

# Mayor and City Council Agenda Item Request

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**Meeting Date:** 10/7/2013

**Type:** Ordinance / Regulations / Resolution

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**Call to Podium:**

Trudy Schwarz

**Agenda Item Title:**

Resolution of the Mayor and City Council Authorizing the City Manager to Negotiate and Execute the Third Amendment to the Annexation Agreement with Washingtonian North Associates, LLC

**Responsible Staff and Department:**

Lynn Board, City Attorney

Jim Arnoult, Director of Public Works

John Schlichting, Director of Planning & Code Administration

Trudy Schwarz, Community Planning Division Chief

**Desired Outcome from Council:**

Vote on Resolution

Public Hearing History	
Introduction Date:	
Advertisement Date :	
Public Hearing Date:	
Record Held Open Date:	
Policy Discussion Date:	
Anticipated Adoption Date:	

**SUPPORTING BACKGROUND ON NEXT PAGE**

# Mayor and City Council Agenda Item Request

## **Supporting Background Information:**

The City of Gaithersburg annexed approximately 237 acres of land, known as Washingtonian Center and Bechtel Properties and identified as X-159, into the City pursuant to an annexation proposed by a number of property owners, including but not limited to the Washingtonian Investors Limited Partnership, Bechtel Investments, Inc., Marriott and others. The annexation was the subject of Annexation Agreement dated July 9, 1991. The Annexation Agreement was subsequently amended two times, with the most recent in 1998.

Boston Properties and its subsidiary Washingtonian North Associates, LLC, the current owner of approximately 27 acres, known as Washingtonian North, is seeking a Third Amendment to the Annexation Agreement in order to amend the conditions under which the Washingtonian North Properties may be developed in the future. A Draft Amendment was presented to the Mayor and Council on September 16, 2013 to allow a public comment period.

Attached is the Draft Third Amendment to Annexation Agreement and its exhibits. This has been revised to respond to comments from the presentation. A memorandum is attached outlining the comments from the public.

## Attachments:

Draft Resolution

Draft Third Amendment to the Annexation Agreement with Exhibits

Background Material

Memorandum Responding to Public Comments

Email from Paul Brounstein 9-18-2013

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

RESOLUTION OF THE MAYOR AND CITY COUNCIL AUTHORIZING  
THE CITY MANAGER TO NEGOTIATE AND EXECUTE THE THIRD AMENDMENT TO  
THE ANNEXATION AGREEMENT WITH  
WASHINGTONIAN NORTH ASSOCIATES, LLC

**ANNEXATION X-159**

WHEREAS, on July 9, 1991, the City of Gaithersburg entered into an annexation agreement to annex approximately 236 acres of land into its corporate boundaries with Washingtonian Investors Limited Partnership and several other owners of the property at the time of development; and

WHEREAS, this Annexation Agreement has been amended two times since the original Agreement, with the most recent amendment occurring in 1998; and

WHEREAS, the City and Washingtonian North Associates, LLC, the current owner of the 27-acre property know as Washingtonian North, believe it is desirable to amend the terms of the exiting annexation agreement; and

WHEREAS, the Mayor and City Council of the City of Gaithersburg have determined that it is desirable to negotiate terms and conditions in connection with Annexation X-159:

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and City Council of Gaithersburg, that the City Manager be, and hereby is, authorized to negotiate and execute a third amendment to the annexation agreement on behalf of the City with the Washingtonian North Associates LLC, relative to Annexation Petition X-159.

ADOPTED by the City Council this 7th day of October, 2013.

\_\_\_\_\_  
SIDNEY A. KATZ, MAYOR and  
President of the Council

THIS IS TO CERTIFY that the foregoing Resolution was adopted by the City Council In public meeting assembled on the 7th day of October, 2013.

\_\_\_\_\_  
Tony Tomasello, City Manager

**DRAFT**

**THIRD AMENDMENT TO ANNEXATION AGREEMENT –  
WASHINGTONIAN NORTH ASSOCIATES LLC**

THIS THIRD AMENDMENT TO ANNEXATION AGREEMENT (“Amendment”) is made this \_\_\_\_ day of \_\_\_\_\_, 2013, by and between the CITY OF GAITHERSBURG, MARYLAND, a municipal corporation (“City” or “Gaithersburg”), and WASHINGTONIAN NORTH ASSOCIATES, LLC (“WNA”), a Maryland limited liability company.

**RECITALS:**

A. WNA is the owner of a certain parcel of land in the City of Gaithersburg containing approximately 27 acres located on the north side of Sam Eig Highway (I-370) at the intersection of Sam Eig Highway and Washingtonian Boulevard and zoned Mixed Use Development (“MXD”) (the “WNA Property”). The WNA Property is shown in Exhibit “1” attached hereto and made a part hereof.

B. The WNA Property was annexed into the City as part of a larger tract containing approximately 120 acres known as Washingtonian Center pursuant to an Annexation (X-159) Agreement dated July 9, 1991 (the “Original Agreement”), as amended by an Amendment to Annexation Agreement dated January 10, 1992 and subsequent Addendum No 1 to Annexation Agreement – Washingtonian Associates, LC dated February 26, 1998 (collectively, the “Annexation Agreement”). This Amendment shall modify, to the extent set forth below, the Annexation Agreement only as to the parties to this Amendment.

C. WNA is the successor-owner in the WNA Property to Washingtonian Investors Limited Partnership (“WILP”), a party to the Annexation Agreement.

D. The Annexation Agreement contemplated development on the respective properties in Washingtonian Center of a total of 4,525,000 square feet as set forth in the Schematic Development Plan attached to the Original Agreement (the “Original SDP”).

E. The Original SDP showed the development of up to 850,000 square feet (SF) of office uses, structured parking garages and up to 40,000 SF of amenity uses on the WNA Property.

F. The Original SDP was amended on May 24, 2000 (SDP-W5(A)) (the “Amended SDP”) and the Amended SDP showed the development of three (3) office buildings for a total of 850,000 square feet of development with three (3) structured parking garages.

G. WNA proposes to modify the development that is shown in the Original and Amended SDP to allow for development of a mix of office, residential and health club uses, with associated structured parking garages, all permitted uses in the MXD zone, in multiple buildings on the WNA Property. The parties have determined that development of the WNA Property with a mix of uses is appropriate and compatible with adjacent land uses and will advance the land use and planning goals of the City.

