

RESOLUTION No. \_\_\_\_\_

RESOLUTION OF THE PLANNING COMMISSION OF  
GAITHERSBURG GRANTING APPROVAL OF AMENDMENT  
TO SCHEMATIC DEVELOPMENT PLAN ASDP-7407-2016,  
KNOWN AS CARVANA, FOR A NEW 8,233 SQUARE FOOT  
FULFILLMENT CENTER ZONED MIXED USE DEVELOPMENT  
(MXD)

**ASDP-7407-2016**

**OPINION**

Amendment to Schematic Development Plan (ASDP) application ASDP-7407-2016, zoned Mixed Use Development (MXD), has come before the Planning Commission for approval. The Planning Commission's authority in this matter is pursuant to § 24-198(c)(2) of the City of Gaithersburg Zoning Ordinance (Chapter 24 of the City Code), which authorizes the Planning Commission to approve amended Schematic Development Plan (ASDP) applications that materially change the orientation or siting of any buildings from an originally-approved Schematic Development Plan (SDP), upon the Mayor and City Council making a finding that the application has a minor effect and thereby directing the Planning Commission to make a final decision on the amendment in accordance with the procedure set forth in § 24-198(c)(2).

The subject case involves the redevelopment of a 2.5 acre property as an automobile fulfillment center. The property is located west of Shady Grove Road and north of Interstate 270 (I-270), and is addressed at 15710 Shady Grove Road. The property currently contains a vacant 8,470 square foot restaurant building. The Amendment to Schematic Development Plan was submitted to the City Planning and Code Administration on August 26, 2016. This application was designated as ASDP-7407-2016.

**OPERATIVE FACTS**

A. Background

The subject property was annexed into the City of Gaithersburg as part of the Washingtonian Center Annexation Application X-159 (Resolution R-20-91) on March 4, 1991 by the Mayor and City Council. At the time of annexation, the property was zoned H-M (Hotel-Motel) and was later rezoned to MXD (Mixed Use Development). The property was granted final site plan approval, S-1036, on November 2, 1994 by the Planning Commission for an 8,470 square foot restaurant.

Section 24-198(c) requires an amendment to the schematic development site plan for properties zoned MXD when a change in use or changes other than to a use is involved. Furthermore, §24-198(c)(2) allows the Mayor and City Council to direct the Planning Commission to make a final decision on the amendment after receiving a

courtesy review on the application from Staff. Application ASDP-7407-2016 was presented to the Mayor and City Council at their October 17, 2016 meeting. Following their review, the City Council directed Staff to have the Planning Commission to hold a public hearing and make a final decision on the application.

#### B. Current Application

On August 26, 2016, the applicant, through Vanessa MacDonald of Carvana, submitted an application for Amendment to Schematic Development Plan, ASDP-7407-2016. This application requests approval to demolish the existing restaurant building and to construct a new 8,233 square foot Carvana automobile fulfillment center and 70-foot tall car display tower. As part of this application, the applicant is also requesting a parking waiver to provide more than the maximum number of parking spaces permitted on-site, pursuant to §24-219(b).

A public hearing with prior public notice was scheduled for Wednesday, November 16, 2016 before the Planning Commission. The application was presented to the Planning Commission during that November 16, 2016 public hearing. During the public hearing, 37 exhibits were presented, including the applicant's statement and proposed site plan. The applicant's presentation was made by three speakers: Vanessa Mac Donald of Carvana, Christopher Rulen, Esq., of Lerch, Early and Brewer and Nicholas Speech of Bohler Engineering. There was no additional public comment during the meeting.

There was no additional testimony either for or against the application. The Planning Commission at the public hearing decided to close the Application record at 5 pm on November 30, 2016.

#### C. Evaluation and Findings

The Planning Commission, upon careful review of the evidence of record, agrees with the findings, conclusions and the recommendation of approval for Amendment to Schematic Development Site Plan, ASDP-7407-2016, by City Staff. The Planning Commission finds those recommendations to be well reasoned and adopts and incorporates their findings as part of this action. The Planning Commission further agrees that the procedures governing the application of the MXD Zone and approvals necessary to seek building and/or use and occupancy permits are subject to a multi-step process and that this approval is only one of several steps of the permit process.

Furthermore, the Planning Commission finds from the evidence presented that the application for amendment to schematic development plan, ASDP-7407-2016, as currently amended, fulfills the findings required under § 24-160D.10(b):

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

The property was the subject of a comprehensive rezoning and as such a sketch plan was never established. Therefore the final site plan essentially acts as the regulating Sketch Plan. With that being said, the proposed amendment is substantially similar in

terms of use, circulation, location of use, and site access as previously approved by the final site plan.

