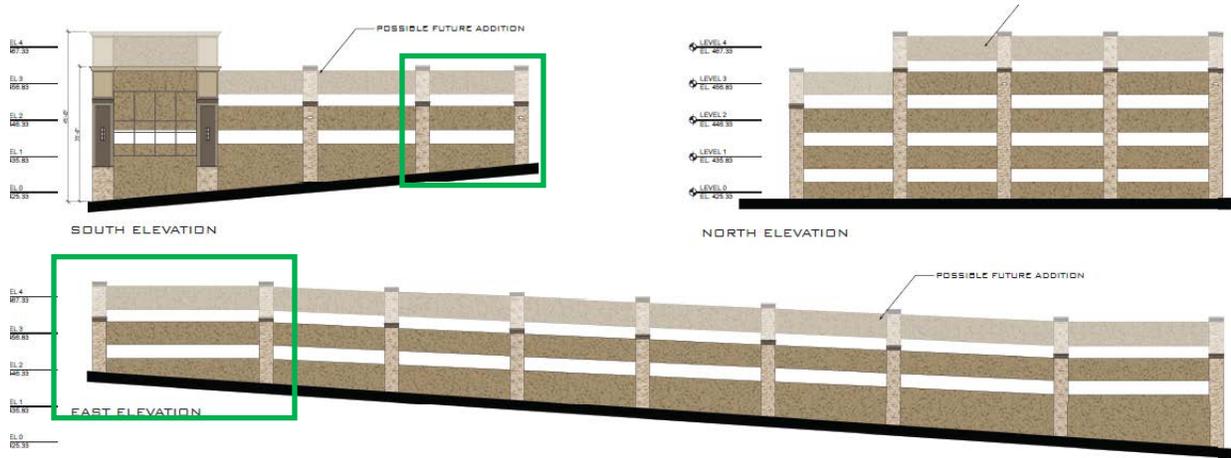
Elevation facing Sam Eig (Exhibit #24)



NORTH ELEVATION

Elevation facing Multi-family Complex (Exhibit #24)

Staff would recommend the installation of a green screen or revised architectural elevations on the south and east elevations of the LifeTime Fitness garage shown in the boxes below. A condition related to the architectural elevations of the garage has been added.



The Multi-Family Complex containing of 366 dwelling units will consist of materials such as metal canopies, three different shades of brick, three types of cementitious siding, metal railings, and precast concrete (Exhibit #26). The applicant has provided a National Green Building Checklist (Exhibit #27). The National Green Building Code is one of the standards utilized for residential buildings in the City's recently adopted Building Code (January 6, 2014). As mentioned above, the complex will house 54 Affordable Dwelling Units. The units wrap around a four and a half-level parking garage. The garage is only visible from the elevation facing Malcolm King Park to the northeast and is a precast concrete material with accents.



Over all Perspective (Exhibit #26)



Front entrance facing the pond (Exhibit #26)

Several other perspectives similar to above are included in the architectural package for visualization of the proposed project.



NORTH ELEVATION

Elevation facing west towards Malcolm King Park Tennis Courts (Exhibit #26)



WEST ELEVATION

Front Elevation facing the Pond (Exhibit #26)



EAST ELEVATION

Elevation facing Malcolm King Park to the northeast (Exhibit #26)



SOUTH ELEVATION

Elevation facing Lifetime Fitness Club (Exhibit #26)

**Height and Setback Reduction**

The MXD Zone states in § 24-160D.5. that buildings, other than single-family units should be set back 100 feet from the property line. However, the Annexation Agreement grants a waiver for this project to allow the setback to be reduced for only the Multi-Family Complex and the Lifetime Fitness Parking Garage. Exhibit #13 is Exhibit #5 of the Annexation Agreement displaying the approved setback waiver. The City agreed that the proposed reduction of the setbacks as shown on the Setback Reduction Plan is necessary and appropriate for the Permitted Development and will be compatible with adjacent park, and agreed to approve the setback reductions as part of the site plan review process. The applicant has revised that exhibit (Exhibit #72) to

clarify the location of the WSSC easements and the maintenance easements for the walls.

The plans for the office building and parking garage maintain the required 100-foot setbacks as were approved with the previously approved Schematic Development Plan SDP-W5(A) and Final Site Plan SP-05-0008.

Staff recommends approval of the Height and Setback Waivers as it complies with the Annexation Agreement and will assist in an orderly and balanced site.