H. The parties desire to supplement the Annexation Agreement with this Amendment, with respect only to the WNA Property, so as to reflect the Permitted Development and to establish the means by which certain elements of the Permitted Development will be implemented.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which the parties acknowledge, Gaithersburg and WNA agree as follows:

1. The recitals set forth above are incorporated herein and made a part hereof as if fully set forth herein.

2. Development on the WNA Property shall be limited to a maximum of (i) 375 - 400 residential dwelling units, (ii) 220,000 - 320,000 square feet (SF) of office uses, including but not limited to general offices and medical offices, and (iii) 115,000 - 130,000 SF of health club uses, including associated ancillary uses, as shown on the Proposed Land Use/Sketch Plan Exhibit, attached hereto and incorporated by reference herein as Exhibit "2" (the "Permitted Development"). The office use development referenced herein shall not exceed 98 feet in height, as measured from the ground floor concrete slab at the front entrance to the building. A concourse/lower level is allowed. Approval of this Agreement includes approval of the Proposed Land Use/Sketch Plan (Exhibit "2").

3. The City and WNA agree that the residential dwelling units shall comply with Article XVI of the City Code, "Affordable Housing Requirements".

4. For purposes of compliance of the Permitted Development with the applicable requirements of Chapter 22 of the City Code ("Tree and Forest Conservation"), WNA shall be credited with approximately 1.41 acres of reforestation attributable to the property purchased with Washingtonian developer funds by the City by deed dated May 26, 1999 and recorded among the Land Records of Montgomery County at Liber 17130 at Folio 821. The final amount of reforestation credit available pursuant to this paragraph shall be determined as part of the City's review of a Preliminary Forest Conservation Plan for the Permitted Development.

5. (a) WNA shall submit a plan for providing stream restoration of the tributary of the Muddy Branch Creek from the outfall of the sediment basin/storm water management pond located on the WNA Property across Parcel 805 (Malcolm King Park) to the main branch of the Muddy Branch stream for review and approval by the City (the "Stream Restoration

Improvements”) prior to approval of a Schematic Development Plan for the Permitted Development. The Stream Restoration Improvements shall be in substantial conformance with the Stream Restoration Plan, attached hereto and incorporated by reference herein as Exhibit “3”. The City will review and approve the Stream Restoration Plan in a timely manner.

(b) Prior to issuance of Site Development Permits for the Permitted Development, WNA shall submit the Stream Restoration Plan, as approved by the City pursuant to Paragraph 6(a) above, to the Maryland Department of the Environment for review. The City acknowledges that after the City’s approval, the Stream Restoration Improvements must be reviewed, approved and permitted by certain federal and/or state agencies and that such agencies may require modifications to the Stream Restoration Improvements as shown on the Stream Restoration Plan.

(c) WNA shall commence the Stream Restoration Improvements prior to the issuance by the City of the first Use and Occupancy Permit for the Permitted Development. Notwithstanding the above, if due to circumstances beyond its control WNA has not commenced the Stream Restoration Improvements within 2 years of the Effective Date of the Amendment, then WNA will provide the City with a bond, letter of credit or other security (the “Stream Restoration Guarantee”) for the construction costs of the Stream Restoration Improvements and, upon providing such Stream Restoration Guarantee to the City, the City shall issue Use and Occupancy Permits for the Permitted Development as requested by WNA, its successors and assigns, subject to compliance with customary administrative requirements in regard to such permits.

6. WNA shall submit a plan for construction of a bicycle/pedestrian path connection through Malcolm King Park to the Washingtonian Boulevard Entry Road in substantial

conformance with one of the options shown on the Malcolm King Park Proposed Bike Path Connectivity Options, attached hereto and incorporated by reference herein as Exhibit “4”, concurrently with the submission of a Final Site Plan application of the infrastructure for the Permitted Development. The bicycle/pedestrian path plan shall be reviewed and approved by the City prior to the issuance of a Site Development Permit for the infrastructure work. WNA will make commercially reasonable efforts to grade the Path prior to the occupancy of the multi-family units. The Path shall be constructed prior to the release of bonds for permits for project-wide infrastructure (main access road and associated utilities and the storm water management pond). WNA shall construct the bicycle/pedestrian path at its sole cost and expense.

(b) Notwithstanding the above, if due to circumstances beyond its control WNA has not commenced the grading of the Path within 2 years of the Effective Date of the Amendment, then WNA will provide the City with a bond, letter of credit or other security (the “Bike Path Guarantee”) for the construction costs of the Path and, upon providing such Bike Path Guarantee to the City, the City shall issue Use and Occupancy Permits for the multi-family units as requested by WNA, its successors and assigns, subject to compliance with customary administrative requirements in regard to such permits.

7. WNA shall submit a Pedestrian & Bicycle Connectivity Plan in conjunction with the Schematic Development Plan review for the property. The Plan shall provide connectivity and safe passage for pedestrians and cyclist with adjoining communities, Malcolm King Park and Washingtonian Center, east of Sam Eig Highway. Additionally, the plan shall include pedestrian friendly entrances to Malcolm King Park utilizing landscape and hardscape materials to promote use of the park.

8. The City agrees that for any health club building constructed as part of the Permitted Development, the requirements of Chapter 5, Article 1 of the City Code, “Green Building Requirements” may be met by achieving at least 50 points pursuant to the 2009 Leadership in Energy and Environmental Design (LEED) from the United States Green Building Council (the “LEED for New Construction v 2.2”). Prior to the issuance of a building permit for the health club building, WNA, its successors or assigns, must submit certification by a LEED AP BD+C Credentialed professional that said construction is likely to yield fifty (50) points on the 2009 LEED Rating System. As used in this Paragraph 7, a “LEED AP BD+C Credentialed Professional” means an individual who has passed the LEED Professional Accreditation Exam administered by the Green Building Certification Institute and is actively maintaining their credentials. The applicant shall create a commissioning plan for use during design and construction and assemble a commissioning team to verify the performance of LEED systems and establish a report to the City that the property complies with listed LEED points. The report should be submitted to the City within one year of the occupancy of the building.

If the United States Green Building Council adopts a LEED Rating System for Indoor Aquatic or Health Club with aquatic facilities prior to the Final Site Development Approval of the health club, WNA, its successors or assigns, shall design and receive certification for a Silver-level rating or higher LEED standard for any free-standing health club.

9. The City acknowledges that WNA is proposing a reduction of the building setbacks required pursuant to Sections 24-160.5(a)(2)a and 24-160.5(a)(2)c of the Zoning Ordinance for certain portions of the proposed multifamily residential building and the proposed health club building, as shown on the Setback Reduction Plan, attached hereto and incorporated

by reference herein as Exhibit “5”. The City finds that the proposed reduction of the setbacks as shown on the Setback Reduction Plan is necessary and appropriate for the Permitted Development and will be compatible with adjacent land uses. WNA agrees that this Setback Reduction Plan will have no impact on the adjoining Malcolm King Park. The City agrees to approve such setback reductions at the time of Final Site Plan approval, for the residential building and the health club building subject to WNA’s compliance with customary administrative requirements in regard to such approval, including requirements of the Washington Suburban Sanitary Commission.

