

4 Sykes Street
Gaithersburg, MD 20877

October 18, 2010

Gaithersburg Mayor and City Council
Gaithersburg Planning Commission
31 South Summit Avenue
Gaithersburg, MD 20877

Dear Ladies and Gentlemen:

Subject: Testimony – X-183 Jackson Property

Good evening ladies and gentlemen. My name is Barbara Garrard and I am speaking on behalf of my husband and myself, as well as the owners of 2, 3, 6, 8 and 10 Sykes Street (names provided at the bottom of the written testimony). Our property is adjacent to the Jackson Property on the east side, on Sykes Street.

By way of background:

- Having worked for Montgomery County Government for 25 years, I am keenly attuned to the workforce housing needs of their employees.
- We have provided financial support to Habitat for Humanity in the past, and are generally supportive of their mission.
- We attended the briefing they arranged on April 19 regarding the Jackson Property and have read the annexation packet that is the subject of this hearing.

The statements I will make are really questions; ones that weren't, in our minds, adequately addressed in the packet that is before you, and that you may wish to ask or consider.

1. Why is it in the best interest of the citizens of Gaithersburg to build a community with a density that would not be accepted by the Montgomery County Planning Board? Their code only allows 14 houses on property this size, while this community will consist of 19 houses, with the associated City and County services required.
2. Why is it in the best interest of the citizens of Gaithersburg to build a community of lower-income housing that will provide a smaller tax base than an average-priced community of the same size?
3. Although my research confirms that studies of low-income housing show a negligible effect on property values, there are caveats associated with those study results. The management and maintenance of those communities are critical. What steps, other than setting up a homeowners' association that may be staffed by Habitat for Humanity for as little as one year, have been taken

to ensure proper management and maintenance of a community that will be made up primarily of first-time homeowners?

4. Although the packet indicates that a discussion took place with the Director of the Division of Long-range Planning for Montgomery County Public Schools, is 10 a reasonable number of school-age students to assume will reside in this community, and has any other research been done to validate this figure?
5. Is it in the best interest of the children who attend Strawberry Knoll Elementary School to grant the requested relief from the Elementary School school test under Zoning Ordinance Sec. 24-244 since Strawberry Knoll Elementary School is projected to exceed 110% of program capacity two years in the future? Is it realistic to assume only 4 additional elementary school students will live in these 19 townhouses?
6. Without any stated assumptions about the number of members of each household (other than the statement that applicants have often previously been living in crowded conditions), how can the impact statements related to schools, traffic and other services be accepted at face value?
7. What is the timeline for starting and completing construction assuming the annexation is approved?

I have also submitted this testimony in writing.

Thank you for your time and consideration.

Sincerely,



Barbara W Garrard

Homeowners concurring with this testimony:

2 Sykes Street	Cheri L. Ho
3 Sykes Street	Karim A. Sylla Mervi Heiskanen
4 Sykes Street	Robert E. Garrard Barbara W. Garrard
6 Sykes Street	Ludmila Rakitina
8 Sykes Street	James C. Griffiths Jeannette B. Griffiths
10 Sykes Street	Andrew L. Rukhin Albina Rukhin



October 19, 2010

Mark Johnson, Legal Advertising Manager
The Gazette Newspaper
2-A North Market Street
Frederick, Maryland 21701

Dear Mr. Johnson:

Please publish the following legal advertisement in the **October 27** and **November 3, 10, and 17, 2010** issues of the Gaithersburg Gazette.

Sincerely,

Rob Robinson, Planner
Planning & Code Administration

ASSIGN CODE: **X-183** Acct.# **133649**

NOTICE OF PUBLIC HEARING

The Mayor and City Council of the City of Gaithersburg, Maryland, will conduct a public hearing on Annexation Petition **X-183**, filed by Habitat for Humanity of Montgomery County Inc. on behalf of Neil and Conny Jackson on

**MONDAY
DECEMBER 6, 2010
AT 7:30 P.M.**

or as soon thereafter as this matter can be heard in the Council Chambers at 31 South Summit Avenue, Gaithersburg, Maryland.

The application, **X-183**, requests annexation of 2.927 acres of land, known as the Jackson Property, located at 9000 and 9020 Emory Grove Road. The application requests a reclassification of the subject property from the current R-200/TDR (Low Density Residential with Transfer of Development Rights) in the County to the RP-T (Medium Density Residential) Zone in the City of Gaithersburg, Maryland. The contract purchaser is Habitat for Humanity of Montgomery County Inc.

Further information may be obtained from the Planning and Code Administration Department at City Hall, 31 South Summit Avenue, between the hours of 8 a.m. and 5 p.m., Monday through Friday, or visit the City's website at www.gaithersburgmd.gov.

Rob Robinson, Planner
Planning and Code Administration

City of Gaithersburg • 31 South Summit Avenue, Gaithersburg, Maryland 20877-2098
301-258-6300 • FAX 301-258-6149 • TTY 301-258-6430 • cityhall@gaitersburgmd.gov • www.gaithersburgmd.gov

MAYOR
Sidney A. Katz

CITY COUNCIL MEMBERS
Jud Ashman
Cathy C. Drzyzgula
Henry F. Marraffa, Jr.
Michael A. Sesma
Ryan Spiegel

CITY MANAGER
Angel L. Jones

Mayor and City Council
X-183
42



Habitat
for Humanity[®]

Montgomery County, Maryland, Inc.

Gaithersburg



Habitat for Humanity of Montgomery County, MD, Inc.

9110 Gaither Road

Gaithersburg, MD 20877-1422

Tel: 301-990-0014 Fax: 301-990-7536

www.habitat-mc.org

Mayor and City Council
X-183
43

Emory Grove Rd., Gaithersburg, MD

Habitat for Humanity International

- **Established in 1976 in Americus, GA**
- **Worldwide builder of modest homes**
- **Private non-profit**
- **Headquarters in Atlanta, GA**
- **More than 350,000 homes built since 1976**
- **More than 80,000 built in North America**

Our Story

- Established in 1982
- Affiliate of Habitat for Humanity International (HFHI)
- Tithe to HFHI to fund homes in other countries
- All our funding raised locally
- Private non-profit corporation
- Offices Located in Montgomery County, MD
- 1st home completed in 1986 – Sandy Spring, MD
- Completed 56 family units to date

Mission

Partner with community to create home ownership opportunities for low-income families in need of decent housing.



Board of Directors

Edward Hummers – Chair*	<i>Retired - Attorney</i>
Michael Schlegel – Vice Chair *	<i>President - Bozzuto Construction Company</i>
Beth Harvey – Treasurer*	<i>IT and Finance Executive</i>
Lori Hodsoll – Secretary*	<i>Project Director - Marriott International</i>
Cuvator Armstrong	<i>Realtor - SILVIA International Realty</i>
Maryann Bastnagel	<i>Principal- IT Matters, LLC.</i>
Chip Bay	<i>Senior Managing Director- Mill Creek Residential Trust, LLC</i>
Henry Clarke	<i>Attorney- Clarke Title, LLC.</i>
Margaret Cromelin	<i>Vice President, Marketing- Jones Lang LaSalle</i>
Tim Dugan	<i>Attorney- Shulman Rogers</i>
Nancy Floreen	<i>Montgomery County Council President</i>
Tony Gacek	<i>Executive Director- National Association of Home Builders</i>
Don Harnois	<i>Controller- Forrester Construction Company</i>
Jeff Hollingsworth	<i>Professor - University of Maryland</i>
Kenneth Malm	<i>President - Craft Mark Homes</i>
Jerry O'Neill*	<i>Retired- Marriott International</i>
Susan Reutershan	<i>Attorney- Holland & Knight</i>
Harry Semmes	<i>Owner - Semmes Real Estate</i>
David Wagner	<i>Senior Vice President - JBG Rosenfeld Retail</i>

*Denotes Executive Committee

Organization

- **Habitat is Licensed General Contractor**
 - Professional Construction Staff
 - Hire Licensed Trades (Electric, Plumbing, HVAC, Sprinklers)
- **Supervise Volunteers**
 - Volunteer Crew Leaders
 - Trim, Painting, Cabinets, Landscaping
- **Build to Energy Star Standards**
 - Enhanced Insulation
 - Low E Windows
 - Energy Star Appliances
 - Low Flow Plumbing Fixtures
 - 13 SEER rated HVAC

Recent Projects

- **24 Townhouses – Burtonsville – Completed 2008**
- **13 Rehab of Foreclosures – Silver Spring – 2010**

Burtonsville



Current & Future Projects

- **3 Rehab of Foreclosures - 2010**
- **3 Townhouses – Clarksburg Village – 2010**
- **30 Weatherization Projects – 2011**
- **4 Rehab of Foreclosures – 2011**
- **17 Townhouses – Poolesville - 2011**
- **19 Townhouses – Gaithersburg – 2011-12**

Highlights

- **2.9 acres - zoned R200 TDR4 – Proposed annexation into City of Gaithersburg RP-T**
- **Location: 9000 Emory Grove Rd. & Strawberry Knoll, Gaithersburg**
- **Seller – Jackson family represented by Jim Clifford, Clifford Debelius**
- **Stuart Barr, Lerch Early & Brewer representing HFH-MC pro bono**
- **Proposed - 19 mixed income townhouses (30-80% of A.M.I)**
- **3 level - 3 bedroom 2 bath (Garage on 1st level)**
- **House plans donated by Craftmark Homes**

