

**Statement of Master Plan and Zoning Regulation Compliance
Washingtonian Center South Seven
Schematic Development Plan Amendment Application**

I. INTRODUCTION

The property that is the subject of this Schematic Development Plan Amendment Application ("Amendment") is known as Washingtonian Center South Seven, an office park generally located at 9711 Washingtonian Boulevard, in Gaithersburg ("Property"). The Property is owned by American Real Estate Partners ("Applicant") and is the subject of approved Schematic Development Plan SDP-07-002 ("SDP") and approved Site Plan SP-07-0009.

II. PROPOSED SCHEMATIC DEVELOPMENT PLAN AMENDMENT

The Amendment proposes to allow for up to 4,089 square feet of the approved office space to be used for educational use, and to provide an accessible ramp along the south building elevation of the existing eight story office building ("Amendment"). The modifications are requested to accommodate new tenants in the office park and to address the needs of a specific tenant and to provide ADA access to its space. New construction of the proposed ADA accessible ramp, with minor site modifications are proposed, and all other aspects of the SDP are proposed to remain unchanged.

III. MASTER PLAN COMPLIANCE

The Property is subject to the 2003 Washingtonian Center Master Plan ("Master Plan"). The Master Plan "Special Study Area 5: Washingtonian Center in the Land Use Plan section of the City of Gaithersburg 2003 Master Plan Map Designation 3, recommend the property designation as "Commercial / Industrial-Research-Office, and Institutional." "The commercial/industrial-research-office and institutional designation will allow for two office buildings equaling 400,000 square feet. Institutional uses may include a conference center, elderly housing, medical center, hospital, educational uses, or any similar uses. If commercial/office uses are built, ancillary retail, restaurants, recreational uses and institutional uses would be permitted. Master Plan, p. 113-114. These objectives are achieved with the Amendment, which is targeted at allowing for new tenants in the center that will create a wider range of uses, including new educational services, and help to meet the short term needs of the center to fill vacant tenant spaces. The Amendment is also in conformance with the 2003 Process and Overview Element of the Gaithersburg Master Plan, which includes as Guiding Strategies the following: "Encourage office, rather than residential, for the remaining density." Process and Overview Element, pp. 12. The Amendment proposes the introduction of educational uses in the center, which will complement the existing office uses, and these uses will be located proximate to the residential areas of Washingtonian Center.

IV. REQUIRED FINDINGS

Section 24-160D.10(b) of the City of Gaithersburg's Zoning Ordinance ("Zoning Ordinance") requires the following findings for approval of a SDP:

1. *The plan is substantially in accord with the approved sketch plan:*

The Property is part of annexation X-159, Resolution R-20-91, which covered approximately 237 acres and approved a maximum of 4,525,000 square feet of Mixed Commercial Uses, on the Property. This Amendment proposes converting some existing office space into an educational use, within the overall non-residential limits established. The general office use and layout of the Property remains substantially the same. Therefore, the SDP Amendment is substantially in accord with the previous approvals set forth. Incorporating the new educational use into the original SDP Plan would complement and enhance the activity and use of the existing office building, in accordance with the Master Plan objectives.

2. *The plan meets or accomplishes the purposes, objectives, and minimum standards and requirements of the MXD Zone:*

Section 24-160D.1 of the Zoning Ordinance sets forth the objective of the MXD Zone as follows:

It is the objective of this zone to establish procedures and standards for the implementation of master plan land use recommendations for comprehensively planned, multi-use projects. It is also intended that this zone provide a more flexible approach to the comprehensive design and development of multi-use projects than the procedures and regulations applicable under the various conventional zoning categories. In so doing, it is intended that this zoning category be utilized to implement existing public plans and pertinent city policies in a manner and to a degree more closely compatible with said city plans and policies than may be possible under other zoning categories. The specific purposes of this zone are:

- (a) *To establish standards and procedures through which the land use objectives and guidelines of approved and adopted master plans can serve as the basis for evaluating an individual development proposal, as well as ensuring that development proposed will implement the adopted master plan and other relevant planning and development policies and guidelines for the area considered for MXD zoning.*

As noted above, the Property is in conformance with Master Plan recommendations for the Washingtonian Center Study Area and the 2003 Process and Overview Element of the Gaithersburg Master Plan. The Amendment will provide for more diverse uses on the Property and allow for the leasing of currently vacant spaces in the center, creating educational opportunities and professional services in close proximity to existing residential areas. The MXD Zone permits a wide range of

commercial, employment, industrial, and residential uses. Educational use is a permitted use in the MXD Zone, therefore the proposed use is in conformance with the MXD Zone.

(b) To encourage orderly, staged development of large-scale comprehensively planned, multi-use developments by providing procedures for various zoning and plan approvals, including development phasing.

The Amendment will allow the Applicant to address the short term needs of the office park, ensuring its vitality through the integration of new uses, while also preserving the ability of the Applicant to later implement additional office development on the Property in accordance with the recommendations of the Master Plan.