10. WNA shall not be required to construct or contribute to the construction of any off-site transportation improvements as a condition of approval for the Permitted Development, but shall ensure adequate connectivity and pedestrian access of the Permitted Development to surrounding properties. Nothing contained in this paragraph shall negate any off-site improvements and/or an access permit required by Montgomery County, Maryland.

11. The City will grant necessary easements on City property for utility connections and facilities, including but not limited to sewer lines and stormwater management facilities, required to implement the Permitted Development, subject to WNA’s compliance with customary administrative requirements in regard to such easements, including the submission of a Forest Conservation Plan that includes the area of any requested easements.

12. WNA and the City 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.

13. The terms and provisions of this Agreement are severable and in the event that any term or provision of this Agreement is invalid or unenforceable for any reason, the remaining terms and provisions hereof shall remain in full force and effect.

14. This Agreement shall be assignable, in whole or in part, by WNA to related entities, without the consent of the City or any of its elected officials, employees or agents.

15. This Agreement and all terms, restrictions and conditions contained herein, shall run with the WNA Property and be binding upon the respective parties, their heirs, successors, grantees and assigns. Any amendment or modification to this Agreement shall be in writing, executed by the respective parties or their successors, grantees or assigns, and shall be effective upon recordation among the Land Record of Montgomery County, Maryland.

16. 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.

17. This Agreement shall be recorded in the Land Records of Montgomery County, Maryland (the "Land Records"). The Effective Date of this Amendment is the date of recordation in the Land Records.

18. 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. The City further represents and warrants that it has the legal authority, right, and power to enter into this Agreement and is bound by its terms.

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

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the parties have signed, sealed and delivered this Amendment on the date first written above.

**WITNESS:**

**CITY OF GAITHERSBURG, MARYLAND,**  
a municipal corporation of the State of Maryland

\_\_\_\_\_

By: \_\_\_\_\_  
Name: Tony Tomasello  
Title: City Manager

\* \* \*

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

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

I HEREBY CERTIFY that on this \_\_\_\_ day of \_\_\_\_\_, 2013, before me, the undersigned, a Notary Public in and for the State and County aforesaid, personally appeared Tony Tomasello, known to me or satisfactorily proven to be the person whose name is subscribed to the within instrument, and who acknowledged himself/herself to be the City Manager of the City of Gaithersburg, Maryland, and that such City Manager, being so authorized to do, executed the foregoing Amendment to 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:**

**WASHINGTONIAN NORTH ASSOCIATES  
LLC, a Maryland limited liability company**

\_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

\* \* \*

STATE OF

\*

\* to wit:

COUNTY OF

\*

I HEREBY CERTIFY that on this \_\_\_\_\_ day of \_\_\_\_\_, 2013, before me, 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 foregoing and annexed instrument and who acknowledged himself/herself to be \_\_\_\_\_ of Washingtonian North Associates LLC, and acknowledged that he/she, being so authorized to do, executed the foregoing document for the purposes therein contained.

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

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

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

[NOTARIAL SEAL]

**EXHIBIT 1**

**WNA PROPERTY**

Lots 4, 5 and 6 and Outlot B as shown on a Record Plat titled “Washingtonian Center, Lots 4 thru 6 & Outlot B, Block D” and recorded among the Land Records of Montgomery County at Plat No. 21856

**EXHIBIT 2**

**PROPOSED LAND USE/SKETCH PLAN**

**EXHIBIT 3**

**STREAM RESTORATION PLAN**

**EXHIBIT 4**

**MALCOLM KING PARK  
PROPOSED BIKE PATH CONNECTIVITY OPTIONS**

**EXHIBIT 5**

**SETBACK REDUCTION PLAN**

\*\*L&B 2280286v11/02417.0064

**SURVEYOR'S CERTIFICATE**

I hereby certify that the information shown hereon is true to the best of my knowledge and belief, that the property shown hereon is a subdivision of part of the land conveyed by Washingtonian Associates L.L.C. to Washingtonian North Associates Limited Partnership by deed dated March 26, 1998 and recorded among the Land Records of Montgomery County, Maryland in Liber 16579 at Folio 293. said property also being a re-subdivision of Lots 1 through 3 and Outlot A, Block D, as shown on a plat of subdivision entitled "LOTS 1 thru 3 & OUTLOT A, BLOCK D, WASHINGTONIAN CENTER" and recorded among the aforesaid Land Records in Plat Book 191 at Page 20607.

Further, I certify that one engaged as shown in the Owner's Dedication hereon, all monuments shown thus " \* " and all property corner markers shown thus " \* " will be set as delineated hereon in accordance with Chapter 20, Article III, Section 20-29 and Article V, Section 20-42 of the Gaithersburg City Code.

There is no STREET DEDICATION by this plat of subdivision and the TOTAL AREA of this plat, which includes 3 LOTS and 1 OUTLOT is 1172.95 square feet or 26.9264 acres of land.

May 1, 2001 *Donald F. Remmers*  
 Date Professional Land Surveyor  
 Maryland Registration No. 10688

**OWNER'S DEDICATION**

We, the undersigned, owner of the property described hereon, hereby adopt this plan of subdivision and establish the minimum building restriction lines.

As owner of this subdivision, we, our successors and assigns, shall cause property corner markers to be set by a registered Maryland land surveyor, in accordance with Chapter 20, Article III, Section 20-29 and Article V, Section 20-42 of the Gaithersburg City Code.

We grant to Potomac Electric Power Company, Verizon Communications, Inc. and Washington Gas Light Company and their respective successors, agents and assigns, a Public Utility Easement (P.U.E.), shown hereon, said easement being subject to terms and provisions as set forth in a document recorded among the Land Records of Montgomery County, Maryland in Liber 9834 at Folio 457.

We establish the Ingress/Egress Easement, shown hereon, for use of the City of Gaithersburg and the owners of Lots 5 and 6 and Outlot B, their successors, agents and assigns with terms and conditions to be set forth in a document to be recorded hereafter.

We also establish the Pedestrian Easement, shown hereon, for public use, with terms and conditions to be set forth in a document to be recorded hereafter.

We grant to the City of Gaithersburg a Stormwater Management Easement across the entirety of Outlot B, with terms and conditions to be set forth in a document to be recorded hereafter.

There are no suits, actions at law, leases, liens, mortgages or trusts affecting the property shown on this plan of subdivision.