Preliminary Site Plan



THE GLENMONT



Elevation 3
*shown w/
optional brick
water table*

Elevation 2
*shown w/
optional stone/
water table*

Elevation 4
*shown w/
optional brick
water table*

Elevation 1
*shown w/
optional brick
water table*

Elevation 5
*shown w/
optional stone
water table*

Elevation 6
*shown w/
optional brick
water table*



www.craftstarhomes.com

Artist's Conception



**Habitat
for Humanity**
Montgomery County, Maryland, Inc.

Gaithersburg

Sale of Units

Area Median Income as of May, 2010

\$103,500

30% - 50% of Area Median Income

9 Units

50% - 80% of Area Median Income

10 Units

HFH-MC Homeownership

- Homes sold to all owners with 30 year, no-interest mortgages
- Families provide 1% down payment
- Equity sharing plan in place over the life of the mortgage
- 200 – 500 hours of sweat equity required of each partner family

Family Selection Process

- **Information Sessions**
- **Demonstrated need for housing**
- **Willingness of family to partner in building the home**
- **Ability to pay a mortgage**
- **Criteria includes minimum and maximum income- 30%- 80% of A.M.I**
- **Credit report, tax returns, and bank statements**
- **Criminal background check**
- **Must attend homeowner education workshops**
- **Live or work in Montgomery County for a minimum of 1 year**
- **Must be a permanent legal resident or U.S. citizen**

Major Sponsors





For additional information contact:

John Paukstis
Executive Director
301-990-0014 Ext. 11
john.paukstis@habitat-mc.org

Or, go to our website:
www.habitat-mc.org

Revised 09/29/10



date: 8/2/2010
scale: 1" = 30'

Benning & Associates, Inc.
Land Planning Consultants
8933 Shady Grove Court
Gaithersburg, MD 20877
(301)948-0240



CONCEPT SITE PLAN
Jackson Property
(P476 & P477; L.27902 f.181)
City of Gaithersburg, Maryland

CONCEPT SITE PLAN NOTES:

1. Area of property - 2.92 acres (127,195 sf)
2. Proposed zoning: RP-T (Medium Density Residential)
3. Proposed use: single-family attached townhomes
4. Permitted density in the RP-T zone - maximum of 9 du per gross acre (26 du)
5. Proposed density - 19 du (6.5 du per gross acre)
6. Existing water and sewer service categories - W-1, S-1
7. Area proposed to be dedicated to City for public streets - 16,700 sf
8. Net tract area after dedication of streets - 110,495 sf
9. Area proposed to be covered by buildings - 12,920 sf (11.2%)
10. Area in lots - 31,770 sf (28.7%)
11. Area proposed for open space - 75,225 sf (68%)
12. Area proposed for forest conservation - 40,000 sf (36%)
13. Area proposed for parking and driveways - 11,000 sf (9.5%)
14. Development Standards:

	Required	Provided
Setback from Emory Grove Road	35'	35'
Setback from Outside Boundary	20'	20'
Maximum Building Height	35'	35' or less
Open Space	50%	62.4%
Common Use Open Space	1,000 sf/du	35,000 sf

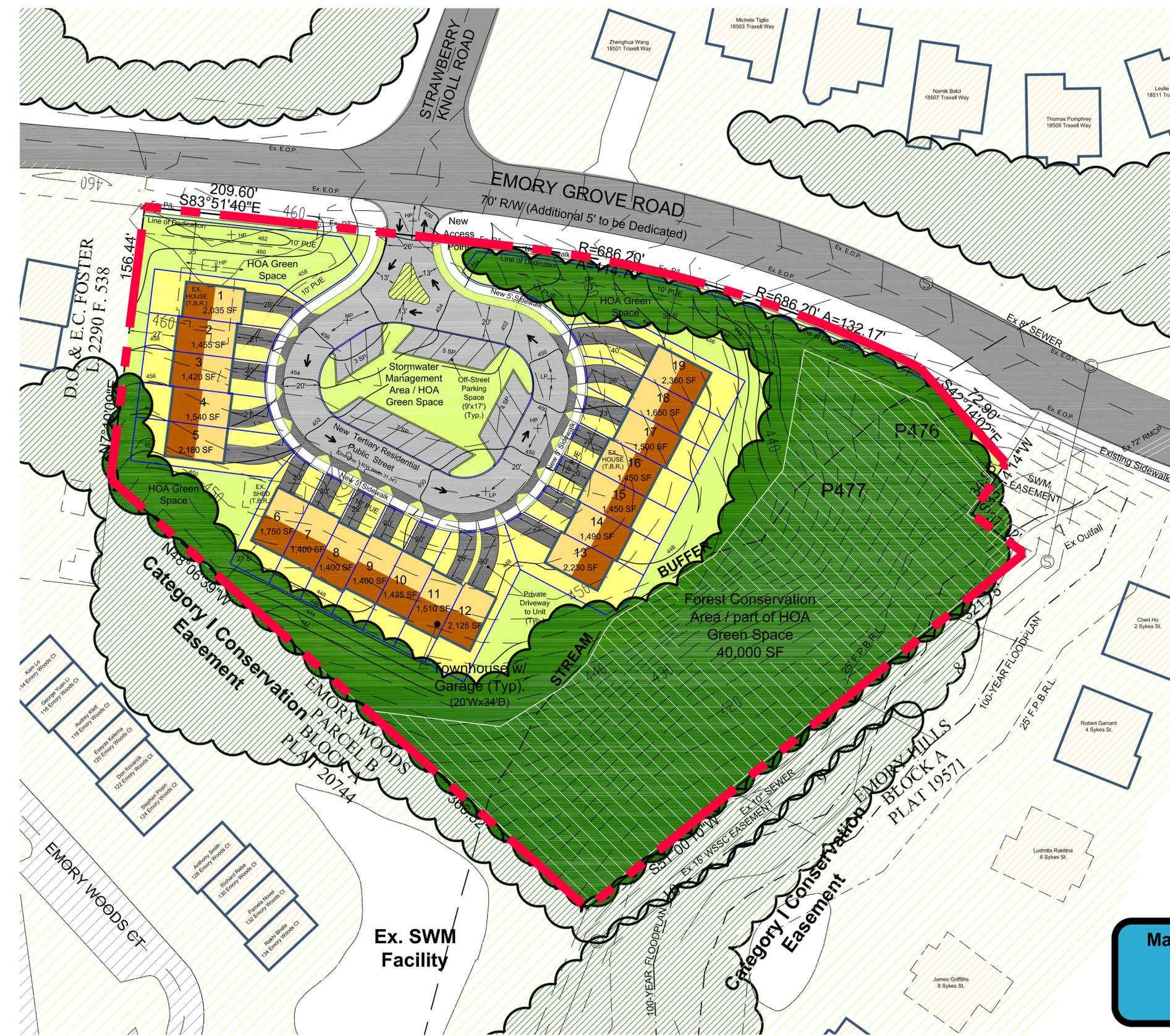
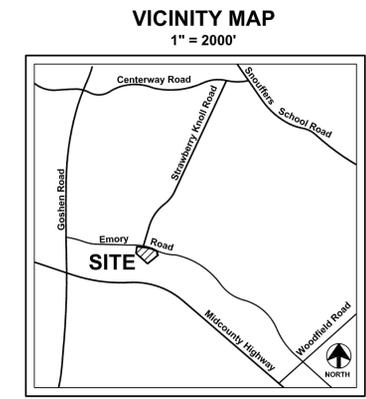
15. Off-Street parking required - 2.5 spaces/du or 47.5 spaces total
16. Off-Street parking provided - 48.5*
* 9.5 spaces for garages (each space counts as 1/2 space),
20 driveway spaces (Lot 19 includes 2), and 19 off-street spaces
17. Stormwater management concept to consist of disconnection of rooftop area with drywells or other containment/infiltration devices, porous pavement for driveways and off-street parking spaces, and bioretention or other similar technique for stormwater from the new public street.
18. Forest conservation requirements to be met with on-site retention of existing forest including protection of forested stream buffer area (0.9 acres±).
19. The floodplain area shown on this plan was taken from plat #19571 for Emory Hills - Lots 7-11.

LEGEND:

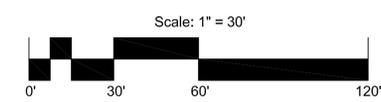
- Existing Building
- Proposed Townhouses
- Private Driveways
- Existing Contour
- Proposed Contour
- Stream Buffer
- Forest Conservation
- Vehicular Circulation Flow
- Direction of Slope

**Mayor and City Council
X-183
44**

PREPARED FOR:
**Habitat for Humanity of
Montgomery County MD, Inc.**
c/o John Paukstis
91100 Gaither Road
Gaithersburg, MD 20877
301-990-0014



NOTE:
Boundary & topographic information shown on this plan from a field survey completed in March 2010 by -
Thomas A. Maddox, Professional Land Surveyor
8933 Shady Grove Court
Gaithersburg, MD 20877
301-984-5804



Outline of Public Facilities

X-183

The subject property (parcels P476 and P477) of annexation petition X-183, located at 9000 and 9020 Emory Grove Road was identified and included in the Maximum Expansion Limits (MEL) approved in the adopted City of Gaithersburg 2003 Municipal Growth Element.

A. Municipal Services

All existing services will be provided to the subject parcels proposed for annexation. These services will be available immediately on the effective date of annexation.

B. Land Use

The proposed zoning is the RP-T (Medium Density Residential) Zone. If this land use is deemed to be substantially different from the approved and adopted land use in the *Gaithersburg and Vicinity Master Plan (adopted in 1985, and amended in 1988 and 1990)*, prepared by the Maryland-National Capital Park and Planning Commission, the consent of the County Council will be sought.

C. Public Facilities

The City of Gaithersburg, in 2007, adopted an Adequate Public Facilities Ordinance (APFO) that establishes requirements related to water and sewer service, emergency services, traffic impacts, and school capacity that must be met for development to occur. As the APFO relates to annexations, Section 24-244 of the City Code states:

“This article (XV. Adequate Public Facilities) shall not apply to any development that has received schematic development plan approval, preliminary site plan approval, or final site plan approval prior to the effective date of this article. Additionally, when a property is subject to an annexation agreement, any provision of this article that is contrary to the annexation agreement shall not be applicable.”

