

November 10, 2010

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

Subject: **X-183 Jackson Property**

Dear Ladies and Gentlemen:

This letter is a supplement to my October 18, 2010 letter, and testimony at the October 20, 2010 Planning Commission Hearing (copy attached).

I understand and support the goal of the City to assist organizations that improve the lives of low income residents. I also believe in the principle that a local government needs to make decisions that are in the best interest of the community at large, and not to make exceptions to laws that were passed with that greater goal in mind.

I raised seven issues at the hearing (please see attached), and left with more questions than I had when I entered. Questions 1, 2, 3 and 6 are still unanswered, but the response to the issue raised in questions 4 and 5 is of considerable concern. When asked by the Chairman to address questions that centered on the request from Habitat for Humanity for relief from the Elementary School school test under Zoning Ordinance Sec. 24-244, a key point in the Planning and Code Administration Director's response was that "practicality is not relevant". I understand that school estimates are prepared by the County, not the City, but this disregard for the Adequate Public Facilities Ordinance (APFO) law raises many questions.

There has considerable emphasis given to the APFO in past discussions and documents. As examples:

- In the GE Tech Park Frequently Asked Questions, the response to question 12 posted at [http://www.gaithersburgmd.gov/poi/default.asp?POI\\_ID=1528&TOC=311;1260;1528](http://www.gaithersburgmd.gov/poi/default.asp?POI_ID=1528&TOC=311;1260;1528); states that "Any private development would need to conform to the City's APFO. Currently, this area is in moratorium for residential approvals because of overcrowding conditions at Rachel Carson Elementary School. Prior to any residential approvals, there must be either an addition constructed at Rachel Carson or a boundary change"
- More specifically related to Strawberry Knoll Elementary School:
  - o In the August 6, 2009 memorandum to the Mayor and City Council from the Director, Planning and Code Administration, for inclusion in the August 17, 2009 Mayor & Council Agenda packet, the following was stated regarding the Summit Center Redevelopment. "In the latest FY 2010 Education Facilities Master Plan and Amended FY2009-2014 Capital Improvements Program...one classroom was converted to a kindergarten room and another for staff support, thus reducing the available enrollment capacity...The combination of these two changes has placed Strawberry Knoll at 114%

- above capacity. Accordingly, a literal reading of the City's APFO precludes the City Council from approving the proposed schematic development plan.”
- In the Joint Public Hearing on T-392 Summit Center Redevelopment Project before the Mayor and City Council and Planning Commission on September 8, 2009, there was a discussion, estimated by Mr. Katz as taking 1½ hours, to clarify the impact of the Summit Center Redevelopment Project on the APFO, and associated interpretations of the 110% figure and the timing of counting students. There was clearly a consensus that the APFO was a very critical piece of legislation and that exceptions to the 110% rule should reflect extraordinary circumstances. The examples of exceptions cited included a hypothetical case where the number of students in a replacement property actually decreased enrollment, but still exceeded 110% figure. The other was the unique example (Summit Center) where the developer's zoning was approved at a time when there was adequate school capacity and subsequently the County revised their capacity and enrollment estimates for the school.

The school in question, in this last example was Strawberry Knoll, the same school that the elementary school age children in the new community of 19 houses would attend.

This last item relates to the issue of a reasonable number of school age children in the Habitat for Humanity community. The County figures represent an average community in the County. The target population for the new townhomes will be young families, not a mixture of young families, middle-aged “empty-nesters” and retirees. In fact a study called “Housing Policy Is School Policy” was conducted earlier this year in Montgomery County and looked at public housing issues. One assumption used in the study was that there are between 3.26 and 3.31 children age 0-18 in public housing families. Although the Habitat houses aren't public housing, similar demographics might apply, calling into question the estimate of 0.53 school-age children per household (10 children in 19 houses).

Without making this letter excessively long, the fundamental question is what expectations should the citizens of Gaithersburg should have regarding the APFO? Since traffic, water and sewer services and fire & emergency services are covered by this ordinance in addition to school capacity, will City officials regularly grant exceptions when extraordinary circumstances do not exist? Will groups with legal representation have priority over citizens represented by their elected and appointed officials?

Please consider not only the immediate implications of approving the annexation of the Jackson property and the exception to the APFO as it relates to school overcrowding, but the precedent that will be set by your decision.

Thank you for your time and consideration.

Sincerely,



Barbara W Garrard

Attachment – Testimony at October 20, 2010 Planning Commission Public Hearing

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



November 8, 2010

**MEMORANDUM**

**TO:** Montgomery County Planning Board

**VIA:** Glenn Kreger, Acting Chief *GK*  
Vision/Community-Based Planning Division  
Callum Murray, Team Leader *CM*  
Vision/Community-Based Planning Division

**FROM:** Vanessa N. Francis, Senior Planner (301) 495-4509  
North Central Transit Corridor Team *VNF*  
Vision/Community-Based Planning Division

**SUBJECT:** City of Gaithersburg Annexation Petition X-183 located at 9000 and 9020 Emory Grove Road in the Gaithersburg Vicinity Master Plan area; Reclassification from the County's R-200/TDR (Single-Family Residential) Zone to the City's RP-T (Medium-Density Residential) Zone; 2.9 acres known as the Jackson Property.

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**STAFF RECOMMENDATION:** Approve transmittal of comments to the Mayor and Council of the City of Gaithersburg.

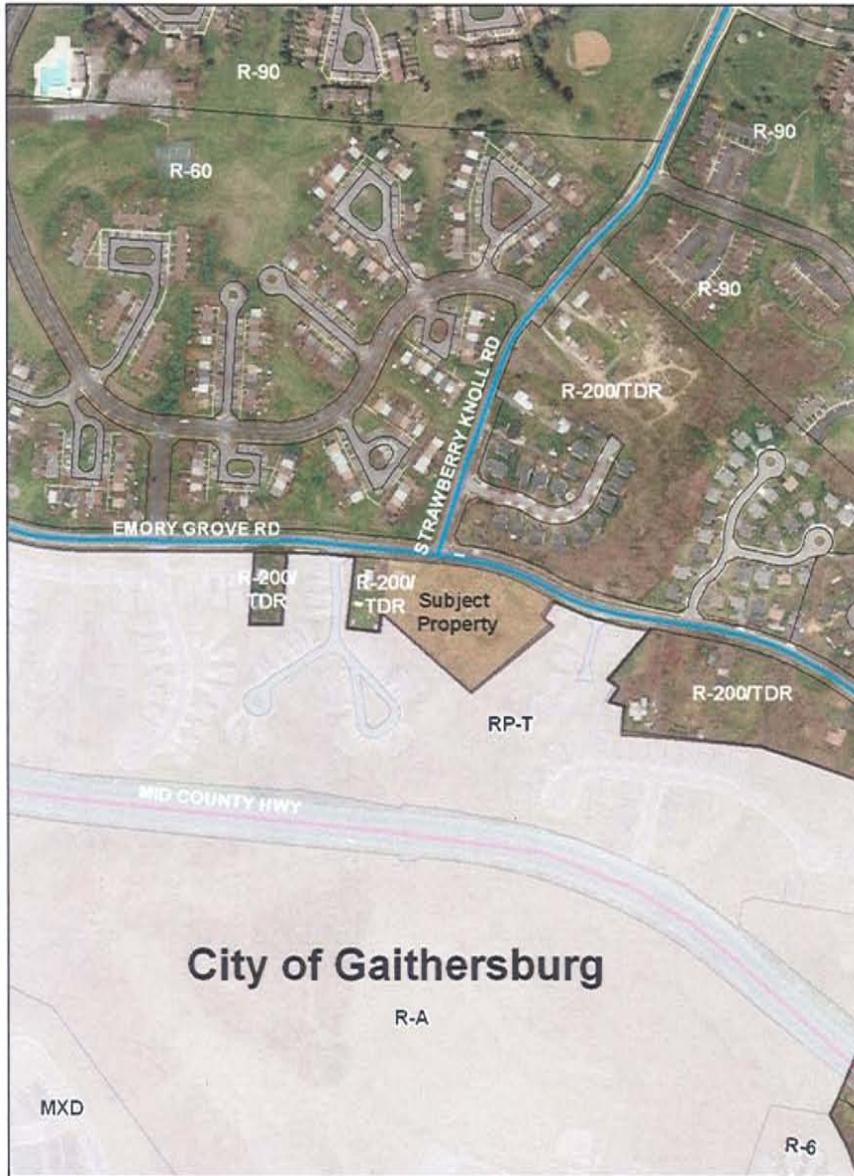
Staff recommends that the Planning Board support the annexation. The proposed use of the land is consistent with the land use recommendations of the 1985 Gaithersburg Vicinity Master Plan that call for higher residential densities on suitable vacant properties. In addition, the proposed land use does not represent a substantial change from the Master Plan's recommended land use.

**BACKGROUND AND LOCATION**

The subject petition has been submitted in accordance with provision of Article 23-A of the Annotated Code of Maryland, which specifies procedures for annexation to a municipal corporation. The subject 2.9-acre property (Parcels 476 and 477) sits south of the intersection of Emory Grove Road and Strawberry Knoll Road. Currently, two single-family homes built in the 1950s are located on the property. The properties are currently being used as residences. Accessory sheds are also present on the property.

The property is contiguous to the City of Gaithersburg on three sides. It is adjacent to the City's Neighborhood 6 Element of the 1997 Gaithersburg Master Plan, and is within the municipality's Maximum Expansion Limits. Land uses in the vicinity include a mixture of townhomes and single-family detached residential units.

**Figure 1: Site Location and Zoning**



## **ANNEXATION PROPOSAL**

In August 2010, the property owners, L. Neil Jackson and Conny L. Jackson (known hereafter as the “Jacksons”) and the contract purchaser for the property, Habitat for Humanity of Montgomery County MD, Inc. (HFH-MC), filed Annexation Petition X-183. HFH-MC has submitted a conceptual site plan for the construction of 19 mixed-income townhouse units on the site as shown in Attachment 1. The units would be approximately 1,400 square feet in size and consist of three (3) bedrooms and one and one-half (1.5) bathrooms. Of the 19 units, nine would be offered to families earning between 30 to 50 percent of Area Median Income (AMI)<sup>1</sup>. The balance of the units would be offered to families earning between 50 to 80 percent of AMI. All of the units would be sold with a long-term, no profit mortgage. HFH-MC has entered into an Agreement with the City of Gaithersburg to cap development at 19 units if the annexation is approved.

## **MASTER PLAN AND ZONING**

The subject property is located in the Mid-County Highway District within the Airpark Study Area of the 1985 Gaithersburg Vicinity Master Plan. It is currently zoned R-200/TDR with an optional density of four units per acre in accordance with the recommendations of the 1985 Master Plan. Although the Master Plan does not specifically address this individual property, there are several recommendations in the Plan’s general land use section pertaining to land use and residential density:

- Land Use Plan Objectives for the Airpark Study Area include: “To channel employment and high residential densities to areas which can be efficiently and effectively served by mass transit.” (p. 37)
- “This district [Mid-County Highway District] has good planned or existing access to Metro, employment, and shopping areas. This access supports the Plan’s recommendations for higher density on suitable vacant properties.”<sup>2</sup> (p. 49)

Taking into account the zoning recommendation for this property, the maximum allowable number of units would be 14 units (including MPDUs). The proposed zoning in the City of Gaithersburg would allow up to 26 units. However, the applicant proposes to develop 19 townhouses on the property (6.94 dwelling units per acre). This represents five units in excess of what would be permitted in the R-200/TDR-4 zone.

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<sup>1</sup> The AMI for Montgomery County, MD in FY2010 is \$103,500. Source: <http://www.huduser.org/portal/datasets/il/il2010/2010summary.odn>

<sup>2</sup> Staff recognizes that the subject property is not currently vacant but will be vacated upon purchase by Habitat for Humanity Montgomery County, Inc. Once vacated, the structures on the property will be demolished.

## Rationale for Annexation

In addition to the annexation petition to the City of Gaithersburg, the applicants are also requesting a rezoning from the property's current zone of R-200/TDR-4 (Low-Density Residential/4 units per acre) to the City of Gaithersburg RP-T Zone (Medium-Density Residential/9 units per acre). The application poses a dilemma of competing priorities. The options are: the provision of 19 affordable dwelling units versus the potential future long term acquisition of 5 TDRs.

There is a well documented need for affordable dwelling units in Montgomery County, financing for the project is guaranteed by a nationally recognized provider, the units can be provided relatively rapidly, and the proposal comports with the recommendations of the 1985 Gaithersburg Vicinity Master Plan. For these reasons, staff recommends approval of the annexation petition.

- The Need For Affordable Housing

In the 2009 Housing Element of the County's General Plan, it is noted that there is a significant affordable housing gap in Montgomery County. According to the Housing Element:

*"From 1999 to 2009, rising values alone priced 50,000 units of the existing housing stock beyond the financial capacity of moderate income buyers and renters. Expected rates of new housing production cannot keep pace with price increases that remove existing units from the market. In 2009, the County had a shortage of 43,000 units that were affordable for households earning less than \$90,000 a year (just below the County median), but that number approaches 50,000 when household size is taken into account. In contrast, a surplus of units was available to those with more than \$150,000 in annual household income. If current trends continue, by 2030 it will be difficult for a household with an annual income of \$120,000 (in constant 2009 dollars) to afford a home in much of Montgomery County. By then, the gap in affordable housing is estimated to reach 62,000 units."*

The Housing Element goes on to provide objectives including: (1) concentrating most new housing near public transportation, employment, schools and recreation and, (2) providing economically and environmentally sustainable housing and neighborhoods. (p. 11)

- Co-Applicant's Experience in Developing/Maintaining Affordable Housing

The co-applicant, Habitat for Humanity of Montgomery County (HFH-MC) is an affiliate of Habitat for Humanity International, a private, nonprofit builder of affordable housing. HFH-MC has operated in the County since 1982. In the last four years, HFH-MC has rehabilitated or constructed 37 housing units for local families.

- Project Financing

HFH-MC self-finances its development and rehabilitation projects. The project is not contingent on financing from any bank or institution and can proceed following annexation and development review by the City of Gaithersburg.

- 1985 Master Plan Recommendations

The 1985 Gaithersburg Vicinity Master Plan recommends higher residential density overall and within the Mid-County Highway District. The Plan also recommends that density be directed towards areas with access to public transportation (Metro), and access to employment and commercial/retail areas. The proposed development is well situated in this regard in terms of location:

- (1) Less than four miles from the Shady Grove Metro Station and approximately two miles from the Gaithersburg MARC.
- (2) Near retail/commercial areas such as Lakeforest Mall and other smaller retail establishments.
- (3) Near regional employers such as Shady Grove Adventist Hospital.

## **PUBLIC FACILITIES AND SERVICES**

### **Transportation**

The site is located immediately south of the intersection of Emory Grove Road and Strawberry Knoll Road. The site is located less than half a mile east of Goshen Road which is classified as a major highway. There are several bus stops within a half-mile radius of the site.

Transportation staff reviewed the subject annexation application. Because the site is expected to generate less than 30 peak hour trips, the property is not subject to Local Area Transportation Review (LATR). The project site is also exempt from the Policy Area Mobility Review (PAMR) mitigation requirements. Further information to support these findings is included in the traffic statement submitted by the applicant (Attachment 8).

### **Schools**

The site is located within the Gaithersburg Cluster of the Montgomery County Public Schools (MCPS) system. The schools located within this cluster are Strawberry Knoll Elementary School, Gaithersburg Middle School and Gaithersburg High School. According to MCPS staff, the proposed project would generate four (4) elementary, three (3) middle, and three (3) high school students. The number of students generated by the proposed development passes the County's Adequate Public Facilities test for school capacity (see Attachment 5, pg. 8).

## **Water and Sewer**

The subject site currently has WSSC water category W-1 and sewer category S-1. These designations mean the property is served by water and sewer and can accommodate additional development. According to the City of Gaithersburg's 2003 Municipal Growth Element and 2009 Water Resources Element, there is sufficient water and sewer capacity for growth area developments with an average density of 32 units per acre (see Attachment 5, p. 7).

## **ENVIRONMENT**

The Environmental Planning staff has reviewed the annexation petition and does not object to the proposal (see Attachment 7). Staff comments include the following:

“According to an NRI/FSD approved by the City of Gaithersburg, the property is heavily wooded, with 2.6 acres forested out of a total site area of 2.92 acres. A number of trees are specimen size, and two are within 75% of the current County champion for the species. The property includes an area of stream buffer, which has been expanded to include an area of steep slopes adjacent to the buffer. The NRI/FSD reports the presence of some invasive plant species. Some stream bank erosion is evident in the stream adjacent to the property. The stream is a tributary of Whetstone Run in the Middle Great Seneca Creek watershed. Sewer and water categories for the property are S-1 and W-1 respectively.”

“Where the development plan varies from the Master Plan is in the number of units proposed. Under the existing zoning (R-200/TDR-4), the property would be permitted to build 14 townhouse units. The proposed zoning (Gaithersburg's RP-T zone) allows 9 units per acre, or up to 26 units on the site. The development plan proposes to cap the number of units at 19 or five more than the current zoning in Montgomery County would permit. The development plan submitted indicates that all applicable environmental requirements for the City of Gaithersburg will be able to be met on-site despite the additional townhouse units. A desk review suggests that, if this project were reviewed for development in Montgomery County, the plan would also meet the County's environmental requirements.”

## **COMMUNITY CONCERNS**

To date, staff has received several letters of opposition to the proposed development from nearby residents and the Quail Valley Homeowners Association via the City of Gaithersburg. These letters raised several issues in connection with the annexation proposal, such as proposed density, traffic congestion, affordable housing, maintenance and management of the proposed community and school overcrowding (see Attachment 9).

## **COUNTY REVENUE IMPLICATIONS**

Local government revenues are tied to geography as taxes on land and improvements. Attachment 10 shows the estimated yearly tax loss to the County if the subject property is annexed by the City of Gaithersburg.

## **CONCLUSION**

Staff is in agreement with the applicant that the annexation will help fulfill City goals to increase single-family housing stock, provide housing opportunities for a variety of demographic groups and create a natural corporate municipal boundary along Emory Grove Road. The intended use of the subject site comports with the Gaithersburg Vicinity Master Plan and the Housing Element of the County General Plan recommendations. Staff recommend that the Planning Board support the proposed annexation.

