

RESOLUTION NO. R-15-24

RESOLUTION OF THE MAYOR AND CITY COUNCIL GRANTING APPROVAL OF SCHEMATIC DEVELOPMENT PLAN SDP-9558-2023, LOCATED AT PARCELS P240, P308, P342, P305, P304, P241, AND P238 (STEVENSON-METROGROVE PROPERTIES), CONSISTING OF APPROXIMATELY 16.2 ACRES AND ZONED MIXED-USE DEVELOPMENT (MXD)

**SDP-9558-2023**

OPINION

Schematic Development Plan Approval Application SDP-9558-2023 for properties zoned Mixed Use Development (MXD) (Application), has come before the Mayor and City Council for approval. The Mayor and City Council's authority in this matter is pursuant to Section 24-160D.9(b)(2) of the City of Gaithersburg Zoning Ordinance (Chapter 24 of the City Code), which authorizes the Mayor and City Council and Planning Commission to conduct public hearings on a schematic development plan application following appropriate notification procedures and for the Mayor and 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 Parcels P240, P308, P342, P305, P304, P241 and P238 (Subject Properties), which are depicted on Tax Map FT22. The Application was submitted to the City Planning and Code Administration on April 28, 2023 and designated as SDP-9558-2023.

OPERATIVE FACTS

A. Background

The western section of the Site (Parcel P240) was annexed into the City of Gaithersburg as part of Annexation Application X-095 by Resolution R-8-68 on April 15, 1968. At the time of annexation, the Property was zoned I-3 (Industrial and Office Park), by Resolution R-9-68. The eastern section of the Site (Parcels P238, P241, P304, P305, P342, and P308) was annexed into the City as part of Annexation Application X-104 by Resolution R-6-74 on January 28, 1974. At the time of annexation, part of the tract of land was zoned I-1 (Light Industrial Zone) and the remainder of the land was zoned R-A (Low Density Residential) by Resolution R-7-74.

On April 21, 1986, the Mayor and City Council approved Zoning Map Amendment Application Z-248, to rezone the remainder of the land from R-A to I-1 Zone by Ordinance O-6-86. On April 1, 1996, the Mayor and City Council approved Comprehensive Map Amendment Z-278 by Ordinance O-05-96, which rezoned the Properties from the I-3 and I-1 Zones to the MXD (Mixed Use Development) Zone, as recommended by the Neighborhood Five Land Use Plan of the 1997 Master Plan.

Parcel P240 was included in Sketch Plan Application Z-297, which was approved by the Mayor and City Council on April 18, 2005, by Ordinance O-1-05. Parcel P240 was also included as part of SDP application SDP-05-002. SDP-05-002 was approved by the Mayor and City Council on August 1, 2005 by Resolution R-75-05 for a mixed-use project which included 1,066 dwelling units, 259,939 square feet of mixed-use commercial space, 936,650 square feet of office and 394 room hotel. Parcels P238 and P241 was included in the approved Sketch Plan application Z-7187-2015 by Resolution R-60-16. The approval was for 83 units, which may include all townhouses or a mix of townhouses and 2-over-2 stacked townhouse condos. Sketch Plan Application SK-9174-2022 was approved on June 21, 2022 by Resolution R-38-22. The approved sketch plan permits up to 287 dwelling units of various residential types, including townhouse, 2-over-2 stacked townhouse condominiums and triplexes. This Sketch Plan includes that entire project area that is part of this current SDP application and currently supersedes the previous Sketch Plan approvals.

#### B. Current Application

On April 28, 2023, Daniel Park of Soltesz, Inc. (“Applicant”) representing Craftmark Homes, submitted the Application, which proposes to construct 232 single family units, which included 64 two-over-two condominiums, 107 twenty-foot townhouses, 33 twenty-two-foot townhouses and 28 twenty-four-foot townhouses. The Applicant is also requesting a tree removal variance to remove twenty-nine specimen trees with a diameter over thirty inches. The tree removal variance can, under Section 22-12(e) of the City Code, be considered as part of the development plan. SDP-9558-2023 is being reviewed concurrently with Abandonment Application AB-9653-2023 to abandon 7,092 square feet of Exchange Avenue right-of-way, located adjacent to Parcels P240 and P304. Road Code Waiver Application RC-9560-2023 was submitted for the reduction of the required sixty-two feet to fifty-two feet for Street B. Information and required findings for AB-9653-2023 and RC-9560-2023 are in separate resolutions.