The applicant intends to enter into an annexation agreement with the City of Gaithersburg. As such specific requirements, if any, resulting from this annexation petition, will be promulgated within the agreement to be negotiated between the property owner and the City of Gaithersburg. The following provides an analysis of public facilities related to this petition:

Water and Sewer Service:

The subject property currently has WSSC water and sewer categories of W-1 and S-1 respectively. These category designations mean the property is currently served by both water and sewer service and any development could expand those services. Further, the *2003 Municipal Growth Element* and the *2009 Water Resources Element* both affirmed that there is sufficient water and sewer supply capacity for growth area developments with an overall average density of 32 dwelling units per acre. The proposed density for the petition's land use plan is 6.5 dwelling units per acre and therefore sufficient water and sewer capacity exists to support the proposed development.

Emergency Services:

The City's APFO requires that any development project be served by at least two (2) fire stations with a ten (10) minute response time. The Jackson property is within the ten (10) minute response areas of Montgomery County Department of Fire and Rescue Services Stations 8 and 28.

Traffic Analysis:

The City's Traffic Impact APFO states that applications for development approvals shall be subject to the adopted Gaithersburg Traffic Impact Study Standards regulations. It further states that no application for development approval shall be approved unless it complies with the requirements of Traffic Impact Study Standards regulations, or the applicant has obtained a determination from staff that the standards are not applicable to the applicant's proposed development.

The adopted Traffic Impact Study Standards require a traffic impact study (TIS) for any new development or redevelopment that generates thirty (30) or more total weekday trips in the AM and/or PM peak hours. The applicant has submitted a Traffic Statement. Engineering Services Director Mumpower has concurred that the proposed development will generate a maximum of 16 peak hour trips and does not require a TIS or associated traffic mitigation.

Schools:

The subject property lies within the Gaithersburg Cluster of the Montgomery County Public School (MCPS) system. Students generated from the proposed conceptual plan would attend Strawberry Knoll Elementary, Gaithersburg Middle School, and Gaithersburg High School.

The City's APFO states: "With the exception of age restricted development, schematic development plan or preliminary site plan for residential development shall not be approved if the subject property is within the attendance area of a Montgomery County Public School that is forecasted to have a student population that exceeds 110% of Montgomery County Public Schools Program Capacity two (2) years in the future..." The schools test must be reviewed

individually for each elementary school, middle school, and high school. Sharing of capacity between schools is not permitted.

The applicant has indicated the following student generation rates for the conceptual site plan, which have been verified by Bruce Crispell, Director of Long-Range Planning for MCPS:

4 elementary school students (19 units x 0.181 generation rate = 3.4)

3 middle school students (19 x 0.114 generation rate = 2.2)

3 high school students (19 x 0.156 generation rate = 2.9)

10 total students

The *FY 2011 Educational Facilities Master Plan and FY 2011-2016 Capital Improvements Program* for Montgomery County Public Schools outlines the following information for the applicable schools:

Strawberry Knoll Elementary School

The CIP projects the program capacity of the elementary school at 467 students for the 2010-2011 and 2011-2012 school years. Enrollment is projected at 561 and 581 students, respectively. The enrollment projection exceeds the capacity by 94 students for the 2010-2011 school year and 114 students for the 2011-2012 school year. These enrollment projections indicate that Strawberry Knoll Elementary will exceed program capacity by 120.1% during the 2010-2011 school year and by 124.4% during the 2011-2012 school year.

The *Facilities Master Plan* further states the following: “Projections indicate enrollment at Strawberry Knoll Elementary School will exceed capacity by four classrooms or more by the end of the six-year planning period. Enrollment will be monitored to determine the need for a future project. Relocatable classrooms will be utilized until additional capacity can be added.”

Gaithersburg Middle School

The CIP projects the program capacity of the middle school at 881 students for the 2010-2011 school year and 865 for the 2011-2012 school year. The reduction in capacity is due to the modification of an existing regular class room into a class room dedicated for students with autism. Enrollment is projected at 657 and 647 students, respectively. The enrollment projection is less than school capacity by 224 students for the 2010-2011 school year and 218 students for the 2011-2012 school year. No significant modifications are planned that will affect school capacity.

Gaithersburg High School

The CIP projects the capacity of the high school at 1,992 students for the 2010-2011 and 2011-2012 school years. Enrollment is projected at 2,014 and 2,017 students, respectively. The enrollment projection exceeds the capacity by 22 students for the 2010-2011 school year and 25 students for the 2011-2012 school year. These enrollment projections indicate that Gaithersburg High School will exceed program capacity by 101.1% during the 2010-2011 school year and by 101.3% during the 2011-2012 school year.

The *Facilities Master Plan* further states the following: “A modernization project is scheduled for this school. An FY 2010 appropriation was approved for planning funds to begin the architectural design of the modernization. The scheduled completion date for the modernization of the facility is August 2013 with site work scheduled for completion in August 2014. In order for this modernization to be completed on schedule, county and state funding must be provided at the levels approved in this CIP...”

The four elementary students generated by the proposed X-183 site plan development would therefore exceed the APFO required capacity. The applicant has indicated within their Statement in Support of Annexation that they will request relief from the elementary school test under Section 24-244 of the City Code, cited previously, through an annexation agreement.

D. Financing of Facilities

The City anticipates that the extension of all municipal services to the parcels can be financed from the funds currently appropriated.

From: [Lauren Pruss](#)
To: [Rob Robinson](#)
Subject: FW: Schools Test - Jackson
Date: Friday, October 22, 2010 10:01:39 AM

From: JUDASHMAN@aol.com [mailto:JUDASHMAN@aol.com]
Sent: Wednesday, October 20, 2010 4:44 PM
To: Lauren Pruss; Greg Ossont
Subject: Re: Schools Test - Jackson

Thank you both, that's helpful. Please include this information in the background materials when the project comes before us.

Yours,
- Jud

In a message dated 10/20/2010 4:38:08 P.M. Eastern Daylight Time, LPruss@gaitthersburgmd.gov writes:

Jud,

Strawberry Knoll Elementary is currently at 120.1% capacity. The City's school test prevents us from approving a plan that exceeds 110% capacity, so the project fails our test. The County's schools test allows sharing of capacity within the entire cluster at each grade level, so the development currently passes the County's schools test. I have received confirmation of this from MNCCP. Hope this helps.

Lauren Pruss
Planning Director
Planning and Code Administration
City of Gaithersburg
31 S. Summit Ave.
Gaithersburg, MD 20877-2098
301-258-6330
301-258-6336 (fax)

Get weekly e-mail updates of upcoming City meetings and events by registering for myGaithersburg at www.gaithersburgmd.gov/mygaithersburg

The opinions expressed in this message are not necessarily those of the City of Gaithersburg Staff, Mayor or Council

-----Original Message-----

From: Greg Ossont
Sent: Wednesday, October 20, 2010 2:28 PM
To: Lauren Pruss

Mayor and City Council
X-183
46

Cc: Jud Ashman - External
Subject: Schools Test - Jackson

LP - can you clear up for me?

Based on the student generation for 19 towns at Jackson...what would the capacity percentages be? Exceeds both County and City or just City?

Greg Ossont, Director
Planning and Code Administration
City of Gaithersburg
31 South Summit Avenue
Gaithersburg MD 20877
Planning and Code Administration
301-258-6330
301-258-6336 (fax)

Get weekly e-mail updates of upcoming City meetings and events by registering for myGaithersburg at www.gaithersburgmd.gov/mygaithersburg

The opinions expressed in this message are not necessarily those of the City of Gaithersburg Staff, Mayor or Council



October 27, 2010

Françoise Carrier, Chair
Montgomery County Planning Board
8787 Georgia Avenue
Silver Spring, MD 20910

Re: X-183 Jackson Property Annexation to the City of Gaithersburg

Dear Chairwoman Carrier;

The City of Gaithersburg has received a petition for annexation for the Jackson Property located at 9000 and 9020 Emory Grove Road. This letter serves as official notification, as required by Article 23A, that the Mayor and City Council is tentatively scheduled to hold a public hearing regarding the proposed annexation on December 6, 2010. In accordance with Article 23A, advertising for the public hearing will begin on October 27, 2010. Attached is a copy of the official public notice, the outline for extension of public facilities, and the annexation plan.

The subject property encompasses approximately 2.9 acres of land. The annexation petition includes a conceptual development plan that proposes 19 townhouse units. You may contact me or Rob Robinson with any questions you may have regarding the application.

Sincerely,

Greg Ossont, Director
Planning and Code Administration

LP/go

City of Gaithersburg, 31 South Summit Avenue, Gaithersburg, Maryland 20877-2098
plancode@gaitersburgmd.gov 301-258-6330 www.gaitersburgmd.gov

MAYOR
Sidney A. Katz

CITY COUNCIL MEMBERS
Jud Ashman
Cathy C. Drzyzgula
Henry F. Marraffa
Michael A. Sesma
Ryan Spiegel

CITY MANAGER
Angel Jones

Mayor and City Council
X-183
47



October 27, 2010

The Honorable Isiah Leggett
Montgomery County Executive
101 Monroe Street, 2nd Floor
Rockville, MD 20850

Re: X-183 Jackson Property Annexation to the City of Gaithersburg

Dear Mr. Leggett;

The City of Gaithersburg has received a petition for annexation for the Jackson Property located at 9000 and 9020 Emory Grove Road. This letter serves as official notification, as required by Article 23A, that the Mayor and City Council is tentatively scheduled to hold a public hearing regarding the proposed annexation on December 6, 2010. In accordance with Article 23A, advertising for the public hearing will begin on October 27, 2010. Attached is a copy of the official public notice, the outline for extension of public facilities, and the annexation plan.