## **STAFF ANALYSIS AND RECOMMENDATION**

### **FINDINGS:**

Staff recommends approval of Schematic Development Plan Application SDP-3878-2013, located in the MXD (Mixed Use Development) Zone, based on the applicant meeting all the submission requirements and standards for approval of a schematic development plan and upon the following findings, as required under § 24-160D.10(b) of the City Code:

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

The schematic development plan is consistent with the Sketch Plan (Exhibit #8) for the Washingtonian North Property, which is part of 3<sup>rd</sup> Amendment to the Annexation Agreement X-159, approved by the Mayor and City Council and executed November of 2013. The proposed densities of land use are within the range of permitted densities in both the Sketch Plan and the Annexation Agreement. Therefore the SDP is substantially in accord with the approved sketch plan.

- (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. However, the 3<sup>rd</sup> Amendment to the Annexation Agreement X-159, approved by the Mayor and City Council and executed November of 2013, revised the Sketch Plan (Exhibit #8) for the Washingtonian North Property to allow for mixed uses of Commercial, Residential and Multi-family. The schematic development plan (SDP) is consistent with the purposes of MXD Zone and consistent with Sketch Plan by allowing 240,000-square foot office building, 128,200-square foot Health Club and 366 Multi-family Dwelling Units on approximately 26.94 acres of land located in the MXD (Mixed Use Development) Zone. Staff agrees with the statement by the Applicant, “*The*

*Project will also add high-quality, multi-family housing and a new recreational amenity within the City.”*

- 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 the office building, the health club and the multi-family dwelling units as well as the pond and access to Malcolm King Park. The zone provides a higher standard of development than under a conventional zoning category by requiring a higher amount of green space (55 percent). The Applicant is proposing to build the property in orderly phases to establish staged development.
- 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 within the development and the surrounding neighborhoods and developments. Staff agrees with the applicant’s statement:

“The Project includes attractive, contemporary architecture and materials that will complement the surrounding area. The Office Development is proposed to be constructed of glass and masonry, in a contemporary architectural style and is designed to be attractive to Class A employers. The Residential Development will be developed as a 4 to 5 story structure encircling different green spaces and patios and will be designed using contemporary materials such as glazing, cementitious siding and paneling that will complement the Office and Health Club Developments. The Health Club Development will also be designed in a contemporary style. It will be located at the entrance to the Project at Sam Eig Highway and will provide a recreational amenity that will animate the Project.”

- d) The development will complement the surrounding uses and provide a variety of uses for the property which connects to the rest of the Washingtonian Center mixed use development. The project proposed an appropriate buffer area next to adjoining residential development. The mix of uses will allow for continuous use 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, buffers, structured parking and significant landscaping. The design includes buffers, environmental design standards and a pond. The project also includes pedestrian, bicycle and roadway connections to adjoining properties. Development of this property will increase the use and care of the Malcolm King Park not only by the residents but also by providing a bicycle link to other areas in the City.

- f) As stated in the applicant's statement,

*"The Amendment efficiently uses the Property by co-locating office, residential and recreational uses on a compact, 27-acre site. The Property is also proximate to other commercial uses at a highly-accessible location. Additionally, the Project is accessible by an internal sidewalk system as well as a bridge that connects the site to the Washingtonian Center commercial and office areas. The internal sidewalk will also connect to the pedestrian paths around the SWM Pond and into the Park. The Applicant has designed enhancements at the entrance to the Park, including benches and landscape treatments that encourage use of the Park by residents."*

The location of the property provides several transportation alternatives to single occupancy automobiles, including, bus, sidewalk, and bicycling.

- g) The SDP plan provides fifty-five percent of the property in green space, more than the forty percent required by the MXD Zone and proposes several environmental standard design measures to reduce the impact of water runoff from the property. All these measures will enhance the environment of the property.
- h) This SDP is the four phase development. This application complies with the requirements of the City's adequate public facilities ordinance by not increasing the number of vehicle trips originally proposed (850,000 square feet of office) from the property. Additionally, the property is served by adequate water and sewer facilities and emergency services as shown in the Preliminary Staff Report (Exhibit #54.)

