

MAYOR & COUNCIL AGENDA COVER SHEET

MEETING DATE:

March 5, 2012

CALL TO PODIUM:

Trudy Schwarz

RESPONSIBLE STAFF:

Trudy Schwarz, Community Planning Director

AGENDA ITEM:

(please check one)

	Presentation
	Proclamation/Certificate
	Appointment
	Public Hearing
	Historic District
	Consent Item
	Ordinance
X	Resolution, Introduction
	Policy Discussion
	Work Session Discussion Item
	Other

PUBLIC HEARING HISTORY:

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

Introduced	
Advertised	
Hearing Date	
Record Held Open	
Policy Discussion	

TITLE: Annexation X-184 - Introduction

Introduction of a Resolution authorizing the Annexation of approximately 27.89 acres of land adjacent to the present corporate limits, located at 16331 & 16401 Shady Grove Road and adjacent road rights of way, and generally referred to as the Sears property, which includes the Great Indoors facility and the Sears Service Center & Repair.

SUPPORTING BACKGROUND:

An application has been filed by Linowes and Blocher, on the behalf of Sears and Roebuck Co., petitioning the City to annex approximately 27.89 acres of land from Montgomery County into the City. The area of annexation consists of Part of Parcel A, containing approximately 13.66 acres, and public rights of way for I-370 and Shady Grove Road, containing approximately 14.23 acres. The property is located west of Shady Grove Road and north of the intersection of South Frederick Avenue and Shady Grove Road at 16331 & 16401 Shady Grove Road.

The annexation petition requests annexation of the property and rezoning from the Montgomery County Research and Development (R&D) Zone to the City's Mixed Use Development (MXD) Zone. The property is located within the City's Maximum Expansion Limits as identified within the Municipal Growth Element of the 2003 Master Plan.

The Introduction of the attached annexation resolution will commence the annexation process. If introduced, staff tentatively anticipates scheduling the Planning Commission public meeting for March 2012, and the Mayor and City Council public hearing for May 2012.

Attachments:

- Location Map*
- Draft Resolution to be introduced*
- Petition for Annexation & Exhibits*
- Letter from Applicant's Representative*
- Verification – Petition Annexation*

Mayor and City Council vote on Introduction of Resolution for X-184, and direct staff to schedule the public hearings.

RESOLUTION No. _____

RESOLUTION AUTHORIZING THE ANNEXATION
TO THE CITY OF GAITHERSBURG
OF APPROXIMATELY 27.89 ACRES OF LAND
LOCATED ADJACENT TO THE PRESENT CORPORATE LIMITS AND TO
ESTABLISH MXD (MIXED USE DEVELOPMENT) ZONING FOR SAID LAND,
KNOWN AS THE SEARS PROPERTY (THE GREAT INDOORS AND
SEARS SERVICE CENTER & REPAIR), LOCATED AT
16331 & 16401 SHADY GROVE ROAD, GAITHERSBURG MARYLAND, AND
ADJACENT ROAD RIGHTS-OF-WAY

ANNEXATION X-184

WHEREAS, the Mayor and City Council of Gaithersburg have received a petition requesting the enlargement of the corporate boundaries of the City of Gaithersburg so as to include the above-noted parcel; and

WHEREAS, the signatures of the said petition for annexation have been verified and it has been ascertained that the persons signing said petition are 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, the properties are within the defined maximum expansion limits of the City of Gaithersburg; and

WHEREAS, under the annexation petition, the properties would be rezoned from Montgomery County's R&D (Research and Development) Zone to the City of Gaithersburg's MXD (Mixed Use Density Residential) Zone;

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and City Council of the City of Gaithersburg, that the corporate boundaries of the City of Gaithersburg be, and they hereby are, enlarged by including therein the following area:

DESCRIPTION OF PROPERTY TO BE ANNEXED INTO
THE CITY OF GAITHERSBURG, MARYLAND,
GAITHERSBURG (NO. 9) ELECTION DISTRICT
MONTGOMERY COUNTY, MARYLAND

BEING part of Parcel A as shown on a plat of subdivision entitled "Parcel A – Sears Addition to Shady Grove" and recorded among the Land Records of Montgomery County, Maryland as Plat Number 7952; part of the right of way for Interstate Route 370 as shown on State of Maryland - Department of Transportation - State Highway Administration - State Roads Commission Right of Way Plats