The Mayor and City Council and Planning Commission conducted a consolidated joint public hearing for the Application on January 16, 2024. Comments raised and discussed during the course of the hearing included:

- Use and Design of the amenity spaces;
- Emergency Safety Access In and Out of the Residential Development;
- Potential Impact to the Specimen Trees in the adjacent City Park; and
- Residential Units Proximity to the Railroad Tracks

One member from the public provided oral testimony during the course of the hearing. Additional written comments 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 at 5 PM on February 15, 2024 with a recommendation to the Mayor and City Council scheduled for discussion on February 21, 2024. Subsequently, the Mayor and City Council announced, by motion, the closing of their record at 5 PM on February 28, 2024, with policy discussion to be scheduled on March 18, 2024.

The Planning Commission reviewed the Application at its regular meeting on February 21, 2024. 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 Mayor and City Council, with the following recommended conditions:

1. Applicant to work with the City to implement a historical marker commemorating the historic Black neighborhood of Metropolitan Grove as part of the Gaithersburg History Project;
2. Applicant to redesign Parkview Avenue as a two-lane street along the development frontage and the short segment between Urban Avenue and Exchange Avenue;
3. Applicant must dedicate HOA Parcel A for Parkview Avenue right-of-way;
4. The Final Forest Conservation Plan must be in conformance with the worksheet on the Preliminary Forest Conservation Plan. Applicant must provide a planting plan for the off-site Forest Conservation receiving area as noted in the Preliminary Forest Conservation Plan as part of the final forest conservation plan; and
5. Applicant must submit revised plans to address Staff's outstanding comments related to site plan cleanup, prior to final signature of the plans.

### C. Evaluation and Findings

The Mayor and 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 Mayor and City Council finds those recommendations to be well reasoned and adopts and incorporates their findings as part of this action. The Mayor and 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 Mayor and 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 Mayor and 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 Section 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 SK-9174-2022, which approved up to 287 dwelling units of various residential types, including townhouses, 2-over-2 stacked townhouse condominiums and potentially triplexes;
2. City staff determined that the Application was complete and contains all the information and components required under Section 24-169(b) of the City Code;
3. The Mayor and City Council and Planning Commission have conducted a consolidated joint public hearing on the Application subject to the notification procedures as required for local map amendments in Section 24-196 of the City Code;
4. The Planning Commission delivered its recommendation to the Mayor and City Council on February 21, 2024, within thirty (30) days of the close of the Commission's hearing record on February 15, 2024;
5. The Council has taken action on this Application within ninety (90) days after the close of the Council's hearing record on February 28, 2024; 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 Mayor and City Council finds from the evidence of record that the Application fulfills the findings required under Section 24-160D.10(b), as follows:

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

The plan is consistent with Sketch Plan SK-9174-2022. The sketch plan permitted up to 287 dwelling units of various residential types, including townhouses, 2-over-2 stacked townhouse condominiums and triplexes. The proposed development will include 232 units consisting of 2-over-2 stacked townhomes and townhouses. Therefore, the plan is substantially in accord with Sketch Plan SK-9174-2022.

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

- (a) The Application will be developed with 2-over-2 stacked townhouses and townhouses, in conformance with approved Sketch Plan SK-9174-2022.
- (b) The Application includes design guidelines that regulate building materials and design elements that will be compatible with the adjacent Parklands residential community.
- (c) The Application will be compatible and harmonious with the adjacent residential neighborhood and the future Watkins Mill Town Center Urban Core.
- (d) The Application encourages pedestrian connectivity by creating new pathways and sidewalks that connect internally and externally to the adjacent areas and the existing MARC station.
- (e) The Application encourages the efficient use of land by developing vacant parcels of land that is adjacent to existing residential, future retail/employment development, and an existing MARC station.
- (f) The Application will provide 7.78 acres of green space. The plan will include a variety of canopy trees, understory trees and evergreen trees throughout the site.

(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:

The Property is covered by two separate master plans. The Exchange Avenue right of way, Parcel W Block E, Parcels P240, P310, and the portion of Parcel P209 are subject to the 2003 Master Plan Land Use Element, as part of Special Study Area 6. The remaining area (Parcels P238, P241, P305, and P342) are subject to the 2009 Master Plan Land Use Element, as part of Map Designation 7. All areas of the Application are subject to the other four Elements of the adopted 2009 Master Plan: Process and Overview, Water Resources, Transportation, and Environment and Sustainability.