The subject property encompasses approximately 2.9 acres of land. The annexation petition includes a conceptual development plan that proposes 19 townhouse units. You may contact me or Rob Robinson with any questions you may have regarding the application.

Sincerely,

Greg Ossont, Director
Planning and Code Administration

LP/go

City of Gaithersburg, 31 South Summit Avenue, Gaithersburg, Maryland 20877-2098
plancode@gaitthersburgmd.gov 301-258-6330 www.gaitthersburgmd.gov

MAYOR
Sidney A. Katz

CITY COUNCIL MEMBERS
Jud Ashman
Cathy C. Drzyzgula
Henry F. Marraffa
Michael A. Sesma
Ryan Spiegel

CITY MANAGER
Angel Jones



October 27, 2010

The Honorable Nancy Floreen
Montgomery County Council
6th Floor
100 Maryland Avenue
Rockville, MD 20850

Re: X-183 Jackson Property Annexation to the City of Gaithersburg

Dear Ms. Floreen;

The City of Gaithersburg has received a petition for annexation for the Jackson Property located at 9000 and 9020 Emory Grove Road. This letter serves as official notification, as required by Article 23A, that the Mayor and City Council is tentatively scheduled to hold a public hearing regarding the proposed annexation on December 6, 2010. In accordance with Article 23A, advertising for the public hearing will begin on October 27, 2010. Attached is a copy of the official public notice, the outline for extension of public facilities, and the annexation plan.

The subject property encompasses approximately 2.9 acres of land. The annexation petition includes a conceptual development plan that proposes 19 townhouse units. You may contact me or Rob Robinson with any questions you may have regarding the application.

Sincerely,

Greg Ossont, Director
Planning and Code Administration

LP/go

City of Gaithersburg, 31 South Summit Avenue, Gaithersburg, Maryland 20877-2098
plancode@gaitersburgmd.gov 301-258-6330 www.gaitersburgmd.gov

MAYOR
Sidney A. Katz

CITY COUNCIL MEMBERS
Jud Ashman
Cathy C. Drzyzgula
Henry F. Marraffa
Michael A. Sesma
Ryan Spiegel

CITY MANAGER
Angel Jones



October 27, 2010

Mr. Michael J. Nortrup
Maryland Department of Planning
301 West Preston Street, Suite 1101
Baltimore, MD 21201

Re: X-183 Jackson Property Annexation to the City of Gaithersburg

Dear Mr. Nortrup;

The City of Gaithersburg has received a petition for annexation for the Jackson Property located at 9000 and 9020 Emory Grove Road. This letter serves as official notification, as required by Article 23A, that the Mayor and City Council is tentatively scheduled to hold a public hearing regarding the proposed annexation on December 6, 2010. In accordance with Article 23A, advertising for the public hearing will begin on October 27, 2010. Attached is a copy of the official public notice, the outline for extension of public facilities, and the annexation plan.

The subject property encompasses approximately 2.9 acres of land. The annexation petition includes a conceptual development plan that proposes 19 townhouse units. You may contact me or Rob Robinson with any questions you may have regarding the application.

Sincerely,

Greg Ossont, Director
Planning and Code Administration

LP/go

City of Gaithersburg, 31 South Summit Avenue, Gaithersburg, Maryland 20877-2098
plancode@gaitersburgmd.gov 301-258-6330 www.gaitersburgmd.gov

MAYOR
Sidney A. Katz

CITY COUNCIL MEMBERS
Jud Ashman
Cathy C. Drzyzgula
Henry F. Marraffa
Michael A. Sesma
Ryan Spiegel

CITY MANAGER
Angel Jones



October 27, 2010

Mr. Peter Conrad
Director of Local Government Assistance
Maryland Department of Planning
301 West Preston Street, Suite 1101
Baltimore, MD 21201

Re: X-183 Jackson Property Annexation to the City of Gaithersburg

Dear Mr. Conrad;

The City of Gaithersburg has received a petition for annexation for the Jackson Property located at 9000 and 9020 Emory Grove Road. This letter serves as official notification, as required by Article 23A, that the Mayor and City Council is tentatively scheduled to hold a public hearing regarding the proposed annexation on December 6, 2010. In accordance with Article 23A, advertising for the public hearing will begin on October 27, 2010. Attached is a copy of the official public notice, the outline for extension of public facilities, and the annexation plan.

The subject property encompasses approximately 2.9 acres of land. The annexation petition includes a conceptual development plan that proposes 19 townhouse units. You may contact me or Rob Robinson with any questions you may have regarding the application.

Sincerely,

Greg Ossont, Director
Planning and Code Administration

LP/go

City of Gaithersburg, 31 South Summit Avenue, Gaithersburg, Maryland 20877-2098
plancode@gaitersburgmd.gov 301-258-6330 www.gaitersburgmd.gov

MAYOR
Sidney A. Katz

CITY COUNCIL MEMBERS
Jud Ashman
Cathy C. Drzyzgula
Henry F. Marraffa
Michael A. Sesma
Ryan Spiegel

CITY MANAGER
Angel Jones



October 27, 2010

Vanessa N. Francis, Senior Planner
Montgomery County Planning Department
The Maryland-National Capital Park and Planning Commission
8787 Georgia Avenue
Silver Spring, MD 20910

Re: X-183 Jackson Property Annexation to the City of Gaithersburg

Dear Ms. Francis,

The City of Gaithersburg has received a petition for annexation for the Jackson Property located at 9000 and 9020 Emory Grove Road. This letter serves as official notification, as required by Article 23A, that the Mayor and City Council is tentatively scheduled to hold a public hearing regarding the proposed annexation on December 6, 2010. In accordance with Article 23A, advertising for the public hearing will begin on October 27, 2010. Attached is a copy of the official public notice, the outline for extension of public facilities, and the annexation plan.

The subject property encompasses approximately 2.9 acres of land. The annexation petition includes a conceptual development plan that proposes 19 townhouse units. You may contact me or Rob Robinson with any questions you may have regarding the application.

Sincerely,

Greg Ossont, Director
Planning and Code Administration

LP/go

City of Gaithersburg, 31 South Summit Avenue, Gaithersburg, Maryland 20877-2098
plancode@gaitersburgmd.gov 301-258-6330 www.gaitersburgmd.gov

MAYOR
Sidney A. Katz

CITY COUNCIL MEMBERS
Jud Ashman
Cathy C. Drzyzgula
Henry F. Marraffa
Michael A. Sesma
Ryan Spiegel

CITY MANAGER
Angel Jones



CITY OF GAITHERSBURG
31 South Summit Avenue
Gaithersburg, Maryland 20877
Telephone: 301-258-6330

NOTICE OF PUBLIC HEARING

The City of Gaithersburg Mayor and Council will conduct a public hearing at the time and place noted below.

Meeting: **MAYOR AND CITY COUNCIL**
Application Type: **ANNEXATION**
File Number: **X-183**
Location: **9000 AND 9020 EMORY GROVE ROAD**
Applicant: **HABITAT FOR HUMANITY OF MONTGOMERY COUNTY, MD, INC., L. NEIL JACKSON AND CONNY JACKSON**
Development: **SINGLE-FAMILY RESIDENTIAL DEVELOPMENT**
Day/ Date/Time: **MONDAY, DECEMBER 6, 2010**
Place: **COUNCIL CHAMBERS, GAITHERSBURG CITY HALL
31 SOUTH SUMMIT AVENUE**

*****IMPORTANT*****

This is a proposal to annex 2.927 acres of land adjacent to the present corporate limits, known as the Jackson Property, located at 9000 and 9020 Emory Grove Road. The application requests a reclassification of the subject property from the current R-200/TDR (Low Density Residential with Transfer of Development Rights) in the County to the RP-T (Medium Density Residential) Zone in the City of Gaithersburg, Maryland. This is an opportunity to publicly participate, other than providing written testimony which must be submitted before the public hearing record closes. Contact the Planning and Code Administration City Planner (listed below) at (301) 258-6330 if you should have any questions and/or to learn more about this process and your ability to offer testimony and input.

View Mayor and City Council and Planning Commission meetings live on Gaithersburg Television, Comcast Channel 13 within the City limits, or via streaming video at www.gaithersburgmd.gov/tv. Meetings are rebroadcast for one week on television, and are archived within 24 hours for viewing at any time on the City's website.

CITY OF GAITHERSBURG

By: _____
Rob Robinson, Planner
Planning and Code Administration

SEE LOCATION MAP ON REVERSE SIDE

Mayor and City Council
X-183
48

NOTICES SENT THIS 26th DAY OF OCTOBER, 2010, TO:

APPLICANT AND INTERESTED PARTIES

(A list of interested parties and agencies is available in the file in the Planning and Code Administration.)

MAYOR AND COUNCIL

PLANNING COMMISSION

CITY STAFF

Angel L. Jones, City Manager
Tony Tomasello, Deputy City Manager
Lynn Board, City Attorney
Britta Monaco, Director of Community and Public Relations
Doris Stokes, Municipal Clerk
Jeff Baldwin, City Web Administrator (via email)

LOCATION MAP



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

CITY OF GAITHERSBURG PLANNING COMMISSION

MEETING HELD ON OCTOBER 20, 2010

7:30 p.m.