Numbered 48474 and 48475; and part of the right of way for Shady Grove Road. Parcel A – Sears Addition to Shady Grove being all of the property acquired by Sears, Roebuck and Co., a New York corporation, from Consortium One, L.P., a Delaware limited partnership, Marc F. Solomon, David B. Fink, Susan H. Fink, and Solomon Family Limited Partnership, by a deed dated December 6, 2000 and recorded among the Land Records of Montgomery County, Maryland in Liber 18628 at folio 354. The right of way for Interstate Route 370 being 1) part of the property acquired by the State of Maryland, to the use of the State Highway Administration, of the Department of Transportation from Robert Huyett Teunis, Betty Lu Teunis, Ralph Dewey Teunis, Jr., and Doris Douglas Teunis by a deed dated September 20, 1989 and recorded among the Land Records of Montgomery County, Maryland in Liber 9043 at folio 676; 2) part of the property acquired by State Roads Commission of the State Highway Administration, acting for and on behalf of the State of Maryland, from Betty Brown Casey, Sole Surviving Trustee of the Betty Brown Casey Trust, et al, by consent inquisition in the Circuit Court for Montgomery County, Maryland and recorded among the Land Records of Montgomery County, Maryland in Liber 8440 at folio 243; and 3) part of the property acquired by the State Roads Commission of the State Highway Administration acting for and on behalf of the State of Maryland, from Kenneth O. Peters as described in a Writ of Possession, Law No. 65117, dated April 4, 1985 and filed in the Circuit Court for Montgomery County, Maryland. The right of way for Shady Grove Road being 1) all of the land dedicated to public use as shown on the aforementioned Plat Number 7952; 2) part of the property acquired by Montgomery County, Maryland from Virginia K. Casey Visnich by a deed dated October 24, 1973 and recorded among the Land Records of Montgomery County, Maryland in Liber 4470 at folio 73; and 3) all of the property acquired by Montgomery County, Maryland from Kenneth O. Peters and Ethel E. Peters by a deed dated December 10, 1973 and recorded among the Land Records of Montgomery County, Maryland in Liber 4480 at folio 162 and being more particularly described as follows:

BEGINNING for the same at the end of the 8th or South 40° 40' 58" West, 69.83 foot line described in an Annexation Agreement by Gateway Investment Associates Limited Partnership, a Virginia limited partnership, Residence Inn by Marriott, Inc., a Delaware corporation, Robert H. Teunis, Betty Lu Teunis, Ralph D. Teunis, Jr., Doris Teunis and The Mayor and Council of The City of Gaithersburg, and recorded among the aforementioned Land Records in Liber 9556 at folio 771; thence running with all of said 8th line, reversed, as described in said annexation agreement and running with all of the easterly or South 40° 40' 58" West, 69.83 foot plat line as shown on a plat of subdivision entitled "GATEWAY COMMONS" and recorded among the aforementioned Land Records as Plat Number 18415 the following course and distance:

1. North 40° 44' 23" East, 69.83 feet to a point; thence running across the right of way of Interstate Route 370 as shown on the aforementioned Right of Way Plats Numbered 48474 and 48475 and across Shady Grove Road the following course and distance
2. South 82° 46' 56" East, 932.68 feet to a point at the westerly end of the northerly or South 54° 33' 55" East, 668.85 foot line of

Parcel A as shown on the aforementioned Plat Number 7952; thence running with said line and binding on the North 53° 56' 17.3" West, 668.89 foot line as described in a deed from Eugene B. Casey and Virginia Casey Visnich to U.S. Postal Service and recorded among the aforementioned Land Records in Liber 5943 at folio 65, passing over an iron pipe found at 38.79 feet, the following course and distance

3. South 53° 56' 52" East, 648.85 feet to a rebar and cap found at the end of the 3rd or North 36° 03' 43" East, 600.00 foot line of Exhibit C as described in a deed from Whiteacre Maryland Associates to Northeast Maryland Waste Disposal Authority and recorded among the aforementioned Land Records in Liber 11236 at folio 694, thence running with the 3rd and 2nd lines, reversed, of Exhibit C as described in Liber 11236 at folio 694 the following 2 courses and distances
4. South 36° 03' 08" West, 600.00 feet to a rebar and cap found; thence
5. South 53° 56' 52" East, 20.00 feet to a rebar and cap found on the easterly or South 35° 26' 05" West, 910.00 foot line of Parcel A as shown on the aforementioned Plat Number 7952; thence running with part of said easterly parcel line, and binding on the North 36° 02' 36" East, 910.00 foot line as described in an Inquisition in the Circuit Court for Montgomery County, Maryland, Law 42450, and recorded among the Land Records of Montgomery County, Maryland in Liber 5369 at folio 441 the following course and distance
6. South 36° 03' 08" West, 310.00 feet to a rebar and cap found; thence running with the southerly or North 54° 33' 55" East, 664.94 foot line of Parcel A as shown on the aforementioned Plat Number 7952 and binding on the outline of the property described in Liber 5369 at folio 441 the following course and distance
7. North 53° 56' 52" West, 664.96 feet to a point; thence running across Shady Grove Road and across the right of way of Interstate Route 370 as shown on the aforementioned Right of Way Plats Numbered 48474 and 48475 the following course and distance
8. North 53° 56' 52" West, 1054.99 to a point on the on the 10th or South 40° 48' 48" West, 771.72 foot line of the existing City of Gaithersburg corporate limits as described in the aforementioned annexation agreement recorded in