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### **Attachments**

- Attachment 1: Concept Plan
- Attachment 2: Conceptual Elevations and Floor Plans
- Attachment 3: Annexation Application
- Attachment 4: Annexation Agreement
- Attachment 5: Gaithersburg Planning Department Staff Analysis
- Attachment 6: City of Gaithersburg Maximum Expansion Limits
- Attachment 7: M-NCPPC Environmental Planning Staff Letter
- Attachment 8: Traffic Statement
- Attachment 9: Citizen Letters
- Attachment 10: County Revenue Implications of Annexation Petition X-183



# THE GLENMONT



**Elevation 6**  
*shown w/  
optional brick  
water table*

**Elevation 5**  
*shown w/  
optional stone  
water table*

**Elevation 1**  
*shown w/  
optional brick  
water table*

**Elevation 4**  
*shown w/  
optional brick  
water table*

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

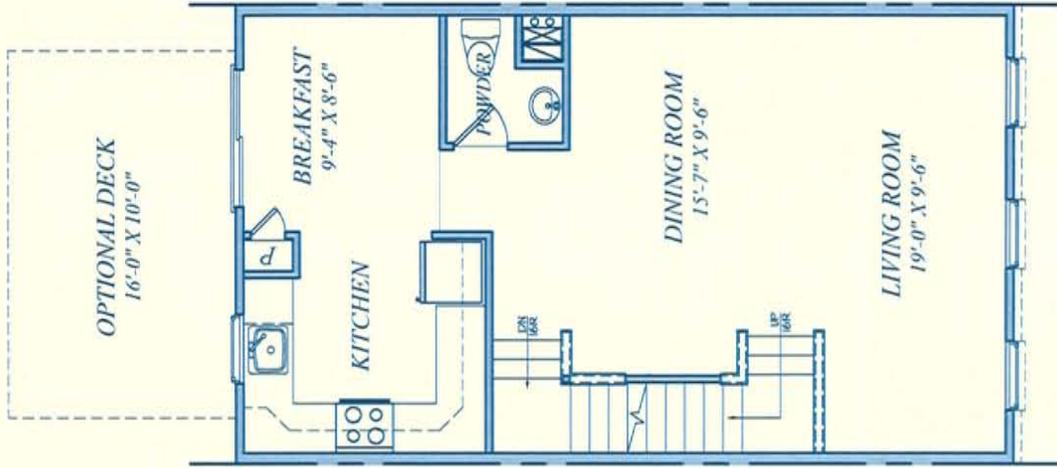
**Elevation 3**  
*shown w/  
optional brick  
water table*



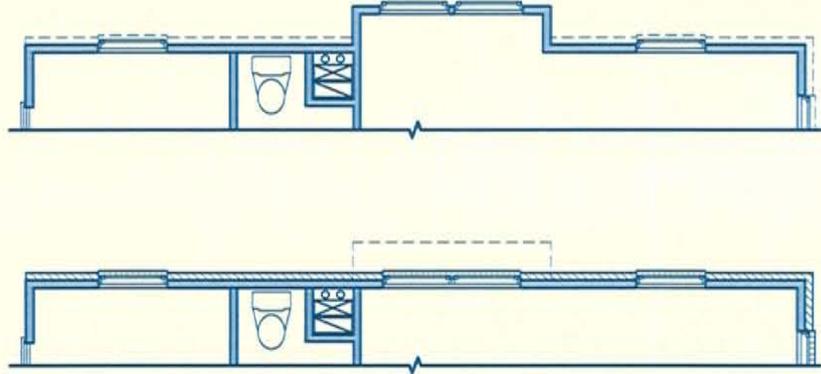
[www.craftstarhomes.com](http://www.craftstarhomes.com)

Artist's Conception

FIRST FLOOR



STANDARD PLAN

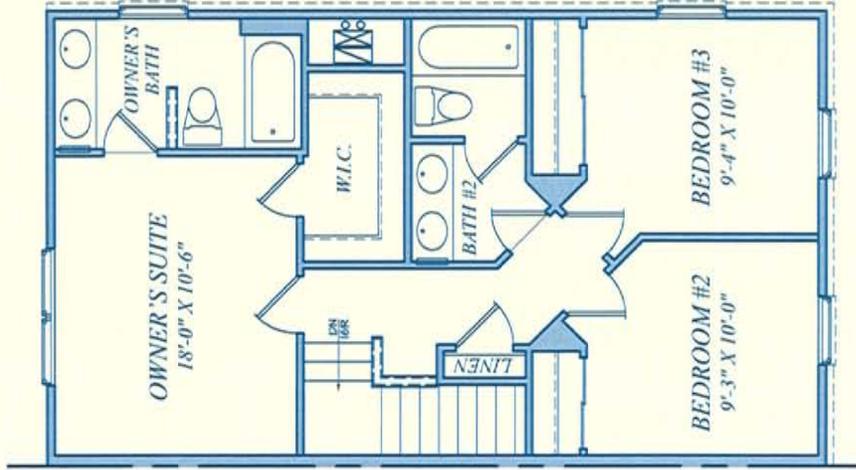


PARTIAL  
END UNIT  
W/ OPT.  
BAY WINDOW

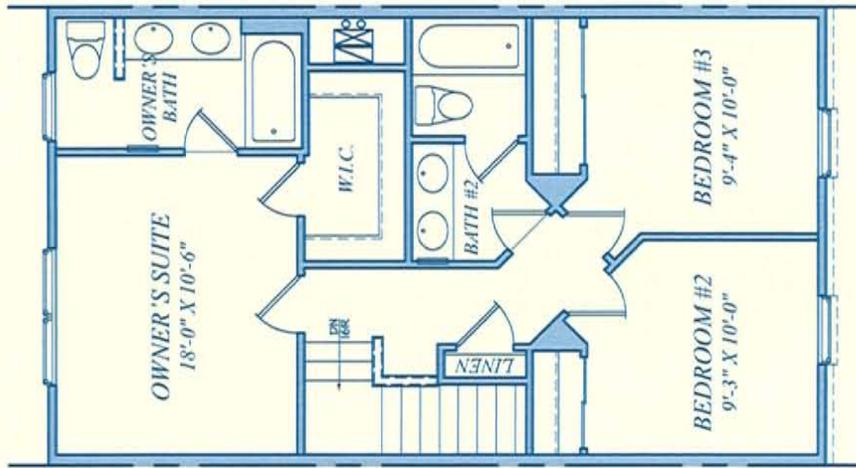
PARTIAL  
END UNIT

\* All floorplans and elevations are approximate and subject to change without notice. Room dimensions and window locations may vary with elevation chosen.

SECOND FLOOR



STANDARD PLAN  
WITH END CONDITION

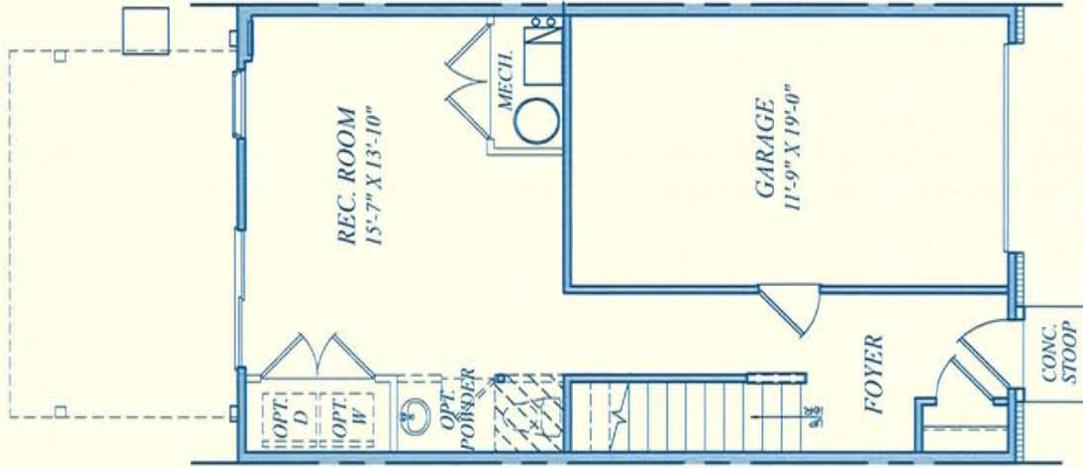


STANDARD PLAN

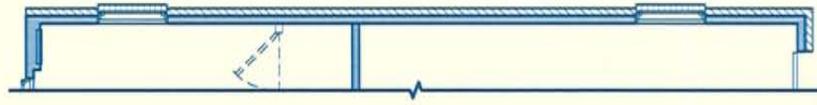


\*All floorplans and elevations are approximate and subject to change without notice. Room dimensions and window locations may vary with elevation chosen.

GROUND FLOOR



STANDARD PLAN



PARTIAL  
END UNIT



\*All floorplans and elevations are approximate and subject to change without notice. Room dimensions and window locations may vary with elevation chosen.

ATTACHMENT 3

P&CA

PLANNING AND CODE ADMINISTRATION



City of Gaithersburg • 31 South Summit Avenue • Gaithersburg, Maryland 20877 • Telephone: (301) 258-6330 • Fax: (301) 258-6336

ANNEXATION APPLICATION

Application No.	_____
Date Filed	_____
Legal Ad: PC	_____
M&C	_____
PC Hearing	_____
PC Recommendation	_____
M&C Hearing	_____
M&C Decision	_____
Decision Date	_____
Effective Date	_____

This application must be typewritten or printed clearly and submitted to the Planning and Code Administration for filing. All items must be completed and all required documents shown on the checklist must accompany this application.\*

PROPERTY KNOWN AS The Jackson Property, 9000/9020 Emory Grove Road, Gaithersburg, MD  
 Location Intersection of Emory Grove Road and Strawberry Knoll Road 20877  
 Size (acres/sq.ft.) 2.9 acres / 126,759 square feet  
 Tax Sheet FT 563 Parcel(s)/Lot/Block P476 and P477  
 Tax Account Number(s) 09-00771730 and 09-01796358  
 Present County Zoning (incl. TDR, if applicable) R-200 / TDR-4 Requested Zoning RPT  
 Requested Density (if applicable) 19 Townhouse Units  
 Proposed use after annexation 19 Townhouse Units

PROPERTY OWNER(S) L. Neil Jackson and Conny Jackson Phone \_\_\_\_\_  
 Address 9000/9020 Emory Grove Road, Gaithersburg, MD 20877  
 Owner's Representative James R. Clifford, Esq. Phone (301) 840-2232  
 Address 316 East Diamond Avenue, Gaithersburg, MD 20877  
 Contract Purchaser Habitat for Humanity of Montgomery County, MD, Inc. Phone (301) 990-0014  
 Address 9110 Gaither Road, Gaithersburg, MD 20877  
 Contact Person John Paukstis Phone (301) 990-0014 x11  
 Habitat's Representative Stuart Barr & Nat Keller Phone (301) 961-6095  
 Address Lerch, Early & Brewer Chtd., 3 Bethesda Metro Ctr. #460, Bethesda, MD 20814  
 Signature of Property Owner/Representative [Signature] Date 8/9/2010  
 L: Neil Jackson Conny Jackson

\* This annexation application is not a substitute for the annexation petition, submission of which is required by State Law.

continued on reverse side

7/96

On behalf of Habitat for Humanity of Montgomery County, MD, Inc.

[Signature]  
Stuart Barr, Lerch Early & Brewer Chtd.

Date 8/20/10

## ANNEXATION APPLICATION CHECKLIST

An informal meeting with the Planning and Code Administration Director or designated staff person shall precede the submission of this application.

Submit application (on reverse side) and the following information:

- 1. Notarized **Petition for Annexation** (see directions below)
- 2. Complete **list of owners** with respective addresses and ownership parcel numbers
- 3. **Metes and Bounds description** of property
- 4. **Boundary Survey** prepared by a registered land surveyor
- 5. **Vicinity Map** showing location of subject property
- 6. **Names and addresses** of adjacent property owners within 200 feet
- 7. **General information** on property, including but not limited to the following:  
County Master Plan and zoning; site characteristics; utilities; existing land use(s); and description, condition and age, if known, of all structures on-site
- 8. **Conceptual Site Plan** (optional)
- 9. **Tree Stand Delineation** (only if number 8 is provided)

## THE PETITION FOR ANNEXATION

Sample petitions have been attached. The petition should incorporate the following:

- 1. Name of petitioner(s)
- 2. Verification that petitioner is owner of not less than 25% of property to be annexed
- 3. Names and addresses of registered voters in residence at property
- 4. Location of property
- 5. Size of property
- 6. Legal description of property(s)
- 7. Statement formally requesting annexation into the City of Gaithersburg
- 8. Statement that request is "pursuant to Article 23A, Section 19 of the Annotated Code of Maryland"
- 9. Statement that "subject property is contiguous to and adjoining the existing corporate boundaries of the City of Gaithersburg"
- 10. Request for reclassification of zoning
- 11. Notary attestation

**ATTACHMENT 4**

**DRAFT 10/3/10**

**ANNEXATION AGREEMENT**  
**(X-183)**

THIS ANNEXATION AGREEMENT (“Agreement”), is made this \_\_\_\_\_ day of \_\_\_\_\_ 2010, by and between the CITY OF GAITHERSBURG, MARYLAND, a municipal corporation of the State of Maryland, and the MAYOR AND COUNCIL OF GAITHERSBURG (collectively, “Gaithersburg” or the “City”), and LARRY NEIL JACKSON AND CONNY L. JACKSON (the “Jacksons”), and HABITAT FOR HUMANITY OF MONTGOMERY COUNTY, MARYLAND, INC. (“Habitat for Humanity” and together with the Jacksons, the “Petitioners”).

**RECITALS:**

WHEREAS, the Jacksons own the property that is the subject of Annexation Petition Number X-183 consisting of approximately 2.9 acres located at 9000 and 9020 Emory Grove Road, Gaithersburg, Maryland 20877 at the intersection with Strawberry Knoll Road, and further identified as Parcels P476 and P477, Tax Map FT63, and more particularly described in the metes and bounds description attached hereto and made a part hereof as Exhibit “A” (collectively, the “Property”); and

WHEREAS, Habitat for Humanity is the contract purchaser of the Property; and

WHEREAS, the Petitioners have petitioned Gaithersburg to annex the Property pursuant to Annexation Petition Number X-183 (the “Petition”); and

WHEREAS, the Property is contiguous to and adjoins the existing corporate boundaries of Gaithersburg and annexation of the Property as proposed does not create any unincorporated area which is bounded on all sides by real property presently within the corporate limits of the City of

Gaithersburg, real property proposed to be within the corporate limits of the City of Gaithersburg as a result of the proposed annexation, or any combination of such properties; and

WHEREAS, the Property is within the maximum expansion limit of the City of Gaithersburg and annexation of the Property will provide a uniform corporate boundary for the City of Gaithersburg along Emory Grove Road; and

WHEREAS, pursuant to the requirements of Section 19(c) of Article 23A of the Annotated Code of Maryland, 1957, 2003 Replacement Volume (the "Code"), Gaithersburg has verified the signatures on the Petition and ascertained that the persons signing the Petition are the owners of not less than twenty-five percent (25%) of the assessed valuation of the real property located in the area to be annexed and constitute not less than twenty-five percent (25%) of the persons who reside in the area to be annexed, and who are registered as voters in County elections in the precincts in which the territory to be annexed is located; and

WHEREAS, pursuant to the provisions of Section 19(c) of Article 23A of the Code, a resolution has been introduced by Gaithersburg proposing to change the municipal boundaries of the City of Gaithersburg as requested in the Petition (the "Resolution"); and

WHEREAS, pursuant to Section 19(d) of Article 23A of the Code, all required public notice and hearings pertaining to the proposed annexation have been published and conducted by Gaithersburg; and

WHEREAS, Gaithersburg has found and determined that annexation of the Property will (i) promote the themes of the City of Gaithersburg 2003 Master Plan (2003 Master Plan) and the specific guidelines, recommendations and criteria of the 2003 Master Plan and City of Gaithersburg 1997 Master Plan, including the City of Gaithersburg Land Use Plan; (ii) establish more concise and reasonable corporate boundaries for Gaithersburg; and (iii) encourage efficient

and effective delivery of public services and placement of public facilities; and

WHEREAS, Gaithersburg intends to annex the Property as requested by the Petitioners;  
and

WHEREAS, Gaithersburg has recommended that the Property be placed in the RP-T, Medium-Density Residential Zone; and

WHEREAS, in an ordinance to accompany the Resolution, Gaithersburg intends to place the Property in the RP-T Zone for development in accordance with, and subject to certain development provisions and restrictions contained in this Annexation Agreement; and

WHEREAS, the Montgomery County Approved and Adopted 1988 Gaithersburg Vicinity Master Plan currently includes the Property and recommends that the Property be developed with up to 14 residential dwelling units; and

WHEREAS, as part of the Petition, the Petitioners filed a Concept Site Plan, which has been revised to reflect modifications requested by Gaithersburg pursuant to applicable subdivision and zoning laws of the City of Gaithersburg (the "Concept Plan"), a copy of which is attached hereto and made a part hereof as Exhibit "B"; and

WHEREAS, the Concept Plan proposes the construction of 19 townhouse units and associated parking (the "Proposed Development"), as shown on Exhibit "B"; and

WHEREAS, all parties desire to execute this Annexation Agreement to establish the conditions under which the Property shall be annexed, rezoned and developed.

NOW, THEREFORE, in consideration of the foregoing recitals, each of which shall be deemed a part of this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which the parties acknowledge, the parties covenant and agree as follows:

1. Upon annexation of the Property into Gaithersburg, the Property shall be validly



classified in the RP-T, Medium-Density Residential Zone, Chapter 24 of the Code of the City of Gaithersburg, Article ER, Division 4, Section 24-42; et seq. (the “RP-T Zone”).

2. The Petitioners agree that all subdivision and development on the Property shall be pursuant to the RP-T Zone as presently in effect and shall be in substantial conformance with the Concept Plan, including, but not limited to, the construction of only townhouse units as shown on the Concept Plan. Gaithersburg has reviewed the Concept Plan and finds that said plan complies with all requirements of law, including, without limitation, the requirements of the RP-T Zone, and promotes the public interest. Gaithersburg agrees that the Petitioners have the right to develop the Proposed Development on the Property in substantial conformance with the Concept Plan. Gaithersburg further agrees that it will approve the Concept Plan and any site plan(s) and record plat(s) and all other required development approvals and permits to permit the development, construction, and occupancy of the Proposed Development (collectively, the “Development Approvals”) as may be filed by the Petitioners that are in substantial conformance with the Concept Plan and this Agreement. Further, Gaithersburg acknowledges and agrees that the obligations agreed to by the Petitioners in this Agreement are viable only if the Proposed Development is approved and the Development Approvals are issued, subject only to such other customary conditions and requirements of approval generally applicable to development and construction similar to that contemplated by the Proposed Development that are necessary to assure compliance with applicable building, health, and safety codes (the “Customary Conditions”).

3. Gaithersburg further acknowledges and agrees that the development density to be permitted on the Property in accordance with the Concept Plan shall not be reduced as a result of dedications, reservations and/or acquisitions for public use, if any, and shall be based on the area

of the Property, prior to dedications, reservations and/or acquisitions. Further, Gaithersburg has reviewed the Concept Plan and agrees that the Proposed Development as shown thereon complies with the guidelines, criteria, recommendations and themes of the City of Gaithersburg 1997 Master Plan, including the Land Use Plan, and the 2003 Master Plan.

4. Gaithersburg has reviewed the Preliminary Forest Conservation Plan dated \_\_\_\_\_, 2010, submitted by the Petitioners (the "Preliminary Forest Conservation Plan") in accordance with Chapter 22 of the Gaithersburg City Code and all applicable regulations (collectively, "The Forest Conservation Law"), as part of the Concept Plan and finds and agrees that the Preliminary Forest Conservation Plan complies with all requirements of the Forest Conservation Law.

5. Gaithersburg agrees that, subject to the receipt of customary engineering detail, the proposed internal roadways, parking areas, access points, and number and location of parking spaces as shown on the Concept Plan are safe and adequate to serve the Proposed Development. In order to implement the roadways, number and location of parking areas, and access points for the Proposed Development, the Petitioners will file certain road code waiver applications, as more particularly described on Exhibit "C", attached hereto and incorporated herein (the "Road Code Waivers"). Gaithersburg has reviewed the Road Code Waivers and agrees that they are necessary for implementation of the Proposed Development, promote the public interest, and comply with all requirements of law. Subject to the receipt of all customary engineering details and applications for the Road Code Waivers, including payment of all required fees, Gaithersburg agrees to grant the Road Code Waivers.

6. Gaithersburg has reviewed the general locations shown on the Concept Plan for connections to existing storm drain, water and sewer facilities and agrees that said proposed connections are necessary for implementation of the Proposed Development, promote the public

interest, and comply with all requirements of law. Subject to the receipt of all customary engineering detail and required applications for approvals and permits, including payment of all required fees, Gaithersburg agrees to approve and permit the connections. Further, to the extent other locations for such connections are deemed necessary by the Petitioners to serve the Proposed Development, Gaithersburg will grant and approve such connections so long as said connections have no adverse material impact on the existing storm drain, water and sewer facilities and subject to receipt of customary engineering detail and required applications.

7. The Petitioners agree to include the following conditions as required elements of the Concept Plan and site plan for the Proposed Development:

(a) Dedication of the right-of-way of Emory Grove Road to a full 70 feet in width and construction of a five foot wide sidewalk along Emory Grove Road, as shown on the Concept Plan.

(b) Dedication of the right-of-way of the proposed one-way loop tertiary public road on the Property and construction of a five foot wide sidewalk along the proposed loop road, as shown on the Concept Plan. Gaithersburg agrees to accept dedication of the right-of-way of the proposed road and agrees that no other roadway improvements shall be required by Gaithersburg to support the Proposed Development. Further, Gaithersburg agrees that, with construction of the roadway as shown on the Concept Plan, all roads are adequate to support the Proposed Development and obtain the Development Approvals, and that no further transportation studies pursuant to the Zoning Ordinance, Subdivision Regulations, City Code, or otherwise to evaluate the adequacy of existing and proposed roadways to serve the traffic to be generated from the Proposed Development or obtain the Development Approvals shall be required.