(c) To encourage design flexibility and coordination of architectural style building and signage.

The Amendment provides minimal alterations to the existing buildings providing an ADA accessible ramp to the new tenant space, to the previous plan approved by the City. Signage will be limited to tenant identification signs and will be processed as part of the site plan and permitting for the uses.

(d) To ensure the integration and internal and external compatibility of applicable residential and nonresidential uses by providing a suitable residential environment that is enhanced and complemented by uses such as commercial, recreational, open space, employment and institutional uses and amenities within a multi-use development. A multi-use development is defined as a single parcel or a group of contiguous parcels of land zoned MXD which, among the various parcels comprising that contiguous area, include residential, commercial, recreational, open space, employment and institutional uses and amenities.

The Property is located within the larger Washingtonian Center, which include a variety of uses. The Amendment will provide additional services for adjoining and nearby residential developments.

(e) To assure compatibility of the proposed land uses with internal and surrounding uses by incorporating higher standards of land planning and site design than could be accomplished under conventional zoning categories and to provide a superior quality of development exceeding that which could be achieved under conventional zoning regulations and procedures.

As noted above, the Amendment will provide minimal alterations to the existing architecture and physical characteristics of the Property, providing an ADA accessible ramp to the new tenant space. The Amendment will increase the quality of the existing development by allowing for a better mix of tenants who will be able to fill vacant spaces within the office park.

(f) To encourage the efficient use of land by: locating employment and retail uses convenient to residential areas; reducing reliance upon automobile use and

encourage pedestrian and other nonvehicular circulation systems; retaining and providing useable open space and active recreation areas close to employment and residential populations; and providing for the development of comprehensive nonvehicular circulation networks, separated from vehicular roadways, which constitute a system of linkages among residential areas, open spaces, recreational areas, commercial and employment areas, and public facilities.

The Amendment will allow for the location of educational opportunities and services within close proximity to existing residential areas.

(g) To provide superior natural environment by the preservation of trees, natural topographic and geologic features, wetlands, watercourses and open spaces.

The Amendment will have no impact on the natural environment or previous environmental approvals relating to the Property.

(h) To allow development only in a phased or staged fashion to ensure the adequacy of the provision of public facilities and the concurrent implementation of community amenities.

As described in the Statement of Adequate Public, all public facilities are readily available to the Property and sufficient for purposes of the Amendment.

Section 24-160D.2 of the Zoning Ordinance sets forth the minimum location and development requirements of the MXD Zone as follows:

*(a) **Master plan.** No land shall be classified in the Mixed Use Development Zone unless the land is within an area for which there is an approved and adopted master plan which recommends mixed use development for the land which is the subject of the application, or unless the proposed development otherwise satisfies the purposes and objectives of the MXD Zone. Approval of the MXD Zone for land which is not recommended for this zone in an approved master plan shall require the affirmative vote of four (4) members of the city council.*

The Property was previously approved for MXD zoning and the Amendment will not impact this classification.

*(b) **Minimum area.** No land shall be classified in the Mixed Use Development Zone unless it contains a minimum of ten (10) acres. Parcels or tracts less than the minimum acreage may be permitted if they are contiguous to an existing MXD zoned area and may be harmoniously integrated into the MXD area, consistent with the objectives and purposes of this zone. Such parcels are not required to contain multiple uses but should contribute to a multi-use development and are subject to the provisions of 24-160D.9(a)(1).*

The Property is part of an approximately 116 acre MXD area.

(c) Location. Such land shall be located adjacent to and readily accessible from existing or planned highways that are in an approved construction program and are adequate to service the proposed development. It is intended that adequate access be available to such sites so that traffic does not have an adverse impact on the surrounding area or cause internal circulation or safety problems.

The Property is in close proximity to Interstate (I-270) and Sam Eig Highway, and has direct access to Washingtonian Boulevard. As noted in the Statement of Adequate Public Facilities and Traffic Statement included in the application, the Amendment will not adversely impact the traffic generated by the Property.

(d) Public water and sewer. No development shall be permitted unless served by public water and sewer.

The Property is currently served by all utilities, including public water and sewer.

(e) Signage. Signage shall be coordinated between adjoining uses and be thematic in approach, in accord with the purposes of this zone and overall character of the surrounding area.

Signage for the proposed uses will be for tenant identification and will be consistent with the signage approved for the remainder of Washingtonian Center South Seven.

(f) Frontage on public streets. Anything to the contrary notwithstanding in any regulation in this Code, lots in this zone shall not be required to have direct access to a public street provided that such condition will promote the creation of affordable housing, or will be designed in such a way as to foster the purposes and objectives of this zone, provided that satisfactory access to a public street is provided over private rights-of-way.

The Property has direct access onto Washingtonian Boulevard.

