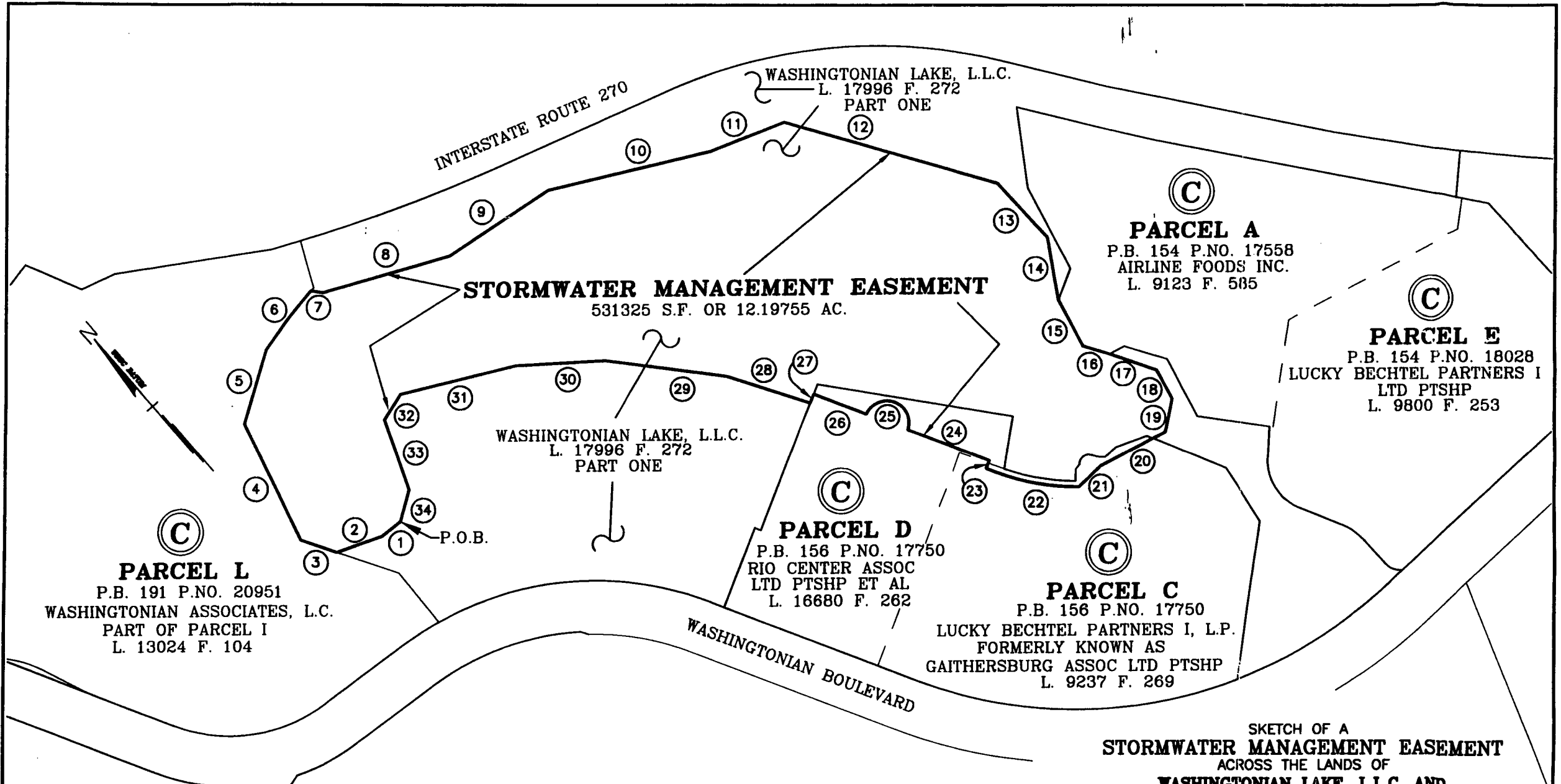


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10/03/00  
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**STORMWATER MANAGEMENT EASEMENT**  
531325 S.F. OR 12.19755 AC.

**PARCEL A**  
P.B. 154 P.NO. 17558  
AIRLINE FOODS INC.  
L. 9123 F. 585

**PARCEL E**  
P.B. 154 P.NO. 18028  
LUCKY BECHTEL PARTNERS I  
LTD PTSHP  
L. 9800 F. 253

**PARCEL D**  
P.B. 156 P.NO. 17750  
RIO CENTER ASSOC  
LTD PTSHP ET AL  
L. 16680 F. 262

**PARCEL C**  
P.B. 156 P.NO. 17750  
LUCKY BECHTEL PARTNERS I, L.P.  
FORMERLY KNOWN AS  
GAIHERSBURG ASSOC LTD PTSHP  
L. 9237 F. 269

**PARCEL L**  
P.B. 191 P.NO. 20951  
WASHINGTONIAN ASSOCIATES, L.C.  
PART OF PARCEL I  
L. 13024 F. 104

WASHINGTONIAN LAKE, L.L.C.  
L. 17996 F. 272  
PART ONE

WASHINGTONIAN LAKE, L.L.C.  
L. 17996 F. 272  
PART ONE

SKETCH OF A  
**STORMWATER MANAGEMENT EASEMENT**  
ACROSS THE LANDS OF  
**WASHINGTONIAN LAKE, L.L.C. AND**  
**PARCELS C & D, BLOCK C, WASHINGTONIAN CENTER**  
MONTGOMERY COUNTY, MARYLAND  
SCALE: 1"=200' APRIL, 2000

**R&A** LAND USE EVALUATION • PLANNING  
CIVIL ENGINEERING • SURVEYING  
NATURAL RESOURCES

**RODGERS & ASSOCIATES, INC.:**  
9280 GAITHER ROAD (301) 948-4700 GAITHERSBURG  
GAIHERSBURG, MD. 20877 (301) 253-6809 FREDERICK  
(301) 948-8256 FAX

NOTE:  
NUMBERED LINES CORRESPOND TO NUMBERED COURSES  
AND DISTANCES IN ACCOMPANYING DESCRIPTION.

EXHIBIT "F"

JOB NO. 609C3

## Samuel Copelan

---

**From:** Matthew Clarke <mclarke@ariainc.com>  
**Sent:** Thursday, February 2, 2023 2:52 PM  
**To:** Patrick Fitzgerald  
**Cc:** Dan Figueroa; Michael Lahowin; Frank Cavanaugh; Shana Albazi; Samuel Copelan  
**Subject:** RE: Copper Canyon SDP

This email is from an EXTERNAL source. Please use caution when opening attachments, clicking links, or responding.

Thank you Patrick for your understanding. If any other questions arise I will reach out to you for clarification.

### Aria Group

**Matt Clarke, AIA** | Sr Associate

c. 708.628.4742 | [ariainc.com](http://ariainc.com)

830 North Blvd. Oak Park, IL 60301

---

**From:** Patrick Fitzgerald <Patrick.Fitzgerald@gaithersburgmd.gov>  
**Sent:** Thursday, February 2, 2023 1:49 PM  
**To:** Matthew Clarke <mclarke@ariainc.com>  
**Cc:** Dan Figueroa <dfigueroa@Petersoncos.com>; Michael Lahowin <mlahowin@mac.com>; Frank Cavanaugh <fcavanaugh@ariainc.com>; Shana Albazi <salbazi@ariainc.com>; Samuel Copelan <Samuel.Copelan@gaithersburgmd.gov>  
**Subject:** RE: Copper Canyon SDP

Hi Matt,

Given the clarification from Dan, and based on the limited amount of disturbance shown, the overlap of the work areas, and the excess SWM already being provided, I'm going to go ahead and say there will not be any SWM or SEC plans required for this project. I think it's safe to say there is enough buffer here to be comfortable with the previous SWM volume covering us. If another project comes along afterwards, we may require some more formal calculations and documentation to lock everything down in more detail.