8. Gaithersburg has found and determined that the provision of community sewer service to the Property for purposes of implementing the Proposed Development is consistent with the recommendations of the City of Gaithersburg 1997 Master Plan, including the Land Use Plan, the 2003 Master Plan and all other applicable plans and policies of Gaithersburg and complies with the general policies of the Comprehensive Ten-Year Water and Sewer Plan.

9. With the exception of the conditions, as described herein, and Customary Conditions, Gaithersburg agrees that no other conditions of approvals to construct the Proposed Development or obtain the Development Approvals will be imposed or required by Gaithersburg and that the Petitioners may obtain the Development Approvals and construct the Proposed Development in compliance with the provisions of this Agreement.

10. Gaithersburg finds that, pursuant to Section 52-55 of the Impact Tax Law, or any existing or future memorandum of understanding or other agreement with Montgomery County regarding impact taxes, the construction of the roadway and sidewalks shown on the Concept Plan qualify for an impact tax credit, and agrees to recommend to Montgomery County that Gaithersburg finds that they qualify for and are entitled to receive impact tax credits. Without limiting the generality of the foregoing, Gaithersburg agrees it will not levy or impose any impact tax or similar fee or charge, and shall withhold its consent to any levy or imposition of any special benefit assessment by Montgomery County upon the Proposed Development for transportation, sidewalk, or utility improvements. Gaithersburg agrees that construction of the Proposed Development or issuance of the Development Approvals shall not be subject to any further charges, fees, or taxes (including, without limitation, front-foot benefit charges or assessments), to finance or mitigate the costs of schools, recreation facilities, transportation improvements, transit programs, or other public facilities, including public art, bus shelters, bus

stops, hiker/biker paths and trails, other than those shown on the Concept Plan, which Gaithersburg has the authority to impose or must consent to the imposition of by others. The Petitioners shall be subject to the imposition of typical permit and approvals fees, including building and occupancy permits and stormwater management fees, for development and construction of the Proposed Development generally applicable to similar development and construction in Gaithersburg.

11. Gaithersburg agrees that, pursuant to the City's and Montgomery County's respective Annual Growth Policies and the generation figures developed by Montgomery County Public Schools, the Middle School and High School in the attendance areas are adequate to support the student generation proposed by the Proposed Development. Gaithersburg agrees that the student generation proposed by the Proposed Development at the Elementary School level is modest and that relief from the Elementary School school test is warranted pursuant to Gaithersburg City Zoning Ordinance Section 24-244. Gaithersburg agrees that no further analysis, studies, or conditions pursuant to the Gaithersburg Zoning Ordinance, Gaithersburg Subdivision Regulations, City Code or otherwise, shall be required to evaluate the adequacy of schools. Similarly, Gaithersburg finds that all utilities, in addition to roads and schools, are adequate to serve the Proposed Development and obtain all Development Approvals and shall not require any further studies, evaluations, or determinations regarding adequacy for the Proposed Development before issuance of the Development Approvals.

12. Gaithersburg agrees that any revision to the City's master plans, including, without limitation, any special study area provisions for the Property to be included in the City's 2003 Master Plan, shall be consistent with the terms and conditions of this Agreement and shall make no additional or inconsistent recommendations.

13. Gaithersburg agrees that the Petitioners shall have the right, in their sole discretion, upon written notice to Gaithersburg, to withdraw the Petition at any time, and the Resolution, by its terms, shall not become effective pursuant to Article 23A, Section 19(e) of the Code, and annexation of the Property shall not occur. In such event, this Agreement shall be terminated, whereupon the parties shall have no further rights or obligations with regard to this Agreement. The failure of the Petitioners to exercise the right to withdraw the Petition as provided in this paragraph shall not be deemed a waiver or release of any right of the Petitioners to appeal or otherwise seek review of any decision made by Gaithersburg.

14. Gaithersburg and the Petitioners agree to execute any and all such documents and/or to take such actions necessary to carry out the terms and conditions of this Agreement.

15. Any party to this Agreement may seek relief and remedies in any court of competent jurisdiction for the breach or default of the provisions of this Agreement by any other party. The non-breaching party or parties shall be entitled to seek all available legal and equitable remedies and relief from the court, including (but not limited to) specific performance, injunctive relief, and damages. The prevailing party or parties in any such litigation shall be entitled to an award of reasonable attorneys' fees, expenses, and court costs. Notwithstanding anything in this Agreement to the contrary, the rights and remedies provided herein are cumulative and not exclusive, and the failure of a party to exercise any said right or remedy shall not be deemed a waiver or release of any other right or remedy of that party or of any breach or default by the other party.

16. This Agreement shall be assignable, in whole or in part, by the Petitioners, without the consent of Gaithersburg, any of its elected officials, employees or agents.

17. The provisions of this Agreement are and shall be deemed to be covenants

running with the land and shall be binding upon and inure to the benefit of the Petitioners and their respective successors and assigns with an interest in the Property, and upon Gaithersburg and any successors to Gaithersburg. The foregoing notwithstanding the obligations and liabilities of the Petitioners shall apply only during the period of time the Petitioners are fee simple owners of the Property. If the Petitioners, or their successors and assigns convey the respective fee simple interest in the Property, or any portion of the Property, then at the time of conveyance, unless the instrument of conveyance provides otherwise, the transferor automatically shall be relieved of any and all obligations and liabilities under and pursuant to this Agreement with respect to the portion of the Property so conveyed, and the transferee automatically shall assume and take title subject to all of the transferor's obligations and liabilities under and pursuant to this Agreement with respect to the portion of the Property so conveyed.

18. Subject to the provisions of Paragraph 17 above, this Agreement shall be binding upon and inure to the benefit of the respective heirs, personal representatives, successors and assigns of the parties hereto.

19. This Agreement shall be amended only in writing, signed by (or on behalf of) all parties hereto.

20. All parties hereto represent and warrant that the individuals executing this Agreement on their behalves have the full and complete authority to execute this Agreement and that the signatures which appear below bind the respective parties to the terms of this Agreement. Gaithersburg further represents and warrants that it has the legal authority, right, and power to enter into this Agreement and is bound by its terms.

21. Gaithersburg and the Petitioners agree to execute any and all documents and take such actions that are necessary to carry out the terms and conditions of this Agreement.

Gaithersburg acknowledges and agrees that time is of the essence in complying with the terms and conditions of this Agreement.

22. This Agreement may be executed in one or more counterparts, each of which shall be an original and all of which together shall constitute a single Agreement. All parties may rely upon a facsimile copy of this Agreement executed by any other party, and such copy of this Agreement shall be deemed an original executed copy for all purposes.

23. This Agreement shall be recorded in the Land Records of Montgomery County, Maryland.

24. Any notice required to be given by this Agreement shall be sent by electronic mail and by certified mail to the following:

(a) To the Petitioners:

Larry Jackson/Conny Jackson  
9000 Emory Grove Road  
Gaithersburg, MD 20877

and

John Paukstis  
Executive Director  
Habitat for Humanity of Montgomery County MD, Inc.  
9110 Gaither Road  
Gaithersburg, MD 20877  
John.paukstis@habitat-mc.org

with copies to:

James R. Clifford, Sr., Esq.  
Clifford, Debelius, Bonifant, Fitzpatrick & Hyatt, Chtd.  
316 East Diamond Avenue  
Gaithersburg, MD 20877-3016  
Fax No.: (301) 975-9829  
Clifford@debelius.com

and

Stuart R. Barr, Esq.  
Lerch Early & Brewer, Chtd.  
3 Bethesda Metro Center, Suite 460  
Bethesda, MD 20814  
Fax No.: (301) 347-1771  
srbarr@lerchearly.com

(b) To the City of Gaithersburg, Maryland:

Angel L. Jones  
City Manager  
31 South Summit Avenue  
Gaithersburg, MD 20877  
Fax No.: (301) 948-6149  
ajones@gaitersburgmd.gov

with copies to:

Lynn Board, Esq.  
City Attorney  
City of Gaithersburg  
31 South Summit Avenue  
Gaithersburg, MD 20877  
Fax No.: (301) 948-6149  
cityhall@gaitersburgmd.gov

(c) To the Mayor and City Council of Gaithersburg:

Angel L. Jones  
City Manager  
31 South Summit Avenue  
Gaithersburg, MD 20877  
Fax No.: (301) 948-6149  
ajones@gaitersburgmd.gov

with copies to:

Lynn Board, Esq.  
City Attorney  
City of Gaithersburg  
31 South Summit Avenue  
Gaithersburg, MD 20877  
Fax No.: (301) 948-6149  
cityhall@gaitersburgmd.gov

IN WITNESS WHEREOF, each of the parties hereto has executed and delivered this Annexation Agreement as of the date first set forth above, as evidenced by their respective signatures and acknowledgments on the following pages.

[SIGNATURE PAGES FOLLOW]

WITNESS:

CITY OF GAITHERSBURG, MARYLAND

\_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

I HEREBY CERTIFY that on this \_\_\_ day of \_\_\_\_\_, 2010, before me, the undersigned, a Notary Public in and for the State and County aforesaid, personally appeared \_\_\_\_\_, known to me or satisfactorily proven to be the person whose name is subscribed to the within instrument, and who acknowledged himself to be the \_\_\_\_\_ of the City of Gaithersburg, Maryland, and that such \_\_\_\_\_, being so authorized to do, executed the foregoing Annexation Agreement for the purposes therein contained by signing the name of the City.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

[NOTARIAL SEAL]



WITNESS:

MAYOR AND COUNCIL OF  
GAITHERSBURG, MARYLAND

\_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

I HEREBY CERTIFY that on this \_\_\_ day of \_\_\_\_\_, 2010, before me, the undersigned, a Notary Public in and for the State and County aforesaid, personally appeared \_\_\_\_\_, known to me or satisfactorily proven to be the person whose name is subscribed to the within instrument, and who acknowledged himself to be the \_\_\_\_\_ of the City of Gaithersburg, Maryland, and that such \_\_\_\_\_, being so authorized to do, executed the foregoing Annexation Agreement for the purposes therein contained by signing the name of the City.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

[NOTARIAL SEAL]



WITNESS:

\_\_\_\_\_  
\_\_\_\_\_

PROPERTY OWNERS:

By: \_\_\_\_\_  
Larry Neil Jackson

By: \_\_\_\_\_  
Conny L. Jackson

STATE OF MARYLAND \*  
\*  
COUNTY OF MONTGOMERY \*

to wit:

On this \_\_\_\_\_ day of \_\_\_\_\_, 2010, before the under signed, personally appeared Larry Neil Jackson, known to me (or satisfactorily proven) to be the person whose name is subscribed to the above Petition and acknowledged that she/he executed the same for the purposes therein contained. IN WITNESS WHEREOF, I hereunto set my hand and official seal.

\_\_\_\_\_  
NOTARY PUBLIC

My commission Expires: \_\_\_\_\_

[NOTARIAL SEAL]

STATE OF MARYLAND \*  
\*  
COUNTY OF MONTGOMERY \*

to wit:

On this \_\_\_\_\_ day of \_\_\_\_\_, 2010, before the under signed, personally appeared Conny L. Jackson, known to me (or satisfactorily proven) to be the person whose name is subscribed to the above Petition and acknowledged that she/he executed the same for the purposes therein contained. IN WITNESS WHEREOF, I hereunto set my hand and official seal.

\_\_\_\_\_  
NOTARY PUBLIC

My commission Expires: \_\_\_\_\_

[NOTARIAL SEAL]

WITNESS:

HABITAT FOR HUMANITY OF  
MONTGOMERY COUNTY, MARYLAND, INC.  
(CONTRACT PURCHASER):

\_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF MARYLAND \*

to wit:

COUNTY OF MONTGOMERY \*

On this \_\_\_\_\_ day of \_\_\_\_\_, 2010, before the under signed, personally appeared \_\_\_\_\_, known to me (or satisfactorily proven) to be the person whose name is subscribed to the above Petition and acknowledged that she/he executed the same for the purposes therein contained. IN WITNESS WHEREOF, I hereunto set my hand and official seal.

\_\_\_\_\_  
NOTARY PUBLIC

My commission Expires: \_\_\_\_\_

[NOTARIAL SEAL]



# ATTACHMENT 5

## COMMUNICATION: PLANNING COMMISSION

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**MEMORANDUM TO:** Planning Commission

**FROM:** Lauren Pruss, Planning Director  
Rob Robinson, Planner

**DATE:** September 8, 2010

**SUBJECT:** Staff Analysis 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.

### **OWNERS:**

L. Neil Jackson and Conny Jackson  
9000 and 9020 Emory Grove Road  
Gaithersburg, Maryland 2077

### **OWNER'S REPRESENTATIVE:**

James R. Clifford, Esq.  
316 East Diamond Avenue  
Gaithersburg, MD 20877

### **APPLICANT/DEVELOPER:**

John Paukstis  
Habitat for Humanity of Montgomery County, MD, Inc.  
9110 Gaither Road  
Gaithersburg, MD 20877

### **APPLICANT'S REPRESENTATIVE:**

Stuart Barr and Nat Keller  
Lerch, Early, & Brewer Chtd.  
3 Bethesda Metro Center #460  
Bethesda, MD 20814

**LOCATION:**

The subject property is located south of the intersection of Emory Grove and Strawberry Knoll Roads. The property consists of two parcels of land, P476 containing 2.748 acres, and P477 containing .179 acres. The roadways and the parcels are adjacent and contiguous to the current City limits.



**TAX MAP REFERENCE:**

Tax Sheet: FT 563  
Tax ID Number: P476 and P477

**BACKGROUND:**

The Jackson family and Habitat for Humanity of Montgomery County (contract purchasers of the property) have submitted a petition for annexation, X-183, to the City. As part of the annexation request, the applicants are requesting a rezoning from the Montgomery County R-200/TDR-4 (Low Density Residential) zoning to the City of Gaithersburg RP-T (Medium Density Residential) zoning. Further, a concept site plan proposing nineteen (19) townhomes, to be developed entirely by Habitat for Humanity of Montgomery County, has also been included in the application.

Articles 23A and 66B of the *Maryland Annotated Code* and Chapter 24 (Zoning) of the City of Gaithersburg Code outline the requirements and process for a proposed annexation. The

Planning Commission is required to review the proposed annexation and associated rezoning and land use plan for consistency with the City's master plan<sup>1</sup>, and provide a recommendation to the Mayor and City Council at least 15 days prior to the required Mayor and City Council public hearing<sup>2</sup>. The Mayor and City Council are required to hold a public hearing prior to making a final decision on the requested annexation and zoning. The public hearing before the Mayor and City Council is scheduled for December 6, 2010.

### **EXISTING LAND PHYSICAL CHARACTERISTICS AND NATURAL RESOURCES** **INVENTORY/FOREST STAND DELINEATION:**

A natural resource inventory/forest stand delineation (NRI/FSD) was submitted and approved as part of the X-183 application<sup>3</sup>. The site is comprised of two irregularly shaped parcels, each sloping to the southwest corner of the site. Topography on site ranges from a high point of 462 feet above sea level at the northwest corner of the site, to a low point of 414 feet above sea level along the property line near the southwest corner of the site, for a total topographic relief of 48 feet. The steepest slopes of fifteen to twenty-five percent exist within the required 125 foot stream valley buffer occupying the eastern third of the property.

The Montgomery County Soil Survey indicates four soil types present on the site: Glenelg Silt Loam, Baile Silt Loam, Brinklow-Blocktown Channery Silt Loam, and Wheaton-Urban Land Complex. Of these soils, the Baile Silt Loam is considered hydric, and the Brinklow-Blocktown Channery Silt Loam is considered highly erodible. These two soil types occupy much of the developable portion of the property.

The forest stand delineation identifies 2.6 acres of forest on the property. Of this, 0.8 acres are located within the stream valley buffer. Thirty (30) trees were identified as specimen trees within the delineation, with five (5) being in either poor or moderate-poor condition. The forest stand is dominated by Tulip Poplar. Other species present include Boxelder, Red Maple, Silver Maple, White Mulberry, Black Cherry, Black Locust, Eastern Red Cedar, Sassafras, Flowering Dogwood and other native hardwoods. The forest structure is rated as "good" and is considered as having high potential for retention. The portion of the forest stand located within the stream valley buffer is considered of high priority due to the steep slopes and buffer.

The National Wetlands Inventory for Montgomery County does not identify any wetlands on site. However, a site visit did identify 0.01 acres of wetlands along the eastern property line, within the stream valley buffer. A total of 0.02 acres of the site is located within the 100 year floodplain. A stream is located adjacent to the east property line of the site. This stream is considered a perennial stream.

There have been no rare, threatened, or endangered species observed, identified or known to occur on or near the site. While the property does receive noise pollution from vehicles

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<sup>1</sup> Article 66B, Section 1.02 Maryland Annotated Code

<sup>2</sup> Section 24-9 Gaithersburg City Code

<sup>3</sup> Exhibit 14

on Emory Grove Road, a noise study was not required as a component of the Natural Resource Inventory.

The property is currently developed with two, one-story frame dwellings<sup>4</sup>. One of the dwellings is located near the westerly property line, and the other more centrally located on the site. Both are served by individual gravel drives. Several accessory structures including a small shed and chicken coops are found on-site. The dwelling structures were constructed in the 1950's. Montgomery County historic preservation staff has indicated that the structures are not identified in either the Locational Atlas or designated in the *Master Plan for Historic Preservation*<sup>5</sup>. In accordance with Section 24-231, the structures would be required to undergo review for potential historic significance prior to any demolition

## **MASTER PLAN HISTORY:**

### **Montgomery County Master Plan**

The *Gaithersburg Vicinity Master Plan*<sup>6</sup>, adopted in 1985 and amended in 1988 and 1990, made no specific recommendations for these parcels; however, it did establish the R-200/TDR-4 base zoning and single family residential land uses. Emory Grove Road, fronting the property, is master planned as primary residential road with a right-of-way (ROW) of seventy (70) feet including 36' of paved width.

### **City of Gaithersburg**

The subject property was not identified within the *1997 City of Gaithersburg Master Plan*. The *2003 City of Gaithersburg Master Plan Land Use Element* also made no land use or zoning recommendations for these parcels, but the *2003 Municipal Growth Element* did identify this area within the City's maximum expansion limits (MEL). The property was included in the MEL as it fronts a natural municipal boundary in Emory Grove Road and is bordered on three sides by the City's incorporated limits.

The *2009 Process and Overview Element*, while not making specific recommendations for this property, did establish the following Guiding Strategies that are applicable to this petition:

- Explore opportunities for those areas located within the City's Maximum Expansion Limits.
- Ensure that the current and future housing stock allows residents to remain in the City as their financial, employment, and familial situations change.
- Limit new development where public utilities, facilities, and services cannot be established without unduly burdening the existing service provision or users.

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<sup>4</sup> Exhibit 21

<sup>5</sup> Exhibit 20

<sup>6</sup> Exhibit 9

Continue to enforce the Adequate Public Facilities Ordinance (APFO) and update requirements periodically, if needed.

- Utilize the City's 'Smart Growth' principles to encourage high quality infill redevelopment.
- Protect and restore environmentally sensitive areas during development and redevelopment by promoting land uses that are in balance with, and minimize adverse effects on, the natural environment.
- Seek to eliminate gaps in the pedestrian and bicycle network, creating more walkable communities and encourage the use of transit facilities to reduce traffic congestion, conserve energy and maintain air quality goals.

### **SURROUNDING LAND USES:**



The subject property is sited in an area dominated by single-family residential subdivisions. The areas to the north of the subject property are located within Montgomery County. The subdivision located at the northeast corner of Emory Grove Road and Strawberry Knoll Road, Strawberry Knoll, is zoned R-200/TDR 4 and is developed with single family detached dwellings with a density of 3.4 units per acre. The subdivision located at the northwest corner of Emory Grove Road and Strawberry Knoll Road, Quail Valley Townhomes, is zoned R-60 and is developed with a density of 4.2 units per acre.