Section 24-160D.5 of the Zoning Ordinance sets forth the compatibility standards of the MXD zone as follows:

(a) All uses shall conform to the purposes of the Mixed Use Development Zone and shall be compatible with all uses, existing or proposed, in the vicinity of the area covered by the proposed planned development. In order to assist in accomplishing such compatibility, the following requirements shall apply:

(1) All right-of-way requirements, setbacks, height limits, open space or buffer areas recommended in an area master plan or special conditions or requirements stated therein to protect properties adjacent to the MXD zoned areas shall be incorporated into all plans subject to approval under the zone.

There are no special conditions or requirements for the Property in the Land Use Element or other City Master Plan elements and, as discussed above, the Amendment will not materially impact the physical characteristics of the site.

(2) Where setback, height limits, open space or buffer areas are not recommended in an area master plan or special conditions or requirements stated therein to protect properties adjacent to the MXD zoned areas, the following requirements shall be incorporated into all plans subject to approval under this zone.

a. No buildings other than single-family detached dwellings shall be constructed within one hundred (100) feet of adjoining property not zoned MXD or in a residential category that is developed with one-family detached homes unless the city planning commission finds that topographical features permit a lesser setback. In all other situations, Setbacks from adjoining properties may be less than one hundred (100) feet, with the setback approved by the city planning commission.

As noted above, the Amendment does not propose any new construction, with exception to the ADA accessible ramp, on the Property. Therefore, the provisions of this section are not applicable.

b. No building proposed for commercial/employment/industrial use shall be constructed less than one hundred (100) feet from any adjoining property not zoned MXD recommended for residential zoning and land use on the applicable master plan. The setbacks shall be determined as part of the final site plan approval.

As noted above, the Amendment does not propose any new construction, with exception to the ADA accessible ramp, on the Property. Therefore, the provisions of this section are not applicable.

c. No building shall be constructed to a height greater than its distance from any adjoining property not zoned MXD recommended for residential zoning and land use of the applicable master plan, unless the city planning commission finds that approval of a waiver of this requirement will not adversely affect adjacent property.

As noted above, the Amendment does not propose any new construction, with exception to the ADA accessible ramp, on the Property. Therefore, the provisions of this section are not applicable.

Section 24-160D.6 of the Zoning Ordinance establishes the minimum green area, landscaping and amenity requirements for the MXD Zone as follows:

(a) The amount of green area, including designated parks, public and private open space, active and passive recreational areas, required for the residential portion of a mixed use development shall be not less than forty (40) percent of the total

area shown for residential use. ... for the commercial/employment/industrial portion of a mixed use development shall be not less than twenty-five (25) percent of the total area devoted to commercial/employment/industrial uses, except that comparable amenities and/or facilities may be provided in lieu of green area if the city council determines that such amenities or facilities are sufficient to accomplish the purposes of the zone, and would be more beneficial to the proposed development than strict adherence to the specific green area requirement.

As noted above, the Amendment proposes new construction for the ADA accessible ramp to the new tenant space, with minor site modifications. With the proposed revisions, the site meets the minimum required green area. Therefore, the provisions of this section are not applicable.

(b) All recreation areas, facilities and amenities, and all open space and landscaped areas shall be reflected on the final site plans for approval by the city planning commission.

All facilities and amenities, and all open space and landscaped areas are shown on the SDP. These items will also be reflected on the final site plan for approval.

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

As discussed above, the proposed use was included as a specific study area in the City of Gaithersburg 2003 Master Plan, as Special Study Area 5 for the Washingtonian Center, with the Washingtonian Center Master Plan. The Master Plan proposed the property to have a diversity of uses, including educational use.

4. *The plan will be internally and externally compatible and harmonious with existing and planned land uses in the MXD zone areas and adjacent areas:*

The property is located at 9711 Washingtonian Boulevard having an existing 8-story office building with structured parking. The proposed educational use amendment is compatible and harmonious with existing and planned land uses in the MXD Zone. The educational use will complement existing office uses in the park and will provide additional services for adjacent residences in the adjacent communities to Washingtonian Center South. The proposed educational use is different than typical educational uses, as it is an after-school program that meets on weekday evenings and weekends. The proposed educational use, both internally and externally, fits

extremely well within the existing office use and will not be in conflict with the current office use during the day.

5. Existing or planned public facilities are adequate to service the proposed development contained in the plan:

As mentioned above, and more fully described in the Statement of Adequate Public Facilities included in the application, the Property is currently adequately served by all utilities and public facilities.

6. The development staging or phasing program is adequate in relation to the provision of public facilities and private amenities to service the proposed development:

No staging or phasing is required for implementation of the Amendment. Therefore, this section is not applicable.

7. The plan, if approved, would be in the public interest:

The leasing of existing vacant spaces with desirable and compatible uses is in the public interest. The proposed educational uses will ensure the vitality of the Property, provide educational opportunities for youth, create jobs, and increase the City's tax base.

V. CONCLUSION

Based on the foregoing, the Amendment is in compliance with the applicable Master Plan and zoning regulations pertaining to the Property. Therefore, approval of the Amendment is respectfully requested.