HEARING FOR RECOMMENDATION TO MAYOR AND CITY COUNCIL

ANNEXATION PETITION X-183 - JACKSON PROPERTY

TRANSCRIBED BY: MYRIAM GONZALEZ, RECORDING SECRETARY

A T T E N D A N C E

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

COMMISSIONERS PRESENT:

JOHN BAUER, Chairman

MATTHEW HOPKINS, Vice Chair

LLOYD KAUFMAN, Commissioner

LENNY LEVY, Commissioner

DANNY WINBORNE, Commissioner

GERI LANIER, Alternate Commissioner

STAFF PRESENT:

GREG OSSONT, Planning and Code Administration Director

TRUDY SCHWARZ, Community Planning Director

ROB ROBINSON, Planner

MYRIAM GONZALEZ, Recording Secretary

A T T E N D A N C E

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21

SPEAKERS ON BEHALF OF APPLICANT:

JOHN PAUKSTIS, Habitat for Humanity of Montgomery County, MD, Inc.

STUART BARR, ESQ., Lerch, Early & Brewer, Chtd.

SPEAKERS FROM THE PUBLIC:

BARBARA GARRARD, 4 Sykes Street, Gaithersburg, MD 20877

EVA FOSTER, 9026 Emory Grove Road, Gaithersburg, MD 20877

DAN LYON, 9026 Emory Grove Road, Gaithersburg, MD 20877

DONALD WILLIAMS, 18500 Ginger Bread Court, Gaithersburg, MD 20877

P R O C E E D I N G S

(7:36 P.M.)

CHAIR BAUER: Next, another recommendation to the Mayor and Council for X-183: Application to annex 2.927 acres of land, known as the Jackson Property, located south of the intersection of Emory Grove and Strawberry Knoll Roads. The application requests a reclassification of the subject property from the current R-200/TDR-4 (Low-Density Residential) Zone in Montgomery County to the RP-T (Medium Density Residential) Zone in the City of Gaithersburg. Presenting from Staff is Rob Robinson.

PLANNER ROBINSON: Good evening, Commissioners, as you mentioned this is the Planning Commission Recommendation for Annexation Petition X-183, the Jackson Property. The applicant, Habitat for Humanity of Montgomery County, contract purchaser of this site from the Jackson family, is proposed to be annexed into the City approximately three acres of land along Emory Grove Road, south of the intersection with Strawberry Knoll Road. The application requests a reclassification of the subject property from the current R-200/TDR-4 Zone in Montgomery County to the RP-T Zone in the City of Gaithersburg. This property is located within the maximum expansion limits as defined within the approved 2003 Municipal Growth Element. As part of the petition, the applicant has also submitted a concept land use plan proposing 19 townhouse units. An annexation in itself

1 will not grant any entitlements to this proposed plan, although the
2 annexation agreement may incorporate certain assurances. Article 66B
3 of the Maryland Annotated Code and Chapter 24 of the City Code require
4 the Planning Commission to review the proposed annexation, associated
5 rezoning, and land use plan for consistency with the City's Master
6 Plan and provide a recommendation to the Mayor and City Council. With
7 that I'd like to turn it over to Mr. Stuart Barr, attorney for the
8 applicant.

9 STUART BARR: good evening everyone, my name is Stuart
10 Barr, I'm a land use and zoning attorney with the law firm Lerch,
11 Early, & Brewer in Bethesda, our office is located at 3 Bethesda Metro
12 Center, Bethesda, Maryland 20814. I'm very pleased and proud tonight
13 to be representing Habitat for Humanity of Montgomery County for this
14 project and this annexation proposal. To my left is John Paukstis,
15 the Executive Director of Habitat for Humanity of Montgomery County.
16 Also with us this evening are Dave McKee from Benning and Associates,
17 our land planner, and Jim Clifford is also here; he represents the
18 property owners, the Jacksons. All of us would be happy to answer any
19 questions. We're going to be fairly concise tonight because, I think,
20 the Staff Report and the Planning Staff during their presentation did
21 a nice job summarizing everything. I want to say just a few words
22 about the school capacity test issue, but first I want to turn it over
23 to John Paukstis to introduce Habitat for Humanity for those who

1 aren't familiar with their organization and to talk about the
2 annexation proposal and this proposed project.

3 JOHN PAUKSTIS: good evening. Again, I'm John Paukstis, I'm
4 the Executive Director for Habitat for Humanity in Montgomery County,
5 Maryland. Habitat for Humanity was... (inaudible) okay, Habitat was
6 established in 1976 in Emeritus, Georgia, a very grass-roots community
7 whereas it started out. Today we're building in nearly 100 countries,
8 we've built 350,000 homes around the world and about 80,000 in the
9 U.S. We are a 501(C)(3). Our story was that we were established here
10 in Montgomery County 1982, we're one of 1,500 affiliates in the U.S.
11 and we're one of 18 in the State of Maryland. We only operate in
12 Montgomery County, we only build in Montgomery County, and fund-raise
13 in Montgomery County. Since our founding in 1982, we've completed 56
14 homes, they've either been new construction, or rehab of existing
15 homes and of the 56, we've only had one foreclosure in all that time.
16 All the other owners still own their homes. I think that's a pretty
17 good record. Our mission is to partner with a community to create
18 ownership opportunities for low income families in the community. So
19 we're a homeownership program and I'll tell you little bit more about
20 that in a moment. We have a board of directors, we have our own
21 bylaws and governing board, and we operate under the auspices of
22 Habitat International. We sign a code of conduct and covenants every
23 year to be able to use the name and then ten percent of our individual

1 fundraising goes back to Habitat International; that supports world-
2 wide building. Currently, Habitat for Humanity in the U.S. is the
3 eighth largest builder in the U.S. Our organization is that we are
4 licensed contractors, so have a general contractor on staff. We have
5 a director of construction, who has over 30 years of experience in
6 construction. We hire all the licensed trades so that anything that
7 needs an inspection, we hire out. So we hire electrical, plumbing,
8 HAD, and so on. We have about 2,000 volunteers that volunteer with us
9 every year and we have site supervisors as well as crew leaders who
10 supervise volunteers when they come out. What do volunteers do? Well,
11 they do volunteer friendly things like, trim anything, cabinets and
12 landscaping; but they don't touch any of the electric or plumbing,
13 obviously. We do build to energy-star standards so enhanced
14 installation, low-e windows, energy-star appliances, low-flow plumbing
15 fixtures, and 13-SEER 3-T AC. We whatever we build will be LEED
16 certified. Recent projects: we completed a project in 2008 with 24
17 townhouses in Burtonsville; it's out on Route 29 and Green Castle
18 Road, 24 townhouses in two buildings. And then in the last year,
19 we've renovated 13 vacant foreclosed homes, primarily in the Silver
20 Spring area, but the two that we're working out right now, in fact,
21 are here in Gaithersburg. This is a photo (the overhead monitor
22 displayed a photograph of houses) of the Burtonsville project, which
23 we completed in 2008. We created a homeowners association, we funded

1 the Reserve Fund, we sat on the Board for at least the first year, and
2 then transitioned the homeowners onto the Board of Directors. So it
3 was a very successful project for us. Current and future projects:
4 we're currently working on three foreclosures that we have. But we
5 take the foreclosures... these are older properties that are distressed,
6 so we take them down to the studs and we rehabilitate them and make
7 them energy efficient. We're about to acquire three townhouses in
8 Clarksburg Village, actually the builder is discounting the properties
9 to Habitat, (so) we're able to place some families there. We have a
10 grant from the State of Maryland to do 30 weatherization projects,
11 it's a \$100,000-grant so for low-income folks in our community will go
12 and make their homes more energy efficient. We plan to do an initial
13 four rehab & foreclosures early next year, and then we have a project
14 in Poolesville that's similar to this one with 17 townhouses that we
15 hope to start in the spring of next year. And then the project that
16 we're here to talk about tonight is 19 townhouses in Gaithersburg. So
17 the highlights of this program are: as Stuart already mentioned, on
18 2.9 acres; location, 9000 Emory Grove Road; the sellers, the Jackson
19 Family, represented by Jim Clifford; Stuart Barr's representing
20 Habitat and we're very grateful for that; we're proposing 9 mixed
21 income townhouses, 30 to 80 percent AMI. The typically habit we've
22 been focused on is 30 to 50 percent AMI, low income, but we think
23 it'll be a stronger community with 30 to 80 percent of AMI. These

1 will be three-bedroom, two-bath townhouses, with a garage on the first
2 level, and the house plans are being donated by Craftstar Homes.

3 CHAIR BAUER: just for the record, would you clarify AMI?

4 JOHN PAUKSTIS: Area Median Income. Current Area Median
5 Income in Montgomery County is \$103,500, so we would be 30 to 80
6 percent of that Area Median Income. Here's the Preliminary Site Plan
7 (shown on the overhead monitor), you can say this property runs along
8 Emory Grove Road and intersects with Strawberry Knolls and we have 19
9 units in three buildings. This is the product that we'll be building
10 on the site (shown on the overhead monitor), house plan donated by
11 Clarkcraft, you can see that they're three levels, about 700 square
12 feet per level. So about 1,400 square feet of living space and the
13 garage on the first level. There's again the Area Median Income, we
14 can sell 90 of these 30 to 50 percent of Area Median Income and 10
15 units at 50 to 80 percent of Area Median Income. The Habitat Program
16 requires that we sell these homes at no interest, so all homeowners
17 will have a 30-year no interest mortgage. Habitat services the
18 mortgage. We service the mortgage so every month the mortgage payment
19 comes to Habitat, we escrow the taxes and insurance and that way we...
20 it's more of a partnership program, we really stay close to the family
21 and understand what's going on. They provide a one percent down
22 payment, we have an equity sharing plan of the life of the mortgage
23 and that means that in the early years, the homeowner has really zero

1 equity until the year three, and then they start gaining equity at
2 five percent a year. So in year 22, they have a 100 percent equity,
3 or 90 percent, we retain ten percent. And then the homeowners must
4 put in 20500 hours of sweating to actually help build the home. Our
5 family selection process: we have a committee of 20 folks comprised of
6 staff members, board members, and volunteers and we conduct
7 information sessions in the community, generally, at our office on
8 Gaither Road or in a church facility and the families come and hear
9 about our program and the first thing we look for is do they have a
10 demonstrated need? And often times, what we have seen when we make
11 house visits is folks are living in crowded conditions or infestation
12 or mold or those kinds of things. We're trying to get folks out of
13 substandard living conditions and a lot of times being cost burdened
14 because they're paying a high amount for rent into decent housing. It
15 must be a willing partner. They have to have the ability to pay a
16 mortgage. So we look at... we get tax returns, we get credit reports
17 and so on, and generally the families that we select have a low-debt
18 to income ratio. They've got to be able to pay our zero-interest
19 mortgage. We do a criminal background check for all adults, that's
20 anyone 18 and older. They must attend our education workshops, which
21 include budget and financing, minor home repairs, and so on. They
22 must have lived or work in the County for a minimum of one year and
23 must be a permanent legal resident of the U.S. Here are some of our

1 sponsors (a display of corporate logos was shown on the overhead
2 monitor). That concludes my presentation.