The parcel located directly west of the subject property is also located within Montgomery County. This half acre parcel is zoned R-200/TDR 4 and is currently developed with one single-family dwelling. This property is also included in the City's MEL should the property owner petition to annex. The other areas east, west and south of the subject property are

all located within the incorporated City limits and zoned RP-T. These City subdivisions were also originally zoned R-200/TDR 4 within the County prior to annexation into the City of Gaithersburg<sup>7</sup>.

The area directly east of the subject property is known as the Emory Hills Subdivision and is developed with single-family dwellings at a density of 3.8 units per acre. The area to the south and west of the site is known as the Emory Woods Subdivision and is developed with a combination of single-family dwellings and townhouses at a density of 4.44 units per acre.

## **ZONING:**

### **Existing Montgomery County Zoning**

The subject property is currently zoned R-200/TDR-4 in Montgomery County. The R-200 Zone generally allows two housing units per acre and is similar to the City's R-A (Low Density Residential) Zone. The additional designation of this property as TDR-4 (Transfer of Development Rights) allows the property owner to increase the density to four units per acre through the purchase of development rights from the Agricultural Reserve in the upper portion of Montgomery County. The City of Gaithersburg does not participate in the TDR program. Further additional density may be achieved through the inclusion of moderately priced dwelling units in a project. All told, the current allowable dwelling units for the existing property under Montgomery County zoning would be fourteen (14) units, confirmed by Montgomery County Planning Department (MCPD)<sup>8</sup>.

### **Substantial Change**

It should be noted that per Article 23A, Subsection 9(c) of the Maryland Annotated Code:

*"no municipality annexing land, may for a period of five years following annexation, place that land in a zoning classification which permits a land use substantially different from the use for the land specified in the current and duly adopted Master Plan or plans . . . without the express approval of the . . . County council in which the municipality is located."*

In the course of preliminary discussions with MCPD, it is felt that the proposed zoning and density shown on the concept plan do not reflect a substantial change from the current County plans. This will be confirmed once MCPD sends its official recommendation to the Montgomery County Council in the near future.

### **Proposed City Zoning**

The applicant has requested that the parcels be zoned RP-T (Medium Density Residential) if annexed into the City. The RP-T zone of the City of Gaithersburg is intended to provide for a variety of residential uses at a density higher than that permitted in the R-90 zone and

<sup>7</sup> Annexations X-166, 1995; X-148, 1990

<sup>8</sup> Exhibit 30

to encourage the provision of usable open green space areas. Further, it is intended to encourage creativity in the design of residential development by the elimination of minimum lot sizes and yard requirements. It is to be noted that the adjacent City-incorporated Emory Woods and Emory Hills subdivisions were zoned RP-T following their annexation into the City.

The RP-T allowable density is nine (9) dwellings per gross acre. This density would allow a maximum of 26 units, outside of additional engineering and zoning requirements. Perimeter setbacks are required for the development and the height limitation is 35 feet. Fifty (50) percent of the land area is to be devoted to open space, with a minimum of at least 1,000 square feet per dwelling unit to encourage its communal use in leisure activities by the occupants of the project. The proposed concept plan is in full conformance with the requirements of the RP-T zone.

### **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<sup>9</sup>. 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.”

### **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.

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<sup>9</sup> City Ordinance O-1-07: Chapter 24, Article XV of the City Code

## 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<sup>10</sup>. 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<sup>11</sup>. The applicant has submitted a Traffic Statement<sup>12</sup>. 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<sup>13</sup>.

## 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..."<sup>14</sup> 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<sup>15</sup>:

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

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<sup>10</sup> Section 24-245

<sup>11</sup> Regulation 01-07

<sup>12</sup> Exhibit 10

<sup>13</sup> Exhibit 11

<sup>14</sup> Section 24-246

<sup>15</sup> Exhibit 32

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<sup>16</sup>:

#### 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

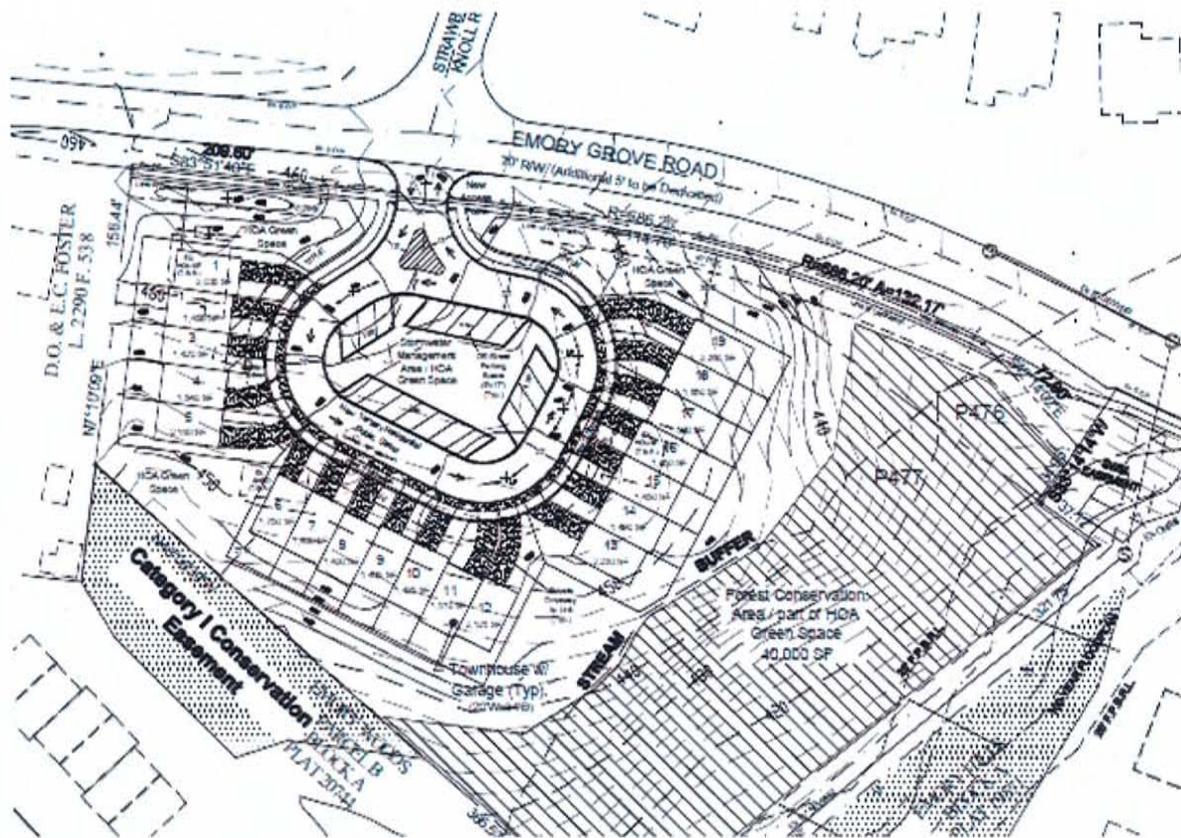
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<sup>16</sup> Exhibit 33

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<sup>17</sup> that they will request relief from the elementary school test under Section 24-244 of the City Code, cited previously, through an annexation agreement.

### PROPOSED USE / SITE PLAN:



The applicant has submitted a concept site plan to construct 19 townhouse units in three blocks or "sticks"<sup>18</sup>. The total site area of 2.927 acres equates to a residential density of 6.49 dwelling units per gross acre. The proposed dwelling units will be approximately 1,400 square feet in size. Staff has reviewed the plan to verify conformance with the proposed zoning and basic engineering to ensure that the proposed plan could physically work. An annexation in itself will not grant any entitlements to this proposed plan, although the annexation agreement may incorporate certain assurances. Should the subject property

<sup>17</sup> Exhibit 7

<sup>18</sup> Exhibit 31

be annexed, the applicant would be required to apply for preliminary plan approval and undergo customary Planning Commission review and approval.

The proposed lot sizes range in size from 1,600 square feet to 2,500 square feet. The foot print for the proposed townhouse units is 20 feet by 34 feet. Each unit will have three bedrooms and 1.5 baths. Craftstar Homes has donated to Habitat for Humanity the architectural/construction blue prints for the housing types to be built. The concept architectural elevations submitted indicate four different elevation types with a combination of brick, stone and siding<sup>19</sup>. However, the brick and stone water tables are indicated as options. Each unit is provided with a one car front-load integral garage



Access to the site is located directly across from Strawberry Knoll Road, creating a four way intersection. The applicant will dedicate an additional five (5) feet for the Emory Grove Road ROW and will construct a sidewalk connecting to the existing walks found on adjacent properties. The three proposed townhouse sticks are situated around a modified cul-de-sac. The internal cul-de-sac road is proposed to be a public tertiary residential street, to be owned and maintained by the City. Although the road design is similar to other developments in the City, it may require a road code waiver should preliminary plan approval be sought.

The City code requires 2.5 parking spaces for each townhouse unit, or a total of 47.5 parking spaces for the proposed plan. The Code further requires that each garage parking space within townhouse developments is counted as one-half of a parking space. Accordingly, there are 1.5 parking spaces proposed per unit (one in the drive way and one-half located within the garage), providing a total of 28.5 parking spaces. The remaining required nineteen (19) spaces are located within the center island of the modified cul-de-sac.

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<sup>19</sup> Exhibit 15

The applicant will be required to comply with the *Stormwater Management Act of 2007* and Chapter 8 of the City Code, incorporating environmental site design (ESD) to the maximum extent practicable. The conceptual site plan indicates that the stormwater management concept includes disconnection of rooftop drains with drywells or other containment/infiltration devices and porous pavement for the driveways and off-street parking spaces<sup>20</sup>. Additionally, the area located within the center of the modified cul-de-sac is intended to be a bioretention area.

The existing property is currently served by public utilities. The proposed concept plan has incorporated ten (10) foot public utility easements (PUEs) throughout the development to serve the expansion of utilities to the future nineteen units. As previously stated, the property is currently served by WSSC and extension of water and sewer will be facilitated.

The RP-T Zone requires fifty percent open space. Of this amount, at least one thousand (1,000) square feet per dwelling unit is to be located so as to permit and encourage its use in common by the occupants of the project in leisure activities. The proposed conceptual site plan proposes a total of 62.4% overall open space, or 72,000 square feet. This total includes the proposed forest conservation area which contains 40,000 square feet. The remaining 32,000 square feet of open space is common use open space.

As indicated, this proposed development will be a Habitat for Humanity project. Habitat will administer the development. Of the nineteen units, nine of the units will be offered to families earning between 30-50% of Area Median Income (AMI) and the remaining ten units to those families earning between 50-80% of AMI<sup>21</sup>. It is the intent to construct this development in a single phase with the future homeowners contributing "sweat equity" in the construction. While this project can be considered an "affordable" housing project, it is not required to have an affordable housing component under the City's affordable housing ordinance, as Section 24-251 does not apply to developments with less than twenty (20) units.

### **STAFF RECOMMENDATION AND FINDINGS:**

Staff finds that the proposed petition for annexation, X-183, complies with the City's Master Plan. The annexation will further the City's stated goals of increasing the City's tax base; increase single-family housing; provide housing opportunities to different demographic groups; create developments that are environmentally sensitive; and promote connectivity among subdivisions. The proposed annexation, as identified in the City's adopted MEL, will create a natural incorporated municipal boundary and be consistent in land use and zoning with the adjacent City subdivisions.

Lastly, the proposed growth will be accomplished in an orderly fashion, not unduly burdening existing public facilities. Staff recommends that because the nature of the proposed project fulfills many of the City's stated goals and would be a benefit to the

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<sup>20</sup> Exhibit 34

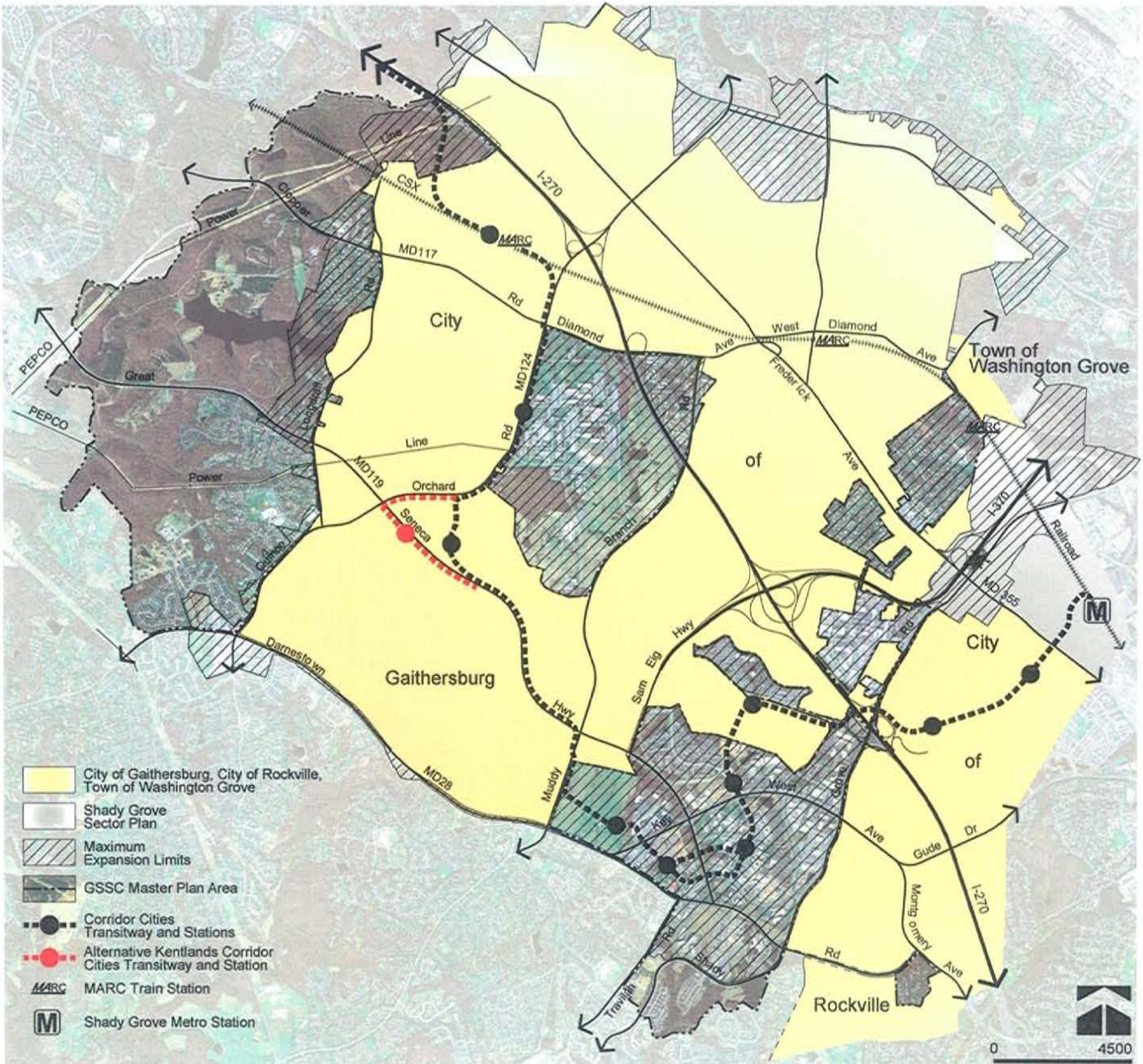
<sup>21</sup> Exhibit 7

greater community, that the Planning Commission recommend to the Mayor and Council that they should work, through an annexation agreement, to provide relief from the schools test required under the City's APFO.

Staff recommends that the Planning Commission hold their record open for 21 days until 5:00pm on November 10, 2010, and provide a formal recommendation on the annexation petition on November 17, 2010.

# ATTACHMENT 6

## City of Gaithersburg Maximum Expansion Limits



x:/A3/Gburg/PHD2009/GW-Expansion.dwg (GB-planningareas.ctb)





## ATTACHMENT 7

**MONTGOMERY COUNTY PLANNING DEPARTMENT**  
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

Memorandum

September 28, 2010

To: Vanessa Francis, Senior Planner  
Community Based Planning Division

Via: Mary Dolan, Environmental Planning Supervisor *MD*  
Environmental Planning Division

From: Steve Findley, Planner Coordinator *Sof*  
Environmental Planning Division

RE: Jackson Property, Request to Annex into the City of Gaithersburg  
9000 and 9020 Emory Grove Road, Gaithersburg, MD

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Environmental Planning staff has reviewed the application for annexation and has no objection to the proposal.

According to an NRI/FSD approved by the City of Gaithersburg, the property is heavily wooded, with 2.6 acres forested out of a total site area of 2.92 acres. A number of trees are specimen size, and two are within 75% of the current County champion for the species. The property includes an area of stream buffer, which has been expanded to include an area of steep slopes adjacent to the buffer. The NRI/FSD reports the presence of some invasive plant species. Some streambank erosion is evident in the stream adjacent to the property. The stream is a tributary of Whetstone Run in the Middle Great Seneca Creek watershed. Sewer and water categories for the property are S-1 and W-1 respectively.

Though the property is still technically in Montgomery County as of the filing of this application, the NRI/FSD has been reviewed and approved by the City of Gaithersburg. Based on our review of the NRI/FSD, it appears to be complete and correct.

The development plan largely comports with the Gaithersburg and Vicinity Master Plan. The Master Plan specifically says that "The presence of floodplains, streams, erodible soils and steep slopes in parts of this (Midcounty Highway) district indicate that development should be clustered away from these features." The development proposal for this property is a cluster design that stays out of sensitive areas and preserves a majority of the large trees.

The development plan notes that the plan will meet or exceed the forest conservation requirements and stormwater management requirements for the site, including the use of Environmental Site Design to the maximum extent practicable.

Where the development plan varies from the Master Plan is in the number of units proposed. Under the existing zoning (R-200/TDR-4), the property would be permitted to build 14 townhouse units. The proposed zoning (Gaithersburg's RP-T zone) allows 9 units per acre, or up to 26 units on the site. The development plan proposes to cap the number of units at 19, or 5 more than the current zoning in Montgomery County would permit. The development plan submitted indicates that all applicable environmental requirements for the City of Gaithersburg will be able to be met on-site despite the additional townhouse units. A desk review suggests that, if this project were reviewed for development in Montgomery County, the plan would meet our environmental requirements as well.

## ATTACHMENT 8



WELLS + ASSOCIATES

### MEMORANDUM

**TO:** Ollie K. Mumpower  
City of Gaithersburg

**CC:** John Paukstis,  
Executive Director  
Habitat for Humanity

Stuart Barr, Esq.  
Lerch, Early & Brewer, Chtd.

**FROM:** Christopher L. Kabatt, P.E.

**DATE:** August 6, 2010

**RE:** Habitat for Humanity – Emory Grove Road  
Gaithersburg, Maryland

#### Introduction

This memorandum provides a traffic statement for the proposed residential subdivision, located south of Emory Grove Road, at the Strawberry Knoll Road intersection, in Montgomery County, Maryland. The proposed plan consists of 19 townhouses and the land is to be annexed into the City of Gaithersburg.

