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March 10, 2023

**Via Email**

The City of Gaithersburg  
The Honorable Jud Ashman, Mayor  
Members of the City Council  
31 S. Summit Avenue  
Gaithersburg, Maryland 20877

RE: Z-9444-2022, Lakeforest Mall Rezoning and Sketch Plan (the “Application” or “Sketch Plan”) – Lakeforest Development LLC’s (“WRS” or the “Applicant”) Closing Statement

Dear Mayor Ashman and Members of the City Council:

On behalf of the Applicant, please accept this letter as its closing statement in the Sketch Plan public hearing record. The Applicant appreciates and acknowledges the four (4) points that the Planning Commission made note of during its March 1<sup>st</sup> meeting, which are identified in Exhibit 118. To this end, the Applicant reiterates that there is substantial evidence in the public hearing record to support City staff and the Planning Commission’s recommendations relative to the tree stand and daylighting issues. *See* Exhibits 107, 108, 111, and 116. Additionally, the Applicant fully supports the Planning Commission’s direction that implementation of the Sketch Plan should result in a truly unique and special mixed-use project as envisioned by the Lakeforest Mall Master Plan (the “Master Plan”). Based upon the discussion at the March 1<sup>st</sup> meeting, WRS respectfully submits the following closing points for the Mayor and Council’s consideration:

**Daylighting the Storm Drain System**

- The public hearing record irrefutably demonstrates that daylighting the storm drainpipe makes the project economically unfeasible and prevents compliance with the Master

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Plan<sup>1</sup>. As a result, any requirements at all requiring daylighting will be rejected by the Applicant.

### Tree Save Area

- The public hearing record overwhelmingly supports a finding that: (a) this ±1.67-acre forest stand at the intersection of Montgomery Village Avenue and Lost Knife Road is of low retention value because it is dominated by oak species that are of moderate and declining health; and (b) the loss of this forest stand will be more than made up through ±16 net acres of forest/tree cover planted within the new mixed-use development.
- In summary, elimination of this forest stand is in keeping with the overarching vision of the Master Plan to create “a well-integrated green space network throughout the site connected through sidewalks, paths, and trails.” (Master Plan, p. 57).

### Civic Uses

- As discussed at the Planning Commission meeting on March 1<sup>st</sup> and in addition to the gateway public/civic uses designated on Blocks A and O, the Applicant revised the Sketch Plan to call out the potential for a civic use with up to 30,000 square feet of gross floor area (a use that will provide recreational, educational, social, or cultural activities, support and programming, in accordance with the Master Plan) on Block C, D, E, or F.
- Consistent with the Master Plan recommendation to “[e]xplore opportunities for public-private partnerships in funding a civic use,” the Applicant will engage with various public and non-profit stakeholders relative to funding, operating, and programming for such a civic use at the time of Schematic Development Plan application. (Master Plan, p. 57). The Applicant is committed to exploring this opportunity to provide the necessary space for a civic use through a lease or other means at the time of Schematic Development Plan.

Thank you for your time and consideration reviewing this closing statement. The Applicant’s team will be available to answer questions at the upcoming Mayor and Council meeting on April 17, 2023.

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<sup>1</sup> The public engagement, review and hearing process for the Master Plan was extensive and provided abundant opportunities for a wide range of constituent and stakeholder groups to shape and formulate the Master Plan recommendations and Special Conditions. In the course of this multi-year process, at no time did the recommendations of daylighting the storm drain system and retaining the tree stand area arise (and these concepts are noticeably absent from the Master Plan).

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Mayor Jud Ashman and City Council  
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Very truly yours,

**Selzer, Gurvitch, Rabin, Wertheimer & Polott, P.C.**

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*Matthew M. Gordon*

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cc: Mr. John Schlichting  
Mr. Rob Robinson  
Mr. Kevin Rogers  
Mr. Gary Unterberg