Date 5/1/01

WASHINGTONIAN NORTH ASSOCIATES LIMITED PARTNERSHIP, a Maryland limited partnership

By: BOSTON PROPERTIES LLC, a Delaware limited liability company, its general partner

By: BOSTON PROPERTIES LIMITED PARTNERSHIP, a Delaware limited partnership, its managing member

By: BOSTON PROPERTIES, INC., a Delaware corporation, its general partner

*E. Mitchell*  
 Witness

*Miriam M. Dept*  
 Witness

**LINE DATA**

LINE	BEARING	DISTANCE
L1	N 82°51'46" W	7.08
L2	S 64°22'21" W	5.68
L3	S 42°01'52" W	8.13
L4	S 21°30'52" W	33.74
L5	S 29°47'17" W	18.13
L6	N 57°50'10" W	5.83
L7	N 05°55'52" E	5.49
L8	N 18°49'49" E	35.57
L9	N 8°10'47" E	39.94
L10	N 5°56'00" E	48.15
L11	N 8°49'24" E	33.06
L12	N 13°42'54" E	28.29
L13	N 25°31'42" E	55.85
L14	N 35°41'08" E	31.13
L15	N 41°14'18" E	37.33
L16	N 45°28'42" E	44.79
L17	N 52°20'35" W	18.34

**LINE DATA**

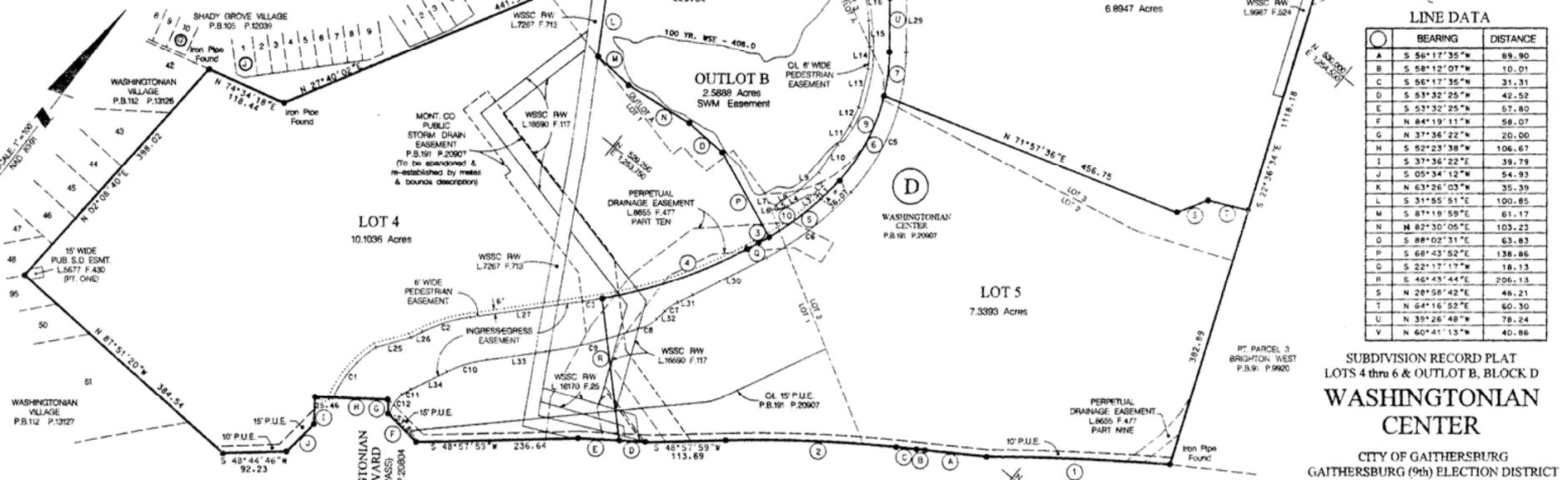
LINE	BEARING	DISTANCE
L18	N 74°30'34" W	5.62
L19	S 63°18'25" W	27.86
L20	N 3°18'06" E	12.20
L21	N 13°21'47" E	28.61
L22	N 12°51'14" W	9.11
L23	N 41°07'58" W	5.92
L24	N 53°22'52" W	11.02
L25	N 35°05'54" W	32.35
L26	N 24°03'52" E	18.83
L27	N 42°25'38" E	169.07
L28	N 39°41'13" E	74.20
L29	S 59°26'48" E	28.24
L30	S 23°14'31" W	119.29
L31	S 24°50'34" W	24.01
L32	S 5°56'51" W	15.35
L33	S 42°25'33" W	87.08
L34	S 24°10'05" W	56.21

**CURVE DATA**

LINE	DELTA	RADIUS	LENGTH	TANGENT	CHORD BEARING & DIST.
C1	33°51'19"	164.00	96.90	49.91	N 0°50'55" E 95.90
C2	18°21'40"	226.00	72.42	36.53	N 33°14'48" E 72.11
C3	1°56'16"	700.00	23.87	11.84	N 41°23'30" E 83.67
C4	68°45'35"	79.00	33.61	33.37	S 5°04'00" E 83.09
C5	42°25'45"	300.00	222.16	115.45	S 18°13'55" E 217.12
C6	19°18'20"	499.00	124.66	78.02	S 17°38'07" W 153.93
C7	18°52'43"	63.00	22.76	11.48	S 15°22'42" W 22.65
C8	33°28'28"	50.14	29.30	15.08	S 22°37'42" W 28.88
C9	11°46'30"	679.00	128.93	63.71	S 36°39'16" W 138.66
C10	18°16'27"	181.00	59.29	30.05	S 33°19'49" W 59.34
C11	9°49'43"	81.00	14.92	87.00	S 19°15'14" W 14.91
C12	47°59'11"	42.00	35.18	18.68	S 8°39'14" E 34.16

**AREA TABULATION**

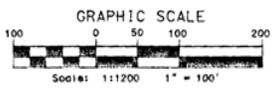
DESCRIPTION	ACRES
3 LOTS	24.3376
1 OUTLOT	2.5889
TOTAL AREA	26.9264



CITY PLANNING COMMISSION, CITY OF GAITHERSBURG  
 MONTGOMERY COUNTY, MARYLAND

APPROVED - 2 May 2001  
*Blenda K. Keller*  
 SECRETARY

RECORDED - \_\_\_\_\_  
 PLAT - \_\_\_\_\_



**SAM EIG HIGHWAY**  
 L.8655 F.477  
 P.B.189 P.20754

**PLAT NO. 210564**

**CURVE DATA**

LINE	DELTA	RADIUS	LENGTH	TANGENT	CHORD BEARING & DIST.
1	03°56'04"	3855.72	265.04	132.57	S 52°42'21" W 264.99
2	07°19'36"	1921.19	245.67	123.00	S 52°37'47" W 245.50
3	02°17'50"	435.00	17.44	8.72	S 21°08'22" W 17.44
4	18°12'05"	700.00	222.37	112.13	N 31°23'20" E 221.44
5	19°18'20"	435.00	146.57	73.99	N 12°38'07" E 146.08
6	29°11'27"	276.00	140.62	71.87	N 11°36'46" W 139.10
7	13°14'18"	276.00	65.77	32.03	N 32°48'39" W 63.63
8	68°45'35"	102.00	122.41	69.76	N 5°04'00" W 116.19
9	42°25'45"	276.00	204.39	107.13	S 10°13'55" E 199.75
10	17°00'30"	435.00	129.13	65.04	S 11°29'12" W 128.66

**NOTES**

The Access Easement for Public Use and the Ingress/Egress Easement previously established by P.B.189 P.20754 are hereby terminated and replaced by the Ingress/Egress Easement established by this plat and shown hereon.