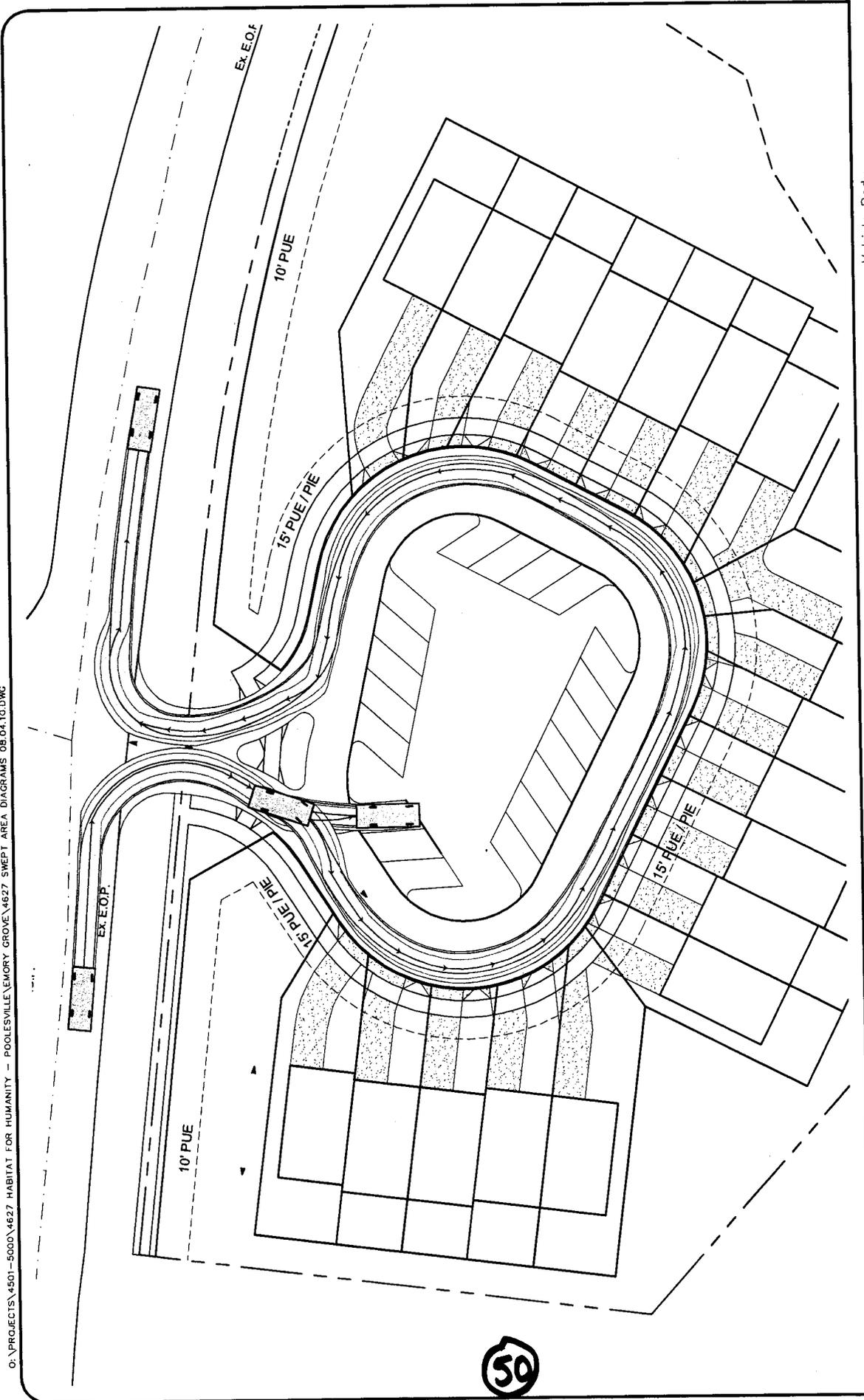
This traffic statement was based on the Gaithersburg Traffic Impact Study Standards and Regulation. The standards state that a traffic impact study shall be required for any new development that generates 30 or more total weekday trips during the peak hour of the morning and/or evening peak period. Based on these standards and the estimate of site trips discussed below, a traffic impact study is not required for this development case.

### **Trip Generation Analysis**

The number of trips generated by the proposed project was estimated based on trip rates for townhouses shown in Table A-4 in Appendix A of Montgomery County's Local Area Transportation Review and Policy Area Mobility Review Guidelines. The 19 townhouses would generate 8 (1 in and 7 out) AM peak hour trips and 9 (6 in and 3 out) PM peak hour trips. The peak hour is the peak 60 minute period of adjacent roadway traffic between 6:30 AM and 9:30 AM and between 4:00 PM and 7:00 PM.

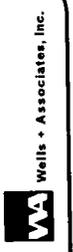
Since the 19 townhouses will not generate 30 or more trips during the AM or PM peak hour, the project does not have a measurable traffic impact on the local area. Therefore, a traffic study is not required.

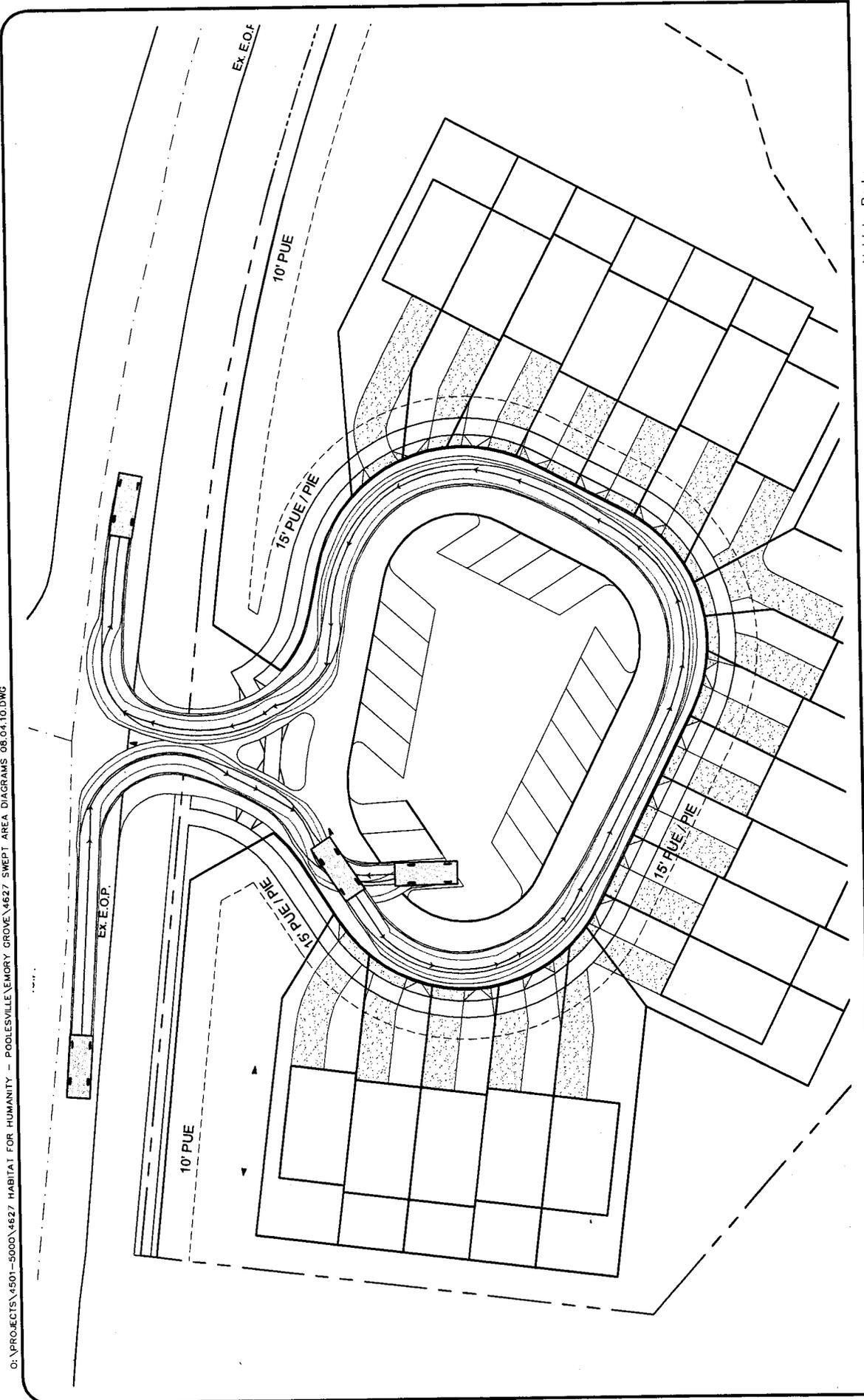
Please contact Chris Kabatt at Wells + Associates with any questions regarding this memorandum.



- Vehicle Body
- Front Tire Tread
- Rear Tire Tread
- Directional Path
- Vehicle Path

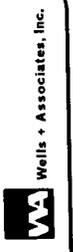
Diagram 1  
19' Passenger Vehicle Swept Area Diagram





- Vehicle Body
  - Front Tire Tread
  - Rear Tire Tread
  - Directional Path
  - Vehicle Path
- North

Diagram 2  
19' Passenger Vehicle Sweep Area Diagram



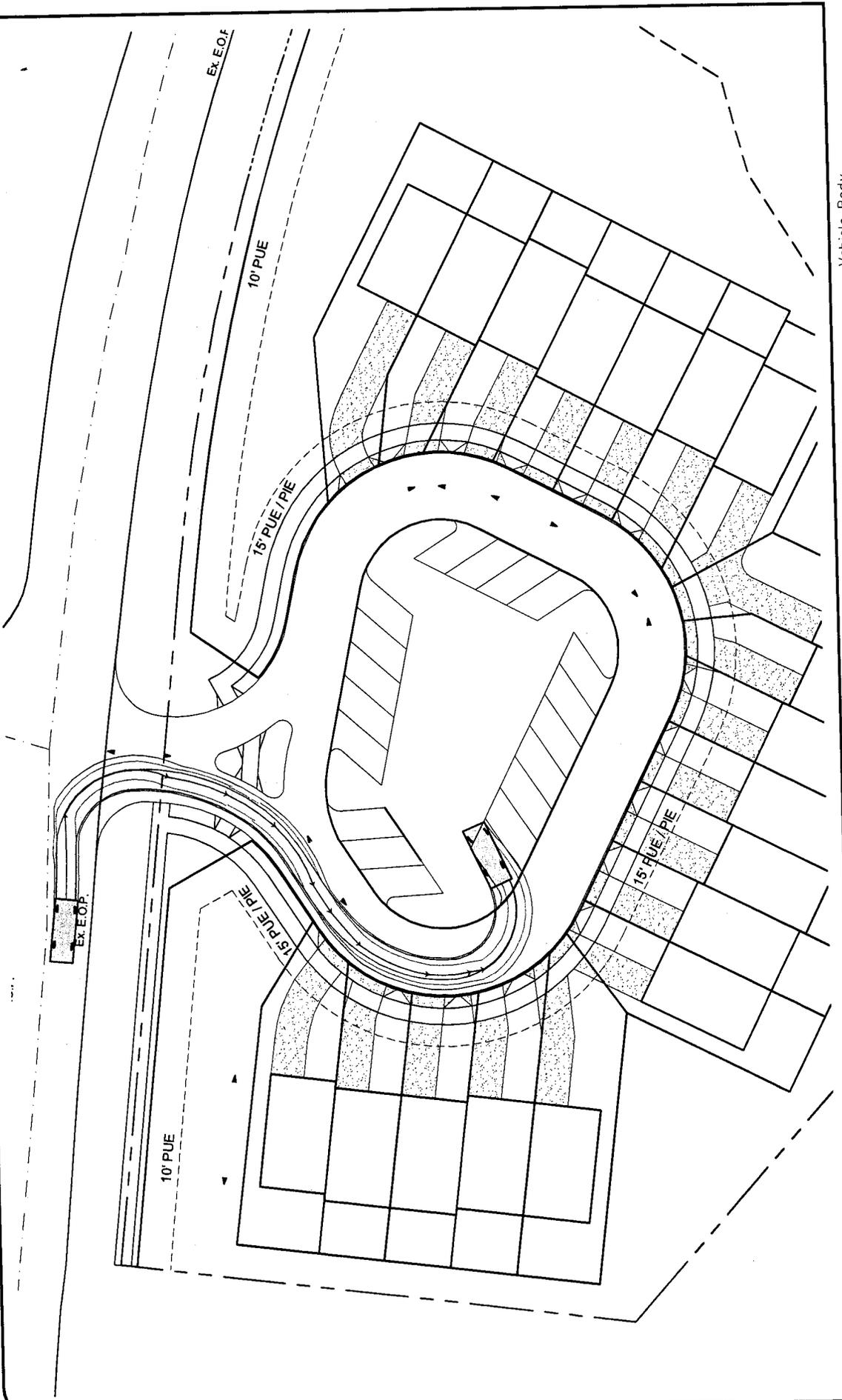
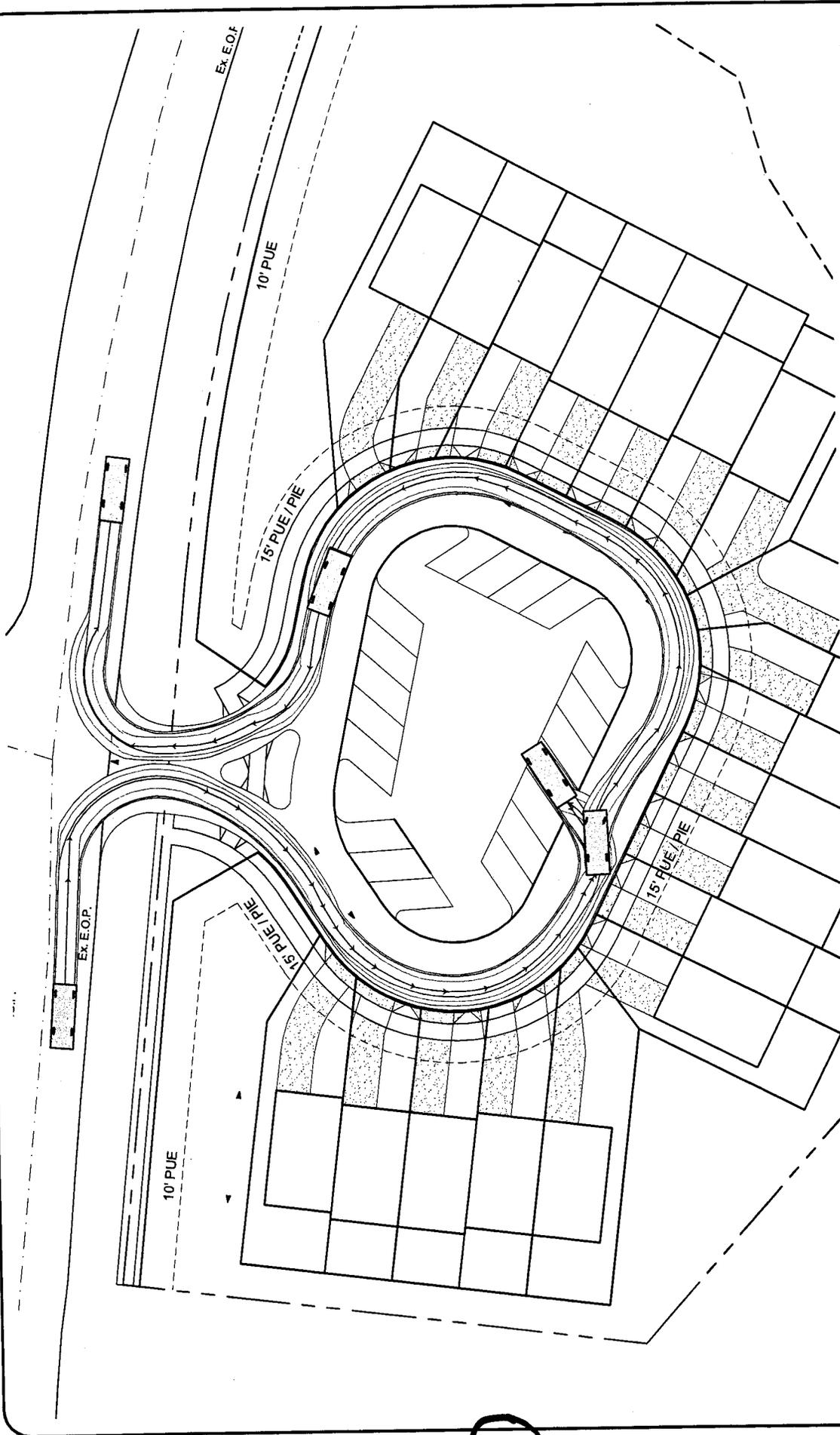


Diagram 3  
19' Passenger Vehicle Sweep Area Diagram





- Vehicle Body
- Front Tire Tread
- Rear Tire Tread
- Directional Path
- Vehicle Path



North

Diagram 4  
19' Passenger Vehicle Swept Area Diagram



D:\PROJECTS\4501-5000\4627 HABITAT FOR HUMANITY - POOLSVILLE\EMORY GROVE\4627 SWEEP AREA DIAGRAMS 08.04.10.DWG

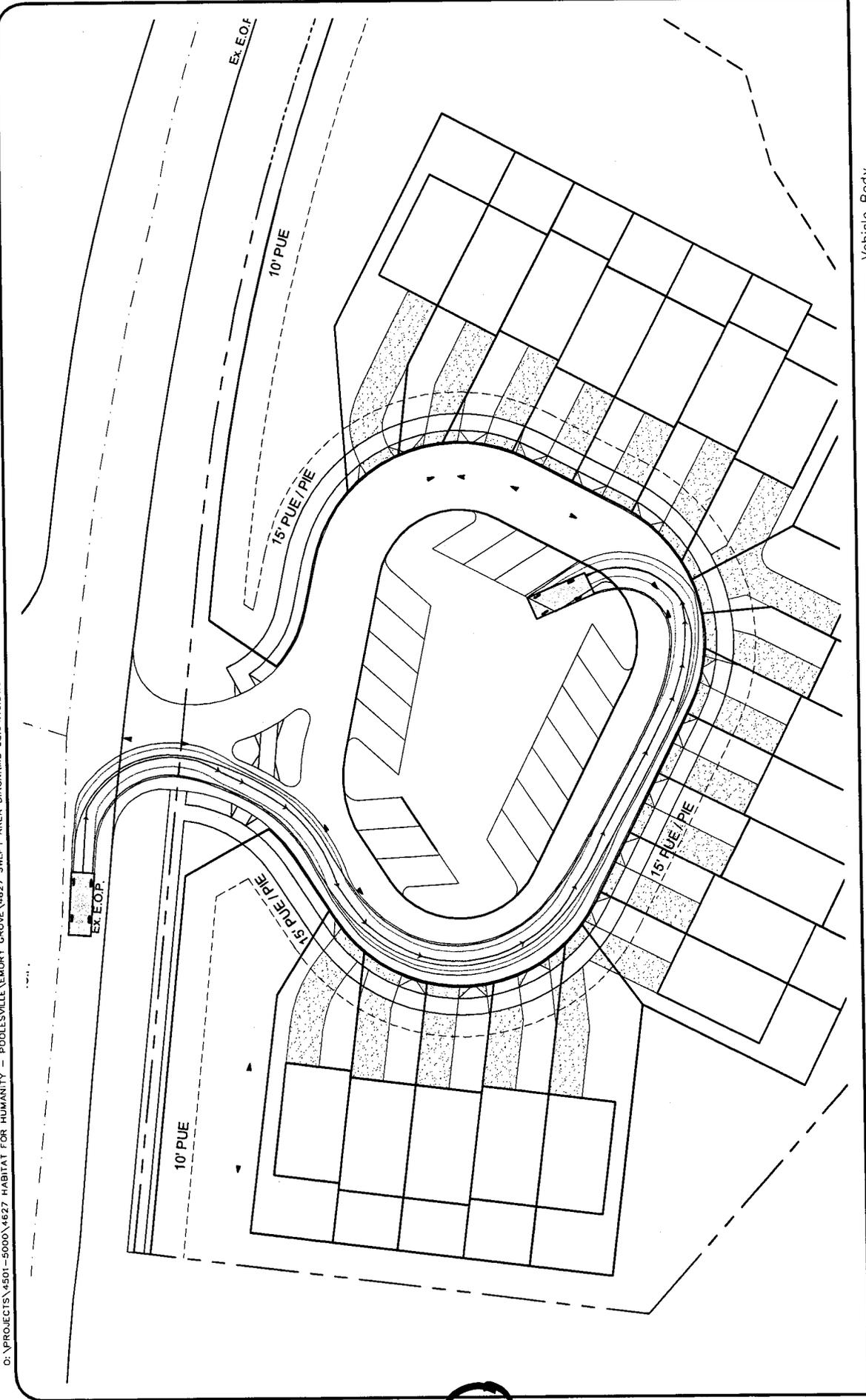
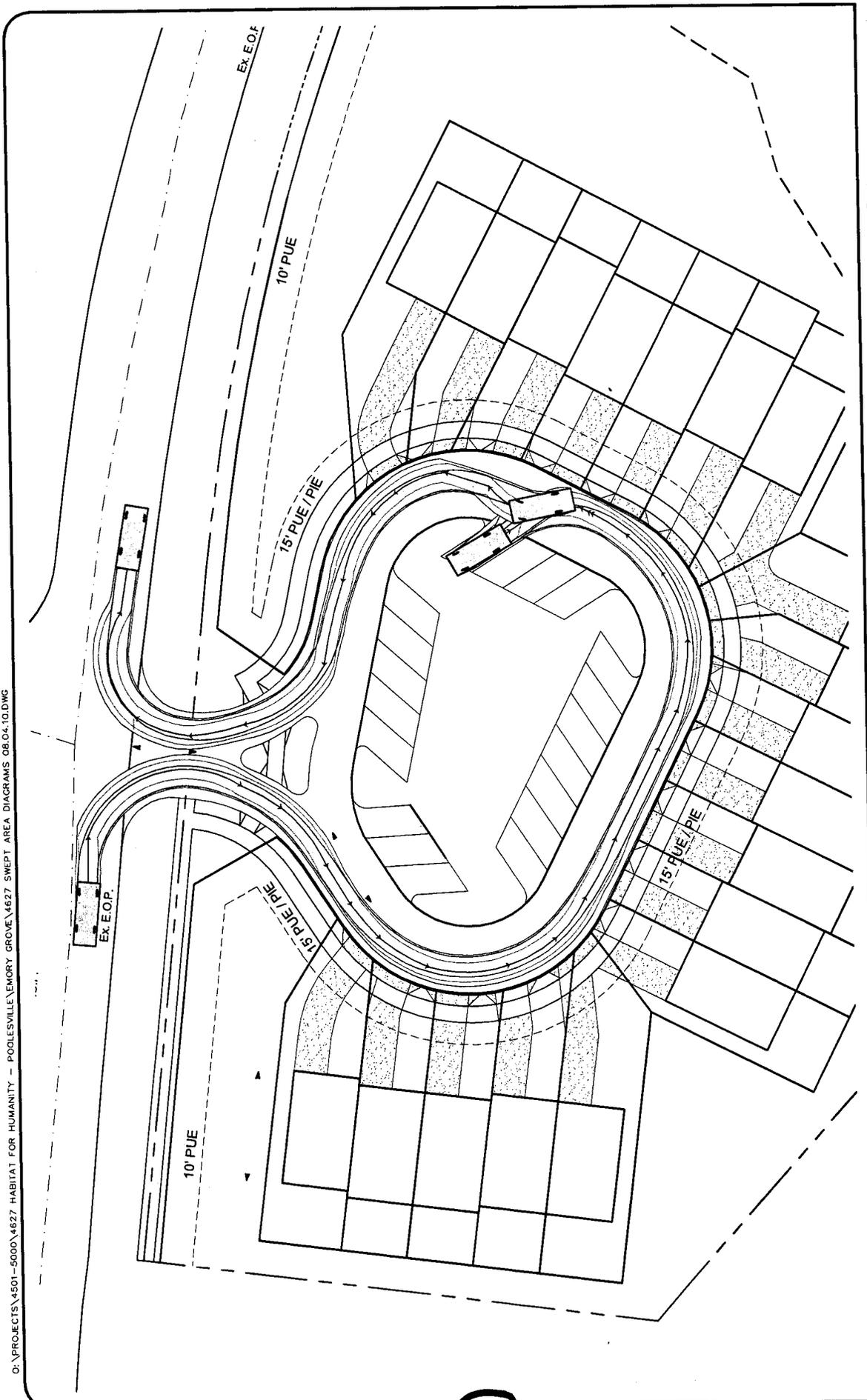