Hopefully that helps, but let me know if any other questions come up.

Thanks,  
Pat



**Patrick Fitzgerald, P.E. | Stormwater Project Manager**

City of Gaithersburg | 800 Rabbitt Road | Gaithersburg, MD 20878

P: (240) 805.1323 | [Patrick.Fitzgerald@gaithersburgmd.gov](mailto:Patrick.Fitzgerald@gaithersburgmd.gov)

<http://www.gaithersburgmd.gov/services/environmental-services/stormwater-management-program>

---

**From:** Matthew Clarke <mclarke@ariainc.com>  
**Sent:** Thursday, February 2, 2023 11:55 AM  
**To:** Patrick Fitzgerald <Patrick.Fitzgerald@gaithersburgmd.gov>  
**Cc:** Dan Figueroa <dfigueroa@Petersoncos.com>; Michael Lahowin <mlahowin@mac.com>; Frank Cavanaugh <fcavanaugh@ariainc.com>; Shana Albazi <salbazi@ariainc.com>; Samuel Copelan <Samuel.Copelan@gaithersburgmd.gov>  
**Subject:** FW: Copper Canyon SDP

This email is from an EXTERNAL source. Please use caution when opening attachments, clicking links, or responding.

Patrick, I am forwarding you the Site Disturbance Mark-up that we created to illustrate the affected areas associated with the proposed work at Copper Canyon Grill. I have also included input from the landlord below for your reference. If you could take a look and let us know if you would be available for a call tomorrow or early next week to help work towards a resolution it would be appreciated.

**Aria Group**

**Matt Clarke, AIA** | Sr Associate

c. 708.628.4742 | [ariainc.com](http://ariainc.com)

830 North Blvd. Oak Park, IL 60301

---

**From:** Dan Figueroa <[dfigueroa@Petersoncos.com](mailto:dfigueroa@Petersoncos.com)>  
**Sent:** Thursday, February 2, 2023 8:59 AM  
**To:** Matthew Clarke <[mclarke@ariainc.com](mailto:mclarke@ariainc.com)>; Michael Lahowin <[mlahowin@mac.com](mailto:mlahowin@mac.com)>  
**Cc:** Frank Cavanaugh <[fcavanaugh@ariainc.com](mailto:fcavanaugh@ariainc.com)>; Shana Albazi <[salbazi@ariainc.com](mailto:salbazi@ariainc.com)>  
**Subject:** RE: Copper Canyon SDP

Yes, we over built the storm water requirement during the playground build to accommodate for the improvements that were planned for in the future plus a little extra. We are dialing back on the improvements so we can use the existing credits for the disturbance that this project will trigger. Having said that, this entire plaza area was within the original calculations so a majority of the area we plan on disturbing with your project is already built into our Storm Water credits. Happy to hop on a call with the City if we need to so we are all on the same page.

---

**From:** Matthew Clarke  
**Sent:** Thursday, February 2, 2023 9:54 AM  
**To:** Dan Figueroa ; Michael Lahowin  
**Cc:** Frank Cavanaugh ; Shana Albazi  
**Subject:** FW: Copper Canyon SDP

Dan, I've been discussing site impact with Patrick related to the potential need for storm water detention and he sent back the reply below. Would you be able to confirm what work associated with the playground relocation may not have been carried out.

Michael, I am copying you on this email to make you aware of the discussion. It is possible that the area of site disturbance associated with the other work recently carried out by the landlord may push us over the 5,000 s.f. threshold which would trigger the need for stormwater detention. We will have final areas figured out next week and will be able to confirm.

**Aria Group**

**Matt Clarke, AIA** | Sr Associate

c. 708.628.4742 | [ariainc.com](http://ariainc.com)

830 North Blvd. Oak Park, IL 60301

---

**From:** Patrick Fitzgerald <[Patrick.Fitzgerald@gaithersburgmd.gov](mailto:Patrick.Fitzgerald@gaithersburgmd.gov)>  
**Sent:** Tuesday, January 31, 2023 8:24 AM  
**To:** Matthew Clarke <[mclarke@ariainc.com](mailto:mclarke@ariainc.com)>  
**Cc:** Samuel Copelan <[Samuel.Copelan@gaithersburgmd.gov](mailto:Samuel.Copelan@gaithersburgmd.gov)>; Pearce Wroe <[Pearce.Wroe@gaithersburgmd.gov](mailto:Pearce.Wroe@gaithersburgmd.gov)>; Shana Albazi <[salbazi@ariainc.com](mailto:salbazi@ariainc.com)>  
**Subject:** RE: Copper Canyon SDP

Hi Matt,

Thanks for confirming the piece about the patio area. The site plan with the disturbed area will definitely be helpful. The playground work was technically on a separate parcel, but I believe our interpretation at that time was that the parcels and the lake were all owned by the same entity and part of the same stormwater management system being impacted, so it was considered cumulative disturbance I went out to the site yesterday and confirmed that the improvements (other than the playground and the area labeled "completed") have not been done. I think it would be important to understand if that work is still planned or if it has been abandoned, since that sort of bridges the gap and

we'd need to know how much excess treatment credit is up for grabs. Let me know if you have any info on that or if we need to discuss with Peterson directly.

Thanks,  
Pat



**Patrick Fitzgerald, P.E. | Stormwater Project Manager**

City of Gaithersburg | 800 Rabbitt Road | Gaithersburg, MD 20878

P: (240) 805.1323 | [Patrick.Fitzgerald@gaithersburgmd.gov](mailto:Patrick.Fitzgerald@gaithersburgmd.gov)

<http://www.gaithersburgmd.gov/services/environmental-services/stormwater-management-program>

---

**From:** Matthew Clarke <[mclarke@ariainc.com](mailto:mclarke@ariainc.com)>

**Sent:** Friday, January 27, 2023 4:08 PM

**To:** Patrick Fitzgerald <[Patrick.Fitzgerald@gaithersburgmd.gov](mailto:Patrick.Fitzgerald@gaithersburgmd.gov)>

**Cc:** Samuel Copelan <[Samuel.Copelan@gaithersburgmd.gov](mailto:Samuel.Copelan@gaithersburgmd.gov)>; Pearce Wroe <[Pearce.Wroe@gaithersburgmd.gov](mailto:Pearce.Wroe@gaithersburgmd.gov)>;

Shana Albazi <[salbazi@ariainc.com](mailto:salbazi@ariainc.com)>

**Subject:** RE: Copper Canyon SDP

**This email is from an EXTERNAL source. Please use caution when opening attachments, clicking links, or responding.**

Patrick, I had a chance to read your email in detail and I wanted to confirm that the 95 s.f. is for the area of new patio only. There will be some additional disturbed area related to that work along with running utilities to the Barge in the separate package so we will prepare a site plan that illustrates as best as we can anticipate the area of disturbance for your reference and determination.

I wanted to thank you for sharing the playground relocation work from Soltesz. I was hoping you could clarify if the site for the playground relocation would be counted against this work since the location area outside of our property line. I thank you for your assistance with this application.