#### Minimum Standards:

1. As stated the Preliminary Report, the property was annexed and zoned MXD (Mixed Use Development) in 1991. This zoning designation is in conformance with the 2009 Master Plan Land Use Element.
2. The property includes approximately 26.94 acres of MXD zoned land which is well 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 immediate proximity to Sam Eig Highway which connects to both I-370, MD 200 (InterCounty Connector), MD 119 (Great Seneca Highway), and I-270 and in addition Great Seneca Highway. The property has direct access to Washingtonian Boulevard via a bridge designed and built by the original developer to provide access for this size or greater traffic counts for this development. The property is served by the RideOn bus, and there is a

pedestrian path on the west side of Sam Eig Highway which connects to local sidewalks and paths. Therefore, the property is readily accessible to existing highways and other means of transportation. The internal circulation system has been designed to promote efficient and safe circulation for the site.

4. The property is currently serviced by all utilities, including water and sewer. The utilities have been given the opportunity to review the plans.
5. A sign package has not been submitted by the applicant, but they have stated the following on the justification statement: *“Signage will be attractively designed and thematic in approach in accord with the purposes of the MXD Zone and the overall character of the surrounding neighborhood.”*
6. The lots are designed to have access to the public roadways via a private entry roadway. As stated above this will allow access to the property via Washingtonian Boulevard, and Sam Eig Highway/I-370. Fifteen percent (15%) of the units of the residential development will be Moderately Priced Dwelling Units. These units are accessed from the private access road.
7. The proposed uses of multi-family, office and health club conform to the purposes of the MXD Zone and are compatible with the area uses.
8. The Schematic Development plan complies with the right-of-way requirements for Sam Eig Highway in both the *Transportation Element* of the 2009 Master Plan and also the *Great Seneca Science Corridor Master Plan* adopted by Montgomery County.
9. The office building and associated parking garage are setback a minimum of 100 feet from the adjoining single family detached development property line. The other properties adjoin the Malcolm King City Park, which is zoned as R-A (Low Density Residential) Zone. As a part of the 3<sup>rd</sup> Amendment to the Annexation Agreement X-159, approved by the Mayor and City Council and executed November of 2013, the Mayor and City Council agreed to allow a minimum setback of 32 feet for the multi-Family units. During the design of the Schematic Development Plan, the minimum setback of the unit is now 33.6 feet. Additionally, the Agreement approved a minimum setback of 33 feet for the parking garage for the health club. This setback reduction was agreed to because the Park will not be developed with single-family homes.

10. The applicant has provided amenities of open space with the pond and the landscaped and reforestation areas surrounding the site. Additionally they are providing a bike path and a shared road bicycle lane (Sharrow) system for connectivity of the Malcolm King Park pedestrian and bicycle route to Washingtonian Boulevard and Washingtonian Center. The applicant in accordance with the 3<sup>rd</sup> Amendment to the Annexation Agreement X-159, will be constructing a new bicycle path in the Park to improve the connectivity to other parts of the City.

(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 designated as Commercial/Industrial-Research-Office with a zoning classification of MXD. However, the 3<sup>rd</sup> Amendment to the Annexation Agreement X-159, approved by the Mayor and City Council and executed November of 2013, revised the Sketch Plan (Exhibit #8) for the Washingtonian North Property to allow for mixed uses of Commercial, Residential and Multi-family. The schematic development plan (SDP) is consistent with the purposes of MXD Zone. The use as stated by the applicant also complies with a number of strategies of the 2009 Process and Overview Element by providing development in areas that are 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 commercial, residential and park sites by providing similar land uses with appropriate buffers where necessary. 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 in the Preliminary Staff Report (Exhibit #54), the property is currently served by all utilities, water and sewer 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 a five phase development to provide for orderly staging of the property. As stated in the Preliminary Staff Report, 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, as stated above the property is served by adequate water and sewer facilities and emergency services and schools.

(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. The proposed development will increase the City's tax base and provide jobs and housing in close proximity to one another. The buildings are attractively designed using durable materials that will stand the test of time. Additionally, the SDP will enhance that area by improving the site with fifty-five percent green space that includes landscaping and environmental design to reduce the stormwater runoff and improve the air and water quality.

Conclusion

The schematic development plan is substantially in accord with the Sketch Plan approved as part of Annexation Agreement. 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.