3 STUART BARR: Unless there are any questions for John, I
4 just wanted to say a few words about the elementary school test and
5 the Staff Report did a nice job of explaining that issue. But as
6 everyone's aware that the City, like the County, Montgomery County,
7 has an Adequate Facilities test and, importantly, this project does
8 pass the County's APF test. The City test is slightly different when
9 it comes to school capacity and the project passes the City APF
10 testing for all public facilities with the exception of the elementary
11 school test. And based on the information from the County, the
12 proposed project would generate four elementary school students, three
13 middle school students, and three high school students. And under the
14 City's test the projected generation passes APF testing for the middle
15 and the high schools; only the elementary school, currently, exceeds
16 capacity. But fortunately, since the property is in Montgomery
17 County, and this is an annexation petition, relief is specifically
18 available if the City wants to exercise that authority. And we think
19 relief is appropriate under these circumstances in the context of this
20 case because, again, under the current County zoning, the school
21 capacity test is satisfied and the property can be developed without
22 the 14 townhouse units. Habitat's proposing only five additional
23 units beyond the 14 that would be allowed in the County. And then,

1 most importantly, these are fairly modest numbers, four elementary
2 school students would be generated by these units. Typically, when
3 redevelopment is proposing to replace current development, they're
4 currently two single-family detached homes on the property, you kind
5 of get credit for what's there currently. The current two family
6 homes generate one elementary school student, so we're really talking
7 about an increase of three children and just given the merits of this
8 project, we're requesting relief from the City on the elementary
9 school test, again, the only element of the APF testing that requires
10 relief. So as the Staff Reports indicated we maintain this project
11 does satisfy the City's Master Plan goals, it is within the maximum
12 expansion limits, and it is in compliance with the City's RPT zoning
13 and we believe it's compatible with the surrounding communities. So
14 we're asking for the Planning Commission's support of the project and
15 annexation petition. I'll be happy to answer any questions.

16 CHAIR BAUER: any questions?

17 COMMISSIONER LEVY: is this going to be built by
18 volunteers, except for the things like plumbing and electric? Because
19 when I first became familiar with your organization you were building
20 one-level homes. This is three levels, so I just got a little
21 concerned. This is going to actually be going in and putting in the
22 drywall...?

23

1 JOHN PAUKSTIS: Professionals will frame the exterior of
2 the house and they also do the drywall. What volunteers will do is
3 finishing like the trim, painting, and things like that. It is three
4 levels but Burtonsville was three levels and we did that with two
5 volunteers also, and we had perfect safety record. So we're very
6 careful about what we allow volunteers to do.

7 COMMISSIONER LEVY: okay, I just wanted to clarify that.

8 CHAIR BAUER: any other questions? (pause) Okay, one, I
9 guess two I have: when the neighborhood be built out, I assume there's
10 an HOA, a homeowners association, and we sort like we see ongoing
11 maintenance... how is that chartered and established and how much
12 involvement does Habitat have going forward?

13 JOHN PAUKSTIS: we establish the homeowners association, so
14 we have an attorney that does, again, pro-bono work and creates the
15 covenants, and then we charter and we set up a board, and the board,
16 initially, consists of Habitat staff members like myself and Board
17 members, and volunteers. So we launch the homeowners association, and
18 we also fund the Reserve Fund. So the one-percent down payment, for
19 example, that the homeowners will be putting down, that will be going
20 back to them in a reserve fund, because the Reserve Fund, as you know,
21 is critical. We'll serve on the Board for approximately a year,
22 sometimes longer, until the homeowners are ready to assume
23 responsibility. Then they'll elect themselves onto the Board. We'll

1 always retain a seat though. Habitat will retain a seat because it's
2 our project and we want to make sure it's successful.

3 CHAIR BAUER: okay. The other part was when you work with,
4 for example, in this case, Clarkmark Plans, what sort of oversight do
5 you have on things like materials, finishes, things that, you know... as
6 one example, we have typically gone forward with residential
7 development in the City not using vinyl siding, for example. Is there
8 room in this agreement to write some sort of guideline around the
9 materials that are used for the houses or some level of, you know, I
10 guess guidelines are our answer... or prescriptive language that talks
11 about the materials that aren't allowed on the construction site.

12 JOHN PAUKSTIS: We're completely flexible on that. I mean,
13 you know, we're grateful that Clarkmark has donated the house plans
14 because it saves the...

15 CHAIR BAUER: o yeah. But I guess, from staff, how do we
16 apply that because in the annexation agreement that's really straight
17 ahead zoning... would it on the final site plan at some point?

18 DIRECTOR OSSONT: it would. Assuming it's annexed,
19 regardless of whether there's language in there about specific
20 materials or architecture, in the annexation agreement we try not... to
21 stay away from that...

22 CHAIR BAUER: yeah I think it's a little too much to...

23 DIRECTOR OSSONT: it's a little too prescriptive.

1 CHAIR BAUER: yeah.

2 DIRECTOR OSSONT: however, you will see this again at
3 preliminary site plan as well as final site plan. So you'll be
4 reviewing architecture regardless if it's brought into the City
5 because they'll have to do a final site plan.

6 CHAIR BAUER: so at this point even though they're
7 presenting um...

8 DIRECTOR OSSONT: yeah, let me clear that up, and it's
9 really just semantics, they're referred to it as a preliminary site
10 plan. It's really a concept, it's what they want to do. Your
11 recommendation doesn't approve or not approve the plan itself. It's
12 basically whether the annexation itself and the application for the
13 RP-T Zone... that's really the extent of your review this evening.
14 Ultimately, you'll see it for preliminary and final site plans as part
15 of your normal and customary processes.

16 CHAIR BAUER: any other questions?

17 COMMISSIONER WINBORNE: yeah. I just have one question.
18 Now for the record, you stated the County's school test, can be just
19 be clear on what the City... what the difference is? I know you talked
20 about numbers, but I want you to be clear, so for the record, what the
21 difference is.

22 STUART BARR: sure. Well, the County uses a Cluster Test,
23 this is in the Strawberry Knoll Elementary school, Gaithersburg

1 Elementary school and Gaithersburg High school tenants' areas, and the
2 County uses that cluster evaluation, whereas the City breaks down each
3 level of schools, elementary, middle school and high school, and looks
4 at each independently. So while in the County, the proposed project
5 passes the Cluster Test, again, in the City, it passes the Middle and
6 High school, but Strawberry Knoll currently has... exceeds 110 percent
7 in program capacity.

8 COMMISSIONER WINBORNE: okay.

9 STUART BARR: fortunately, again, the APF provisions in the
10 City allow relief to be granted in the context of an annexation
11 petition. So that's the context run.

12 COMMISSIONER WINBORNE: thank you. I mean I knew but I
13 just wanted to make sure that everyone else knew.

14 CHAIR BAUER: alright. So this is... the record's open.
15 We're going to go to public hearing. Rob maybe you can help
16 understand how the logistics will work here. Without a podium, do you
17 want to um... pass the "mike"?

18 PLANNER ROBINSON: Yes. I'll just go ahead and stand here
19 where everyone who wishes to testify...

20 CHAIR BAUER: okay. When Rob gives you the "mike," just
21 raise your hand and we'll make it around the room. There's plenty of
22 time to hear... let me remind you, it's a three-minute time limit
23 (inaudible), actually, Rob, we probably want to get everybody close to

1 the front because of the camera angles.

2 JOHN PAUKSTIS: we'll be happy to move back.

3 CHAIR BAUER: yes, just go ahead and sit on the front row
4 and then we can clear the desk for someone who wants to testify.
5 Well, we'll work this out. It's a little different from an ordinary
6 public hearing. They can use the "mike" right there on the...

7 DAN LYON, 9026 Emory Grove Road, we border this property on
8 the... I guess on the east or... west side of the Jackson Property. My
9 main concern is... maybe been alleviated if... if they intend to go with
10 the elevations that they have here. We looked at the... my family and I
11 went over, looked at the Burtonsville property. I asked John Paukstis
12 at the meeting that they held for the community a few months back if
13 they intended to go the extra mile to put a little bit of stone, a
14 little bit of brick... I was concerned about three stories of siding
15 front and back, and after looking at the Burtonsville property, not to
16 be insulting, but you couldn't tell the front from the back. There
17 was no elevation change, they were no bay windows, and it concerned
18 me. We've all taken hit on our property values; we're right up
19 against this property. We're not concerned about the neighbors.
20 They've convinced us it's a working class. They just can't afford
21 into Montgomery County and we understand that; but if we could be
22 convinced that they're going to... you know, attempt to follow these
23 elevations, then at least get some... something on this lower façade so

1 we're not looking at three stories of siding. I don't know if the
2 City has any power over that. I know donations are down because of
3 the economy, and I hate to see them have to go the extra mile, but if
4 they can get a little bit of something to make this attractive so we
5 don't take a further hit on our property values, we are right next
6 door. There was an item on the petition that I didn't... it really... I
7 didn't think the petition for annexation... No. 5: "the property is
8 within the maximum expansion limits of the City of Gaithersburg. The
9 annexation of the property will provide a uniform boundary for the
10 City of Gaithersburg along Emory Grove Road." And this really isn't
11 the case... um... when you turn on Emory Grove Road, you turn east on
12 Emory Grove Road off of Goshen, the entire left side of it is
13 Montgomery County of course; the right side, the first development, is
14 Hidden Creek, it's got City of Gaithersburg, curb and gutter,
15 sidewalk, then you've got a 100-foot private property that has Cedar
16 trees right up against the road because it's not part of the City of
17 Gaithersburg. You've Emory Terrace or Emory Woods, excuse me, next to
18 it, City of Gaithersburg, you've got our property that's not City of
19 Gaithersburg. This isn't really going to create a uniform um...
20 boundary along Emory Grove Road. It's just a point I want to make
21 about the annexation petition.

