

RESOLUTION NO. R-58-22

RESOLUTION OF THE MAYOR AND CITY COUNCIL
GRANTING APPROVAL OF SCHEMATIC DEVELOPMENT PLAN
SDP-9269-2022, LOCATED AT 103 AND 203 SPECTRUM AVENUE,
CONSISTING OF APPROXIMATELY 1.39 ACRES AND ZONED
MIXED USE DEVELOPMENT (MXD)

SDP-9269-2022

OPINION

Schematic Development Plan Approval Application SDP-9269-2022 for Properties zoned Mixed Use Development (MXD) (Application), has come before the Mayor and City Council for approval. The City Council's authority in this matter is pursuant to § 24-160D.9(b)(2) of the City of Gaithersburg Zoning Ordinance (Chapter 24 of the City Code), which authorizes the City Council and Planning Commission to conduct public hearings on a schematic development plan application following appropriate notification procedures and for the City Council to take action on the application within ninety (90) days of the close of the hearing record, following receipt of a recommendation by the City's Planning Commission.

The subject case involves properties located at 103 and 203 Spectrum Avenue (Subject Properties), which are depicted on Plat No. 24329 as Block C, Lot 1 and Block C, Lot 3. The Application was submitted to the City Planning and Code Administration on April 27, 2022 and designated as SDP-9269-2022.

OPERATIVE FACTS

A. Background

The Mayor and Town Council by Resolution R-8-68 annexed the Subject Properties into the City as part of annexation application X-095 on April 15, 1968. The Properties were zoned I-3 (Industrial Office Park) at the time of annexation. The Mayor and City Council by Ordinance O-05-06 approved Zoning Map Amendment application Z-301 on June 20, 2006, which rezoned the Properties to the MXD (Mixed Use Development) Zone.

A Sketch Plan including the Subject Properties was included and approved by the Mayor and City Council, as part of Zoning Map Amendment application Z-301. The Subject Properties received Schematic Development Plan approval in 2006, by the Mayor and City Council, by Resolution R-65-07 for application SDP-05-003. The Mayor and City Council by Resolution R-92-07 approved SDP-07-001, which amended the previously approved Schematic Development Plan. Subsequently, the Planning

Commission approved Final Site Plans for both phase 1A and 1B of the Schematic Development Plan, which included the infrastructure and buildings A, C, and C-1. The Planning Commission subsequently approved Final Site Plan SP-07-0017 on July 15, 2009 for Phase 1A overall, and Final Site Plan SP-09-004 on June 2, 2010 for Phase 1B overall.

Applications Z-301(A) and SDP-11-002 were later filed concurrently to amend the approved sketch plan and Schematic Development Plan. Sketch Plan application Z-301(A) permitted a maximum of 214,810 square feet of mixed-use commercial uses and 669 total dwelling units. The Sketch Plan phased the development in two phases.

Phase 1: Commencement at Approval of the Final Site Plan

61,710 sf	Mixed Use (retail/restaurant) – Buildings A (retail), B, C (retail and restaurant), D, F, H (retail), M, and T
8,000 sf	Mixed Use (office/bank) – Buildings L and S
29,200 sf	Montgomery County Police Station – Building P
30,000 sf	City Senior Center – Building Q
511	Multi-family units – Building A, C and H

Phase 2: Commencement at commencement of Watkins Mill Road Interchange

17,000 sf	Mixed Use (retail/restaurant) – Building K (retail/restaurant) and Buildings K and O
64,100 sf	Mixed Use (office/bank) – Buildings K and O
4,800 sf	Mixed Use (service station) – Building N
158	Multi-family units Age Restricted – Building R

The Mayor and City Council by Resolution O-2-12 granted approval of Sketch Plan Z-301(A) on March 19, 2012. Subsequently, the Mayor and City Council by Resolution R-19-12 approved Schematic Development Plan SDP-11-002 on March 19, 2012.

The Planning Commission approved Final Site Plan SP-12-0002 April 3, 2013 for buildings F, H, L and M. On August 5, 2020, the Planning Commission approved Final Site Plan application SP-8401-2020 for the construction of a Starbucks and Royal Farms. The Applicant has also requested a number of minor amendments that include minor site and elevation revisions, which City Staff have approved.