Liber 9556 at folio 771; thence running with said 10th line, reversed, and binding on the easterly plat line as shown on a plat of subdivision entitled "GATEWAY COMMONS" and recorded among the aforementioned Land Records as Plat Number 18414 the following course and distance

9. North 40° 52' 13" East, 118.31 feet to an iron pipe found; thence running with all of the 9th line, reversed, of the existing City of Gaithersburg corporate limits as described in the aforementioned annexation agreement and binding on the southerly plat lines as shown on the aforementioned Plat Number 18414 and Plat Number 18415 the following course and distance
10. North 74° 44' 41" East, 349.39 feet to the Point of Beginning; containing 1214950 square feet or 27.89141 acres of land.

BE IT FURTHER RESOLVED, by the Mayor and City Council of the City of Gaithersburg, that this Resolution shall become effective forty-five (45) days following its adoption, unless a prompt petition for referendum thereon shall be filed as permitted by law, and provided further that the notice required by law shall be published not fewer than four (4) times, at not less than weekly intervals, in *The Gaithersburg Gazette*, a newspaper of general circulation in the City of Gaithersburg.

BE IT FURTHER RESOLVED, by the Mayor and City Council of the City of Gaithersburg, that the property described above being land annexed to the City, be and is hereby classified in the MXD (Mixed Use Development) Zone, upon the effective date of this Resolution.

BE IT FURTHER RESOLVED, by the Mayor and City Council of the City of Gaithersburg, that this annexation shall be subject to the terms and conditions of an annexation agreement by and between the Property Owner and the City of Gaithersburg and any amendment which may be hereafter enacted.

BE IT FURTHER RESOLVED, by the Mayor and City Council of the City of Gaithersburg, that promptly after this Resolution shall become effective, the City Manager shall send copies of said Resolution to the following:

<u>Number of Copies</u>	<u>Agency</u>
1	Department of Legislative Reference
1	Clerk of the Circuit for Montgomery County
1	Supervisor of Assessments for Montgomery County
1	Maryland-National Capital Park and Planning Commission

BE IT FURTHER RESOLVED, by the Mayor and City Council of the City of Gaithersburg, that the property described above and persons residing therein, if any, shall, after the effective date of this Resolution, be subject to all of the Charter laws, ordinances and resolutions of the City of Gaithersburg, Maryland.

ADOPTED by the Mayor and City Council of the City of Gaithersburg this ____ day of _____, 2012.

Sidney A. Katz, Mayor and
President of the Council

THIS IS TO CERTIFY that the foregoing Resolution was introduced by the City Council of the City of Gaithersburg on the ____ day of _____, 2012, and Adopted by the City Council, in public Meeting assembled, on the ____ day of _____, 2012.

This annexation will become effective on the ____ day of _____, 2012.

Angel L Jones, City Manager

MAYOR AND COUNCIL OF THE CITY OF GAITHERSBURG

PETITION FOR ANNEXATION

SEARS, ROEBUCK AND CO., a New York corporation (“Sears”), hereby petitions the Mayor and Council of the City of Gaithersburg, pursuant to Article 23A, Section 19 of the Annotated Code of Maryland, to annex certain property into the corporate boundaries of the City of Gaithersburg (“City”). In support of this Petition, Sears states as follows:

1. The property that is the subject of this Annexation Petition consists of approximately 27.89 acres, including an approximately 13.66 acre property located on the south side of Shady Grove Road, between Maryland Route 355 and Oakmont Avenue, and identified as Lot N606 on Plat No. 7952 (“Sears Property”), an approximately 11.84 acre portion of the I-370 right-of-way (“I-370 Parcel”), and an approximately 2.39 acre portion of the right-of-way for Shady Grove Road (“Shady Grove Parcel”) (collectively, the “Property”). The Property is shown on the Boundary Survey and Annexation Plat attached hereto and made a part hereof as Exhibit “A” and is more particularly described on Exhibit “B” attached hereto and made a part hereof.

2. The Sears Property is owned solely and entirely by Sears, and no persons registered as voters in Montgomery County (“County”) reside on the Sears Property. The deed showing ownership of the Sears Property is recorded in the Land Records of Montgomery County in Liber 18628 at Folio 354, a copy of which is attached hereto and made a part hereof as Exhibit “D”. Accordingly, no additional consent other than Sears’ is necessary for annexation of the Sears Property.