The Path Easement for Public Use previously established by P.B.189 P.20754 is hereby terminated and replaced by the Pedestrian Easement established by this plat and shown hereon.

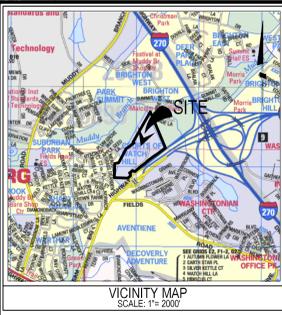
Zoning classification of this property is MCD.

**LINE DATA**

LINE	BEARING	DISTANCE
A	S 56°17'35" W	89.90
B	S 58°12'07" W	10.01
C	S 56°17'35" W	31.31
D	S 53°32'25" W	42.52
E	S 53°32'25" W	67.80
F	N 84°19'11" W	58.07
G	N 37°36'22" W	20.00
H	S 52°23'38" W	106.67
I	S 37°36'22" E	39.79
J	S 05°34'12" W	54.93
K	N 63°26'03" W	35.39
L	S 31°55'51" E	100.85
M	S 87°19'59" E	61.17
N	N 82°30'05" E	103.23
O	S 88°02'31" E	63.83
P	S 68°43'52" E	138.86
Q	S 22°17'17" W	18.13
R	E 46°43'44" E	206.13
S	N 28°58'42" E	46.21
T	N 64°16'52" E	60.30
U	N 39°26'48" W	78.24
V	N 60°41'13" W	40.86

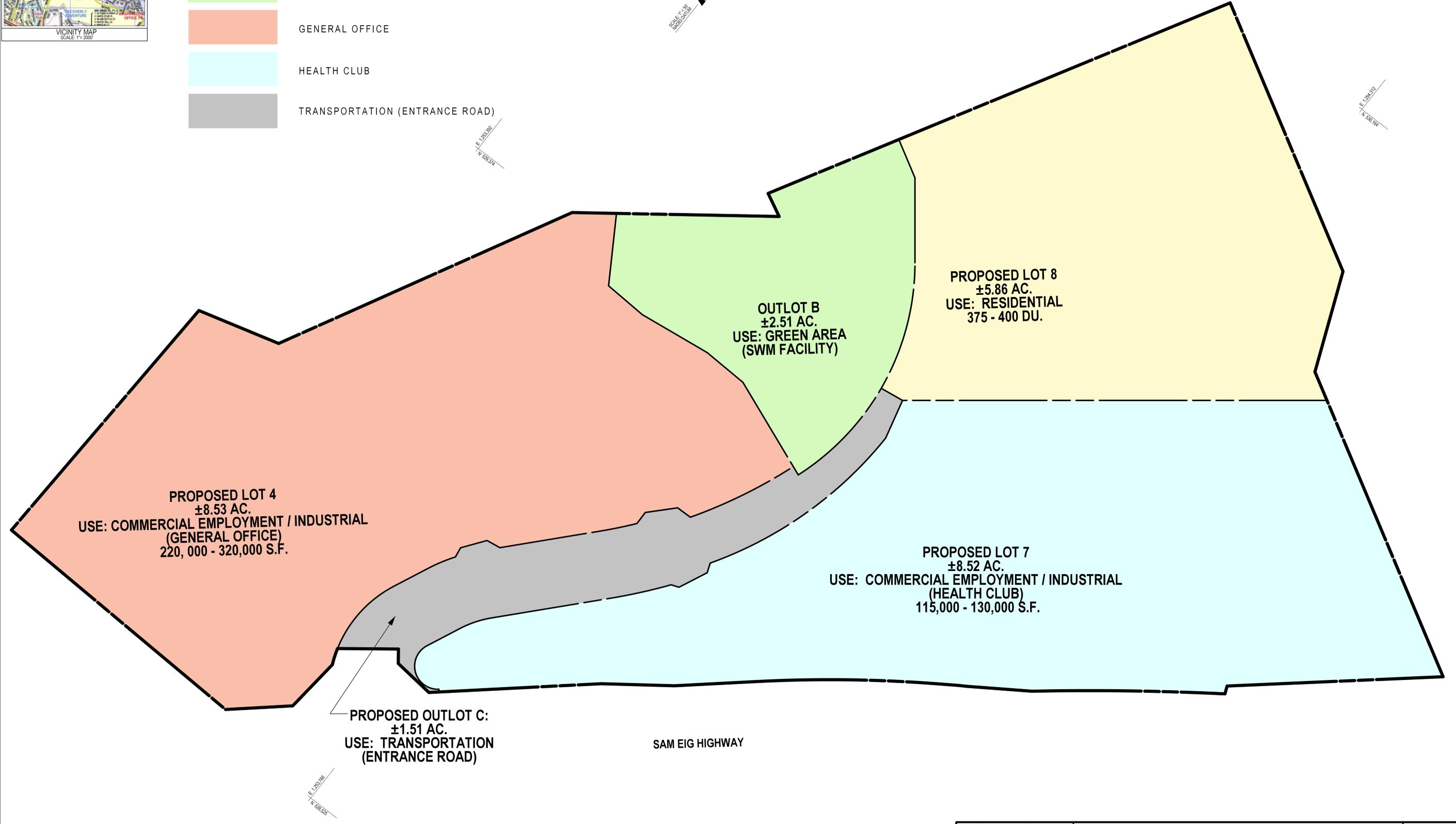
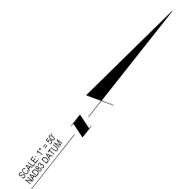
**SUBDIVISION RECORD PLAT**  
 LOTS 4 thru 6 & OUTLOT B, BLOCK D  
**WASHINGTONIAN CENTER**  
 CITY OF GAITHERSBURG  
 GAITHERSBURG (9th) ELECTION DISTRICT  
 MONTGOMERY COUNTY, MARYLAND  
 SCALE: 1" = 100' MAY 2001

**LOIEDERMAN ASSOCIATES, INC.**  
 ENGINEERS PLANNERS SURVEYORS  
 1390 Piccard Drive  
 Rockville, Maryland 20850  
 (301) 944-2750



