

APPLICANT'S RESPONSES TO INFORMATION  
CONTAINED IN A TRANSMITTAL DATED  
JUNE 29, 2021 FROM STEFANIE LEVY

1. *"There is inadequate information in the public record regarding the safety of the Great Seneca Highway/Lakelands Drive intersection including the absence of input from the Maryland State Highway Administration. . ."*

a. There are four communications from the Applicant's professional traffic engineer in the record of the SDP 8551-2020 including:

<p>• Traffic Impact Statement dated January, 2020</p>	<p>Approved by the City's Department of Public Works on September 30, 2020, this report confirms that the Everbrook Academy proposal satisfies the provisions of the City's</p>
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	Adequate Public Facilities for transportation matters.
· Response by Traffic Concepts to community questions dated December 15, 2020	· Providing information on questions raised by the community.
· Letter from Traffic Concepts with speed study information	· This memo confirms that 85% of the traffic at the intersection of Great Seneca Highway and Lakelands Drive is conducted within 10 MPH of the posted speed limit.
· Crash data analysis submitted by Traffic Concepts	· This memo reports the crash data for accidents at the intersection of Great Seneca Highway and Lakelands Drive between 2015 and 2019. The number of accidents, and the nature of the accidents (no deaths or serious physical

	injuries), indicate that this intersection would not be classified as a “high crash intersection.”
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2. *“There is inadequate information in the public record regarding . . . the original sketch plan. . .”*

It is true that neither the City nor the Applicant can locate the actual original approved Sketch Plan for Lakelands. However, there is an approved Sketch Plan in existence (July, 1996) that is consistent with the description of the Lakelands community set forth in Paragraph 4 of Ordinance 0-6-97, dated February 3, 1997, approving Zoning Application No. 2-280 and the companion Sketch Plan as part of that Application.

Ordinance No. 0-6-97 is a 7-page regulatory document that states in great detail the features of the proposed Lakelands community and the basis for why the rezoning to MXD and the

companion Sketch Plan were approved by the City Council. Furthermore, City Planning Staff is familiar with the exact differences between what is shown on the July, 1996 approved Sketch Plan and the Sketch Plan approved in conjunction with the Council's February, 1997 approval of Zoning Application No. Z-280.

In conclusion, the absence of an approved Sketch Plan dated February 3, 1997, does not create a gap in knowledge about the design principles inherent in the Lakelands' plans and there is no missing information that is essential to making a knowledgeable decision about SDP 8551-2020.

3. *“There is inadequate information in the public record regarding the . . . “master forest conservation plan for the Lakelands’ community.”*

There is no indication that the author of the June 29 letter visited City Hall or made any attempt to review the record of the original MXD Application and related Sketch Plan and the cited “master forest conservation for Lakelands” was not deemed by the

Applicant or the City Planning Staff to be a necessary exhibit in the record of SDP 8551-2020. The document is available and can be reviewed by diligent research efforts.

4. *“In the alternative, we request that any decision on the application be delayed until the applicability of the Lakelands’ Community Association HOA governing documents and procedures to the property are clarified.”*

The applicable Lakelands’ HOA documents have been reviewed. The documents indicate that they cover residential development only and do not apply to non-residential uses which has been confirmed by City action in approving the office building located at 502 Main Street without any pre-approval by the Lakelands HOA.

In any event, even if the HOA documents did apply to the subject property, that should have no bearing on the City’s review and action of the SDP application to be reviewed under the provisions of the City Zoning Ordinance. The City should take the action that it deems appropriate and HOA review, if any is required, should follow thereafter.

5. *“Community consensus is that the approved Sketch Plan from approximately 25 years ago anticipated a 6,000 square foot restaurant on the property.”*

This statement is not correct. A review of Ordinance No. 0-6-97 contains no reference to a restaurant overlooking Lake Varuna in the proposed “Lakelands” community. It was not until “Lakelands Phase 1” was approached by Schematic Development Plan SDP-71 on July 7, 1997 that a form of commercial development was shown on the subject property and even then, contrary to the “community consensus,” no square footage of a non-residential building on the subject property was specified. And it was not until Final Site Plan No. L-1093 was approved on November 11, 1997 that a size for the approved restaurant was established.

In any event, the Everbrook Plan is not inconsistent in any way with the approved Sketch Plan because the original sketch plan did not designate a use, or the size of a use, to be located on the subject property.

6. *“The current plan proposed a different use, a building more than twice the size as the one initially proposed and at a time, 25 years later, in which conditions are much different than when the sketch plan was originally approved.”*

It is correct to say that conditions surrounding the subject property have changed since 20+ years ago when non-residential use was approved for the subject property but that change does not undermine the rationale for non-residential use on the subject property. What has occurred is that Lakelands has been “built out” as it was designed to be and in a manner that is consistent with the recommended and approved use for the subject property.