3. The I-370 Parcel is owned solely and entirely by the State of Maryland State Highway Administration (“SHA”) and is used as the right-of-way for Interstate 370. No persons

registered as voters in the County reside on the I-370 Parcel. The I-370 Parcel is shown on State Highway Administration Plats 48474 and 48475, attached hereto and made a part hereof as Exhibit “E-1” and Exhibit “E-2”, respectively. The documents showing the ownership of the I-370 parcel are deeds recorded among the Land Records of Montgomery County, Maryland in Liber 8440 at folio 243, Liber 9043 at folio 646, and a Writ of Possession issued April 4, 1985, attached hereto and made a part hereof as Exhibit “E-3”, Exhibit E-4” and Exhibit “E-5”, respectively. Accordingly, no additional consent other than SHA’s is necessary for annexation of the I-370 Parcel.

4. The Shady Grove Parcel is primarily owned by Montgomery County, Maryland, with a small portion owned by Sears, and is used as the right-of-way for Shady Grove Road. No persons registered as voters in the County reside on the Shady Grove Parcel. The plat showing partial ownership of a portion of the Shady Grove Parcel by Sears is recorded as Plat No. 7952, attached hereto and made a part hereof as Exhibit “F-1”. The deeds showing the ownership of the Shady Grove Parcel by Montgomery County, Maryland are recorded among the aforementioned Land Record in Liber 4470 at folio 73 and Liber 4480 at folio 162 and are attached hereto and made a part hereof as Exhibit “F-2” and Exhibit “F-3”, respectively.

5. Sears is the owner of at least 25 percent (25%) of the assessed value of the Property, and therefore has the authority pursuant to Md. Ann. Code Art. 23A, §19(c) to file this Petition.

6. The Property is contiguous to and adjoining the existing corporate boundaries of the City.

7. Annexation of the Property will not create any unincorporated area which is bounded on all sides by real property presently within the corporate limits of the City, real

property proposed to be within the City as a result of the proposed annexation, or any combination of any such properties.

8. The Property is within the maximum expansion limit of the City, as evidenced by the City of Gaithersburg Municipal Growth Element of the 2003 Master Plan, adopted April 6, 2009.

9. The Sears Property is currently classified in the R&D (Research and Development) Zone in the County, as shown on the certified copy of the official zoning map attached hereto and made a part hereof as Exhibit “G”. The R&D zoning classification is consistent with the current and duly adopted March 2006 Shady Grove Sector Plan (the “Sector Plan”), portions of which are attached hereto and made a part hereof as Exhibit “H”. The Master Plan recommends redevelopment of the Sears Property to provide technology, research and development, and office uses to create a technology corridor. Sears requests that the Sears Property be classified in the MXD (Mixed Use Development) Zone in the City to give Sears the flexibility to retain and expand existing uses on the Sears Property. Sears requests that this zoning reclassification occur concurrently with the City’s adoption of the resolution approving the annexation of the Sears Property into the City.

10. The City’s 2009 Draft Land Use Plan (the “Land Use Plan”), adopted by the Mayor and Council on December 19, 2011, and portions of which are attached hereto and made a part hereof as Exhibit “I”, recommends that the Sears Property be annexed into the City and rezoned to the MXD Zone.

11. Sears intends to retain the existing improvements shown on the plan attached hereto and made a part hereof as Exhibit “J”, and expand the existing retail uses to include additional retail and office components, as permitted in the MXD Zone. As part of this

annexation process, Sears will seek an Annexation Agreement with the City to accommodate the proposed development of the Sears Property.

12. As part of the annexation, Sears is requesting that the City agree to rebate municipal taxes payable from the Sears Property for a period of five (5) years.

13. In support of this Petition, Sears submits the following exhibits:

Exhibit "A": Boundary Survey and Annexation Plat of the Property;

Exhibit "B": Metes and Bounds Description of the Property;

Exhibit "C": List of names and addresses of persons with ownership interests in the Property and list of adjacent property owners within 200 feet of the Property;

Exhibit "D": Deed for the Sears Property;

Exhibit "E-1": SHA Right of Way Plat No. 48474;

Exhibit "E-2": SHA Right of Way Plat No. 48475;

Exhibit "E-3"; Deed for the SHA Parcel (Liber 8440 at folio 243- former Casey property);

Exhibit "E-4"; Deed for the SHA Parcel (Liber 9043 at folio 646- former Teunis property)

Exhibit "E-5"; Writ of Possession for the Peters Property issued April 4, 1985;

Exhibit "F-1"; Plat 7952 showing Sears' ownership of portion of the Shady Grove Parcel;

Exhibit "F-2"; Deed showing Montgomery County ownership of the Shady Grove Parcel (Liber 4470 at folio 73- former Casey property);

Exhibit "F-3"; Deed showing Montgomery County ownership of the Shady Grove Parcel (Liber 4480 at folio 162- former Peters property);