**LAND USE LEGEND**

- RESIDENTIAL
- GREEN AREA (SWM FACILITY)
- GENERAL OFFICE
- HEALTH CLUB
- TRANSPORTATION (ENTRANCE ROAD)



**PROPOSED LOT 4**  
 ±8.53 AC.  
 USE: COMMERCIAL EMPLOYMENT / INDUSTRIAL  
 (GENERAL OFFICE)  
 220,000 - 320,000 S.F.

**OUTLOT B**  
 ±2.51 AC.  
 USE: GREEN AREA  
 (SWM FACILITY)

**PROPOSED LOT 8**  
 ±5.86 AC.  
 USE: RESIDENTIAL  
 375 - 400 DU.

**PROPOSED LOT 7**  
 ±8.52 AC.  
 USE: COMMERCIAL EMPLOYMENT / INDUSTRIAL  
 (HEALTH CLUB)  
 115,000 - 130,000 S.F.

**PROPOSED OUTLOT C:**  
 ±1.51 AC.  
 USE: TRANSPORTATION  
 (ENTRANCE ROAD)

**SAM EIG HIGHWAY**



**PROFESSIONAL CERTIFICATION**  
 I HEREBY CERTIFY THAT THESE DOCUMENTS WERE PREPARED OR APPROVED BY ME, AND THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MARYLAND.  
 LICENSE NO. 36980 EXPIRATION DATE: 06/26/2014

**PROPOSED LAND USE / SKETCH PLAN EXHIBIT**

**WASHINGTONIAN NORTH**  
 LOTS 4 - 6, & OUTLOT 'B', BLOCK D  
 'WASHINGTONIAN CENTER', P.B. 191 P. 20907  
 CITY OF GAITHERSBURG (9th) ELECTION DISTRICT, MONTGOMERY COUNTY, MARYLAND



**SOLTESZ**  
 Rockville Office  
 2 Research Place, Suite 100  
 Rockville, MD 20850  
 P. 301.948.2750 F. 301.948.9067  
 www.solteszco.com

NO.	REVISIONS	BY	DATE

DATE: JANUARY 2013 CAD STANDARDS VERSION: V8 - 2009  
 DESIGNED: JDC TECHNICIAN: CDA CHECKED: AQ

**MISS UTILITY NOTE**  
 INFORMATION CONCERNING EXISTING UNDERGROUND UTILITIES WAS OBTAINED FROM AVAILABLE RECORDS. THE CONTRACTOR MUST DETERMINE THE EXACT LOCATION AND ELEVATION OF ALL EXISTING UTILITIES AND UTILITIES OR CROSSINGS BY DIGGING TEST PITS BY HAND, WELL IN ADVANCE OF THE START OF EXCAVATION. CONTACT 'MISS UTILITY' AT 1-800-277-7777 48 HOURS PRIOR TO THE START OF EXCAVATION. IF CLEARANCES ARE LESS THAN SHOWN ON THIS PLAN OR TWELVE (12) INCHES, WHICHEVER IS LESS, CONTACT THE ENGINEER AND THE UTILITY COMPANY BEFORE PROCEEDING WITH CONSTRUCTION. CLEARANCES LESS THAN NOTED MAY REQUIRE REVISIONS TO THIS PLAN.

**APPLICANT**  
 WASHINGTONIAN NORTH ASSOCIATES, LLC  
 C/O BOSTON PROPERTIES  
 2200 PENNSYLVANIA AVENUE, NW  
 SUITE 200W  
 WASHINGTON, DC 20037  
 202.582.0847  
 JAKE STROMAN

TAX MAP	F3842 & 343	ZONING CATEGORY:	MKD
WSDC 2007 SHEET	221NW 10		
	2220W 10		
SITE DATUM			
HORIZONTAL: NAD 83			
VERTICAL: NAD 83			

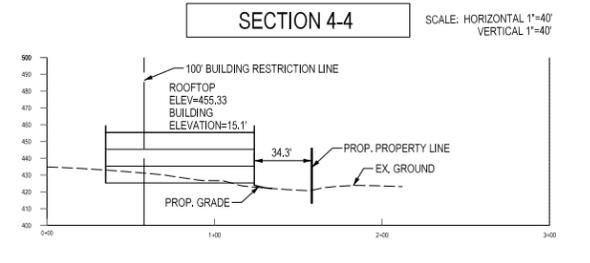
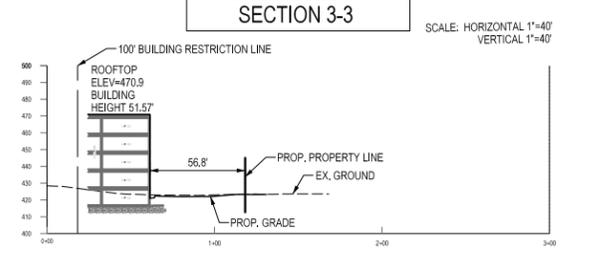
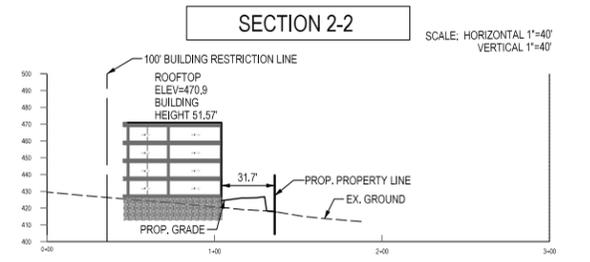
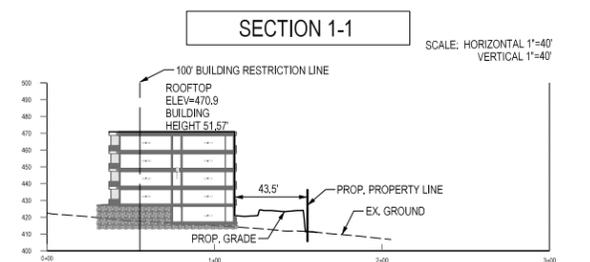
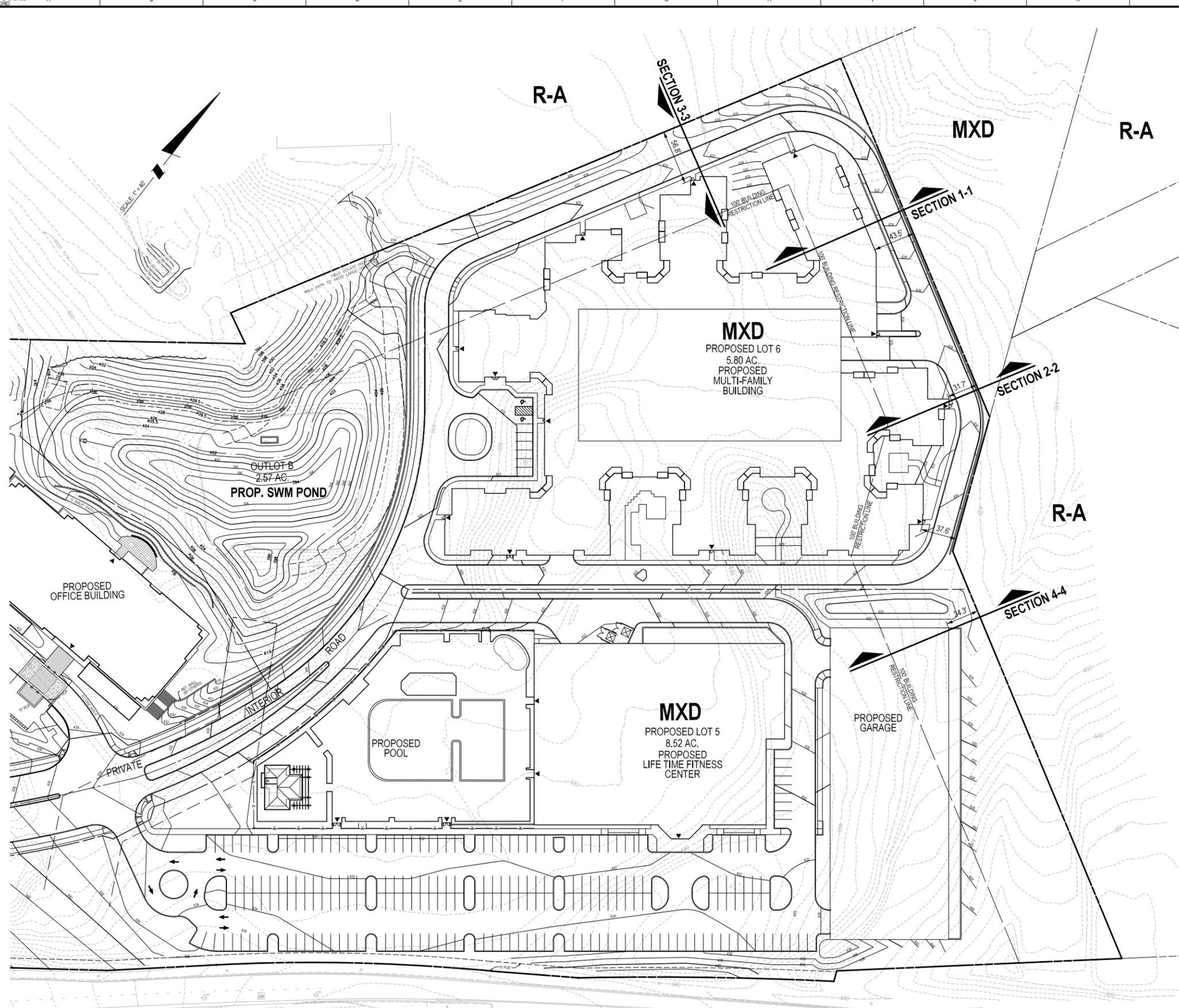


