

RESOLUTION NO. R-50-21

RESOLUTION OF THE MAYOR AND CITY COUNCIL OF GAITHERSBURG
DENYING SCHEMATIC DEVELOPMENT PLAN SDP-8551-2020, LOCATED AT 151
LAKELANDS DRIVE, CONSISTING OF APPROXIMATELY 3.43 ACRES AND
ZONED MIXED USE DEVELOPMENT (MXD)

SDP-8551-2020

OPINION

Schematic Development Plan Approval Application SDP-8551-2020 (“Application”) for approximately 3.43 acres of land, concerning the development of properties consisting of Map FS23, Block J, located at 151 Lakelands Drive, Gaithersburg, Maryland, 20878 (“Subject Property”) which is zoned Mixed Use Development (MXD), has come before the Mayor and City Council for action. 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 Application was submitted to the City Planning and Code Administration on July 24, 2020 and designated as SDP-8551-2020.

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. On February 3, 1997, the Mayor and City Council, by Ordinance O-6-97, approved Rezoning Application Z-280 to rezone the properties within the Lakelands community, including the Subject Property, to the Mixed Use Development (MXD) Zone. The application also included a Sketch Plan, which divided the entire Lakelands area into nine sections with varying land uses and densities. The Subject Property was located within Section 5 and designated as Residential/Retail/Commercial/Institutional land use.

On July 7, 1997, the Mayor and City Council, by Resolution R-86-97, approved Schematic Development Plan Application SDP-7-1. This approved Kentlands Midtown Phase 2, Section 3 & 4, Market Square and Lakelands Phase 1, which included 1,175

dwelling units, 46 live/work units, 15 townhouse offices, 16,000 square foot office building, 246,018 square feet of retail space, 58,550 square feet of restaurant space and 3,000 square foot service station. The Planning Commission approved Final Site Plan application L-1093 for Lakelands Phase 1, Section 2 on October 6, 1998. The approved site plan identified the Subject Property for a 6,000 square foot Class A restaurant and parking lot. The final site plan noted that a final site plan amendment for the restaurant to be submitted at a later date. A subsequent site plan amendment was never submitted.

B. Current Application

On July 24, 2020, Stephen Eckert and William Gerald of Classic Group, LLC., (“Applicant”) submitted schematic development plan application SDP-8551-2020. The Application proposes a one-story, 12,900 square foot, daycare/early childhood education building, outdoor play area and associated parking lot. The Applicant also requested a Tree Removal Variance for the removal of one specimen tree with a diameter at breast height greater than thirty (30) inches.

The Mayor and City Council and Planning Commission conducted a joint public hearing for the Application on May 3, 2021. During the course of the hearing, there were a number of comments raised regarding various aspects of the subject plan, which included:

- Stacking and Queuing of Vehicles;
- Enrollment and Vehicle Traffic;
- Building Orientation;
- Environmental Impacts; and
- Noise Impacts

During the joint public hearing, there were six speakers from the public. 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 on June 8, 2021 with recommendation scheduled for June 16, 2021. Subsequently, the Mayor and City Council, announced by motion, the closing of their record on June 29, 2021, with policy discussion on July 19, 2021.

The Planning Commission reviewed the Application at its regular meeting on June 16, 2021. 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 conditions required of the Applicant:

1. Applicant to revise the site plan to reflect the changes to the parking lot and Lakelands Drive, prior to final signature of the plans; and
2. Prior to submission of the final site plan, Applicant must submit plans demonstrating mitigation of vehicle stacking and circulation along Lakelands Drive as well as addressing feedback from SHA on safety of Lakelands Drive and Great Seneca Highway intersection.

In response to the Planning Commission's recommended condition number two, the Mayor and City Council, during its regular meeting on July 19, 2021, reopened the record, by motion, for accepting Maryland State Highway Administration's (SHA) review of the Lakelands Drive and Great Seneca Highway intersection, as well as any additional correspondence received after the Council's record was closed. The Mayor and City Council, by motion closed the record during the same meeting.

C. Evaluation and Findings

The City Council, upon careful review of the evidence of record, does not agree with the findings, conclusions and the recommendation of approval for the Application for schematic development plan approval SDP-8551-2020 by the City Planning Commission and City staff. The City Council 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 and considering all of the evidence in the record for Schematic Development Plan SDP-8551-2020, the City Council finds the Application and development proposal does not meet or accomplishes all of 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 as detailed herein.