Exhibit “G”: Certified copy of the official zoning map for Montgomery County indicating the current R&D zoning classification of the Sears Property;

Exhibit “H”: Copy of excerpts of the March 2006 Shady Grove Master Plan recommending technology, research and development, and office uses on the Sears Property;

Exhibit “I”: Copy of portions of the City of Gaithersburg’s 2009 Land Use Plan, indicating the relationship of the Sears Property to the surrounding area and recommendation for annexation and MXD zoning for the Sears Property;

Exhibit “J”: Existing Conditions Plan;

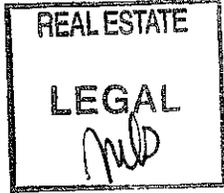
Exhibit “L”: Vicinity map showing the location of the Property in relation to its surroundings;

Exhibit “M”: Copy of Ordinance No. 0-11-88, amending Chapter 24 of the City Zoning Ordinance to create the MXD Zone, adopted by the City Council of Gaithersburg on November 7, 1988; and

Exhibit “N”: Mayor and Council Resolution No. R-88-11, adopting the 2009 Land Use Element Amendment to the General Plan for the City of Gaithersburg Master Plan.

WHEREFORE, Sears respectfully requests that the Mayor and the Council of the City of Gaithersburg initiate all steps necessary for final enactment of a Resolution annexing the Property into the corporate boundaries of the City and concurrently classifying the Sears Property in the City’s MXD Zone.

SEARS, ROEBUCK AND CO.,
a New York corporation



By: [Signature]
Name: J. Kal Gibron
Title: V.P. Real Estate

Subscribed and sworn to before me, a Notary Public ~~is~~ _____, this 9th day of January, 2012

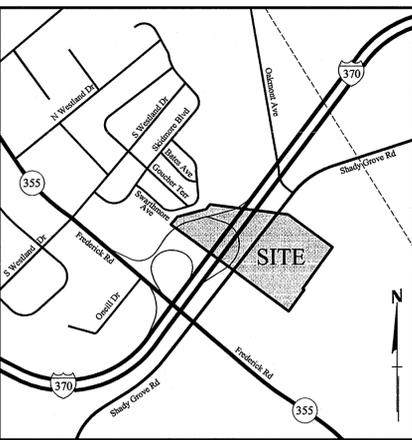
Toni Di Giacomo My

Commission Expires:

May 14, 2013

[SEAL]





Surveyor's Certificate

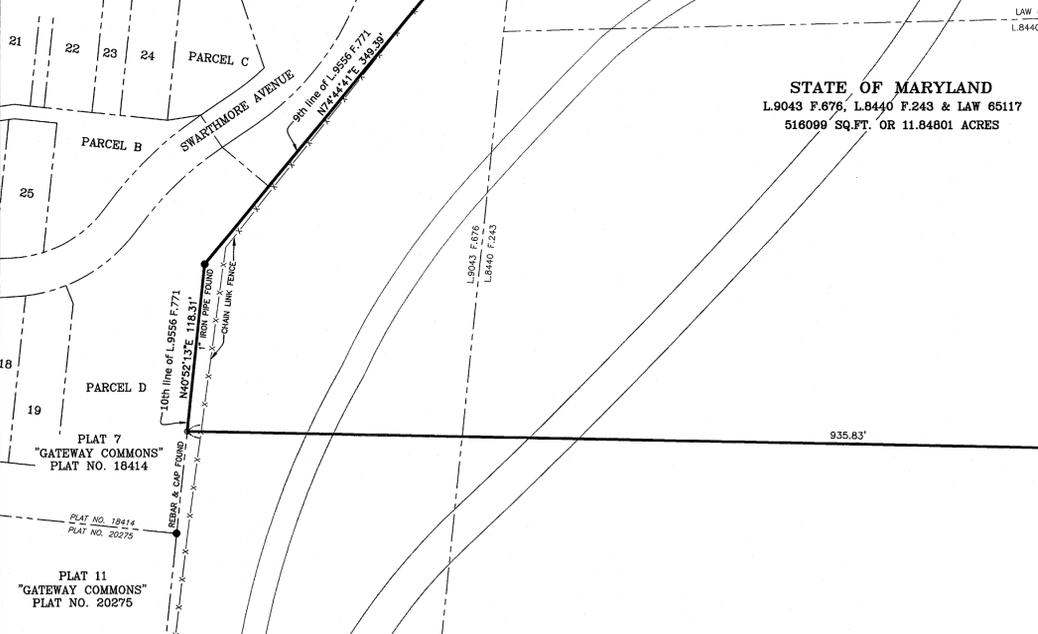
I hereby certify that this Annexation Plat is correct; that it is a boundary survey of part of Parcel A as shown on a plat of subdivision entitled "Parcel A - Sears Addition to Shady Grove" and recorded among the Land Records of Montgomery County, Maryland as Plat Number 7952; part of the right of way for Interstate Route 370 as shown on State of Maryland - Department of Transportation - State Highway Administration - State Roads Commission Right of Way Plats Numbered 48474 and 48475; and part of the right of way for Shady Grove Road. Parcel A - Sears Addition to Shady Grove being all of the property acquired by Sears, Roebuck and Co., a New York corporation, from Consortium One, L.P., a Delaware limited partnership, Marc F. Solomon, David B. Fink, Susan H. Fink, and Solomon Family Limited Partnership, by a deed dated December 6, 2000 and recorded among the Land Records of Montgomery County, Maryland in Liber 18628 at folio 354. The right of way for Interstate Route 370 being 1) part of the property acquired by the State of Maryland, to the use of the State Highway Administration of the Department of Transportation, from Robert Huyett Teunis, Betty Lu Teunis, Ralph Dewey Teunis, Jr., and Doris Douglas Teunis by a deed dated September 20, 1989 and recorded among the Land Records of Montgomery County, Maryland in Liber 9043 at folio 676; 2) part of the property acquired by State Roads Commission of the State Highway Administration, acting for and on behalf of the State of Maryland, from Betty Brown Casey, Sole Surviving Trustee of the Betty Brown Casey Trust, et al, by consent inquisition in the Circuit Court for Montgomery County, Maryland and recorded among the Land Records of Montgomery County, Maryland in Liber 8440 at folio 243; and 3) part of the property acquired by the State Roads Commission of the State Highway Administration acting for and on behalf of the State of Maryland, from Kenneth O. Peters as described in a Writ of Possession, Law No. 65117, dated April 4, 1985 and filed in the Circuit Court for Montgomery County, Maryland. The right of way for Shady Grove Road being 1) all of the land dedicated to public use as shown on the aforementioned Plat Number 7952; 2) part of the property acquired by Montgomery County, Maryland from Virginia K. Casey Vianich by a deed dated October 24, 1973 and recorded among the Land Records of Montgomery County, Maryland in Liber 4470 at folio 73; and 3) all of the property acquired by Montgomery County, Maryland from Kenneth O. Peters and Ethel E. Peters by a deed dated December 10, 1973 and recorded among the Land Records of Montgomery County, Maryland in Liber 4480 at folio 162.