Diagram 5  
19' Passenger Vehicle Sweep Area Diagram

- Vehicle Body
  - Front Tire Tread
  - Rear Tire Tread
  - Directional Path
  - Vehicle Path
- North



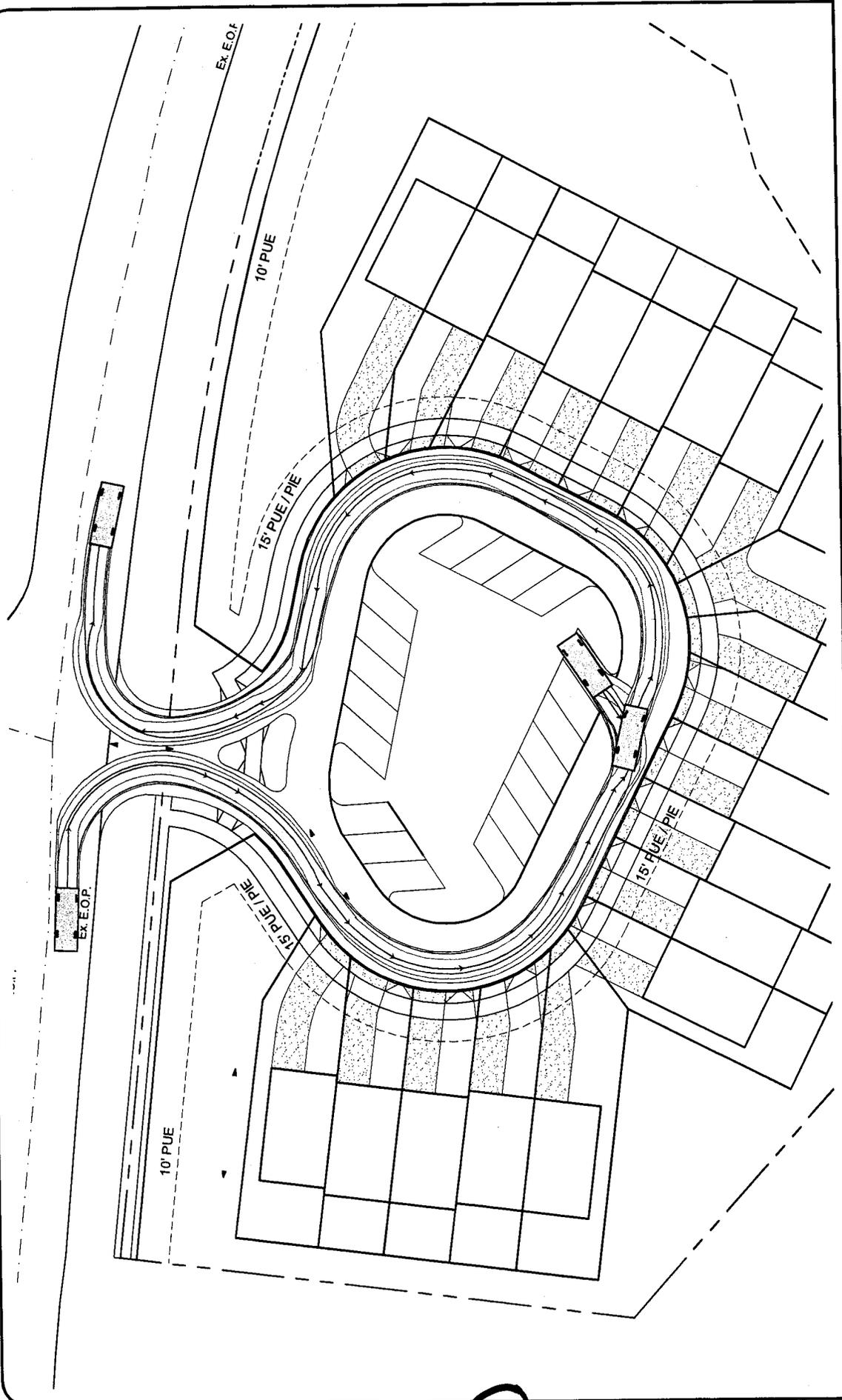
Habitat for Humanity - Emory Grove  
City of Gaithersburg, Maryland



- Vehicle Body
- - - Front Tire Tread
- - - Rear Tire Tread
- > Directional Path
- > Vehicle Path



Diagram 6  
19' Passenger Vehicle Sweep Area Diagram



- Vehicle Body
- - - Front Tire Tread
- - - Rear Tire Tread
- Directional Path
- Vehicle Path



Diagram 7  
19' Passenger Vehicle Sweep Area Diagram



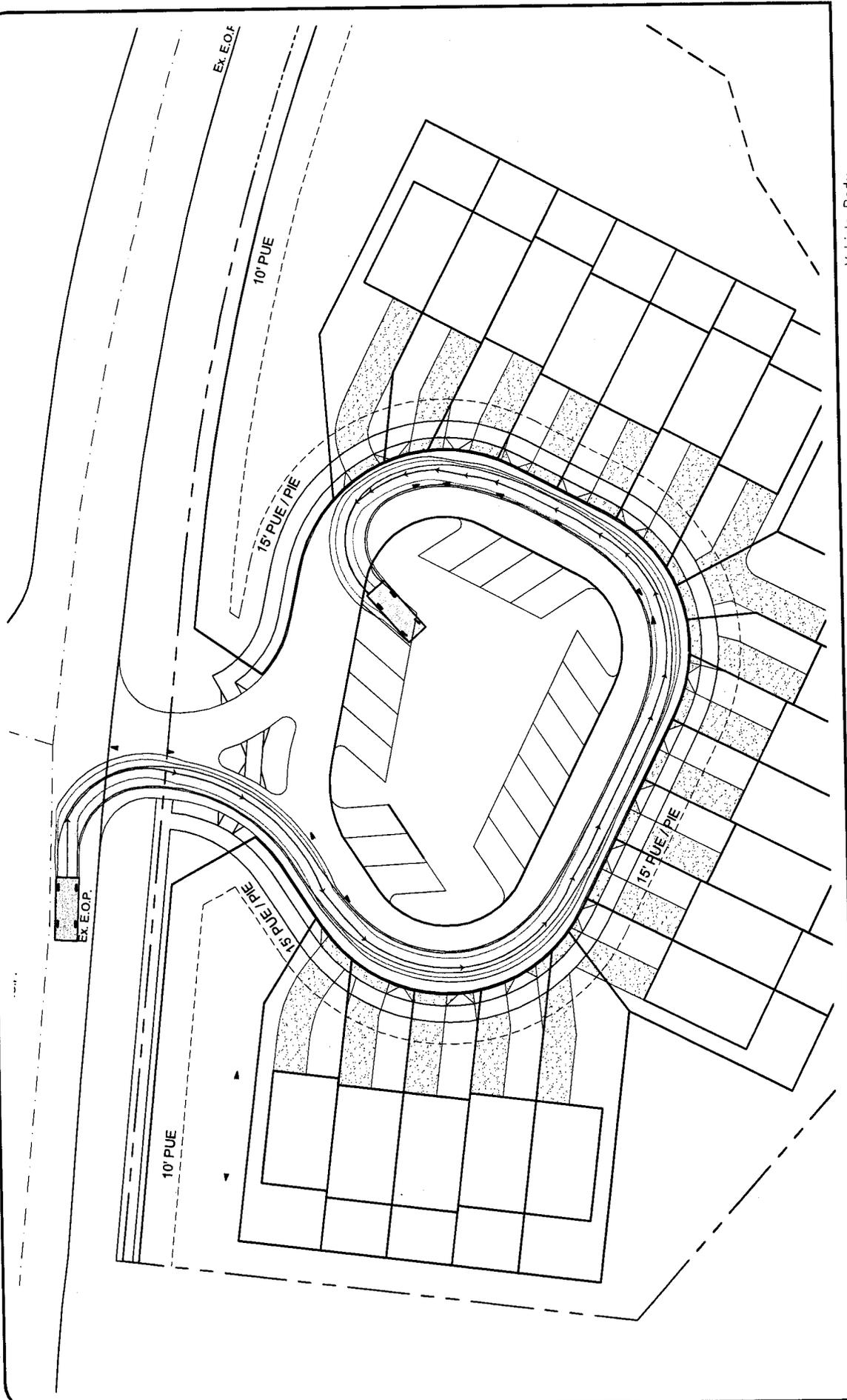


Diagram 8  
19' Passenger Vehicle Sweep Area Diagram

- Vehicle Body
  - - - Front Tire Tread
  - - - Rear Tire Tread
  - - - Directional Path
  - - - Vehicle Path
- North



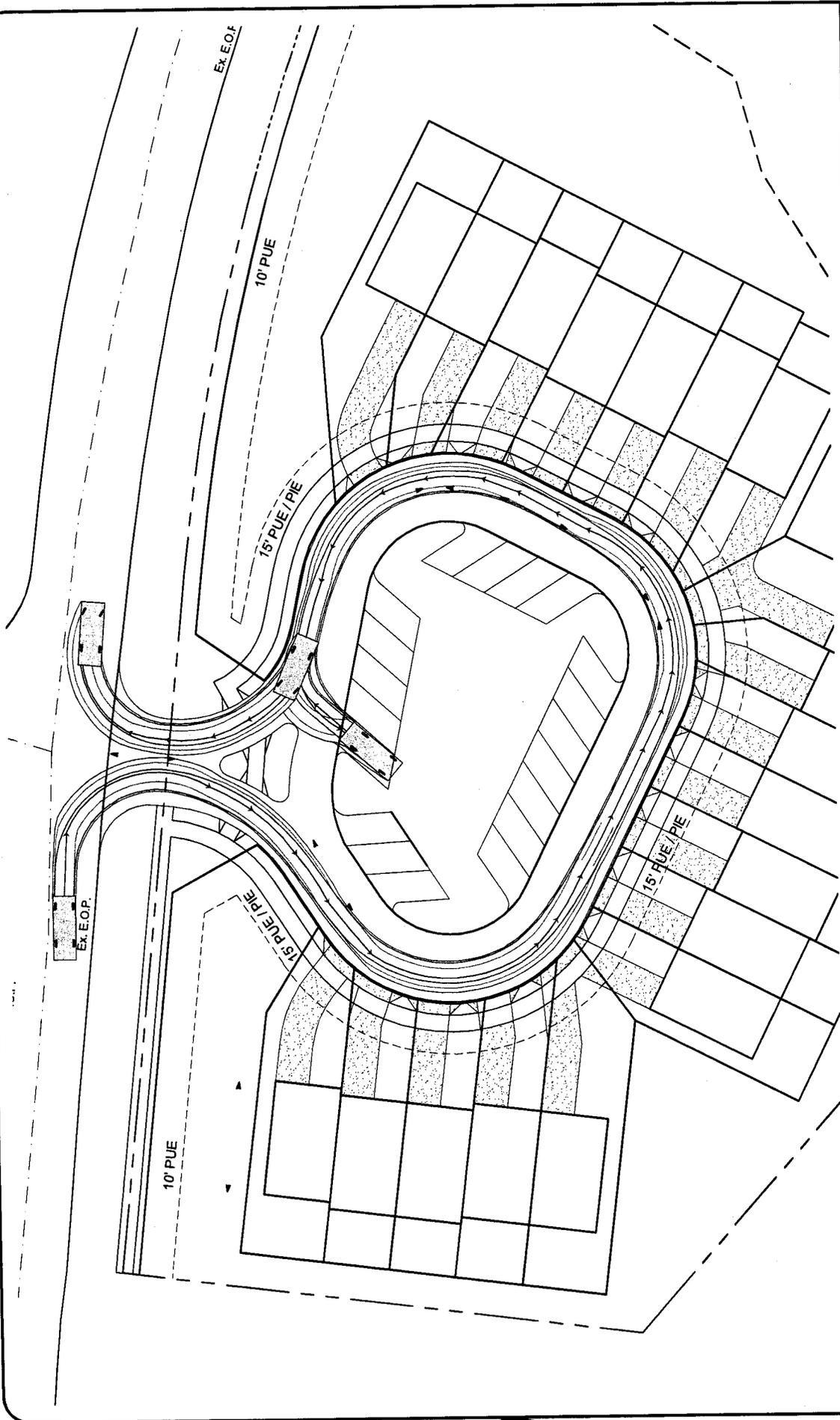


Diagram 9  
19' Passenger Vehicle Sweep Area Diagram



Wells + Associates, Inc.

Habitat for Humanity - Emory Grove  
City of Goithersburg, Maryland

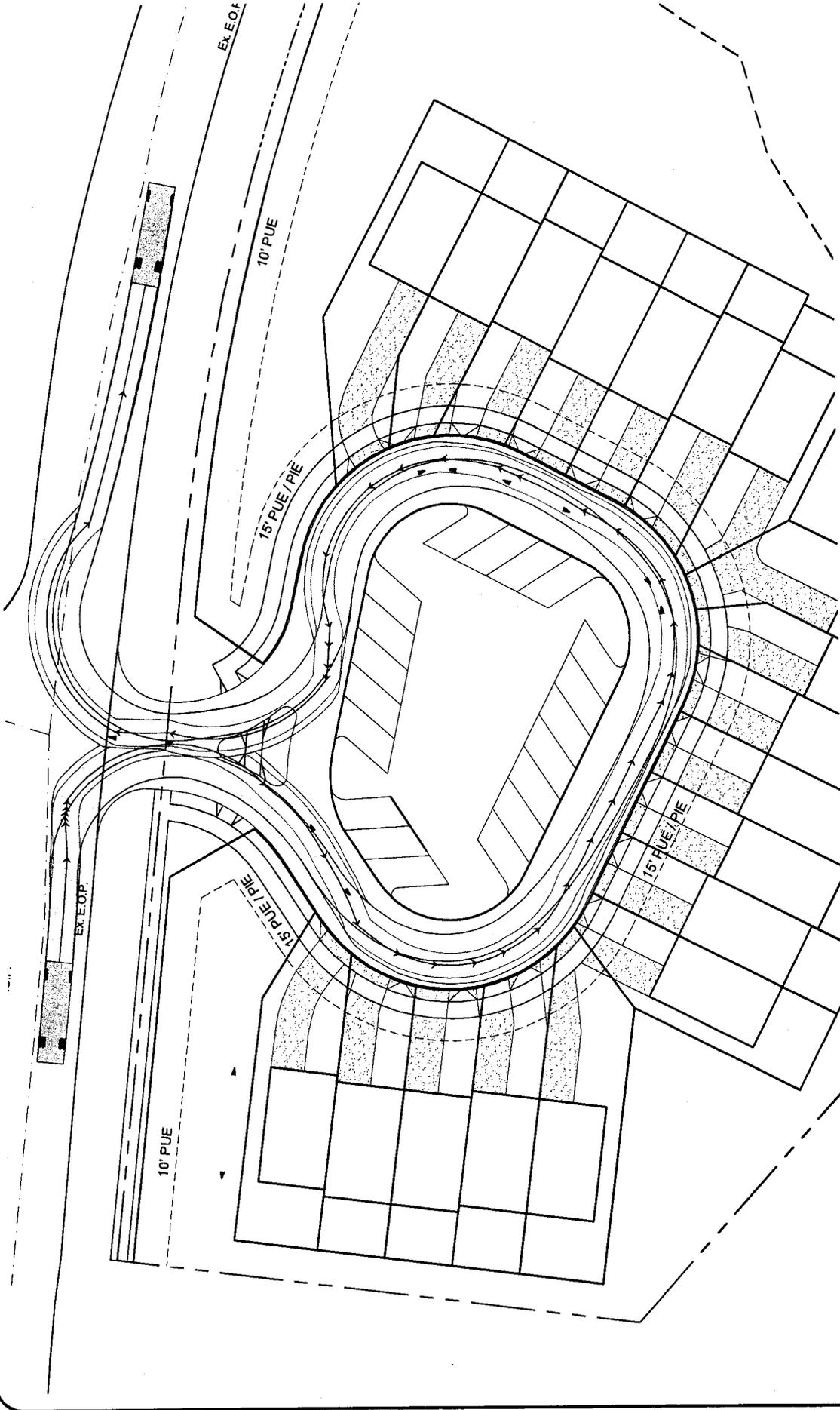


Diagram 10  
30' Single Unit Truck (SU30) Swept Area Diagram

- Vehicle Body
  - - - Front Tire Tread
  - · - Rear Tire Tread
  - - -> Directional Path
  - - ->> Vehicle Path
- North



Wells + Associates, Inc.

