

RESOLUTION NO. R-16-22

RESOLUTION OF THE MAYOR AND CITY COUNCIL OF GAITHERSBURG
GRANTING APPROVAL OF SCHEMATIC DEVELOPMENT PLAN SDP-9073-2021,
LOCATED AT KENTLANDS SQUARE SHOPPING CENTER, CONSISTING OF
APPROXIMATELY 22.3 ACRES AND ZONED MIXED USE DEVELOPMENT (MXD)

SDP-9073-2021

OPINION

Schematic Development Plan Approval Application SDP-9073-2021 for Property zoned Mixed Use Development (MXD), 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 approximately 22.3 acres. The Subject Property is part of the larger Parcel K, Block Q as depicted on Plat No. 20505 and is addressed at 104 Main Street, Gaithersburg, Maryland 20878 ("Subject Property"). The Application was submitted to the City Planning and Code Administration on October 6, 2021 and designated as SDP-9073-2021.

OPERATIVE FACTS

A. Background

In 1967, the Mayor and City Council, by Resolution R-22-66, annexed the Subject Property into the City as part of Annexation Application X-088. At the time of annexation, the Property was zoned R-A (Low Density Residential) by Resolution R-23-66. On March 2, 1989, the Property was rezoned to the MXD (Mixed Use Development) Zone as part of the Zoning Map Amendment Application and associated Sketch Plan Z-262, by Ordinance O-3-89. The Sketch Plan was approved for 2,200,000 square feet of non-residential uses. The Sketch Plan was later amended on April 1, 1991 as Application Z-262(A) by Ordinance O-8-91, which allowed up to 1,400,000 square feet of non-residential use in the overall Kentlands subdivision.

On March 2, 1992, the Mayor and City Council adopted Resolution R-21-92 approving Schematic Development Plan, SDP-3, which included the Kentlands Square

Shopping Center area and allowed 344,977 square feet of retail and 27,574 square feet of garden center. On May 6, 1992 Final Site Plan application K-977 was approved by the Planning Commission for a 344,977 square foot retail center.

On July 17, 2017, the Mayor and City Council approved Sketch Plan SK-7503-2017 by Resolution R-44-17. The approval was for 784,080 square feet of commercial uses and up to 1,450 residential multi-family units. This plan has not progressed beyond sketch plan approval and the original sketch plan Z-262(A) is the regulating plan of record.

B. Current Application

On October 6, 2021, Vince Burke of Saul Holdings Limited Partnership, (“Applicant”) submitted the Application for schematic development plan approval, SDP-9073-2021. The Application requests to construct three (3) new infill commercial buildings totaling 21,700 square feet, located within the existing shopping center parking lot. The Application also includes a reduction to the required number of parking spaces.

The Mayor and City Council and Planning Commission conducted a joint public hearing for the Application on January 18, 2022. Comments discussed during the course of the hearing included:

- Parking Waiver;
- Master Plan Compliance;
- Sketch Plan Compliance;
- Drive-Through access on Site H; and
- Overall pedestrian connectivity within the shopping center

One (1) member of the public provided oral testimony during the course of the hearing. Additional written testimony from the public were also received while the record remained open.

At the conclusion of the hearing, the Planning Commission announced, by motion, the closing of their record as of 5 PM February 24, 2022 with recommendation scheduled for March 2, 2022. Subsequently, the Mayor and City Council, announced by motion, the closing of their record as of 5 PM March 16, 2022, with policy discussion on April 4, 2022.

The Planning Commission reviewed the Application at its regular meeting on March 2, 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.

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 schematic development plan SDP-9073-2021 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 and this 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 Sketch Plan Z-262(A) which permitted up to 1,400,000 square feet of non-residential uses in the overall Kentlands subdivision;
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 March 2, 2022, within thirty (30) days of the close of the Commission's hearing record on February 24, 2022;
5. The Council has taken action on this Application within ninety (90) days after the close of the Council's hearing record on April 4, 2022;
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; and

7. The plan will facilitate new business in the City, which will contribute to the City's overall economic health and increase market demand within the Kentlands community. The proposed plan will contribute to the Kentlands Square Shopping Center market-responsiveness and thereby enhance the developer's ability to deliver the long-term vision of the 2008 Kentlands Boulevard Commercial District Special Study Area (KBCD) Master Plan in the future.

Furthermore, the City Council finds from the evidence of record that the Application for schematic development plan approval, SDP-9073-2021, fulfills the findings required under § 24-160D.10 (b), as follows:

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

The plan is in conformance with sketch plan Z-262(A), which permits up to 1,400,000 square feet of non-residential use in the overall Kentlands subdivision. Based on information contained in the City's records, the Kentlands subdivision currently has an estimated 1,068,572 square feet of non-residential uses. This application increases the non-residential square footage total to approximately 1,090,272 square feet, which is well below the 1,400,000 square foot cap established by Z-262(A).

While the current SDP application is not required to be in conformance with Sketch Plan SK-7503-2017, which was approved for 784,080 square feet of commercial uses and up to 1,450 residential multi-family units, it will not preclude implementation of that Sketch Plan. The proposed infill building sites are integrated into the street network envisioned in SK-7503-2017. The Applicant acknowledges that the proposed drive-through on Site H will eventually need to be eliminated to implement the mixed-use redevelopment outline in the approved Sketch Plan. The proposed SDP application will therefore not preclude implementation of Sketch Plan SK-7503-2017 in the future.