22 CHAIR BAUER: Thank you. I'll consider that question at
23 the end of the testimony, I'll let staff address some of the questions

1 that come up, so we got that noted. Thank you. Anybody else? Yes,
2 sir.

3 DONALD WILLIAMS: Good evening. Name is Donald Williams,
4 18500 Ginger Bread Court. Homeowner, President of Middlebury West. I
5 had the opportunity to attend the Interest Meeting at Strawberry Knoll
6 in the spring. About 125 homeowners were there. And some of the
7 concerns that were raised at that point, I went back and shared that
8 with Bob, my homeowner community of 29 homes, basically fall under two
9 categories, I'll be real brief: One is infrastructure enhancements
10 and the second area of concern is safety. The road is narrow. We've
11 already had one accident where a life was taken off Emory Grove. Our
12 community is about 500 yards from this property and the roads are
13 narrow, and when there's any... a new community, it just makes sense
14 that we need to take a look at our road infrastructure in terms of
15 riding that. There's no sidewalk. I was viewing the site plan that
16 was shown on the screen there and there needs to be a traffic light at
17 the intersection of Strawberry Knoll and this new property to include
18 a sidewalk. I did not see that. Again, our areas of concern for the
19 homeowners were basic infrastructure and safety. Please take them
20 into consideration.

21 CHAIR BAUER: thank you very much. Do you have to set up
22 something, Rob, or... ?

23

1 PLANNER ROBINSON: I just wish to put up the colored
2 rendering of the site plan so people that have questions, they can
3 reference it.

4 CHAIR BAUER: okay, great. Looked like you're ready to
5 step up to...

6 BARBARA GARRARD: good evening. My name is Barbara Garrard
7 and I live at 4 Sykes Street. I'm speaking on behalf of my husband
8 and myself as well as all the homeowners on Sykes Street. Our
9 property is adjacent to the Jackson Property on the east side. By way
10 of background, having worked for Montgomery County government for 25
11 years, I'm keenly attuned to the workforce needs of their employees.
12 We have provided financial support to Habit for Humanity in the past
13 and are generally supportive of their mission. We attended the
14 briefing they arranged on April 19. The statements that we'll make
15 are really questions; ones that weren't, in our minds, adequately
16 addressed in the packet that is before you and that you may wish to
17 ask or consider. 1. Why is it in the best interest of the citizens of
18 Gaithersburg to develop a community with a density that would not be
19 accepted by Montgomery County Planning Board? Their code allows 14
20 houses on a property this size while this community will consist of 19
21 houses with the associated City and County services required. 2. Why
22 is it in the best interest of the citizens of Gaithersburg to develop
23 a community of lower income housing that will provide a smaller tax

1 base than an average price community of the same size? 3. Although my
2 research confirms the studies that lower income housing show a
3 negligible effect on property values, there are caveats associated
4 with those study results. The management and maintenance of those
5 communities are critical. What steps other than setting a homeowners'
6 association that maybe staffed by Habitat for Humanity for as little
7 as one, have been taken to ensure proper management and maintenance of
8 a community that will be made up primarily of first-time homeowners?

9 4. Although the packet indicates that a discussion took place with
10 the Director of the Division of Long-range Planning for Montgomery
11 County Public Schools, is 10 a reasonable number of school-age
12 students to assume will reside in this community, and has any other
13 research been done to validate this figure? 5. Is it in the best of
14 the children who attend Strawberry Knoll Elementary school to grant
15 the requested relief from the Elementary School test under Zoning
16 Ordinance 24-144 since Strawberry Knoll Elementary school is projected
17 to exceed 110 percent of program capacity two years in the future? Is
18 it realistic to assume only four additional elementary school students
19 will live in these 19 townhouses? It's not consistent with studies
20 I've reviewed. 6. Without any stated assumptions about the number of
21 members of each household (timer beeps. CHAIR BAUER: 30 seconds left),
22 other than the statement that applicants have often previously been
23 living in crowded conditions, how can the impact statements related to

1 schools, traffic and other services be accepted at face value? And
2 finally, what is the timeline for starting and completing construction
3 assuming the annexation is approved? Thank you very much for your
4 time and consideration.

5 CHAIR BAUER: Thank you and I will note that I think we
6 received your letter, the hardcopy of your letter as well in our
7 packets, so thank you. Is there anyone else who would like to comment
8 tonight and testify on this application? Okay. Greg, I have a few
9 questions here so you're on, I guess, to start addressing... I will say
10 a number of questions were raised by the... in the most recent
11 testimony... um... some of those questions will be answered in the course
12 of us looking at the application and discussing it at the meeting, I
13 think, in November when we do formulate a recommendation and then go
14 to some of the criteria in our Zoning Ordinance for either
15 recommending approval or not. Some of the questions, I think, are
16 some data points so we can probably address tonight at least at some
17 level. And the first had to do with sort of the calculation of... of
18 students and how that's established and... you know, what the standard
19 is and if it's consistent with the standard.

20 DIRECTOR OSSONT: just so we're clear in talking process
21 real quick. This is your recommendation this evening so there isn't a
22 revisit of this annexation petition in November.

23 CHAIR BAUER: I have from Staff that the record doesn't

1 close until November.

2 DIRECTOR OSSONT: the record will be open, but you won't be
3 revisit this.

4 CHAIR BAUER: well we wouldn't do a recommendation tonight...

5 DIRECTOR OSSONT: ah okay. That's fine.

6 PLANNER ROBINSON: They'll be doing a recommendation on the
7 17th

8 DIRECTOR OSSONT: right. We need to formulate for your
9 first, based on tonight's discussion. Okay. Do you want to start
10 with the schools test? For the purposes of calculating the number of
11 students based on the dwelling units that it's proposed, the city
12 follows Montgomery County's CIP, Capital Improvement Budget, for the
13 purposes of capacity and those types of things. And that's codified
14 and part of our Public Facilities Ordinance. That means that
15 Montgomery County's Long-range Planning Staff uses a multiplier for
16 those purposes and generates that number. The practicality of that
17 number is not really relevant. It's a number that's generated... it's a
18 number in the CIP and it's the number that we look at to determine
19 whether or not there's capacity. So whether or not it's realistic, so
20 to speak, to believe that there might be four students or six
21 students, or whatever it is, it's a number that's based on what
22 Montgomery County does and how they generate that number and the
23 calculations that they do and that's what our City Code follows as a

1 result. So we don't develop that number, it's done by the County and
2 that's how it's formulated.

3 CHAIR BAUER: I think... um... so next up go with... intersection
4 safety, how we might address that...

5 DIRECTOR OSSONT: yeah, let me have Rob help me here. We
6 could go to Exhibit No. 31 and, if you're reviewing from your PDF
7 packages that's Page 80 of 95, and I want to address the sidewalk
8 issue first. You couldn't see it from the rendering that was shown
9 and Rob can probably zoom in a little bit for us. You couldn't tell
10 from the rendering that Mr. Barr showed during the initial
11 presentation, but there's a five-foot sidewalk incorporated around the
12 cul-de-sac on the Preliminary or Concept Plan that extends in either
13 direction along Emory Grove Road. There would be a five-foot sidewalk
14 along Emory Grove Road and it's kind of hard to see because there's a
15 number of lines showing public utility easements and those types of
16 things, but that is the intent. That's a City priority to provide
17 good pedestrian connections, obviously. So this does have a five-foot
18 sidewalk throughout the project.

19 CHAIR BAUER: okay.

20 DIRECTOR OSSONT: The intersection itself and there are
21 some items in the record, some exhibits in the record, Wells and
22 Associates who formed a traffic study. It was reviewed by the
23 Department of Public Works. Although we're just at annexation, we

1 will need to look at these things closer at Preliminary and Final Site
2 Plan. We did want to make sure that the radius works for the cul-de-
3 sac as well as the intersection itself. There was a preliminary
4 traffic study done, as well as some turning movements. That'll be
5 looked at closer by the Department of Public Works and Engineering at
6 the time of Preliminary and Final Site Plan. It will need to be
7 addressed. Whether or not a traffic light can go in there, that's a...
8 Emory Grove is a County road and so that's something that we'll post
9 to Montgomery County DOT to see if that meets the warrants and that'll
10 be their call, essentially, on that.

11 CHAIR BAUER: okay.

12 PLANNER ROBINSON: I think it's of note additionally also
13 that the applicant has proposed, and as shown on this plan, they're
14 actually dedicating an additional five feet of right-of-way to even
15 widen the road... even more to bring it out to the full master planned
16 width that's called for by Montgomery County.

17 CHAIR BAUER: okay, good. So that addresses the comments
18 about infrastructure and improvements.

19 DIRECTOR OSSONT: right, but the caveat on that is there
20 are no near-term plans to expand Emory Grove to that Master Plan
21 right-of-way, so this doesn't come with a road widening at the same
22 time, (inaudible) but we have the dedication.