The undersigned, being a licensed surveyor, personally prepared or was in responsible charge of the preparation and the survey work reflected in this boundary survey, in compliance with the requirements set forth in "COMAR" Title 09, Subtitle 13, Chapter 06, Regulation .12.

Vicinity Map: 1" = 1000'

- Notes:**
- This survey is in the Maryland Coordinate System (NAD 83/91, SPCS Zone 1900, US feet), based on GPS and conventional survey measurements. Controlling stations are Washington Suburban Sanitary Commission NAD 83 Traverse Stations 19963 and 20332. Average project elevation is 520 US feet, and the average combined scale/elevation factor for the site is 0.99993951. Station 19963: North 527366.301 / East 1265750.290 Station 20332: North 533644.946 / East 1261566.309
 - Adjoining property information is from Maryland Department of Assessment and Taxation records.
 - Physical features within Parcel A - Shady Grove, the curb lines of Shady Grove Road along the frontage of Parcel A, and fences along the perimeter of the property surveyed were field located by Rodgers Consulting, Inc. Paved areas within the right of way of Interstate Route 370 and the median and northerly curb lines on Shady Grove Road were digitized from aerial photography and are shown for reference only.
 - This survey was prepared with the benefit of an owner's policy of title insurance for Parcel A - Sears Addition to Shady Grove, prepared by Commonwealth Land Title Insurance Company, dated December 14, 2000 and having Policy Number 00-000220. Title reports were not furnished for the State of Maryland properties.