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

(a) Application SDP-9073-2021 will improve the Property with infill commercial sites within an existing shopping center, which is consistent with the approved Sketch Plan Z-262(A), 1988 Master Plan Neighborhood Four Land Use Plan, and 1997 Master Plan.

(b) Application SDP-9073-2021 will adopt previously approved design guidelines for infill building sites from approved SDP application SDP-7712-2017 that encourages design flexibility and coordination of architecture and signage, creating a holistic design compatible with recently approved/constructed pad sites within the shopping center.

- (c) Application SDP-9073-2021 enhances the commercial focus of the Kentlands Shopping Center, as envisioned by the governing 1988 Master Plan Neighborhood Four Land Use Plan, as implemented by Sketch Plan Z-262(A), while retaining the ability to be redeveloped in the future as a denser mixed-use center as envisioned by the 2008 Kentlands Boulevard Commercial District Special Study Area. While that Special Study Area vision is not applicable, the proposed plan will not preclude the implementation of the Kentlands Boulevard Commercial District Special Study Area and Sketch Plan SK-7503-2017 in the future.
 - (d) Application SDP-9073-2021 will further improve pedestrian connectivity by providing a new sidewalk with tree plantings and streetlights which is similar to other streetscape improvements within the shopping center.
- (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:

Application SDP-9073-2021 continues the mixed use development pattern envisioned in the governing 1988 Master Plan Neighborhood Four Land Use Plan, as implemented by Sketch Plan Z-262 and its amendment Z-262(A). This application is also in conformance with the 1997 Master Plan, Neighborhood Four, Study Area 4, Map Designation 26. The 1997 master plan recommended that the Kentlands Square Shopping Center and surrounding commercial development retain the commercial-industrial-research-office land use designation and the MXD zoning to allow for future development of the blocks of parking within the shopping center and surrounding commercial development. The Subject Property was also part of the Kentlands Boulevard Commercial District Special Study Area (KBCD). The KBCD, adopted in 2008, established short-term interim transitions and long-term visions for this area of the Kentlands. While the KBCD established long-term visions for the Kentlands, the document acknowledges the need to fulfill short term needs in the interim to support the long term vision. The proposed SDP application will provide three (3) commercial infill sites within an existing shopping center to make the center more market-responsive and thereby enhance the developer's ability to deliver the long-term vision of the KBCD Master Plan. The SDP is consistent with the mixed use commercial-focused vision in the 1988 and 1997 Master Plans and does not preclude the Applicant from establishing the KBCD master plan in the future.

(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 within the Kentlands Square Shopping Center and overall Kentlands community. The proposed infill sites will be located within an existing shopping center and provide additional commercial uses, which will add marketability to the shopping center and Kentlands community. Granting the parking waiver request will not negatively impact the existing shopping center or Kentlands community. The removal of excess parking spaces will allow the project to provide additional sidewalk and streetscape improvements for safe and efficient pedestrian circulation from the new infill sites and other parts of the shopping center. The adoption of previously approved design guidelines from the approved SDP-7712-2017 encourages design flexibility and coordination of architecture and signage, creating a holistic design compatible and harmonious with recently approved/constructed pad sites within the shopping center.

(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-** According to the submitted Traffic Impact Study, the proposed development will generate an additional 39 AM and 44 PM peak hour trips. The analysis concludes that there is sufficient transportation capacity to accommodate the proposed development and all studied intersections will continue to operate at acceptable levels. The City's Department of Public Works has determined that the proposed development meets the adequacy criteria of the City of Gaithersburg Traffic Impact Study Standards and regulations.
2. **Adequacy of School Capacity-** The proposed development is for commercial use and will not have impacts on the school system. Therefore, the proposed development is exempt from the City's school test.
3. **Water and Sewer Services and Public Utilities-** The Subject Property is currently served by Category W-1 and S-1 of Washington Suburban Sanitary Commission (WSSC) services.
4. **Fire and Emergency Services-** The Property is located within a ten-minute response time of Station 8 (Gaithersburg), Station 22 (Germantown/Kingsview), Station 31 (Rockville) and Station 32 (Travilah).

- (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:

Application SDP-9073-2021 has adequate public facilities and private amenities to service the proposed additional commercial infill sites. The plan intends to maintain the flexibility to implement the plans in a manner that responds to market demand.

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

The Application will be in the public interest by providing commercial infill sites that will facilitate new business in the City, which will contribute to the City's overall economic health and increase market demand within the Kentlands community. The proposed plan will make the Kentlands Square Shopping Center more market-responsive and thereby enhance the developer's ability to deliver the long-term vision of the KBCD Master Plan in the future. The associated parking waiver request will also be in the public interest because the propose infill sites will remove excess and underutilized parking spaces to activate activity along the private drive aisle and provide streetscape improvements that will promote safe and efficient pedestrian circulation within the shopping center and other areas in the community.

SCHEMATIC DEVELOPMENT PLAN SDP-9073-2021

RESOLUTION

NOW, THEREFORE BE IT ORDAINED by the City Council of Gaithersburg, Maryland, that SDP-9073-2021, being an application filed by Vince Burke of Saul Holdings Limited Partnership, requesting approval of the Application for Schematic Development Plan, as well as the associated parking waiver, is approved.

ADOPTED by the City Council this 4th day of April, 2022.

DocuSigned by:

Jud Ashman

52E570A5749C472

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 4th day of April, 2022.

DocuSigned by:

Tanisha Briley

96695A65FBE94E0

Tanisha Briley, City Manager