**Aria Group**

**Matt Clarke, AIA | Sr Associate**

c. 708.628.4742 | [ariainc.com](http://ariainc.com)

830 North Blvd. Oak Park, IL 60301

---

**From:** Patrick Fitzgerald <[Patrick.Fitzgerald@gaithersburgmd.gov](mailto:Patrick.Fitzgerald@gaithersburgmd.gov)>

**Sent:** Thursday, January 26, 2023 3:58 PM

**To:** Matthew Clarke <[mclarke@ariainc.com](mailto:mclarke@ariainc.com)>

**Cc:** Samuel Copelan <[Samuel.Copelan@gaithersburgmd.gov](mailto:Samuel.Copelan@gaithersburgmd.gov)>; Pearce Wroe <[Pearce.Wroe@gaithersburgmd.gov](mailto:Pearce.Wroe@gaithersburgmd.gov)>

**Subject:** RE: Copper Canyon SDP

Hi Matt,

Thanks for reaching out. I'm copying (below) and attaching some additional info/background that might help clarify what I need in order to give a more definitive answer on the stormwater side of things. This is getting pretty deep into the weeds, but there's some history and nuance behind what ultimately might end up being a simple answer. Below are a couple of excerpts from our City Code, but in summary, projects can be exempt from stormwater management when they disturb less than 5,000 sf. The definition below of "disturb" is admittedly a little confusing, but the way we explain it is that as soon as the soil is exposed and then could theoretically be displaced into nearby water sources, that is considered disturbance. The example we sometimes use to distinguish work that is or isn't disturbance is when the top layer of an impervious surface is stripped/milled and there's a base course below it that remains and is covering the soil, that is not disturbance. But if the base course is then removed and the soil is exposed, it becomes disturbance. Because of the 5,000 sf threshold, larger sites could attempt to say they have several unrelated projects that are below that threshold, so that's where the "cumulative effects of previous exemptions" comes into play. We identify and track projects that are exempt initially, but if they cumulatively pass that threshold in later projects, stormwater is then required.

For Rio, we worked with Peterson a couple years ago on some simultaneous work going on between various plaza renovations and the new playground. The cumulative stormwater requirements of those projects was met with a grass swale in a different portion of the site, and there was actually some excess volume that was proposed on that and could be "banked" for future work on-site. I believe the assumption was that when that future work happened, their engineer would provide some quick computations to hopefully demonstrate that it was generating a volume requirement that was less than the banked excess, and then no additional stormwater would be required. Something to that effect needs

to be done so that we can continue to track the ongoing work and determine if and when (even if it's not for the current project) that bank is used up and more stormwater needs to be done on the site.

The other piece to mention is that I'm not entirely sure if all the proposed impervious area from that application was installed (or is still planned to be installed), including some work that was actually proposed adjacent to Copper Canyon (see attached aerial exhibit). It may end up being the case that this current application is just taking the place of some previously proposed area and maybe computations wouldn't be necessary if that was the case. That could be handled via email and maybe a quick sketch comparing previous scope and current scope and showing that the revised proposed impervious area is less or equal.

So all that said, the 95 sf number that you provided is helpful, but we need some elaboration on what that is actually referring to. In other words, is that truly the total disturbed area per the code definition, or just the patio addition, and what is the net increase in impervious area? And then even with that clarification, it may still be necessary for your client to have their engineer use that info to provide the calculations mentioned above, even if it's to demonstrate that SWM isn't required for this project.

Hopefully that helps clarify and doesn't just create more confusion, but I'm happy to talk it through more. I'm out tomorrow but will be back in on Monday and could talk then.

Thanks!

Pat

**Land disturbing activity.** Any earth movement or land changes which may result in soil erosion or the movement of sediments into waters of the state or onto other lands, including, but not limited to, tilling, clearing, grading, excavating, stripping, filling and related activities. Land disturbing activity also includes the covering of land surfaces with any structure or impermeable material, regardless of whether the land surface itself remains permeable or impermeable. The resurfacing of an existing impervious area shall not constitute a new land disturbing activity.

#### **Sec. 8-20. - Exemptions.**

The following development activities are exempt from the provisions of this article and the requirements of providing stormwater management:

- (1) Agricultural land management activities;
  - (2) Additions or modifications to existing single-family detached residential structures if they comply with [subsection] (3) of this section;
  - (3) Developments and/or redevelopments that do not have a land disturbance over five thousand (5,000) square feet of land area;
  - (4) Land development activities which the administration determines will be regulated under specific state laws, which provide for managing stormwater runoff;
- (b) Nothing in this section shall prohibit the city manager or the director of public works from requiring stormwater management controls upon the evaluation of the cumulative effects of previous exemptions.

**Patrick Fitzgerald, P.E. | Stormwater Project Manager**



City of Gaithersburg | 800 Rabbitt Road | Gaithersburg, MD 20878

P: (240) 805.1323 | [Patrick.Fitzgerald@gaithersburgmd.gov](mailto:Patrick.Fitzgerald@gaithersburgmd.gov)

<http://www.gaithersburgmd.gov/services/environmental-services/stormwater-management-program>

---

**From:** Matthew Clarke <[mclarke@ariainc.com](mailto:mclarke@ariainc.com)>

**Sent:** Thursday, January 26, 2023 1:17 PM

**To:** Patrick Fitzgerald <[Patrick.Fitzgerald@gaithersburgmd.gov](mailto:Patrick.Fitzgerald@gaithersburgmd.gov)>

**Cc:** Samuel Copelan <[Samuel.Copelan@gaithersburgmd.gov](mailto:Samuel.Copelan@gaithersburgmd.gov)>

**Subject:** FW: Copper Canyon SDP

**This email is from an EXTERNAL source. Please use caution when opening attachments, clicking links, or responding.**

Good afternoon Patrick, Samuel Copelan provided your contact information and asked that I reach out to you regarding the need for new stormwater plans for the exterior renovation of Copper Canyon Grill. I've attached the current package which calls for the slight expansion of the existing patio, the added square footage works out to 95 s.f. The remainder of the scope deals with recladding the building, rebuilding the chimney feature and placing a louvered trellis over the expanded patio.

Let me know what additional information you require in order to make a determination.

**Aria Group**

**Matt Clarke, AIA** | Sr Associate  
c. 708.628.4742 | [ariainc.com](http://ariainc.com)  
830 North Blvd. Oak Park, IL 60301

---

**From:** Samuel Copelan <[Samuel.Copelan@gaithersburgmd.gov](mailto:Samuel.Copelan@gaithersburgmd.gov)>  
**Sent:** Thursday, January 19, 2023 4:14 PM  
**To:** Matthew Clarke <[mclarke@ariainc.com](mailto:mclarke@ariainc.com)>; Tina Clemens <[tclemens@ariainc.com](mailto:tclemens@ariainc.com)>  
**Cc:** Patrick Fitzgerald <[Patrick.Fitzgerald@gaithersburgmd.gov](mailto:Patrick.Fitzgerald@gaithersburgmd.gov)>; Michael Lahowin <[mlahowin@mac.com](mailto:mlahowin@mac.com)>  
**Subject:** RE: Copper Canyon SDP

Good afternoon,  
Staff reviewed both the AFP for the Copper Canyon pergola and the SDP to allow for restaurant uses on the lake parcel. Attached are comments for both projects. Below are notes for each project:

- **SDP-9462-2022. Pier**
  - Staff is of the opinion that the comments are minor enough for the first Hearing. Before we can put you on the agenda, we need to make sure that all of the missing items on sheet A3 and all comments are resolved.
  - Staff will send you a tentative calendar tomorrow for possible meeting dates and deadlines.
- **AFP-9459-2022. Pergola and Renovations**
  - This application is not yet ready to go to the Planning Commission because there are still some critical missing details as shown on the attached plans.
  - The biggest question is about whether new stormwater plans are required for this project. Please reach out to [Patrick.Fitzgerald@gaithersburgmd.gov](mailto:Patrick.Fitzgerald@gaithersburgmd.gov) for additional questions on the stormwater.