**Staff recommends THAT THE PLANNING COMMISSION, BASED ON THE EVIDENCE AND TESTIMONY SUBMITTED INTO THE RECORD AND THE FINDINGS PRESENTED IN THE FINAL STAFF ANALYSIS, RECOMMEND APPROVAL OF SDP-3878-2013 TO THE MAYOR AND CITY COUNCIL WITH THE FOLLOWING CONDITIONS:**

- 1) The Ingress-Egress Easement for the City and the public from the Bike Path Connection and the adjoining entrance to Malcolm King Park to Washingtonian Boulevard shall be approved by the City and shown on the Final subdivision plat prior to recordation of the easement and Final Subdivision (Record) Plat;
- 2) Applicant shall provide safe conveyance for all storm drain outfalls on to City property prior to the release of site development bonds;
- 3) Applicant shall receive approval of Development Easements over any existing Washington Suburban Sanitary Commission (WSSC) Easements, prior to approval of Final Site Plan by the Planning Commission;

- 4) Applicant is to receive City approval for and record Easements for WSSC Sewer line, storm drain outfalls, and Wall construction and maintenance within Malcolm King Park prior to the issuance of any permits;
- 5) All construction drawings of retaining walls and their footing design shall be submitted and approved by the Department of Public Works (DPW) prior to Final Site Plan Review by the Planning Commission;
- 6) Applicant shall ensure that the faces of the concrete retaining walls on site and next to Malcolm King Park shall be textured & colored at the time of Final Site Plan Review;
- 7) Prior to the Planning Commission review of the first Final Site Plan for the project, Applicant shall coordinate with City staff on an access plan for pedestrian and bicycle traffic through the park during construction of the sites and the stream restoration project. The access plan shall provide for (1) timely notice to the public of construction activities that impact pedestrian and bicycle access through the park; (2) alternative routes through the park, if practical, to address temporary path closures; and (3) signage for user safety;
- 8) Applicant shall provide a Tree replacement Formula for the removal of any tree  $\geq 12$  inches DBH) in the stream valley buffer area, outfall areas and easement areas in Malcolm King Park shall be a minimum of \$120 per tree replacement fee-in-lieu payment to the City; the applicant shall provide an inventory of trees in these areas prior to the prior to the issuance of a grading permit;
- 9) Applicant to finalize and receive approval of the relocation and reconstruction of City paths and safety features (fencing and guard rails) near the pond outfall and sewer line construction by DPW prior to final site plan approval;
- 10) Applicant shall provide path paving section of four-inch, 12.5mm bituminous concrete surface course and a four-inch GAB base course for all park path installation and replacement;
- 11) Developer is to submit a draft Master Developer' Association Documents (which include responsibilities for maintenance of the pond, pathways, roadway, stormwater management facilities, etc.) at the time of Final Site plan review for review and approval by the City prior to the issuance of any building permits;
- 12) Applicant to receive access permit from Montgomery County Department of Transportation prior to the issuance of any permits;
- 13) Applicant to install property line markers at all pathway entrances into Malcolm King Park prior to the release of Site Development bonds;

- 14) Applicant to comply with the terms and conditions of the Third Amendment to Annexation Agreement X-159 - Washingtonian North L.48231 F. 031.
- 15) Lot 7 turning radii for vehicles to be approved by DPW prior to Final Site Plan Review by the Planning Commission;
- 16) Prior to the Planning Commission review of the first Final Site Plan for the project, Applicant shall coordinate with City staff on a plan and schedule for the maintenance of any trees in Malcolm King Park with critical root zones (as defined by the City's *Tree Manual*) extending within (1) the limit of disturbance of the project; (2) the 12-foot maintenance and construction easement; or (3) the outfall easements. Any maintenance obligations for such trees shall not extend beyond two years from the date of the final inspection of the grading permit (prior to the issuance of a use and occupancy of the subject buildings) for the project by the City for both Phase II (multi-family) and Phase III;
- 17) Applicant to include root pruning plan adjacent to City Park land on all Final Forest Conservation Plan;
- 18) Applicant to work with City and Montgomery County Department of Transportation (MCDOT) to respond to the request of the letter dated 3-5-2014 from Greg Leck.
- 19) Applicant to submit a Stream Restoration Improvement Plan including, but not limited to the following items: stream geometry sheet, typical sections, profile sheets, plan sheets, stream stabilization details, stormwater management, erosion and sediment control plans, notes and details to the City for review by May 12, 2014.
- 20) Applicant to provide distinctive architectural elevations of the office and health club garages at the time of final site plan.
- 21) Prior to the submission of any Final Site Plan applications, the applicant shall obtain approval of the Utility Plan from all utilities.