- a. 2003 Master Plan Land Use Element- Special Study Area 6 (Exchange Avenue right of way, Parcel W Block E, Parcel P240, Parcel P310, and part of Parcel P209):

Special Study Area 6 proposed three Land Use Options for the subject properties. Option C is the relevant option for this Application:

Map Designation 1 is recommended for a land use designation of mixed use residential-office-commercial and a zoning classification of MXD. Specifically, Map Designation 1 is recommended to have high-density office.

- i. Special Study Area 6 provided three options for development of the area north of the CSX railroad.
  - (a) In 2005, the approval and development of Watkins Mill Town Center as part of schematic development plan SDP-05-002 utilized Option C of the Special Study Area.
- ii. This Application proposes to build upon Option C of Special Study Area 6, consistent with the previously approved Schematic Development Plan SDP-05-002.
- iii. When viewed in the context of the future urban core and existing Parklands residential community, this portion of the Application is in accord with the 2003 Master Plan Special Study Area 6 Option C land use recommendation of mixed-use office-residential with a commercial component.
  - (a) This Application's proposed residential development is an extension of the existing residential development at Parklands and will increase the customer and worker base for the future employment and commercial uses in the adjacent urban core and existing employers in the surrounding area, helping to ensure that the Master Plan's vision of a mixed-use community can both be created and sustained over time.

- (b) The proximity of this Application's residential development to the future employment and commercial uses in the adjacent urban core fulfills the Master Plan recommendation of creating a mixed-use community consisting of office, residential, and commercial uses.
- b. 2009 Master Plan Land Use Element (Parcels P238, P241, P305, and P342):
- i. As previously mentioned, this portion of the Application is included in Map Designation 7 of the 2009 Master Plan Land Use Element.
  - ii. Map Designation 7 recommends that any redevelopment of this area be compatible with the adjacent Watkins Mill Town Center development:  
*"This 50.7-acre area contains large undeveloped City-owned open space, land with temporary uses, the Montgomery County vehicle recovery facility, and several vacant lots. Redevelopment of this area must respond to, and shall be compatible with, development of the adjacent Watkins Mill Town Center. The Maryland State Department of Transportation has identified this area as the potential location for future I-270 express toll lane direct access ramps and a possible Corridor Cities Transitway operations and maintenance yard."*
  - iii. Map Designation 7 has two land use and zoning recommendations, and the Applicant has chosen to utilize Scenario A for this Application:  
"Scenario A"
    - *Retain Open Space land use designation for stream valley buffer along I-270*
    - *Adopt Commercial-Office-Residential land use designation for remainder*
    - *Zoning remains MXD"*
  - iv. When viewed in the context of the future urban core and existing Parklands residential community, this portion of the Application is in accord with the 2009 Master Plan Map Designation 7 Scenario A land use recommendation of commercial-office-residential.
    - (a) This Application's proposed residential development is an extension of the existing residential development at Parklands and will increase the customer and worker base for the future employment and commercial uses in the adjacent urban core and existing employers in the surrounding area, helping to ensure that the Master Plan's vision of a mixed-use community can both be created and sustained over time.
    - (b) The proximity of this Application's residential development to the future employment and commercial uses in the adjacent urban core fulfills the Master Plan recommendation of creating a mixed-use community consisting of office, residential, and commercial uses.

c. 2009 Master Plan, all other Elements (entire Application):

The site layout (building upon and adjacent to the Watkins Mill Town Center commercial core and Metropolitan Grove MARC station), unit type mix, amenities, and internal and external road and pedestrian connectivity proposed by the Application is in accord with other adopted Elements of the 2009 Master Plan:

i. Process and Overview Element 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, or strategically selected new centers
- State Vision 4, Community Design: Compact, mixed-use, walkable design consistent with existing community character, located near available or planned transit options is encouraged 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 of all ages and incomes.
- 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.

ii. Transportation Element of the 2009 Master Plan:

- Objective 1: Promote connectivity within the transportation network for new, infill, and re-development projects.
  - Encourage interconnected grid systems in new/redevelopment projects while discouraging dead end facilities.
  - Preserve adequate right-of-way for future roadway or transit corridors and improvements and avoid the preemption of a roadway or transit line by new construction or subdivision activity within the ROW corridor.
  - Encourage and promote the sharing of access points between adjacent properties.
  - Preserve existing roadway connections, restore incomplete connections, and create new connections where appropriate.
- Objective 3: Encourage and promote the City of Gaithersburg as a multi-modal community and reduce the dependence upon single occupancy vehicles (SOV)
  - Encourage mixed-use transit-oriented development projects that promote automobile alternatives and allow for shared and/or reduced parking
- Objective 4: Ensure that 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
  - Encourage developers to improve environmental quality and promote energy-efficient transportation by providing for a range of transportation alternatives to the 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 Parklands community and future Watkins Mill Town Center Urban Core. The proposed development will construct new roads and sidewalks that will connect with the existing adjacent community and adjacent MARC station. The buildings will contain materials such as brick, stone and siding that will complement that existing Parkland residential buildings.