The City Council finds that the Application meets the submission requirements 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;

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 June 16, 2021, within thirty (30) days of the close of the Commission's hearing record on June 8, 2021; and
5. The Council has taken action on this application within ninety (90) days after the close of the Council's original hearing record June 29, 2021 and after the reopening and closing of the hearing record on July 19, 2021

The City Council however, finds based on the evidence of record that the application for schematic development plan, SDP-8551-2020, satisfies some but does not fulfill all of the findings required for approval under § 24-160D.10 (b) of the City Code:

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

The Sketch Plan was approved as part of Rezoning Application Z-280 (Ordinance O-6-97), which divided the entire Lakelands into nine sections with varying land uses and densities. The Subject Property is located within Section 5 and designated to have Residential/Retail/Commercial/Institutional uses. The daycare/early childhood use is considered a commercial use and as such in accordance with the Sketch Plan's permitted land uses.

(2) The plan meets or accomplishes some, but not all the purposes, objectives and minimum standards and requirements of the zone:

- (a) Application SDP-8551-2020 will improve the Property with a daycare use, which is consistent with the approved Sketch Plan and the 1997 Master Plan.
- (b) Application SDP-8551-2020 will contain building materials and design elements that will be compatible with the Lakelands community architectural vernacular. The building will be clad in brick, fiber cement siding and stone, which are similar materials found within the Lakelands community.

(c) Application SDP-8551-2020 fails to provide a superior natural environment by the preservation of trees, natural topographic and geologic features and open spaces by increasing the footprint of the proposed building on the site, removing existing forested areas, and removing open space.

(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 Subject Property was included in the 1997 Master Plan, under Neighborhood Four, Study Area 4, Map Designation 18. The Master Plan recommended the properties adopt the mixed residential land use designation, which contain uses such as restaurants, corner stores, day cares, etc. The Master Plan also recommend rezoning the properties to MXD. The Subject Property was not included as a specific map designation in either the 2003 and 2009 Master Plans. The application proposes a 12,900 square foot, daycare/early childhood education building and the property is zoned MXD, which is consistent with the 1997 Master Plan recommendation.

(4) The plan will not be internally and externally compatible and harmonious with existing and planned uses in the MXD zoned area and adjacent areas:

The daycare use is substantially different from the approved restaurant use. Site Plan L-1093 approved a 6,000 square foot restaurant. The propose 12,900 square foot daycare will have a larger building footprint which will have more substantial impact on the surrounding neighborhood. The building siting and landscaping does not integrate into the existing natural setting and residential context of the Lakelands community entrance. The record includes a significant number of public comments from the surrounding community in opposition to the plan based on its impact on the neighborhood, demonstrating that the project will not be internally and externally compatible with the Lakelands community.

(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 (TIS), the proposed development will generate an additional 109 AM and 111 PM peak hour trips. The analysis concludes that there is sufficient transportation capacity to accommodate the proposed development. The traffic impact analysis has been reviewed and 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 will be for a daycare use, therefore it will have no impact on the school system. The proposed development is exempt from the school test of the Adequate Public Facilities Ordinance.
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 3 (Rockville), Station 8 (Gaithersburg), 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:

The construction of the daycare 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 not be in the public interest:

The record includes a significant number of public comments from the Lakelands community in opposition to the plan detailing issues of non-compatibility with the neighborhood, demonstrating that the project is not in the public interest. The majority of the comments in the record, outline the negative externalities associated with the project. It is the Council's authority to determine if the proposed plan is in the public's interest by concluding the project is appropriate for the specific site, enhances the City's economic vitality, improves quality of life and furthers the City's goals and policies. Based on the information within the record and the significant number of public comments in opposition to the project, the Council finds that the record does not show that the plan will be in the public interest and will adversely affect the community based on the scale of the use, the removal of existing tree canopy and the impact of the proposed ingress and egress to the site.

SCHEMATIC DEVELOPMENT PLAN SDP-8551-2020

RESOLUTION

NOW, THEREFORE BE IT ORDAINED by the City Council of Gaithersburg, Maryland, that SDP-8551-2020, being an application filed by Stephen Eckert and William Gerald of Classic Group, LLC., requesting approval of the Application for Schematic Development Plan, as well as the associated tree removal variance, are both hereby denied.

ADOPTED by the City Council this 30th day of August, 2021.

DocuSigned by:

Jud Ashman

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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 30th day of August, 2021.

DocuSigned by:

Dennis Enslinger

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Dennis Enslinger, Acting City Manager