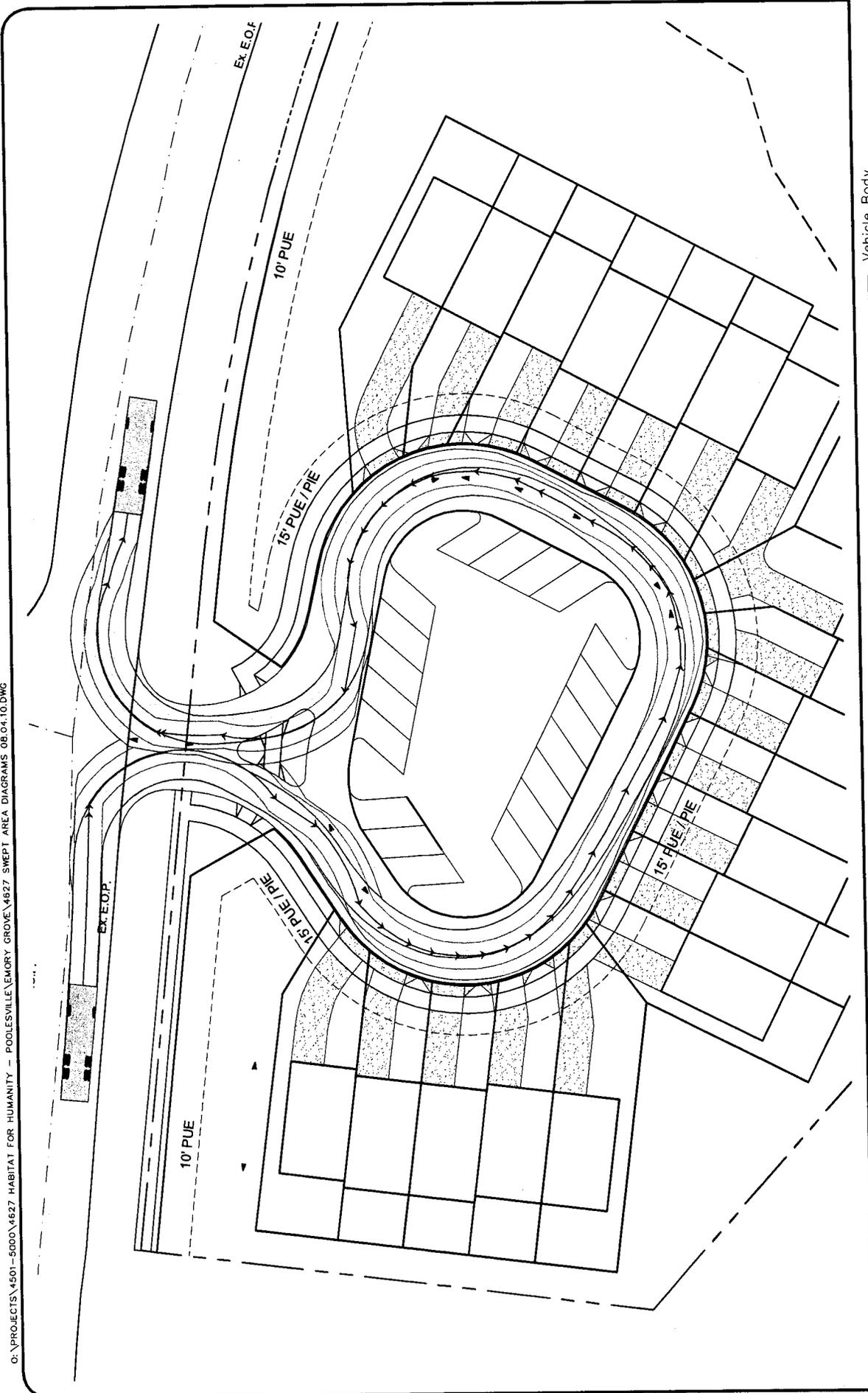
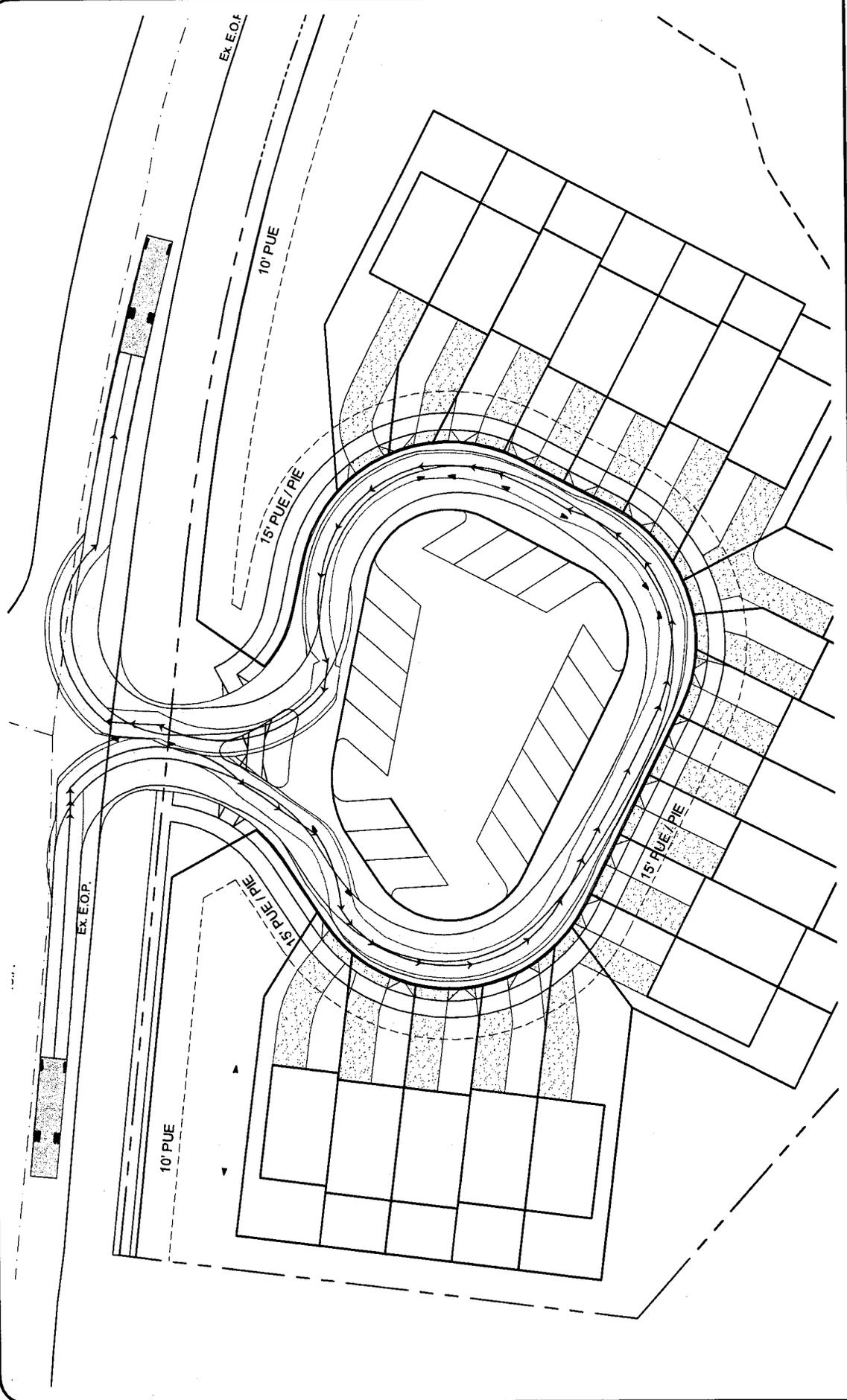


Diagram 11  
35' Refuse Truck Sweep Area Diagram

- Vehicle Body
- Front Tire Tread
- Rear Tire Tread
- Directional Path
- Vehicle Path

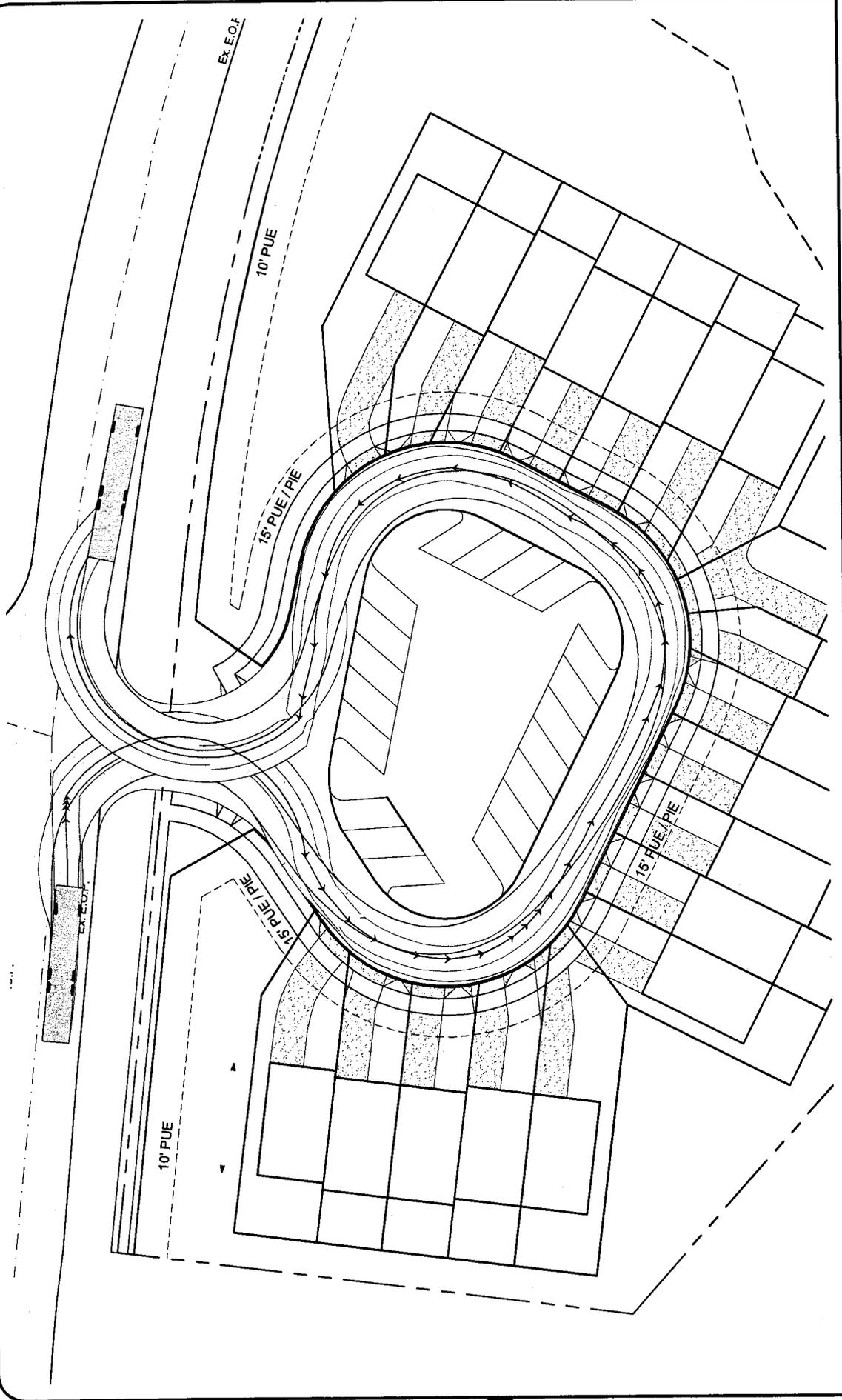




- Vehicle Body
- Front Tire Tread
- Rear Tire Tread
- Directional Path
- Vehicle Path



Diagram 12  
36' School Bus Sweep Area Diagram



- Vehicle Body
- Front Tire Tread
- Rear Tire Tread
- Directional Path
- Vehicle Path



Diagram 13  
47.0" Fire Truck (Aerial Tower 729) Sweep Area Diagram



## ATTACHMENT 9

**Barr, Stuart R.**

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**From:** Rob Robinson [RRobinson@gaithersburgmd.gov]  
**Sent:** Monday, October 18, 2010 6:11 PM  
**To:** Barr, Stuart R.; john.paukstis@habitat-mc.org  
**Subject:** FW: Testimony - X-183 Jackson Property  
**Attachments:** Gaithersburg Testimony - X-183 Jackson Property.doc

FYI-

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**From:** Barbara Garrard [mailto:bwgarrard@hotmail.com]  
**Sent:** Monday, October 18, 2010 5:10 PM  
**To:** Rob Robinson  
**Subject:** Testimony - X-183 Jackson Property

Rob Robinson,

We talked this morning about written testimony for the Oct. 20 Planning Commission meeting, and specifically item X-183, the Jackson Property.

Attached please find my testimony. Three other households on Sykes Street concur with this paper and our names and addresses are listed at the bottom. Since I sent the draft out during the work day, it is possible others may also join, in which case I will send an update. I don't know your deadline for the Planning Commission packet so I want to get this into your hands as soon as possible.

Thanks again for your assistance.

Regards,  
Barbara Garrard  
4 Sykes Street

bcc: all neighbors on Sykes St.

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 and 8 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 Ho
3 Sykes Street	Karim Sylla
	Mervi Heiskanen
4 Sykes Street	Robert Garrard
	Barbara Garrard
8 Sykes Street	Jim Griffiths
	Jeannette Griffiths

## Rob Robinson

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**From:** Greg Ossont  
**Sent:** Thursday, October 14, 2010 2:35 PM  
**To:** Rob Robinson  
**Subject:** Fw: Constituent Interest in X-183 Jackson property on Emory Grove Road

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**From:** Hondowicz, David [mailto:David.Hondowicz@montgomerycountymd.gov]  
**Sent:** Thursday, October 14, 2010 02:18 PM  
**To:** Greg Ossont  
**Subject:** Constituent Interest in X-183 Jackson property on Emory Grove Road

Hi Greg:

Today Councilmember Andrews received an e-mail from Mr. Don Galio, who I believe is a member of the Quail Valley HOA Board, in opposition to the annexation of the Jackson property on Emory Grove Road into the City of Gaithersburg. I spoke with Mr. Galio on the telephone to provide an overview of how the annexation process works from the County perspective, including that I did not yet know if this particular annexation will come before the County Council or not. I also shared with him what I understood the City's timeline to be, including a link to the City Planning Commission's packet for October 20<sup>th</sup>. It appears that Mr. Galio wasn't aware of City Planning Commission meeting, and that the sign that I assume was posted on the property about the meeting is posted in an area of the property that is hard to read. I gave Mr. Galio your e-mail address, your name and Rob Robinson's, and the main telephone number for your office. I encouraged him to review the Planning Commission staff packet, which I sent him a hyperlink to, and to contact you and/or Rob Robinson for more information from the City's perspective about how this annexation will be reviewed and how he and other interested residents may weigh in.

I've pasted a copy below of Mr. Galio's e-mail to Councilmember Andrews (which includes his daytime contact information). I appreciate any assistance you are able to provide Mr. Galio about the annexation review process for this matter.

All the best,  
David

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

**From:** Galio, Don [mailto:Don.Galio@hq.doe.gov]  
**Sent:** Thursday, October 14, 2010 8:16 AM  
**To:** Andrew's Office, Councilmember  
**Subject:** Proposed construction of Habitat for Humanity Homes  
**Importance:** High

Councilman Andrews,

In regards to the proposed Annexation of the property located at the intersection of Strawberry Knoll Rd and Emory Grove Rd and the subsequent construction of the Habitat for Humanity homes, I am requesting that you vote against this annexation and construction. Not only will these new homes add to the traffic in this area, these low income homes will lower the property values of the homes in the surrounding developments, e.g., Quail Valley, Hidden Creek, etc. Also, the crime rates associated with low income communities will add to the rates in the aforementioned communities.

I have been a resident of Quail Valley for the past 26 years and am currently serving on the Quail Valley Board of Directors HOA. The burglaries in this and surrounding areas have increased dramatically over the years and allowing more low income housing in this area will only compound the problem. We already have low income housing up on Route 124 and down on Centerway Road.

I urge you and your fellow councilmen to vote against the annexation of this property and to block the construction of these Habitat for Humanity homes.

Thank you for your time and consideration.

Respectfully,

Don Galio  
Phone: 301-903-1860  
Fax: 301-903-9872



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@gaitthersburgmd.gov](mailto:plancode@gaitthersburgmd.gov) 301-258-6330 [www.gaitthersburgmd.gov](http://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



# ATTACHMENT 10

## City of Gaithersburg Annexation Petition (Jackson Property)

(Parcels P476, P477)

### ESTIMATED ANNUAL TAX PAID TO THE COUNTY BEFORE ANNEXATION (2010 Levy Year)

Total Appraised Value of the Properties	\$705,920
Appraised Value Divided by 100	\$7,059
Multiplied by the Total Tax Rate of:	1.027
= Total Annual Tax Paid to the County	\$7,250

### ESTIMATED SPECIAL SERVICE AREA TAXES PAID TO THE COUNTY THAT WOULD NOT BE PAID AFTER ANNEXATION BASED ON 2010 LEVY YEAR RATE SCHEDULE

	TAX RATE	ASSESSED VALUE/100	YEARLY TAX LOSS
Recreation Tax	0.018	\$7,250 =	\$131
Regional Tax	0.015	\$7,250 =	\$109
Storm Drainage Tax	0.003	\$7,250 =	\$22
Total Yearly Loss to County			\$262

### ESTIMATED PARK TAX THAT SHOULD CONTINUE TO BE PAID AFTER ANNEXATION

	TAX RATE	ASSESSED VALUE/100	PARK TAX
Metropolitan Tax	0.045	\$7,059 =	\$318

Source: Montgomery County Department of Finance  
State of Maryland Department of Assessments and Taxation

**COMMUNICATION: PLANNING COMMISSION**

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**MEMORANDUM TO:** Mayor and City Council**FROM:** Planning Commission**DATE:** November 18, 2010**SUBJECT:** X-183 - Habitat for Humanity of Montgomery County Inc. for Neil and Conny Jackson  
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

At its regular meeting on November 17, 2010, the Planning Commission made the following motion:

Commissioner Levy moved, seconded by Commissioner Winborne, to recommend to the City Council APPROVAL of Annexation Petition X-183 with an RP-T zoning designation and the use of the property consistent with the RP-T Zone. The Commission further recommended the City Council consider providing relief from the schools test required under the City's Adequate Public Facilities Ordinance.

Vote: 5-0

During their deliberation of the application, the Commission noted that the annexation and application of the RP-T Zone is appropriate. While the Commission does support a townhouse development, the Commission noted that their recommendation does not endorse the specific number of townhouses (19) as conceptually proposed, since it is undetermined whether that precise number is appropriate on the property. Further the Commission noted that the concept design is lacking in tradition neighborhood design and will require refinement at preliminary and final site plan review. Finally, the Commission reminded staff to consider site design and architecture comments heard during the public testimony portion of the proceeding.

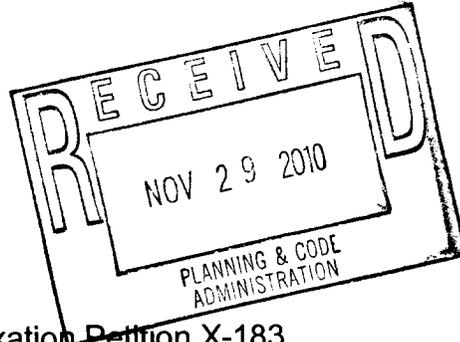
Mayor and City Council  
X-183  
53



**MONTGOMERY COUNTY PLANNING BOARD**  
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

OFFICE OF THE CHAIRMAN

November 23, 2010



Sydney A. Katz, Mayor  
City of Gaithersburg, Maryland  
31 South Summit Avenue  
Gaithersburg, Maryland 20877

SUBJECT: City of Gaithersburg Annexation Petition X-183

Dear Mayor Katz:

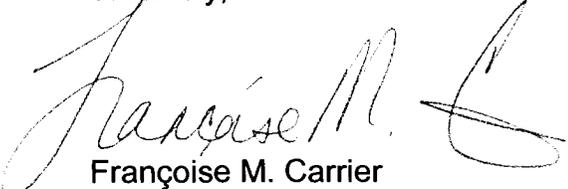
At the regular meeting of November 18, 2010, the Planning Board reviewed the City of Gaithersburg's Annexation Petition for 9000 and 9020 Emory Grove Road (known as the Jackson Property). The City plans to reclassify the property from Montgomery County's R-200/TDR-4 Zone to the City of Gaithersburg's RP-T Zone.

The Planning Board unanimously recommends the Annexation Petition be approved with the following comment:

The proposed use of the land is consistent with the land use recommendations of the 1985 Gaithersburg Vicinity Master Plan that call for higher residential densities on suitable vacant properties. In addition, the proposed land use does not represent a substantial change from the Master Plan's recommended land use.