(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 Traffic Impact Study TRF-9559-2023. Brian Fields, Engineering Services Division Chief- Department of Public Works, reviewed and approved the traffic impact study . Therefore, the application complies with the adequate public facilities requirements for traffic impacts.
2. **Adequacy of School Capacity-** The Properties are served by the Quince Orchard cluster of the Montgomery County Public School (MCPS) system. The schools within the cluster that serve the development is Brown Station Elementary School, Lakelands Park Middle School and Quince Orchard High School. According to the FY 2024 School Capacity Memo prepared by the City, the schools serving the Site will not be in moratorium in FY 2024-2029. 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 taxed and is grouped into three tiers. Quince Orchard High School is a Tier 2 and the Utilization Premium Payment fee will total \$6,545.87 per unit. The fees will be finalized at the time of final site plan approval and will be collected prior to issuance of building permits. The application complies with the requirements of the adequate public facilities for schools.
3. **Water and Sewer Services and Public Utilities-** The Properties are 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 22 (Germantown); and Station 31 (Rockville)

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 Application plan will construct new road and utility connections to support the residential development. The plan will be constructed 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 Application proposes a residential development that will be compatible and harmonious with the adjacent Parklands community and provide support to the future Watkins Mill Town Center Urban Core development. The proposed plan will develop a vacant property to provide additional residential units, which will contribute to the City's overall housing stock. Lastly, the plan will not have any adverse impacts to existing development and adjacent properties.

Furthermore, the Applicant is requesting a tree removal variance for twenty-nine specimen trees. Pursuant to Section 22-12(e) of the City Code, the Mayor and City Council considers a tree removal variance as part of the development plan. The Mayor and City Council finds from the evidence of record that the Application fulfills the findings required under Section 22-12(c), as follows:

- (1) The enforcement of the prohibition of removing the specimen trees would mean reducing the development, which would deprive the Applicant of the rights commonly enjoyed by others who are in similar areas that have many of the same features as the Subject Site. While the specimen trees will need to be removed, the Applicant proposes the preservation some of the existing forest, reforestation, stormwater management and landscape throughout the site which will contribute to the environment enhancement of the Site;
- (2) The approval of the Tree Removal Variance will not confer on the Applicant a special privilege that would be denied for other applicants for the development for this Site, nor the surrounding land or building uses have any inherent characteristics that have created this particular need for a variance, and
- (3) The approval of the Tree Removal Variance will not violate state water quality standards or cause measurable degradation in the water quality. The inclusion of stormwater management facilities on site will control runoff throughout the Site.

SCHEMATIC DEVELOPMENT PLAN SDP-9558-2023

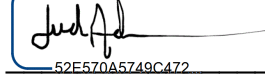
RESOLUTION

NOW, THEREFORE BE IT ORDAINED, by the Mayor and City Council, that SDP-9558-2023, being an application filed by Daniel Park of Soltesz, Inc., requesting approval of the Application for Schematic Development Plan, as well as the associated tree removal variance, are both hereby approved, with five conditions:

1. Applicant to work with the City to implement a historical marker commemorating the historic Black neighborhood of Metropolitan Grove as part of the Gaithersburg History Project;
2. Applicant to redesign Parkview Avenue as a two-lane street along the development frontage and the short segment between Urban Avenue and Exchange Avenue;
3. Applicant must dedicate HOA Parcel A for Parkview Avenue right-of-way;
4. The Final Forest Conservation Plan must be in conformance with the worksheet on the Preliminary Forest Conservation Plan. Applicant must provide a planting plan for the off-site Forest Conservation receiving area as noted in the Preliminary Forest Conservation Plan as part of the final forest conservation plan;
5. Applicant must submit revised plans to address Staff's outstanding comments related to site plan cleanup, prior to final signature of the plans; and
6. Applicant to explore the potential of retaining specimen trees, where feasible as part of the final site plan at no net loss of units and redesign of the preliminary subdivision plan.

ADOPTED by the City Council this 18th day of March, 2024.

DocuSigned by:



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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 18th day of March, 2024.

DocuSigned by:



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Tanisha Briley, City Manager