The comments will reference a spreadsheet, the spreadsheet will be sent tomorrow. Please review with your team and let me know if you have any questions, thanks!

Sincerely,  
-Sam



**Samuel Copelan | Planner I**

---

City of Gaithersburg | 31 S Summit Avenue | Gaithersburg, MD  
20877  
T (240) 805-1134 | F (301) 258.6336



**Please consider the environment before printing this email.**

---

**From:** Matthew Clarke <[mclarke@ariainc.com](mailto:mclarke@ariainc.com)>  
**Sent:** Thursday, January 19, 2023 12:40 PM  
**To:** Samuel Copelan <[Samuel.Copelan@gaithersburgmd.gov](mailto:Samuel.Copelan@gaithersburgmd.gov)>; Tina Clemens <[tclemens@ariainc.com](mailto:tclemens@ariainc.com)>  
**Cc:** Michael Lahowin <[mlahowin@mac.com](mailto:mlahowin@mac.com)>  
**Subject:** RE: Copper Canyon SDP

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Thank you for the update Samuel

**Aria Group**

**Matt Clarke, AIA** | Senior Associate  
c. 708.628.4742 | [ariainc.com](http://ariainc.com)  
830 North Blvd. Oak Park, IL 60301

---

**From:** Samuel Copelan <[Samuel.Copelan@gaithersburgmd.gov](mailto:Samuel.Copelan@gaithersburgmd.gov)>  
**Sent:** Thursday, January 19, 2023 11:35 AM  
**To:** Tina Clemens <[tclemens@ariainc.com](mailto:tclemens@ariainc.com)>  
**Cc:** Matthew Clarke <[mclarke@ariainc.com](mailto:mclarke@ariainc.com)>  
**Subject:** RE: Copper Canyon SDP

Hi Tina and Matt,

I am following up; we are finishing up the DRT comments and you should have plan comments and any other instructions later this afternoon.

Thanks,

-Sam



**Samuel Copelan | Planner I**

City of Gaithersburg | 31 S Summit Avenue | Gaithersburg, MD  
20877  
T (240) 805-1134 | F (301) 258.6336



Please consider the environment before printing this email.

**From:** Samuel Copelan

**Sent:** Thursday, January 5, 2023 3:40 PM

**To:** 'Tina Clemens' <[tclemens@ariainc.com](mailto:tclemens@ariainc.com)>

**Cc:** Matthew Clarke <[mclarke@ariainc.com](mailto:mclarke@ariainc.com)>

**Subject:** RE: Copper Canyon SDP

Hi Tina,

Happy New Year to you and your team as well! Both the SDP and the AFP are under review, and we hope to have comments back to you on January 19 after our meeting.

Thanks,

-Sam



**Samuel Copelan | Planner I**

City of Gaithersburg | 31 S Summit Avenue | Gaithersburg, MD  
20877  
T (240) 805-1134 | F (301) 258.6336



Please consider the environment before printing this email.

**From:** Tina Clemens <[tclemens@ariainc.com](mailto:tclemens@ariainc.com)>

**Sent:** Thursday, January 5, 2023 3:09 PM

**To:** Samuel Copelan <[Samuel.Copelan@gaithersburgmd.gov](mailto:Samuel.Copelan@gaithersburgmd.gov)>

**Cc:** Matthew Clarke <[mclarke@ariainc.com](mailto:mclarke@ariainc.com)>

**Subject:** RE: Copper Canyon SDP

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Hi Sam,

Good afternoon and Happy New Year!

I am checking to see if there are any comments or questions on the Copper Canyon SDP's for the Barge and for the Site/Restaurant. Let us know if there are any additional steps we can do to help with moving the process forward, if there are any additional parties we need to contact, or when we could expect to receive feedback.

Thank you,



**Tina, Clemens, AIA,** | Project Coordinator

t. 708.445.8400, d 708-628-4758 | [ariainc.com](http://ariainc.com)

830 North Blvd. Oak Park, IL 60301



**From:** Samuel Copelan <[Samuel.Copelan@gaithersburgmd.gov](mailto:Samuel.Copelan@gaithersburgmd.gov)>

**Sent:** Thursday, December 15, 2022 7:50 AM

**To:** Matthew Clarke <[mclarke@ariainc.com](mailto:mclarke@ariainc.com)>; Tina Clemens <[tclemens@ariainc.com](mailto:tclemens@ariainc.com)>

**Subject:** RE: Copper Canyon SDP

Good morning,

I won't need a copy I should be notified when the payment goes through.

Thanks,

-Sam



**Samuel Copelan | Planner I**

City of Gaithersburg | 31 S Summit Avenue | Gaithersburg, MD  
20877  
T (240) 805-1134 | F (301) 258.6336



Please consider the environment before printing this email.

**From:** Matthew Clarke  
**Sent:** Wednesday, December 14, 2022 6:18 PM  
**To:** Samuel Copelan ; Tina Clemens  
**Subject:** RE: Copper Canyon SDP

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Thanks Sam. I believe the client is paying the invoice shortly. Do you want us to upload a copy of the receipt to the Box folder or just email it to you?

**Aria Group**

**Matt Clarke, AIA** | Associate  
c. 708.628.4742 | [ariainc.com](http://ariainc.com)  
830 North Blvd. Oak Park, IL 60301

**From:** Samuel Copelan <[Samuel.Copelan@gaithersburgmd.gov](mailto:Samuel.Copelan@gaithersburgmd.gov)>  
**Sent:** Wednesday, December 14, 2022 5:07 PM  
**To:** Tina Clemens <[tclemens@ariainc.com](mailto:tclemens@ariainc.com)>  
**Cc:** Matthew Clarke <[mclarke@ariainc.com](mailto:mclarke@ariainc.com)>  
**Subject:** RE: Copper Canyon SDP

Hi Tina and Matthew,  
Received, thanks! The next step is for the applicant to pay the fee so that we can officially begin our review. Please let me know if you have any questions, thanks!  
Sincerely,  
-Sam



**Samuel Copelan | Planner I**

City of Gaithersburg | 31 S Summit Avenue | Gaithersburg, MD  
20877  
T (240) 805-1134 | F (301) 258.6336



Please consider the environment before printing this email.

**From:** Tina Clemens <[tclemens@ariainc.com](mailto:tclemens@ariainc.com)>  
**Sent:** Wednesday, December 14, 2022 5:39 PM  
**To:** Samuel Copelan <[Samuel.Copelan@gaithersburgmd.gov](mailto:Samuel.Copelan@gaithersburgmd.gov)>  
**Cc:** Matthew Clarke <[mclarke@ariainc.com](mailto:mclarke@ariainc.com)>  
**Subject:** Copper Canyon SDP

**This email is from an EXTERNAL source. Please use caution when opening attachments, clicking links, or responding.**

Hi Sam:  
<https://app.box.com/s/cmws7n3586q9jv9w5ekejzhigc2furf>

- Please try the revised box.com link above.  
There should be 9 files  
(2) CC applications  
(4) Scans of letters to the adjacent property owners  
(2) SDP submittal sets (one for the barge and one for the site/restaurant)  
(1) letter from the landlord.