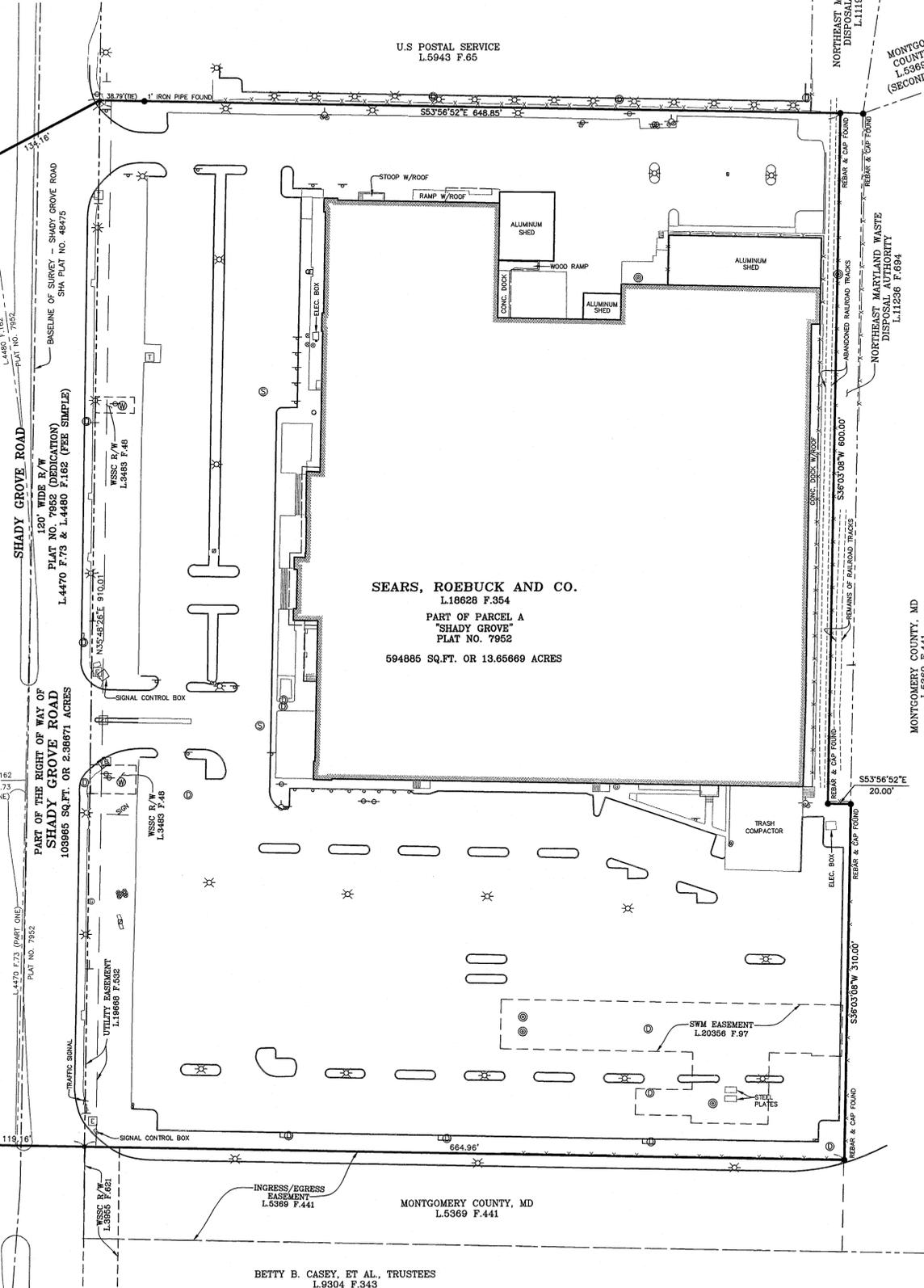
Exhibit "A"



TOTAL ANNEXATION AREA
1214950 SQ.FT. OR 27.89141 ACRES

STATE OF MARYLAND
L.9043 F.676, L.8440 F.243 & LAW 65117
516099 SQ.FT. OR 11.84801 ACRES

INTERSTATE ROUTE 370
SEA PLATS 48474 & 48475



SEARS, ROEBUCK AND CO.
L.18828 F.354
PART OF PARCEL A
"SHADY GROVE"
PLAT NO. 7952
594885 SQ.FT. OR 13.65669 ACRES

SYMBOL LEGEND

⊕	WATER VALVE
⊕	FIRE HYDRANT
⊕	SANITARY SEWER MANHOLE
⊕	STORM DRAIN MANHOLE
⊕	UNMARKED MANHOLE
⊕	WATER MANHOLE
⊕	TELEPHONE PEDESTAL
⊕	GAS VALVE
⊕	ELECTRIC TRANSFORMER
⊕	CLEAN OUT
⊕	STORM DRAIN INLET
⊕	STORM DRAIN CURB INLET
⊕	SIGN
⊕	LIGHT POLE
⊕	UTILITY POLE
⊕	BOLLARD
⊕	EDGE OF BUILDING

REVISION	DATE	REVISION	DATE

PREPARED FOR:
Sears Holdings
c/o Dept. 36475 B2-112A
3333 Beverly Road
Hoffman, IL 60179-0001

**Boundary Survey
and
Annexation Plat**



19847 Century Boulevard
Suite 200
Germantown, Maryland 20874
Ph: 301.948.4700 (Main)
Ph: 301.253.6509 (Frederick)
F: 301.948.6256
www.rodgers.com