On November 3, 2021, the Mayor and City Council approved Amendment to Sketch Plan Application ASK-8490-2021 to convert two unbuilt commercial pad sites to a new 225-unit multi-family residential building, reduce the overall area of non-residential uses by 2,710 square feet, expand the list of allowed non-residential uses and perform minor housekeeping items to improve consistency and clarity throughout the sketch plan.

B. Current Application

On April 27, 2022, Matthew Walters of BPTC Eighteen LLC. (“Applicant”) submitted the Application, which proposes to construct a 230-unit multi-family building on two undeveloped lots.

The Mayor and City Council and Planning Commission conducted a joint public hearing for the Application on September 6, 2022. Comments raised and discussed during the course of the hearing included:

- Provide more information about the pedestrian connection to the amenity space within the building; and
- Enhance the building elevations that faces MD-355/Frederick Avenue.

Two (2) members of the public provided oral testimony during the course of the hearing. No additional written testimony from the public were received while the record remained open.

At the conclusion of the hearing, the Planning Commission announced, by motion, the closing of their record at 5 PM on October 7, 2022, with a recommendation to the City Council scheduled for discussion on October 19, 2022. Subsequently, the Mayor and City Council announced, by motion, the closing of their record at 5 PM on October 21, 2022, with policy discussion to be scheduled on November 7, 2022.

The Planning Commission reviewed the Application at its regular meeting on October 19, 2022. Based upon their review of the evidence in the record, their discussion, and the required findings presented in the Staff Analysis, the Planning Commission found the Application to be in conformance with the MXD Zone standards. Consequently, the Planning Commission recommended approval of the Application to the City Council, with the following recommended condition:

As part of the Final Site Plan submission, the Applicant must revise the building and garage layouts to provide enhanced connectivity to amenity, lobby and loading areas.

C. Evaluation and Findings

The City Council, upon careful review of the evidence of record, agrees with the findings, conclusions and the recommendation of approval for the Application by the City Planning Commission and City staff. The City Council finds those recommendations to be well reasoned and adopts and incorporates their findings as part of this action. The City Council further agrees that the procedures governing the application for the MXD zone and approvals necessary to seek building permits are subject to a multi-step process, such that this Approval is only one of several steps of the process, which subsequently includes Final Site Plan review and approval.

In reviewing the subject Application, the City Council finds the Application and development proposal meets or accomplishes the purposes, objectives, and minimum standards and requirements of the MXD Zone that are set forth in Chapter 24 (Zoning) Article III, Division 19 of the City Code.

The City Council finds that the Application meets the submission requirements and the standards and requirements for approval of the subject schematic development plan, as set forth in § 24-160D.9(b) of the City Code in that:

1. The Applicant filed, together with the prescribed application fee, an Application for approval of a schematic development plan consistent with the approved and regulating Amendment to Sketch Plan ASK-8490-2021, which converted two unbuilt commercial pad with a residential use;
2. Staff determined that the Application was complete and contains all the information and components required under § 24-169(b) of the City Code;
3. The City Council and Planning Commission have conducted a joint public hearing on the Application subject to the notification procedures as required for local map amendments in § 24-196 of the City Code;
4. The Planning Commission delivered its recommendation to the City Council on October 19, 2022, within thirty (30) days of the close of the Commission's hearing record on October 7, 2022;
5. The Council has taken action on this Application within ninety (90) days after the close of the Council's hearing record on October 21, 2022; and
6. The approval of this schematic development plan, with its degree of detail, shall substitute for and consist of preliminary site plan approval and preliminary subdivision plan approval.

Furthermore, the City Council finds from the evidence of record that the Application fulfills the findings required under § 24-160D.10(b), as follows:

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

The Application plan is consistent with approved amendment to Sketch Plan ASK-8940-2021. The approval of ASK-8490-2021 included the conversion of two (2) unbuilt commercial pad sites to a new 225-unit multi-family residential building. The maximum building height permitted per the Sketch Plan is six-stories and seventy feet in height. Due to the street grades, the building height differs. On Spectrum Avenue, the building will be six (6) stories with height ranges between 66'-4.5" to 74.4'. Pursuant to § 24-198(c)(1)(ii) of the City Code, a sketch

plan must be amended when there is an increase of building height by more than ten feet or increases the number of dwelling units by more than ten percent (10%) or five (5) units whichever is greater. The maximum number of units that can be added prior to amendment to the sketch plan is twenty-three (23) units. An amendment of the Sketch Plan is not required here, because the proposed application will not exceed the twenty-three (23) unit maximum and will not increase the height more than ten percent (10%). Therefore, the plan is substantially in accord with approved Sketch Plan Amendment ASK-8490-2021.