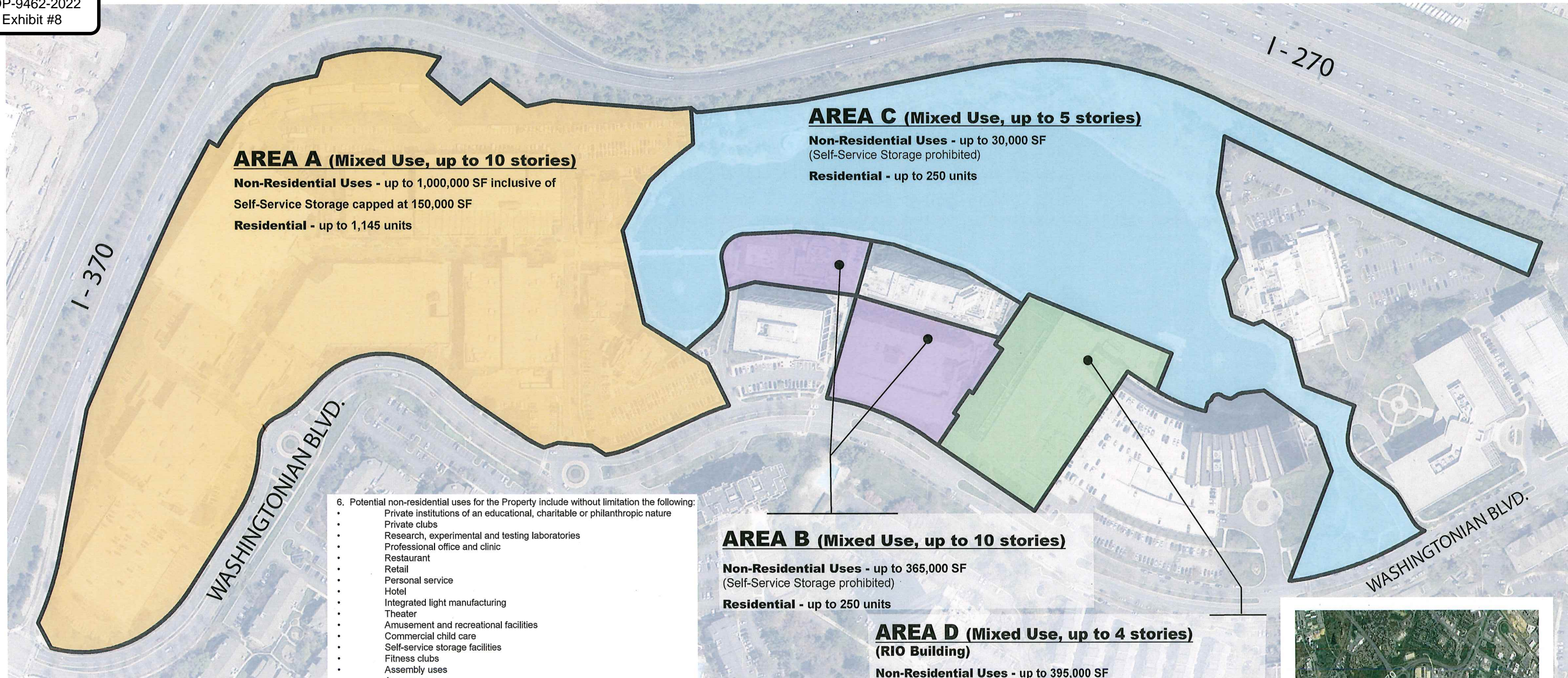
**Tina, Clemens, AIA**, | Project Coordinator  
t. 708.445.8400, d 708-628-4758 | [ariainc.com](http://ariainc.com)  
830 North Blvd. Oak Park, IL 60301



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**AREA A (Mixed Use, up to 10 stories)**  
**Non-Residential Uses - up to 1,000,000 SF inclusive of Self-Service Storage capped at 150,000 SF**  
**Residential - up to 1,145 units**

**AREA C (Mixed Use, up to 5 stories)**  
**Non-Residential Uses - up to 30,000 SF (Self-Service Storage prohibited)**  
**Residential - up to 250 units**

**AREA B (Mixed Use, up to 10 stories)**  
**Non-Residential Uses - up to 365,000 SF (Self-Service Storage prohibited)**  
**Residential - up to 250 units**

**AREA D (Mixed Use, up to 4 stories) (RIO Building)**  
**Non-Residential Uses - up to 395,000 SF (Self-Service Storage prohibited)**  
**Residential - up to 250 units**

6. Potential non-residential uses for the Property include without limitation the following:
- Private institutions of an educational, charitable or philanthropic nature
  - Private clubs
  - Research, experimental and testing laboratories
  - Professional office and clinic
  - Restaurant
  - Retail
  - Personal service
  - Hotel
  - Integrated light manufacturing
  - Theater
  - Amusement and recreational facilities
  - Commercial child care
  - Self-service storage facilities
  - Fitness clubs
  - Assembly uses
  - Accessory uses
- Potential residential uses for the Property include, without limitation the following:
- Housing for the elderly
  - Single family detached dwelling
  - Single family attached dwelling (including townhouses)
  - Multifamily dwelling (including condominiums)
  - Accessory uses including, without limitation, home-based businesses

However, the following uses that are potential uses for properties in the MXD Zone pursuant to Section 24-160D.3(b) of the Zoning Ordinance will not be allowed for redevelopment of this Property:

- Automobile filling stations
- Automatic automobile car wash
- Driving schools
- Farms and other uses associated with agricultural activities
- Funeral homes
- Seasonal dwellings

7. Self-storage use limited to a maximum of 150,000 of gross floor area and is restricted to one location on Area A. If the self-storage facility has frontage or access on a public or private street, the façade of the building must include architectural treatments and features that do not detract from the pedestrian-oriented street-level experience on Grand Corner Avenue as determined by the Mayor and Council at Schematic Development Plan.
8. Single-family detached dwellings are only permitted on Areas B and C.
9. Retail uses include an automobile sales showroom provided that no automobiles other than display models may be stored on the Property

- Notes:**
1. Gross Land Area = 49 +/- Acres  
Mixed Use Residential & Commercial
  2. Final densities and uses to be determined at Schematic Development Plan.
  3. Residential units allowed: 1,145 maximum.  
Commercial: 1,263,000 gross square feet maximum.
  4. Commercial FAR shall not exceed .75 Floor Area Ratio ("FAR") based on land shown for commercial (non-residential) use.
  5. Green area for whole site to be prorated between residential and commercial and all open space areas shown. Mixed use structures shall be considered commercial for green area calculations.



**CITY OF GAITHERSBURG MAYOR & COUNCIL**  
 31 SOUTH SUMMIT AVENUE, GAITHERSBURG, MARYLAND 20877

**SKETCH PLAN APPROVAL**

AT THE REGULARLY SCHEDULED MEETING OF THE MAYOR AND CITY COUNCIL HELD ON \_\_\_\_\_

APPLICATION NO. X-159 5th Amendment WAS GRANTED

**SKETCH PLAN APPROVAL**

BY ..... Annexation A WITH \_\_\_\_\_ ( ) CONDITIONS.