A copy of the Annexation Petition staff report is enclosed.

Sincerely,

  
Françoise M. Carrier  
Planning Board Chair

cc: Montgomery County Council

Mayor and City Council  
X-183  
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# MAYOR & COUNCIL AGENDA COVER SHEET

**MEETING DATE:**

December 6, 2010

**CALL TO PODIUM:**

**Rob Robinson**

**RESPONSIBLE STAFF:**

**Greg Ossont, Director  
Planning and Code  
Administration**

**Rob Robinson, Planner**

**AGENDA ITEM:**

(please check one)

	Presentation
	Proclamation/Certificate
	Appointment
<b>X</b>	Public Hearing
	Historic District Commission
	Consent Item
	Ordinance
	Resolution
	Policy Discussion
	Work Session Discussion Item
	Other:

**PUBLIC HEARING HISTORY:**

(Please complete this section if agenda item is a public hearing)

Introduced	9/20/2010
Advertised	10/27/2010
	11/03/2010
	11/10/2010
	11/17/2010
Hearing Date	12/06/2010
Record Held Open	
Policy Discussion	

**TITLE: X-183 THE JACKSON PROPERTY**

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.

**SUPPORTING BACKGROUND:**

The Jackson family and Habitat for Humanity of Montgomery County (contract purchasers of the property) have submitted a petition for annexation, X-183, to the City. As part of the annexation request, the applicants are requesting a rezoning from the Montgomery County R-200/TDR-4 (Low Density Residential) zoning to the City of Gaithersburg RP-T (Medium Density Residential) zoning. Further, a concept site plan proposing nineteen (19) townhomes, to be developed entirely by Habitat for Humanity of Montgomery County, has also been included in the application.

The property consists of two parcels of land, P476 containing 2.748 acres, and P477 containing .179 acres. The property is located south of the intersection of Emory Grove Road and Strawberry Knoll Road at 9000 and 9020 Emory Grove Road. The property is located within the City's Maximum Expansion Limits as identified within the Municipal Growth Element of the 2003 Master Plan.

The Planning Commission has reviewed the X-183 Petition during their November 17, 2010 meeting and transmitted to the Mayor and Council a recommendation of approval for the annexation and proposed zoning (exhibit 53). The Montgomery County Planning Board also has reviewed the X-183 Petition during their November 18, 2010 meeting and transmitted a recommendation of approval, dated November 23, 2010 (exhibit 54).

Attachments:  
Public Hearing Presentation  
X-183 Index of Memoranda and Exhibits identified in **bold**

**DESIRED OUTCOME:**

**Hold Public Hearing.**

**Staff recommends the Mayor and City Council hold the record open until 5PM on December 30, 2010 (24 days) with anticipated policy discussion on January 18, 2011.**



*Gaithersburg*

*A CHARACTER COUNTS!*

CITY OF GAITHERSBURG  
MINUTES OF A REGULAR CITY COUNCIL MEETING  
MONDAY, DECEMBER 6, 2010

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A meeting of the Mayor and City Council was called to order at 7:30 p.m., Mayor Katz presiding. Council Members present: Ashman, Drzyzgula, Marraffa and Sesma. Council Absent: Spiegel. Staff present: City Manager Jones, Deputy City Manager Tomasello, Planning and Code Administration Director Ossont, Public Works Director Arnoult, Planner Robinson, Parks, Recreation and Culture Director Potter, Public Information/Community Services Director Monaco, Community Services Director Carr, City Attorney Board and Municipal Clerk Stokes.

**I. PLEDGE OF ALLEGIANCE**

The Pledge was led by Multicultural Affairs Committee Co-Chair Nivea Cordova-Berrios.

**II. INVOCATION**

In lieu of an invocation, Mayor Katz called for a moment of silence.

**III. CONGRATULATIONS**

Jack Kenneth Spiegel arrived at 1:40 a.m. on December 6, 2010, son of Council Member Spiegel and wife Rachael.

**IV. APPROVAL OF MINUTES**

Motion was made by Council Member Ashman, seconded by, Council Member Sesma, that the minutes of the Mayor and Council regular meeting held November 1, 2010, be approved.

Vote: 4-0

Motion was made by Council Member Marraffa, seconded by, Council Member Drzyzgula, that the minutes of the Mayor and Council work session held November 8, 2010, be approved.

Vote: 4-0

Motion was made by Council Member Drzyzgula, seconded by, Council Member Marraffa, that the minutes of the Mayor and Council regular meeting held November 15, 2010, be approved.

Vote: 3-0-1 (Abstained: Sesma)

Mr. Tomasello responded that it is not known whether the clock tower would be compatible with the architecture and the developer's preference is to leave the focal feature open at this time. Several agreed that they did not want any restrictions in the process that would hinder the plaza project from moving forward.

City Manager Jones added that financing is going to set the stage for the planning phase. The developer will try to incorporate suggested features, but if it is not feasible, it will not be in the plans submitted. It was stated that funds was put into restoring the clock as a mechanical clock and to change it to electricity would not be appropriate. It was suggested to possibly sell the clock. Deputy City Manager Tomasello added that the developer is seeking LEED certification for the buildings.

Motion was made by Council Member Ashman, seconded by, Council Member Drzyzgula, that a RESOLUTION OF THE MAYOR AND CITY COUNCIL AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE A DEVELOPMENT AGREEMENT FOR THE CITY-OWNED PROPERTY AT 315 EAST DIAMOND AVENUE WITH OLDE TOWNE PARK DEVELOPMENT PARTNERS, LLC, (Resolution No. R-80-10) be approved

Vote: 4-0

#### **XIV. PUBLIC HEARING**

**A. 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**

Planner Robinson introduced the above public hearing on annexation petition X-183 and oriented the Mayor and City Council to the site. The Jackson family and Habitat for Humanity of Montgomery County submitted a petition for annexing 2.927 acres of land into the City. As part of the annexation request, the applicants are requesting a rezoning from the Montgomery County R-200/TDR-4 (Low Density Residential) zoning to the City of Gaithersburg RP-T (Medium Density Residential) zoning. In addition, a concept site plan proposing nineteen (19) townhomes, to be developed entirely by Habitat for Humanity of Montgomery County, has also been included in the application. The application received a recommendation of approval from both the Planning Commission and the Montgomery County Planning Board.

*John Paukstis, Executive Director for Habitat for Humanity of Montgomery County, gave an overview of the world-wide non-profit organization with licensed trades and supervised volunteers. Mentioned the recent completed project in Burtonsville, current Gaithersburg project and future projects through 2012 in Clarksburg and Poolesville. Highlighted the 19 townhouse proposal for the property located at Emory Grove Road and Strawberry Knoll. The seller is the Jackson family represented by Jim Clifford. He showed the preliminary site plan and renderings, reviewed the sale of units, the family selection process, and the major supporters.*

*Stuart Barr, Habitat's Representative, stated that Habitat has worked very hard on the project with several leaders throughout the county and City Planning staff and believe that the elementary school test is appropriate under the circumstances. Further stated that it does pass the county Adequate Public Facilities Ordinance test for school capacity, but recognized that the applicant is requesting annexation into the City and is subjected to the City's test. Under the City's test, the project passes the test for middle and high schools, but exceeds capacity for the elementary school which the applicant believes is modest numbers. As part of the annexation, the applicant is asking for relief from the elementary test due to the minimum student generation rate and the affordable housing the project would provide.*

Speakers from the public:

1. *Barbara Garrard, 4 Sykes Street*, submitted a written statement dated December 27<sup>th</sup> for the record. She expressed support for the Habitat mission, but had concerns with the impact of low income housing stating that management and maintenance of those communities are critical so that property values aren't negatively impacted. Supports the goal of the City for affordable housing, but questioned the request for an exception for the elementary school and whether it is in the best interest of the citizens to build the proposed community. She stated that the Planning Commission did not want to approve the project for 19 townhouses.
2. *J. Persensky, Gaithersburg resident*, in favor of the annexation. While he understands the concerns from surrounding communities, he stated that there is a need for housing at all levels and believe that the checks and balances of Habitat and the agreement will be sufficient.
3. *Andy Smith, Emory Grove Court*, expressed concern with the impact on the surrounding communities as far as electricity, water and sewer at Emory Woods Court.
4. (inaudible) Smith, Emory Woods community, asked that the wooded area be preserved and expressed concern with the noise level during construction.

There were no other speakers from the public.

The Mayor and City Council questioned the applicant process, school test, density and overcrowding, completion of project, and the maintenance and management of the proposed community.

Motion was made by Council Member Sesma, seconded by, Council Member Ashman, that the Mayor and City Council leave their record open until 5 p.m. on Friday, December 30<sup>th</sup>.

Vote: 4-0

## **XV. POLICY DISCUSSION**

- A. Z-315, An Ordinance of the Mayor and Council of the City of Gaithersburg Granting Approval for Amendment to Previously Approved Sketch Plan Application Z-310 and Approving a New Sketch Plan Identified as Application Z-315 for Land, Known as the Crown Farm, Located at the Southwest Side of Fields Road, Bounded by Sam Eig Highway to the Northwest and Omega Drive to the Southeast Containing Approximately 178 Acres of Property Zoned Mixed Use Development (MXD)**

Planner Robinson presented the above ordinance requesting an amendment to the sketch plan for Crown Farm. He stated that the Crown property will continue to be divided into six (6) neighborhoods, proposes a redistribution of housing units and that the boundaries of the neighborhoods be changed. A joint public hearing was held on October 4, 2010, work session focusing on the policy issues was held November 22, 2010. The Planning Commission gave a recommendation of approval on December 1, 2010. The Council record closed on December 2, 2010.

Council Member Sesma expressed concern that the amendment to the annexation agreement does not state that in lieu of building a work force housing the applicant is proposing a housing initiative fund.

December 27, 2010

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

Mayor and City Council  
X-183  
57

Subject: **X-183 Jackson Property**

Dear Ladies and Gentlemen:

I would like to address a few issues that came to mind during the December 6 Mayor and Council meeting. I have also attached the testimony I presented at that meeting, along with the testimony I presented at the October 20 Planning Commission Hearing, and the Supplement I sent in advance of their November 17 meeting. I will not repeat all the material referenced in those documents.

I applaud the work of Habitat for Humanity on the individual, foreclosed houses such as the one a few houses down from mine on Emory Grove Road. It is the proverbial “win win” for the new owners and the community. I have grave doubts about the wisdom of the proposed community on the Jackson Property. I’ll summarize my concerns and the questions I hope the Mayor and Council will consider:

- We heard for the first time on December 6 that Habitat for Humanity plans to allow 6 people per household. That is likely to translate into several children in a typical house. Assuming a conservative estimate of less than 3 children in each of the 19 houses, there will likely be 50+ children on less than 3 acres, part of which is unusable land due to the steep hill. If the goal is to provide an improved quality of life for the new homeowners, will starting with an overcrowded community further this goal?
- There is no playground or other recreation facility available to this large number of children. Hopefully the stream and lake behind the proposed community and on the property of the residents of Sykes Street won’t become the play area of choice, as that could prove dangerous.
- Without making additional estimates about how many of the potential 50+ children will be of elementary school age, it seems fair to say that the Habitat for Humanity assumption of 4 children who would attend Strawberry Knoll Elementary School is grossly underestimated. Without counting these additional children, based on the FY 2011 Educational Facilities Master Plan and FY 2011-2016 Capital Improvements Program for Montgomery County Public Schools, the “enrollment projections indicate that Strawberry Knoll Elementary will exceed program capacity... by 124.4% during the 2011-2012 school year”.
- As noted by a Council Member at the December 6 meeting, Habitat for Humanity is requesting annexation into the City since the County would not approve 19 houses on this lot size (County would approve 14), but must also request an exception from the Adequate Public Facilities Ordinance schools test in order to build the community in the City. Is it in the best interest of the citizens of Gaithersburg to make this exception? What expectations should the citizens of Gaithersburg have for future enforcement of this carefully crafted APFO law?
- Habitat for Humanity indicated that they must build 19 townhouses to make this community financially viable. In the Planning Commission recommendation to the Mayor and City Council they stated that “their recommendation does not endorse the specific number of townhouses (19) as conceptually proposed” and Chair Bauer noted that “the

appropriate number of units to be developed on the property is yet undetermined and one existing unit does not fit in with the area.” Vice-Chair Hopkins additionally noted that “the development proposal lacks good traditional neighborhood design practices.”

- In my testimony I acknowledged that my research confirms that studies of low-income housing show a negligible impact on surrounding property values but only if management and maintenance of those communities are handled responsibly. I recommended that if this community is approved, more than 1 Habitat for Humanity staff member be committed to the Home Owners Association (HOA) and to serve as a representative to the surrounding community for 5 years. Having lived in a townhouse in Montgomery Village, and having served on the South Village HOA Board, I know how difficult it is to get residents to take time from their busy lives to serve on a HOA board. It is even more difficult to retain people with the needed skills in budgeting, rules enforcement, community maintenance etc.
- It appears that either the community would need to turn over maintenance of the streets, including snow removal to the City or the community HOA fee for both operating expenses and their reserve fund would need to include that significant and variable expenditure.
- In a typical community with an HOA it is their responsibility to maintain the common property and also ensure that the homeowners maintain their own property (replace/repair missing roof shingles, broken/deteriorating siding, broken shutters etc.). Will the residents be financially able to make these repairs and what recourse will the HOA have if not? Will they be able to make major repairs and replacements when required (replacement of roof, HVAC etc.)? What are the long-term prospects for the community and its neighbors if the answers are no?

I respectfully request that you carefully consider the details and consequences of what is being proposed and not just who is making the proposal. Please consider whether a commercial developer would be given the same consideration and exceptions you are being asked to grant for this community.

Thank you for your time and consideration.

Sincerely,

A handwritten signature in cursive script, reading "Barbara W. Garrard".

Barbara W Garrard

**Subject: Testimony for Mayor and City Council – December 6, 2010 – X-183 Jackson Property**

Good evening ladies and gentlemen. My name is Barbara Garrard and I live at 4 Sykes Street. I am speaking on behalf of my husband and myself. Our property is adjacent to the Jackson Property on the east side. Please note that I submitted a written statement to the Planning Commission which is also included in your X-183 packet on the blue-numbered page 51. I trust that you will read and consider the issues, and I will just highlight a few items for further consideration.

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.
- Also, we have provided financial support to Habitat for Humanity in the past, and are generally supportive of their mission.

Now to my comments -

First, 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, and will be more so with a very small community made up primarily of first-time homeowners. Based on my past experience on a Home Owners Association, we request that if this new community is approved, that approval is contingent upon more than one Habitat for Humanity staff representative remaining on the homeowner's association, and also to be a point of contact for the surrounding community, for 5 years.

Secondly, we still request consideration of whether it is in the best interest of the citizens of Gaithersburg to build this community. Although I understand and support the goal of the City to assist organizations that improve the lives of low income residents, I also believe in the principle that a local government needs to make decisions that are in the best interest of the community at large. Issues to consider include the following:

If an exception is made to the Adequate Public Facilities Ordinance for schools on this project, what expectations should the citizens have for future enforcement of the law?

An associated question is why the City should accept the Countywide average number of school age children for a community which will consist of mostly young families (I'm referring to the assumption of only 10 children in 19 houses).

Also, 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?

One other point. In the presentation, Habitat indicated they must build 19 homes for the economics to work, but the Gaithersburg Planning Commission expressed concern that 19 might not fit on the property and specifically stated they were not recommending 19 or any specific number of houses to the Mayor and Council.

Thank you for your time and consideration.

November 10, 2010

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

Subject: **X-183 Jackson Property**

Dear Ladies and Gentlemen:

This letter is a supplement to my October 18, 2010 letter, and testimony at the October 20, 2010 Planning Commission Hearing (copy attached).

I understand and support the goal of the City to assist organizations that improve the lives of low income residents. I also believe in the principle that a local government needs to make decisions that are in the best interest of the community at large, and not to make exceptions to laws that were passed with that greater goal in mind.

I raised seven issues at the hearing (please see attached), and left with more questions than I had when I entered. Questions 1, 2, 3 and 6 are still unanswered, but the response to the issue raised in questions 4 and 5 is of considerable concern. When asked by the Chairman to address questions that centered on the request from Habitat for Humanity for relief from the Elementary School school test under Zoning Ordinance Sec. 24-244, a key point in the Planning and Code Administration Director's response was that "practicality is not relevant". I understand that school estimates are prepared by the County, not the City, but this disregard for the Adequate Public Facilities Ordinance (APFO) law raises many questions.

There has considerable emphasis given to the APFO in past discussions and documents. As examples:

- In the GE Tech Park Frequently Asked Questions, the response to question 12 posted at [http://www.gaithersburgmd.gov/poi/default.asp?POI\\_ID=1528&TOC=311;1260;1528](http://www.gaithersburgmd.gov/poi/default.asp?POI_ID=1528&TOC=311;1260;1528); states that "Any private development would need to conform to the City's APFO. Currently, this area is in moratorium for residential approvals because of overcrowding conditions at Rachel Carson Elementary School. Prior to any residential approvals, there must be either an addition constructed at Rachel Carson or a boundary change"
- More specifically related to Strawberry Knoll Elementary School:
  - o In the August 6, 2009 memorandum to the Mayor and City Council from the Director, Planning and Code Administration, for inclusion in the August 17, 2009 Mayor & Council Agenda packet, the following was stated regarding the Summit Center Redevelopment. "In the latest FY 2010 Education Facilities Master Plan and Amended FY2009-2014 Capital Improvements Program...one classroom was converted to a kindergarten room and another for staff support, thus reducing the available enrollment capacity...The combination of these two changes has placed Strawberry Knoll at 114% above capacity. Accordingly, a literal reading of the City's APFO precludes the City Council from approving the proposed schematic development plan."
  - o In the Joint Public Hearing on T-392 Summit Center Redevelopment Project before the Mayor and City Council and Planning Commission on September 8, 2009, there was a discussion, estimated by Mr. Katz as taking 1½ hours, to clarify the impact of the Summit Center Redevelopment Project on the APFO, and associated interpretations of the 110% figure and the timing of counting students. There was clearly a consensus that the APFO was a very critical piece of legislation and that exceptions to the 110% rule should reflect extraordinary circumstances. The examples of exceptions sited included a hypothetical

case where the number of students in a replacement property actually decreased enrollment, but still exceeded 110% figure. The other was the unique example (Summit Center) where the developer's zoning was approved at a time when there was adequate school capacity and subsequently the County revised their capacity and enrollment estimates for the school.

The school in question, in this last example was Strawberry Knoll, the same school that the elementary school age children in the new community of 19 houses would attend.

This last item relates to the issue of a reasonable number of school age children in the Habitat for Humanity community. The County figures represent an average community in the County. The target population for the new townhomes will be young families, not a mixture of young families, middle-aged "empty-nesters" and retirees. In fact a study called "Housing Policy Is School Policy" was conducted earlier this year in Montgomery County and looked at public housing issues. One assumption used in the study was that there are between 3.26 and 3.31 children age 0-18 in public housing families. Although the Habitat houses aren't public housing, similar demographics might apply, calling into question the estimate of 0.53 school-age children per household (10 children in 19 houses).

Without making this letter excessively long, the fundamental question is what expectations should the citizens of Gaithersburg should have regarding the APFO? Since traffic, water and sewer services and fire & emergency services are covered by this ordinance in addition to school capacity, will City officials regularly grant exceptions when extraordinary circumstances do not exist? Will groups with legal representation have priority over citizens represented by their elected and appointed officials?

Please consider not only the immediate implications of approving the annexation of the Jackson property and the exception to the APFO as it relates to school overcrowding, but the precedent that will be set by your decision.

Thank you for your time and consideration.

Sincerely,

A handwritten signature in cursive script that reads "Barbara W. Garrard".

Barbara W Garrard

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<br>Mervi Heiskanen            |
| 4 Sykes Street  | Robert E. Garrard<br>Barbara W. Garrard      |
| 6 Sykes Street  | Ludmila Rakitina                             |
| 8 Sykes Street  | James C. Griffiths<br>Jeannette B. Griffiths |
| 10 Sykes Street | Andrew L. Rukhin<br>Albina Rukhin            |