(2) The plan meets or accomplishes the purposes, objectives and minimum standards and requirements of the zone:

- (a) The Application specifies that the Subject Property will be developed with a multi-family residential building, in conformance with approved Amendment to Sketch Plan ASK-8940-2021.
- (b) The Application specifies building materials and design elements that will be compatible with the existing buildings located within the Spectrum development such as brick, Juliet balconies and precast concrete.
- (c) The Application specifies a continuation development of an existing mixed-use community by creating an attractive and cohesive development by maintaining the existing sidewalks and roadways.
- (d) The Application encourages the efficient use of land by locating the multi-family building within an existing mixed use community, which reduces the reliance upon automobile uses and encourages pedestrian and other non-vehicular circulation systems.
- (e) The Application is part of the existing Spectrum development, which will be integrated within the existing road networks and utilities.

(3) The plan is in accord with the area master plan and any accompanying special condition or requirements in said master plan for the area under consideration:

Under Section 20-18(a) of the City Code, the Planning Commission may determine that events since the adoption of the Master Plan render the land use recommendation in the Plan “no longer relevant”. In the review and approval of ASK-8495-2021, the Commission found that the Master Plan’s land use

recommendation for this subdivision is no longer relevant, based upon the following:

- The existing and proposed residential uses are not included in the adopted “commercial/industrial-research-office” land use designation of the Master Plan.
 - The Subject Properties was first included in the 1997 Master Plan, Neighborhood Six Land Use Plan as part of Study Area 3, Map Designation 6, which designated the land use as “commercial/industrial-research-office” and retained the I-3 (Industrial and Office Park Zoning).
 - The 2003 and 2009 Master Plans did not change the 1997 Master Plan land use designation for the Subject Properties and it remains “commercial/industrial-research-office”.
- The initial Sketch Plan Z-301 and MXD rezoning application approved in 2006 introduced residential uses to the Subject Property, and Sketch Plan Amendment Z-301(A), approved in 2012, allowed additional residential dwelling units on the Subject Properties.
- Based on the records and resolutions of approval, the residential uses included in both previous sketch plans were supported by the Mayor and City Council and the Planning Commission and were deemed compatible with the surrounding land uses.
- The approved residential uses have been constructed on the Subject Property and are contributing on the mixed-use nature and success of the development and surrounding area, and given the change in land use with the residential construction, the Planning Commission found that events have occurred to render the master plan land use recommendation no longer relevant.
- The Application is in accord with other elements of the 2009 Master Plan:
 - State Vision 3, Growth Areas: Growth is concentrated in existing population and business centers, growth areas adjacent to these centers.
 - State Vision 4, Community Design: Compact, mixed-use, walkable design consistent with existing community character, located near available or planned transit options is encourage to ensure efficient use of land and transportation resources and preservation and enhancement of natural systems, open spaces, recreational areas and historical, cultural and archeological resources.

- State Vision 5, Infrastructure: Growth areas have the water resources and infrastructure to accommodate population and business expansion in an orderly, efficient and environmentally sustainable manner.
- State Vision 7, Housing: A range of housing densities, types and sizes provides residential options for citizens for all ages and incomes.
- State Vision 10, Resource Conservation: waterways, forests, agricultural areas, open space, natural systems, and scenic areas are conserved.
- State Vision 11, Stewardship: Government, business entities and residents are responsible for the creation of sustainable communities by collaborating to balance efficient growth with resource protection.
- City Guiding Strategy: Support compact building design and a mix of land uses that promotes sustainable development, creates more secure communities, provides a variety of land use options and improves environmental outcomes.
- Transportation Element of the 2009 Master Plan:
 - Objective 3: Encourage and promote the City of Gaithersburg as a multi-modal community and reduce the dependence upon single occupancy vehicles (SOV).
 - Objective 4: Ensure the land use and transportation decisions, strategies and investments are in step and consistent with the health, safety and welfare goals of the City of Gaithersburg, its neighborhoods and its citizens.
 - Overall, encourage developers to improve environmental quality and promote energy-efficient transportation by providing for a range of transportation alternatives to automobile, including public transit amenities and projects conducive to bicycling and walking.