DATE 12/6/2018 BY

**NOTE:** ANY REVISIONS TO SIGNED PLANS MUST BE APPROVED BY THE MAYOR AND CITY COUNCIL



RESOLUTION NO. R-52-18

RESOLUTION OF THE MAYOR AND CITY COUNCIL AUTHORIZING  
THE CITY MANAGER TO NEGOTIATE AND EXECUTE THE  
FIFTH AMENDMENT TO AN ANNEXATION AGREEMENT FOR  
THE WASHINGTONIAN ANNEXATION X-159

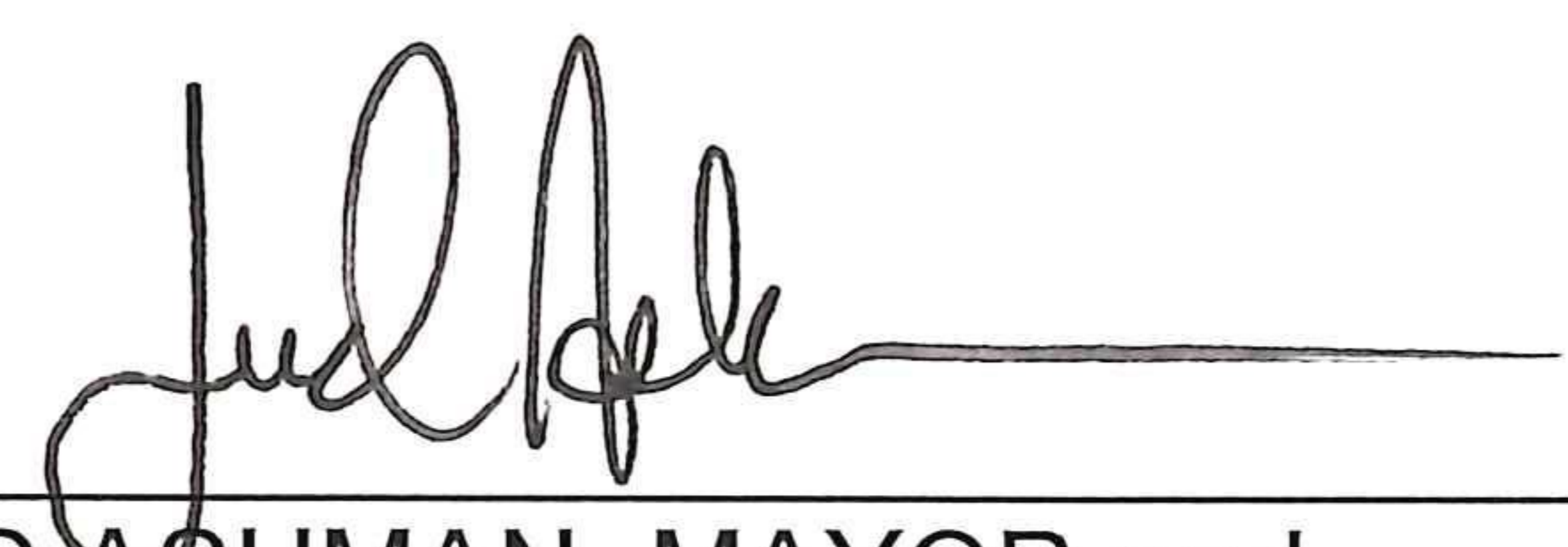
**ANNEXATION X-159**

WHEREAS, the owners of the property known as Washingtonian located adjacent to the southbound I-270 ramp to the north and Sam Eig Highway/I-370 to the northwest and Washingtonian Boulevard to the south, Gaithersburg, Maryland, containing approximately 49 acres of land, part of an annexation containing approximately 237 acres of land, have requested an Amendment to Annexation Agreement approved in conjunction with Annexation X-159; and

WHEREAS, the Mayor and Council have determined that the Annexation Agreement between the City of Gaithersburg and the owners of the Washingtonian Property should be amended to facilitate the redevelopment of the property:

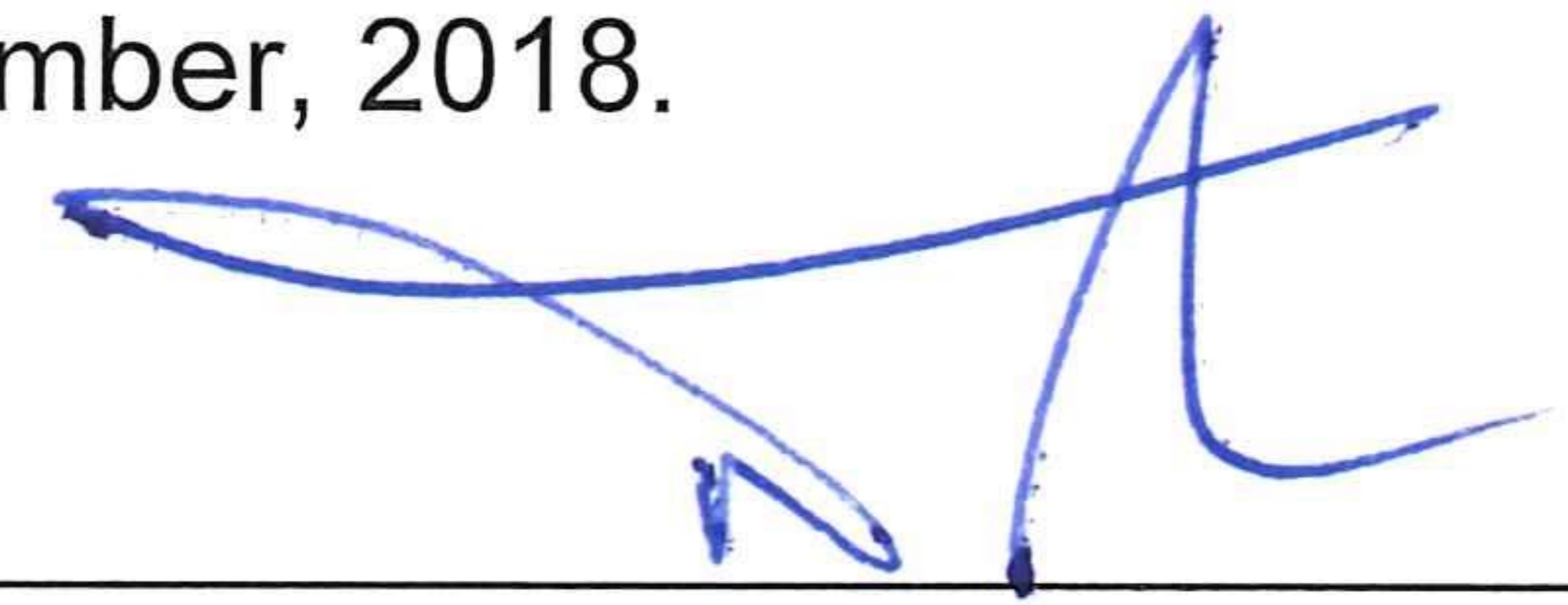
NOW, THEREFORE, BE IT RESOLVED, by the Mayor and City Council of Gaithersburg that the City Manager be and he hereby is authorized to negotiate and execute an Amendment to Annexation Agreement with the owners of the Washingtonian Property relative to Annexation X-159.