(2) The plan meets or accomplishes the purposes, objectives, minimum standards and requirements of the MXD Zone and other requirements of the City Code:

- a) Application ASDP-7407-2016 encourages the efficient use of land by locating the development near established commercial and employment areas within the City and County. Further, the amendment promotes a unique automobile business that implements a smaller footprint than a traditional automobile dealership.
- b) Application ASDP-7407-2016 contributes to and supports the mix of land in the area by providing a unique type of commercial use.
- c) Application ASDP-7407-2016 will incorporate design elements that complement the architectural style of buildings and signage within the surrounding areas and will provide additional landscaping.
- d) Application ASDP-7407-2016 enhances the natural environment of the property by removing a large area of existing pervious pavement while substantially increasing the amount of green space on the property.

(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:

The subject property was included as part of the 1997 Land Use Plan, Neighborhood Two, Study Area Five, Map Designation Fourteen. The property was not included as a specific map designation in the 2003 or 2009 Master Plans. Thus the property is regulated by the 1997 Master Plan. The 1997 Master Plan recommended that the property adopt the Commercial/Industrial-Research-Office land use designation and maintain its current MXD zoning. Since the proposed development is a commercial use, the plan is in accordance with both the master plan and land use designation.

(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 proposed development will be contiguous and compatible with the adjacent properties by providing a similar commercial-retail use. The plan will consist of a footprint that is slightly smaller than the restaurant building and is consistent with the existing built environment. The plan will also mitigate any negative impacts from the car display tower on Interstate 270 and adjacent properties by incorporating internal lighting and large setbacks. The traffic analysis demonstrates that the proposed use will not have any negative vehicular impacts to the adjacent properties and roadways.

(5) The existing or planned public facilities are adequate to service the proposed development contained in the plan:

The property is currently adequately served by utilities and public facilities. The application complies with the City of Gaithersburg Adequate Public Facilities Ordinance as follows:

**1. Traffic Impact**

Based upon the amount of traffic that will be generated by the proposed use, the applicant has obtained a determination from City staff that the standards are not applicable to the applicant's proposed development. The automobile sale use will not generate an additional thirty (30) weekday peak AM and PM hour trips that would require a traffic impact study.

**2. Adequacy of School Capacity**

Since the application is proposing a commercial use, it will have no impact on the school system. Therefore the application 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 water and sewer categories W-1 and S-1 respectively. As such, water and sewer services are adequately provided to the subject property.

**4. Fire and Emergency Services**

The subject property is located within a ten-minute response time of four different fire stations: Station 3 (Rockville), Station 8 (Gaithersburg), Station 28 (Gaithersburg) and Station 32 (Travilah).

(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:

The proposed development will be constructed in one phase. Therefore, no staging or phasing plan is required for implementation of the amendment.

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

The redevelopment of the property will remove an existing vacant building and replace it with a new viable economic use. Further, in contrast to a traditional automobile dealership, the proposed amendment will provide a unique automobile business that implements a smaller footprint to operate and requires significantly less on-site vehicle surface storage. The proposed development will enhance the property by providing 38 percent of green space which will reduce the amount of stormwater runoff on the property. The plan will also provide a new business, which will generate tax dollars and contribute to the overall economic health in the City of Gaithersburg.

In summary, the Planning Commission finds ASDP-7407-2016 to be in accordance with City Code § 24-160D.10(b) and 24-198(c)(2), and is in the public interest, and therefore should be approved based on the substantial evidence to indicate that the subject Amendment to Schematic Development Plan has accomplished the purposes of the MXD Zone, as well as the generally accepted City planning and land use policies.

AMENDMENT TO SCHEMATIC DEVELOPMENT PLAN ASDP-7407-2016

RESOLUTION

NOW, THEREFORE, BE IT RESOLVED, by the Planning Commission of the City of Gaithersburg on the 7<sup>th</sup> day of December, 2016, that the applicant's proposed Schematic Development Plan amendment, designated ASDP-7407-2016, be approved with two (2) conditions.

1. Applicant to provide a final subdivision plat prior to issuance of building permits; and
2. Applicant to participate in the Gaithersburg Arts in Public Spaces program.

ADOPTED by the Planning Commission of Gaithersburg, Maryland this 7<sup>th</sup> day of December, 2016. Commissioners Bauer, Winborne, Hopkins, Kaufman and Weich and Winborne being present and voting in favor of the action.

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John Bauer, Chair  
Planning Commission

This is to certify that the foregoing Resolution was adopted by the City of Gaithersburg Planning Commission in public meeting assembled on the 7<sup>th</sup> day of December, 2016.

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Trudy Schwarz, Planning Chief  
Planning and Code Administration