**C-4.1**  
 PROJECT NO. 1184-00-01





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**CITY OF GAITHERSBURG MAYOR & COUNCIL**  
31 SOUTH SUMMIT AVENUE, GAITHERSBURG, MARYLAND 20877

**SCHEMATIC DEVELOPMENT PLAN APPROVAL**

AT THE REGULARLY SCHEDULED MEETING OF THE MAYOR AND CITY COUNCIL HELD ON \_\_\_\_\_

APPLICATION NO. \_\_\_\_\_ WAS GRANTED

SCHEMATIC DEVELOPMENT PLAN APPROVAL BY RESOLUTION \_\_\_\_\_ WITH \_\_\_\_\_ CONDITIONS.

DATE \_\_\_\_\_ BY \_\_\_\_\_

**NOTE** • ANY REVISIONS TO SIGNED PLANS MUST BE REAPPROVED BY THE MAYOR & CITY COUNCIL.

**HEIGHT AND SETBACK WAIVER PLAN**

**WASHINGTONIAN NORTH**  
LOTS 4 - 6, & OUTLOT 'B', BLOCK D  
'WASHINGTONIAN CENTER', P.B. 191 P. 20907  
CITY OF GAITHERSBURG (9th) ELECTION DISTRICT, MONTGOMERY COUNTY, MARYLAND

SHEET **1** OF **1**

PROJECT NO. 1194-001

**SAM EIG HIGHWAY**

**PROFESSIONAL CERTIFICATION**  
I HEREBY CERTIFY THAT THESE DOCUMENTS WERE PREPARED OR APPROVED BY ME, AND THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MARYLAND.  
LICENSE NO. 30692 EXPIRATION DATE: 08/28/2014

**Leadman Scheetz Associates, Inc.**  
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2 Research Place, Suite 100  
Rockville, MD 20850  
T. 301.948.2750 F. 301.948.9067  
www.LSAAssociates.net

Rockville  
Lanham  
Waldorf  
Leonardtown

DATE:	DESIGNER:	CAD STANDARDS VERSION:	REVISIONS:	BY:	DATE:
		08 - 2000			
CHECKED:	TECHNICAL:				

**MISS UTILITY NOTE**

INFORMATION CONCERNING EXISTING UNDERGROUND UTILITIES WAS OBTAINED FROM AVAILABLE RECORDS. THE CONTRACTOR MUST DETERMINE THE EXACT LOCATION AND DEPTH OF ALL EXISTING UTILITIES AND UTILITY CROSSINGS BY DIGGING TEST PITS BY HAND. MISS ENGINEERS OR THE STATE OF MARYLAND CONTACT "MISS UTILITY" AT 1-800-251-7777. 48 HOURS PRIOR TO THE START OF EXCAVATION. IF CLEARANCES ARE LESS THAN SHOWN ON THE PLAN OR TWELVE (12) INCHES, WHOEVER IS LESS CONTACT THE ENGINEER AND THE UTILITY COMPANY BEFORE PROCEEDING WITH CONSTRUCTION. CLEARANCES LESS THAN NOTED MAY REQUIRE REVISIONS TO THIS PLAN.