(4) The plan will be internally and externally compatible and harmonious with existing and planned uses in the MXD zoned area and adjacent areas:

The Application is compatible and harmonious with the existing and planned land uses in the MXD zone and adjacent areas. The proposed residential building will be located within an existing mixed use community which consists of commercial, office and residential uses. The building will contain materials and design

elements that will be compatible with the existing buildings located within the Spectrum development such as brick, Juliet balconies and precast concrete.

(5) That existing or planned public facilities are adequate to service the proposed development contained in the plan:

This application complies with the City's adequate public facilities requirements, as follows:

- 1. Traffic Impacts** - Traffic engineering firm, the Traffic Group, submitted a Traffic Addendum Letter. The letter compares the trips generated by the mix of uses approved under the 2012 SDP to the trips generated by the current approved mix of uses, including existing and proposed development. The letter shows a significant net reduction in peak hour trips generated by the current Spectrum development proposed, including the trips generated by the residential building proposed in the Application, when compared to the development approved in the 2012 SDP. Accordingly, the existing road network has sufficient capacity to accommodate the traffic generated by the Spectrum. Brian Fields, Engineering Services Division Chief- Department of Public Works, reviewed and approved the Traffic Addendum Letter. Therefore, the Application complies with the adequate public facilities requirements for traffic impacts.

- 2. Adequacy of School Capacity** - The Spectrum development is served by the Watkins Mill cluster of the Montgomery County Public (MCPS) system. The schools within the cluster that serve the development are Watkins Mill Elementary School, Montgomery Village Middle School and Watkins Mill High School. According to the August 1, 2022 school capacity memo prepared by City Staff, the Watkins Mill cluster will not be in moratorium in FY 2023-2028. The City collects a Gaithersburg MCPS Utilization Premium Payment fee for residential development that is located within a school service area that exceeds utilization thresholds established by Montgomery County. The fee is in addition to any applicable impact taxes and is grouped into three tiers. Watkins Mill Elementary School is a Tier 2 and the Utilization Premium Payment fee will total \$1,038.67 per unit. The fees will be finalized at the time of final site plan approval and will be collected prior to issuance of building permit. Therefore, the Application complies with the requirement of the adequate public facilities requirement for schools.

3. Water and Sewer Services and Public Utilities - The Spectrum development is currently served by Category W-1 and S-1 of Washington Suburban Sanitary Commission (WSSC) services. Therefore, the Application complies with the requirement of the adequate public facilities requirements for water and sewer services.

4. Fire and Emergency Services - The City's Adequate Public Facilities Ordinance (APFO) requires that any development project be served by at least two (2) fire stations within a ten-minute response time. The development is located within a ten-minute response time of three (3) fire stations:

- Station 8 (Gaithersburg-Washington Grove)
- Station 29 (Germantown)
- Station 34 (Germantown/Milestone)

Therefore, the Application complies with the requirements for adequate public facilities for emergency services.

(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:

The proposed plan will be integrated within the existing road networks and utility infrastructures. The project will be completed in one phase. Therefore, no staging or phasing is required for implementation of the plan.

(7) That the plan, if approved, would be in the public interest:

The plan advances the overall Spectrum development vision by providing a vibrant and walkable mixed use community. The proposed Application plan will provide additional residential units, which will contribute to the City's overall housing stock. Lastly, the Application plan will not have any adverse impacts to existing development and adjacent properties.

SCHEMATIC DEVELOPMENT PLAN SDP-9269-2022

RESOLUTION

NOW, THEREFORE BE IT ORDAINED by the City Council of Gaithersburg, Maryland, that SDP-9269-2022, being an application filed by Matthew Walters of BPTC Eighteen, LLC., requesting approval of the Schematic Development Plan, is approved, with one condition:

As part of the final site plan submission, the Applicant must revise the building and garage layouts to provide enhanced connectivity to amenity, lobby and loading areas.

ADOPTED by the City Council this 7th day of November, 2022.

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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 7th day of November, 2022.

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Tanisha Briley, City Manager