23 COMMISSIONER LEVY: did we discuss the traffic light?

1 CHAIR BAUER: we just did.

2 DIRECTOR OSSONT: um materials: I think we probably
3 addressed that already. We'll see materials at both Preliminary,
4 Concept elevations and materials at Preliminary and then you will
5 finalize those at Final Site Plan, assuming it's annexed into the
6 City, as part of your normal process, and um... the maximum expansion
7 limits, again, the description that you heard from some of the
8 testimony is absolutely accurate. Hidden Creek is in, and there areas
9 that are out along the right side of Emory Grove as you come off of
10 Goshen. This is a piece of County jurisdiction surrounded by City of
11 Gaithersburg jurisdiction and so that's really the edge that we're
12 referring to in those Staff Comments. The maximum expansion limits
13 were done as part of our Master Plan Municipal Growth Element and so
14 the inference is there.

15 CHAIR BAUER: yeah, and I think it's probably fair to say
16 too that's... it's a little bit like a smile with some missing teeth and
17 gradually you fill it and doesn't necessarily have to (inaudible) or
18 you can allow it to happen and it doesn't... there's no guarantee that
19 it ever will, but as things come up for application it can. The only
20 other thing I had in here... actually, two... one was the timeline for
21 build out and I'll ask the applicant to comment in just a minute, but
22 before that, there was another one about the calculation of... oh not
23 the calculation, but the allowable units given the zoning in the

1 County versus the zoning... the potential zoning or the proposed zoning
2 in the City... um... because I think a plus five or plus four...

3 DIRECTOR OSSONT: one of the things that we're required to
4 do as part of any petition to annex into the City is have Montgomery
5 County Park and Planning review the petition. They'll need to review
6 it and make a recommendation as to whether or not a substantially
7 similar to what could be done under the County... whether they consider
8 it a substantially similar um... because of the four-unit increase, we
9 don't know yet, we don't have that report from them yet, but we expect
10 to have that prior to the Mayor and City Council taking final action
11 on this. If they don't find it substantially similar, they forward
12 that information to the Montgomery County Council and the Council can
13 take it up if they choose. If they do, then there shouldn't be a
14 problem. So it's really a recommendation from Park and Planning and
15 then the County Council's decision as to whether it is or is not.

16 CHAIR BAUER: and will we hear that before November, you
17 think?

18 DIRECTOR OSSONT: yes, we would need to because the... you
19 recall a good example would be Crown Farm that was obviously not
20 substantially similar to what was in the County's Master Plan and need
21 to go to the County Council fed committee and so forth and so on and
22 we obviously wanted that all that prior to final action by the Mayor
23 and City Council to annex.

1 CHAIR BAUER: okay, good. I think I've kept to most of the
2 questions and then some of the questions will be addressed during our
3 discussion and during our recommendation as sort of um... qualifications
4 within the Zoning Ordinance. Rob, if I could ask you to ask... well
5 somebody from the applicant's team to address the timeline. Whoever
6 wants to do that?

7 JOHN PAUKSTIS: assuming we're approved for annexation, we
8 would settle on the property. We would then begin the process of
9 cleaning up the property and preparing it for construction. Once
10 construction starts, it'll be about 12 months.

11 CHAIR BAUER: and does this tend to go all units would go
12 at once or go relatively quickly?

13 JOHN PAUKSTIS: all of it in one phase.

14 CHAIR BAUER: okay. Alright, good. Any other questions?
15 So I think what the Staff is recommending is that we leave our record
16 open for 21 days until November 10th.

17 PLANNER ROBINSON: at 5 p.m.

18 CHAIR BAUER: or do you want to read this into the record,
19 Rob?

20 PLANNER ROBINSON: that's fine, if you wish. Staff
21 recommends that the Planning Commission hold their record open for 21
22 days until 5 p.m. on November 10, 2010, and provide a formal
23 recommendation on the annexation petition on November 17, 2010.

1 CHAIR BAUER: okay, great. Do you need a motion for that?

2 Okay. A motion, please?

3 COMMISSIONER LEVY: I moved that for X-183, the Planning
4 Commission hold its record open for 21 days until November 10, 2010,
5 close of business, and provide a formal recommendation on the
6 annexation petition on November 17, 2010.

7 COMMISSIONER WINBORNE: second.

8 CHAIR BAUER: it's been moved, and seconded. All in favor
9 please say "aye." (all say "aye") Opposed? (silence) That passes
10 unanimously. Our record will stay open until November 10 and that
11 means for everybody who wants to get more comments in, you're welcome
12 to, please send them to City Hall Planning and Code and we will on the
13 17th hold a discussion and establish our recommendation. There won't
14 be any more testimony that night so anything that anybody wants to get
15 in, they need to do that before the closing of the record. Thanks,
16 Rob. Thank you.

17

MEMORANDUM TO: Mayor and City Council
Planning Commission

VIA: Angel L. Jones, City Manager

FROM: Lauren Pruss, Planning Director
Planning and Code Administration

DATE: October 21, 2010

SUBJECT: Jackson Property Annexation – APFO School Test

The purpose of this memorandum is to provide additional information to the Mayor and City Council regarding both the County's and the City's Adequate Public Facilities Ordinances specifically with regard to the schools test for the Jackson Property annexation. The subject property is located within the Gaithersburg Cluster of the Montgomery County Public School system. The following schools are affected by the proposed annexation: Strawberry Knoll Elementary School, Gaithersburg Middle School and Gaithersburg High School.

The City's Adequate Public Facilities Ordinance states

“With the exception of age restricted development, a schematic development plan or preliminary site plan for residential development shall not be approved if the subject property is within the attendance area of a Montgomery County Public School that is forecasted to have a student population that exceeds 110% of Montgomery County Public Schools Program Capacity two (2) years in the future....”

In accordance with this regulation, staff reviews the forecast for enrollment provided by the school district in their capital budget on the first business day of each fiscal year. The schools test must be reviewed individually for each elementary school, middle school, and high school. Unlike the County's schools test, sharing of capacity between schools within each grade level is not permitted. Staff determines whether or not each public school attended by Gaithersburg residents is forecasted to exceed 110% of programming capacity two (2) years in the future. If any schools exceed 110% of programming capacity, the City is unable to approve an SDP or preliminary plan within that school's service area.

With respect to the proposed development, it currently fails the City's test for Strawberry Knoll Elementary, but passes for both the middle and high schools. The enrollment projections for Strawberry Knoll Elementary School are provided within the *FY 2011 Educational Facilities Master Plan and FY 2011-2016 Capital Improvements Program* which outlines the following enrollment information for the applicable schools:

Gaithersburg APFO Schools
 Test - 5 year Evaluation:
 FY 2011 CIP

Gaithersburg Cluster	Actual	Projected					
	09-10	10-11	11-12	12-13	13-14	14-15	15-16
<u>Gaithersburg HS</u>							
Program							
Capacity	2009	1992	1992	1992	2284	2284	2284
Enrollment	2013	2014	2017	2060	2005	1951	1948
	100.2%	101.1%	101.3%	103.4%	87.8%	85.42%	85.29%
<u>Gaithersburg MS</u>							
Program							
Capacity	881	881	865	865	865	865	865
Enrollment	671	657	647	681	700	748	789
	76.2%	74.6%	74.8%	78.7%	80.9%	86.5%	91.2%
<u>Strawberry Knoll ES</u>							
Program							
Capacity	467	467	467	467	467	467	467
Enrollment	549	561	581	574	575	573	569
	117.6%	120.1%	124.4%	122.9%	123.1%	122.7%	121.8%

The County’s 2009-2011 Growth Policy adopted via Resolution 16-1187 provides the following regulation regarding Public School Facilities and Moratorium on Residential Subdivision Approvals:

“In considering whether a moratorium on residential subdivisions must be imposed, the Planning Board must use 120% of Montgomery County Public Schools program capacity as its measure of adequate school capacity. This capacity measure must not count relocatable classrooms in computing a school's permanent capacity. If projected enrollment at any grade level in that cluster will exceed 120% utilization, the Board must not approve any residential subdivision in that cluster during the next fiscal year. If the Planning Board revises its measure of utilization during fiscal year 2010 because of a material change in projected school capacity, that revision must be used during the rest of that fiscal year in reviewing residential subdivisions.”

Within the *Summary of School Test for FY 2011*(attached), the county provides the following information with regard to their evaluation of the Gaithersburg Cluster for compliance with the schools test:

Growth Policy FY 2011 School Test: Cluster Utilizations in 2015-2016
 Reflects County Council Adopted FY 2011-2016 Capital Improvements Program
 (CIP)

	Projected August 2015 <u>Enrollment</u>	100% MCPS Program Capacity With CC Adopted FY11-16 <u>CIP</u>	Cluster Percent Utilization <u>in 2015</u>	Growth Policy Test Result Capacity <u>Is:</u>	Cluster <u>Is?</u>
<u>Gaithersburg Cluster</u>					
Elementary School Test:	3879	3898	99.50%	Adequate	Open
Middle School Test:	1638	1751	93.50%	Adequate	Open
High School Test:	1948	2284	85.30%	Adequate	Open

The County's APFO regulations allow sharing of school capacity at the grade level within the cluster. What this means is that the total capacity of all elementary schools is pooled and then compared to projected enrollment to produce the "Cluster Percent Utilization" figure. The county evaluates program capacity for the full five year CIP. If capacity within the grade level is under 120% during that time frame, the cluster remains open for Planning Board approval during that fiscal year. Current projections show that the Gaithersburg Cluster currently meets the schools test for every grade level.

I hope this information is helpful. Please contact me directly if you have any questions at 301-258-6330 or lpruss@gaitersburgmd.gov