**APPLICANT**

WASHINGTONIAN NORTH ASSOCIATES, LLC  
C/O BOSTON PROPERTIES  
2000 PENNSYLVANIA AVENUE, NW  
SUITE 200W  
WASHINGTON, DC 20037  
202.555.5947  
JAKE STROMAN

COPYRIGHT AND THE MAP PEOPLE	PERMITTED USE NUMBER 1101100
MAP FS342 & 343	GRID G.H.182
TAX MAP	ZONING CATEGORY:
MS30-200-SHEET	MXD
221NW 10	
222NW 10	
DATE CANNOT	
HORIZONTAL: NAD83	
VERTICAL: NAD83	

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MEMO TO: Mayor and City Council

VIA: Tony Tomasello, City Manager

FROM: Trudy W. Schwarz, Community Planning Division Chief

DATE: September 20, 2013

SUBJECT: Third Amendment to Annexation Agreement X-159 –  
Washingtonian – Washingtonian North  
Summary of Public Comments

On September 16, 2013, the Mayor and City Council heard a presentation concerning a proposed Third Amendment to Annexation Agreement for Annexation X-159, Washingtonian. Four citizens gave testimony concerning the application and an email was also submitted. Below is a summary of the items presented:

**Height of the office building and its shading effects on the adjoining community** – *This will be addressed at the Schematic Development Plan process and the subsequent Final Site Plan. The applicant has stated that they are not proposing to make any major changes to the 2008 previously approved site plan for the office that would increase the height of the building.*

**Traffic** – *The applicant has submitted a traffic impact study, which will be reviewed and analyzed in accordance with the terms of the Annexation Agreement and best practices of traffic engineering at the time of Schematic Development Plan review.*

**Pedestrian access and connectivity with adjoining communities, Malcolm King Park and the east side of Washingtonian Center** – *Staff and the applicant have added a new paragraph #7 to the Annexation Agreement requiring the applicant to prepare a Pedestrian & Bicycle Connectivity Plan in conjunction with the Schematic Development Plan submission. Additionally the plan will include details about the use of landscape and hardscape material to enhance entrances to the park.*

*Also, Paragraph #10 requires the applicant to “ensure adequate connectivity and pedestrian access of the Permitted Development and surrounding properties.” The applicant will be required to work with Montgomery County Department of Transportation and the City to establish new traffic signal cycles to allow for safe movements for both pedestrian and vehicular traffic.*

*The proposed bike path in the Park is not for vehicular access, except perhaps for limited use of park maintenance vehicles. This pathway, similar to that in Hidden Creek, will need to be designed in the field to avoid mature trees in the park.*

**Steep slopes** – *These areas will be analyzed at the Schematic Development Plan process and finalized during the subsequent Final Site Plan.*

**Apartment and Health Club use** - *Growth trends nationally and especially regionally reflect a strong market for mixed-use, transit-oriented, walkable communities with close proximity to amenities. Fewer and fewer of the younger generations are seeking single-family neighborhoods in favor of a 24/7 amenitized environments where one can work, live and play within a one mile radius. This proposal will add "eyes" in the area and also in the City Park. The apartment complex will comply with the City's Affordable Housing regulations and have affordable housing by providing 15 percent of the total unit count as Moderately Priced Dwelling Units (MPDUs).*

*This annexation agreement specifically limits the uses to Office, Multi-family and Health Club. This agreement does not allow any addition retail uses other than those associated with and located within the health club.*

**LEED Certification** – *Additional language was added to Paragraph 8, stating that if the United States Green Building adopts a LEED Rating System for Health Clubs with aquatic facilities prior to final site plan, that WNA, its successors or assigns shall design and receive Silver-level certification.*

During the Schematic Development Plan review, the Mayor and Council, Planning Commission, City Staff, citizens and applicants should strive to integrate this new development with the adjoining neighborhoods to create a connected cohesive and respectful community.

Should you have any questions please contact me at [tschwarz@gaitthersburgmd.gov](mailto:tschwarz@gaitthersburgmd.gov) or (301) 258-6330.

cc: Lynn Board, City Attorney  
John Schlichting, Director of Planning & Code Administration

**From:** [Sidney Katz](#)  
**To:** [Paul Brounstein](#)  
**Cc:** [Michael Sesma](#); [Jud Ashman](#); [Cathy Drzyzgula](#); [Ryan Spiegel](#); [CityHall External Mail](#); [Henry Marraffa - External](#); [John Schlichting](#); [Trudy Schwarz](#); [Cindy Hines](#); [Doris Stokes](#); [Lynn Board](#); [Monica Sanchez](#); [Sidney Katz](#); [Tony Tomasello](#)  
**Subject:** RE: washingtonian north annexation amendment  
**Date:** Wednesday, September 18, 2013 2:51:12 PM

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Mr. Brounstein,

Thank you for your email. I am also copying city staff so that they are aware of it as well.

Sincerely,  
Sidney Katz

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**From:** Paul Brounstein [mailto:[pbrounstein1@comcast.net](mailto:pbrounstein1@comcast.net)]  
**Sent:** Wednesday, September 18, 2013 10:47 AM  
**To:** Sidney Katz  
**Cc:** Michael Sesma; Jud Ashman; Cathy Drzyzgula; Ryan Spiegel; CityHall External Mail; Henry Marraffa - External  
**Subject:** washingtonian north annexation amendment

Hello:

Let me start by saying that I have been a Gaithersburg resident for the past 26 years. I have usually felt that the city government kept a reasonable balance between service provision, revenues and development. I am at 5 Norwich Court. When we moved here Fields Road was a twisty 2 lane road difficult to navigate in early morning Fall fogs. It took me about 6 minutes to get from my house to I-270 at the worst time of day--morning rush hour. Over the years, roads have been improved, I-370 added and now the morning commute requires that i go about a third of the distance to get on I-270 but it takes up to **8 minutes**.

Our area is densely populated and heavily trafficked. With the development of Rio and the old Simons farm things will not get any better.

It will be nice to have some of the restaurants and shops and amenities planned for the farm development but, if my recall is correct, retail stores were to be restricted to the east side of I-370. Now we have an annexation proposal that will include retail stores of unknown type on the west-side of I-370. If the city accepts the amendment I will have to walk to everything since I will not be able to get off Crown Farm Road by vehicle.

I don't mind walking but I am truly concerned about the quality of life, especially if the retail stores do not fit the pattern of retail currently in our mix. I am also concerned about safety issues related to an increased retail presence, again, especially if the retail includes convenience-type stores.

Malcolm King Park is a gem but it is already an excellent place to disguise alcohol and drug use. The development plans, while saying that they will make the park more accessible actually seem to create visual barriers, sealing off the park from casual observation. I also wonder about public access. It is unclear how the 2 bike lanes on the plans transition into the park itself or if they are really bike lanes or just a regular street. I admit, I am not expert in reading plans but anyone can stamp a 1-2 foot bike lane designation on little bit wider than regular street. If this is the case, I do worry about youth getting hit on their way to the park.

In the main I do not object to the developers proposed plan. I can't imagine that the health club will succeed but I am sure the corporation has done its homework and understands the market better than my read. I would love fewer apartments, or better yet, larger condos--ownership means a lot in the care and investment in the life of a community. But, I am really distressed about adding retail stores to their plans unless it is part of their commercial building and limited to more select stores--not 7/11s or such.

thanks for listening/reading.

paul brounstein