ADOPTED by the City Council this 19th day of November, 2018.



\_\_\_\_\_  
JUD ASHMAN, MAYOR and  
President of the Council

THIS IS TO CERTIFY, that the foregoing Resolution was adopted by the City Council, in public meeting assembled on the 19th day of November, 2018.



\_\_\_\_\_  
Tony Tomasello, City Manager



ARIA GROUP ARCHITECTS, INC.  
830 North Boulevard, Oak Park, Illinois 60301 tel 708.445.8400 web ariainc.com

March 17, 2023  
Copper Canyon Grill  
Project Narrative  
SDP-9462-2022

## I. INTRODUCTION

The property that is the subject of this Schematic Development Plan Application (the “SDP” or “Application”) is approximately 0.02 acres of land (the “SDP Area”) which is located within Parcel I. This Application proposes to develop the SDP Area with the addition of a Pier for the Copper Canyon Grill restaurant which will be located on the existing adjacent Washingtonian Lake. This additional work will create open-air seating with a cover and two small bridges from the Pier to the existing shoreline totaling approximately 1,012 square feet. No changes to any existing commercial buildings are proposed by this Application.

## II. PROPERTY DESCRIPTION AND HISTORY

The SDP Area, which totals approximately 0.02 acres, is a part of the larger Parcel I (totaling approximately 18.09 acres). The 2003 Master Plan states “The SDP Area is bounded on the north by Interstate 370 (Sam Eig Highway), on the east by Interstate 270, and on the south and west by part of Fields Road and Washingtonian Boulevard. The Washingtonian Center Study Area includes approximately 138 acres of the Washingtonian Center annexation application X-159 which consisted of 236.68 acres of land. The Washingtonian Center was annexed into the City of Gaithersburg on July 9, 1991.” The 2003 Master Plan also states that in the center of this area is the 18-acre man-made Washingtonian Lake, which is where the Project is located.

## III. PROJECT DESCRIPTION

The Applicant proposes nonresidential uses to include a new Pier with seating for the Copper Canyon Grill restaurant. In connection with the Recent SDP, the parking requirements were calculated across both Parcel I and Parcel Q. As reflected on the data table included with the SDP. At Washingtonian there is a surplus of parking spaces of 275, at RIO, a deficit of 112. Across both, there is a surplus of 163 parking spaces, the RIO deficit being parked at Washingtonian.

Section 24-160D.8(a) of the Zoning Ordinance states that “[t]he council, at the time of schematic development plan review, shall determine the appropriate approximate number of spaces,” and that “[a]t the time of final site plan approval, the commission shall determine the final number of spaces, based upon considerations of safety, convenience, pedestrian and

vehicular circulation, and added landscaping within parking lot areas ... [and] the planning commission may reduce the number of spaces required for any use in Article XI, section 24-219(b) of this Code where such reduction will meet the purposes of the MXD Zone.” (emphasis provided).

The Applicant is in agreement with this.

Pursuant to Section 24-222A of the Zoning Ordinance, the Planning Commission “may waive any requirement of this article, in whole or in part, which is not necessary to accomplish the objectives of this article,” and such a “waiver may be granted ... upon a finding by the planning commission that such a waiver would not be detrimental to the public health, safety and general welfare.”

The Applicant is in agreement with this.

More specifically, Section 24-222A(a)(8) of the Zoning Ordinance states, “the planning commission may consider the following criteria ... [t]he unit mix or type of use has unique characteristics and the applicant can demonstrate that parking can be met by other means.”

The SDP Area’s parking needs are met as previously stated in this section.

#### IV. REQUIRED FINDINGS

Pursuant to Section 24-160.D.10 of the Zoning Ordinance, a schematic development plan may only be approved when the City Council finds that:

1. The plan is substantially in accord with the approved sketch plan:

The Project proposes 1,012 square feet of development. The density proposed is within the range of permitted densities established in the X-159 5<sup>th</sup> Amendment Sketch Plan. The Sketch Plan allows up to 30,000 square feet of non-residential development in Area ‘C’, which is where the Project development is located in the Sketch Plan.

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

Section 24-160D.1 of the Zoning Ordinance sets forth the objective of the MXD Zone as follows:

It is the objective of this zone to establish procedures and standards for the implementation of master plan land use recommendations for comprehensively planned, multi-use projects. It is also intended that this zone provide a more flexible approach to the comprehensive design and development of multi-use projects than the procedures and regulations applicable under the

various conventional zoning categories. In so doing, it is intended that this zoning category be utilized to implement existing public plans and pertinent city policies in a manner and to a degree more closely compatible with said city plans and policies than may be possible under other zoning categories. The specific purposes of this zone are:

- (a) To establish standards and procedures through which the land use objectives and guidelines of approved and adopted master plans can serve as the basis for evaluating an individual development proposal, as well as ensuring that development proposed will implement the adopted master plan and other relevant planning and development policies and guidelines for the area considered for MXD zoning.

As demonstrated by this Application and the exhibits submitted, this Project is consistent with the land use objectives and guidelines of the 2003 Master Plan, MXD Zone, and X-159 5<sup>th</sup> Amendment Sketch Plan.

- (b) To encourage orderly, staged development of large-scale comprehensively planned, multi-use developments by providing procedures for various zoning and plan approvals, including development phasing.

This SDP Area is a small-scale development and will be completed in one phase.

- (c) To encourage design flexibility and coordination of architectural style building and signage.

This Project intends to be an extension of the existing Copper Canyon Grill restaurant and will be aligned with the design guidelines that the City approves, signage not in scope.

- (d.) To ensure the integration and internal and external compatibility of applicable residential and nonresidential uses by providing a suitable residential environment that is enhanced and complemented by uses such as commercial, recreational, open space, employment and institutional uses and amenities within a multi-use development. A multi-use development is defined as a single parcel or a group of contiguous parcels of land zoned MXD which, among the various parcels comprising that contiguous area, include residential, commercial, recreational, open space, employment and institutional uses and amenities.

This Project development will enhance the existing business by providing a covered, open-air seating area on the Washingtonian Lake.

- (e) To assure compatibility of the proposed land uses with internal and surrounding uses by incorporating higher standards of land planning and site design than could be accomplished under conventional zoning categories and to provide a superior quality of development exceeding that which could be achieved under conventional zoning regulations and procedures.

The Application proposes commercial development that is consistent with the applicable sketch plan (X-159 5<sup>th</sup> Amendment Sketch Plan), and thus the Project is compatible with the surrounding uses.

- (f) To encourage the efficient use of land by: locating employment and retail uses convenient to residential areas; reducing reliance upon automobile use and encourage pedestrian and other non-vehicular circulation systems; retaining and providing useable open space and active recreation areas close to employment and residential populations; and providing for the development of comprehensive non-vehicular circulation networks, separated from vehicular roadways, which constitute a system of linkages among residential areas, open spaces, recreational areas, commercial and employment areas, and public facilities.

The development proposed by this Application encourages the efficient use of land with the addition of an outdoor dining area on the Washingtonian Lake and is adjacent to a mix of residential and commercial uses.

- (g) To provide superior natural environment by the preservation of trees, natural topographic and geologic features, wetlands, watercourses and open spaces.

This SDP Area is a small-scale development and will not interfere with the preservation of trees, natural topographic and geologic features, wetlands, watercourses, and open spaces.

- (h) To allow development only in a phased or staged fashion to ensure the adequacy of the provision of public facilities and the concurrent implementation of community amenities.