Residences have been built where they were expected to be located, in anticipation of a restaurant to be located on the subject property, and that fact proves that the master plan for Lakelands is working and should be allowed to extend to this last unbuilt parcel of land.

7. *“The Everbrook Academy plan fails to ‘retain and provide*

*useable open space and active recreation areas' and to 'provide a superior natural environment.'"*

When Lakelands was rezoned to the MXD zoning classification, a decision about the amount and the location of open space and recreational space for the community was made at that time. The amount of open area anticipated to be delivered at the time of development of the subject property was analyzed at the time of rezoning. The Everbrook Academy proposal exceeds the amount of open space and forest preservation that the City's forest conservation law would otherwise require so the plan is therefore supportive of the goal of promoting open space and forest preservation.

8. *"The community does not agree that the quality of the existing forest and trees on the property is 'inferior.'"*

The applicant has provided a letter report from a certified arborist confirming that a) the "density" of trees on the property is at the low end of the range based on information published by the

U.S. Forest Service, b) that almost all understory growth is comprised of invasive species and c) that the invasives are having a deleterious effect on the existing trees (e.g., dieback) and, in fact have caused the death of trees within the forest stand. In the opinion of the arborist, the current forest stand is "...fair to marginal at best..."

9. *"The proposed plan is not in accord with the City Master Plan which identifies the property as 'Open Space.'"*

The simple fact is that the subject property progressed all the way to the final site plan review for a restaurant clearly demonstrating that the subject property was not recommended or destined to remain "open space."

10. *"Amendment of the existing 'Afforestation and Forest Conservation Easement and Agreement' (Liber 10449 at Folio 635) is contrary to the 2015 Environment and Sustainability Master Plan Element."*

As is noted in the communication that prompts this letter, the Applicant does not intend to eliminate the Conservation Easement but, rather, intends to relocate the Easement area. This is a common technique employed when features of site development, and/or features of the forest subject to the Easement, are better known. The Applicant expects that the City environmental staff will review the proposed reorientation of the boundaries of the forest conservation easement area to achieve the same or greater environmental benefits that would have been realized from preservation of areas presently subject to the Easement.

11. *“The proposed use will not be compatible and harmonious with existing and planned uses within Lakelands and the adjacent area.”*

The evidence in the record of this Schematic Development Plan Amendment application does not support the statement that the use, or the form of development, is inherently incompatible or not harmonious with the surrounding area. Evidence in the record shows that:

1. The intersection of Great Seneca Highway and Lakelands Drive does not operate in a manner that is inherently unsafe and that accident data does not support a conclusion that this is an unsafe intersection.

2. The arrival and departure of vehicles delivering or picking up children at Everbrook Academy over an extended three hour period will not cause congestion along Lakelands Drive and at the entrance to the site.

3. The Applicant has agreed to study how to improve Lakelands Drive in order to a) improve turning movements on to Great Seneca Highway, b) increase stacking back from the intersection so that queues from the intersection do not block turning movements at the driveway and c) facilitate turning movements into the site from southbound Lakelands Drive.

4. As stated previously, a tree removal waiver has been requested, and recommended by staff for approval for **eleven (11)** trees that warrant special attention, and the total number of trees to be removed is not a valid planning measurement.

5. The Applicant's stormwater management plan, and an associated sediment control plan, will eliminate any water runoff that might adversely impact Lake Varuna.

6. Everbrook Academy will alter the present vacant space that is the subject property but its construction will be consistent with development previously approved for the subject property and will be, therefore, based on previous findings by the City Council and Planning Commission, compatible and harmonious with the surrounding area.

12. *"The determination of adequate public facilities necessarily involves a review of both volume and safety, and such a review has not been performed adequately..."*

The Applicant has prepared a Traffic Impact Statement that has been accepted by the City. The Applicant has submitted supplemental information dealing with vehicle speeds on the relevant streets and accident data for the intersection of Great Seneca Highway and Lakelands Drive. All of the information submitted by the Applicant demonstrates that the Everbrook

Academy can be operated in a “safe and reasonable” fashion and all contrary opinions are based on speculation and not facts or empirical evidence.

13. *“The Lakelands Community Association HOA governing documents need to be consulted for clarification of the legitimacy of the Everbrook Academy proposal.”*

A review of the Lakelands HOA documents will add no information on which the City should rely in making its decision on SDP Application No. 8550-2020 both because the HOA documents do not apply to the Everbrook Academy proposal and because any such information is irrelevant to the City’s decision making process.