As stated previously, this SDP Area is a small-scale development and will be completed in one phase.

**Adequacy of Transportation Facilities:** A Traffic Impact Study is not required for less than 891,000 square feet of commercial uses according to the 5<sup>th</sup> Amendment of the Annexation Agreement.

**Adequacy of School Capacity:** Since the Project does not propose any residential uses, this Application is exempt from City's APFO test for school capacity as set forth in Section 24-246 of the Zoning Ordinance.

**Water and Sewer Service:** The Application complies with the City's APFO test for water and sewer service as set forth in Section 24-247 of the Zoning Ordinance.

**Fire and Emergency Service:** Pursuant to Section 24-248 of the Zoning Ordinance, any development project must be served by at least two fire stations within a ten-minute response time in order to comply with the City's APFO test for fire and emergency services.

The SDP Area is located within a ten-minute response time of two fire stations: Montgomery County Fire Station 32 (Rockville) and Montgomery County Fire Chief (Rockville). As a result, the Project will be served by adequate fire and emergency services.

Section 24-160D.2 of the Zoning Ordinance sets forth the minimum location and development requirements of the MXD Zone as follows:

(a) Master plan. No land shall be classified in the Mixed Use Development Zone unless the land is within an area for which there is an approved and adopted master plan which recommends mixed use development for the land which is the subject of the application, or unless the proposed development otherwise satisfies the purposes and objectives of the MXD Zone. Approval of the MXD Zone for land which is not recommended for this zone in an approved master plan shall require the affirmative vote of four (4) members of the city council.

(b) Minimum area. No land shall be classified in the Mixed Use Development Zone unless it contains a minimum of ten (10) acres. Parcels or tracts less than the minimum acreage may be permitted if they are contiguous to an existing MXD zoned area and may be harmoniously integrated into the MXD area, consistent with the objectives and purposes of this zone. Such parcels are not required to contain multiple uses but should contribute to a multi-use development and are subject to the provisions of 24-160D.9(a)(1).

(c) Location. Such land shall be located adjacent to and readily accessible from existing or planned highways that are in an approved construction program and are adequate to service the proposed development. It is intended that adequate access be available to such sites so that traffic does not have an adverse impact on the surrounding area or cause internal circulation or safety problems.

(d) Public water and sewer. No development shall be permitted unless served by public water and sewer.

(e) Signage. Signage shall be coordinated between adjoining uses and be thematic in approach, in accord with the purposes of this zone and overall character of the surrounding area.

(f) Frontage on public streets. Anything to the contrary notwithstanding in any regulation in this Code, lots in this zone shall not be required to have direct access to a public street provided that such condition will promote the creation of affordable housing, or will be designed in such a way as to foster the purposes and objectives of this zone, provided that satisfactory access to a public street is provided over private rights-of-way.

Section 24-160D.2(a)-(c) are not applicable to the Application since the SDP Area is zoned MXD, and public water and sewer are available at the SDP Area. (E) and (f) are also not applicable to this Application as they do not include new signage and access to the Project is along the boardwalk and not a public street.

Section 24-160D.5 of the Zoning Ordinance sets forth the compatibility standards of the MXD Zone as follows:

(a) All uses shall conform to the purposes of the Mixed Use Development Zone and shall be compatible with all uses, existing or proposed, in the vicinity of the area covered by the proposed planned development. In order to assist in accomplishing such compatibility, the following requirements shall apply:

(1) All right-of-way requirements, setbacks, height limits, open space or buffer areas recommended in an area master plan or special conditions or requirements stated therein to protect properties adjacent to the MXD zoned areas shall be incorporated into all plans subject to approval under the zone..

(2) Where setback, height limits, open space or buffer areas are not recommended in an area master plan or special conditions or requirements stated therein to protect properties adjacent to the MXD zoned areas, the following requirements shall be incorporated into all plans subject to approval under this zone.

a. No buildings other than single-family detached dwellings shall be constructed within one hundred (100) feet of adjoining property not zoned MXD or in a residential category that is developed with one-family detached homes unless the city planning commission finds that topographical features permit a lesser setback. In all other situations, setbacks from adjoining properties may be less than one hundred (100) feet, with the setback approved by the city planning commission.

b. No building proposed for commercial/employment/industrial use shall be constructed less than one hundred (100) feet from any adjoining property not zoned MXD recommended for residential zoning and land use on the applicable master plan. The setbacks shall be determined as part of the final site plan approval.

Based on these finding we feel we are in compliance with the compatibility standards of the MXD Zone.

Section 24-160D.6 of the Zoning Ordinance establishes the minimum green area, landscaping and amenity requirements for the MXD Zone as follows:

(a) The amount of green area, including designated parks, public and private open space, active and passive recreational areas, required for the residential portion of a mixed use development shall be not less than forty (40) percent of the total area shown for residential use. ... for the commercial/employment/industrial portion of a mixed use development shall be not less than twenty-five (25) percent of the total area devoted to commercial/employment/industrial uses, except that comparable amenities and/or facilities may be provided in lieu of green area if the city council determines that such amenities or

facilities are sufficient to accomplish the purposes of the zone, and would be more beneficial to the proposed development than strict adherence to the specific green area requirement.

The Project satisfies the green area requirement for the commercial/ employment/ industrial portion of a mixed use development to be not less than 25% of the total area devoted to commercial/ employment/ industrial uses as shown on the Green Space chart of the SDP.

(b) All recreation areas, facilities and amenities, and all open space and landscaped areas shall be reflected on the final site plans for approval by the city planning commission.

All facilities and amenities, and all open space and landscaped areas are shown on the SDP. These items will also be reflected on the final site plan(s) for approval.

Section 24-160D.10 of the Zoning Ordinance sets forth the findings required of the MXD Zone as follows:

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:

As discussed above, the Project is consistent with the 2003 Master Plan and X-159 5<sup>th</sup> Amendment Sketch Plan.

4. The plan will be internally and externally compatible and harmonious with existing and planned land uses in the MXD zone areas and adjacent areas:

The SDP is compatible and harmonious with the adjacent area and uses, which consist of commercial development.

5. Existing or planned public facilities are adequate to service the proposed development contained in the plan:

As stated above, transportation facilities, water and sewer service, and fire and emergency services are all adequate to accommodate SDP Area. Since the Project is limited to commercial development, the City's APFO test for adequacy of schools is not applicable.

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 stated previously, the development included in the SDP will be served by adequate public facilities and private amenities.

7. The plan, if approved, would be in the public interest:

This Project enhances the existing business that has operated for over 10 years in this location.

V. CONCLUSION

In summary, the Application allows for the development of the SDP Area with the addition of a Pier for the Copper Canyon restaurant in the adjacent Washingtonian Lake which will support and enhance the existing commercial uses. This Application will (1) be in accord with the approved 2003 Master Plan and X-159 5<sup>th</sup> Amendment Sketch Plan (2) meet or accomplish the purposes, objectives, and minimum standards and requirements of the MXD Zone; (3) be in accord with the 2003 Master Plan's recommendations for the SDP Area; (4) be internally and externally compatible and harmonious with existing and planned land uses in the MXD zone areas and adjacent areas; (5) be supported by adequate public facilities to service the Project; (6) be implemented through an adequate development staging or phasing program in relation to public facilities and private amenities; and (7) be in the public interest. Aria Group Architects, Inc., therefore, respectfully requests approval of this Application.