BY	DATE
BASE DATA	FIELD 09/11
DESIGNED	TPQ 10/11
DRAWN	AEW 10/11
REVIEWED	TPQ 10/11

RODGERS CONTACT:
RELEASE FOR _____
BY _____ DATE _____

Properties Acquired By
Sears, Roebuck and Co., The State of Maryland, and Montgomery County, Maryland
Including Part of the Dedicated Right of Way of Shady Grove Road
Gaithersburg (9th) Election District, Montgomery County, Maryland

SCALE: 1" = 60'

JOB No. 1123A
DATE: OCT. 2011
SHEET No. 1 OF 1

Exhibit "B"

DESCRIPTION OF
PROPERTY TO BE ANNEXED INTO
THE CITY OF GAITHERSBURG, MARYLAND
GAITHERSBURG (NO. 9) ELECTION DISTRICT
MONTGOMERY COUNTY, MARYLAND

Being part of Parcel A as shown on a plat of subdivision entitled "Parcel A – Sears Addition to Shady Grove" and recorded among the Land Records of Montgomery County, Maryland as Plat Number 7952; part of the right of way for Interstate Route 370 as shown on State of Maryland - Department of Transportation - State Highway Administration - State Roads Commission Right of Way Plats Numbered 48474 and 48475; and part of the right of way for Shady Grove Road. Parcel A – Sears Addition to Shady Grove being all of the property acquired by Sears, Roebuck and Co., a New York corporation, from Consortium One, L.P., a Delaware limited partnership, Marc F. Solomon, David B. Fink, Susan H. Fink, and Solomon Family Limited Partnership, by a deed dated December 6, 2000 and recorded among the Land Records of Montgomery County, Maryland in Liber 18628 at folio 354. The right of way for Interstate Route 370 being 1) part of the property acquired by the State of Maryland, to the use of the State Highway Administration, of the Department of Transportation from Robert Huyett Teunis, Betty Lu Teunis, Ralph Dewey Teunis, Jr., and Doris Douglas Teunis by a deed dated September 20, 1989 and recorded among the Land Records of Montgomery County, Maryland in Liber 9043 at folio 676; 2) part of the property acquired by State Roads Commission of the State Highway Administration, acting for and on behalf of the State of Maryland, from Betty Brown Casey, Sole Surviving Trustee of the Betty Brown Casey Trust, et al, by consent inquisition in the Circuit Court for Montgomery County, Maryland and recorded among the Land Records of Montgomery County, Maryland in Liber 8440 at folio 243; and 3) part of the property acquired by the State Roads Commission of the State Highway Administration acting for and on behalf of the State of Maryland, from Kenneth O. Peters as described in a Writ of Possession, Law No. 65117, dated April 4, 1985 and filed in the Circuit Court for Montgomery County, Maryland. The right of way for Shady Grove Road being 1) all of the land dedicated to public use as shown on the aforementioned Plat Number 7952; 2) part of the property acquired by Montgomery County, Maryland from Virginia K. Casey Visnich by a deed dated October 24, 1973 and recorded among the Land Records of Montgomery County, Maryland in Liber 4470 at folio 73; and 3) all of the property acquired by Montgomery County, Maryland from Kenneth O. Peters and Ethel E. Peters by a deed dated December 10, 1973 and recorded among the Land Records of Montgomery County, Maryland in Liber 4480 at folio 162 and being more particularly described as follows:

Beginning for the same at the end of the 8th or South 40° 40' 58" West, 69.83 foot line described in an Annexation Agreement by Gateway Investment Associates Limited Partnership, a Virginia limited partnership, Residence Inn by Marriott, Inc., a Delaware corporation, Robert H. Teunis, Betty Lu Teunis, Ralph D. Teunis, Jr., Doris Teunis and The Mayor and Council of The City of Gaithersburg, and recorded among the aforementioned Land Records in Liber 9556 at folio 771; thence running with all of said 8th line, reversed, as described in said annexation agreement and running with all of the easterly or South 40° 40' 58" West, 69.83 foot plat line as shown on a plat of subdivision entitled "GATEWAY COMMONS" and recorded among the aforementioned Land Records as Plat Number 18415 the following course and distance:

1. North 40° 44' 23" East, 69.83 feet to a point; thence running across the right of way of Interstate Route 370 as shown on the aforementioned Right of Way Plats Numbered 48474 and 48475 and across Shady Grove Road the following course and distance
2. South 82° 46' 56" East, 932.68 feet to a point at the westerly end of the northerly or South 54° 33' 55" East, 668.85 foot line of Parcel A as shown on the aforementioned Plat Number 7952; thence running with said line and binding on the North 53° 56' 17.3" West, 668.89 foot line as described in a deed from Eugene B. Casey and Virginia Casey Visnich to U.S. Postal Service and recorded among the aforementioned Land Records in Liber 5943 at folio 65, passing over an iron pipe found at 38.79 feet, the following course and distance
3. South 53° 56' 52" East, 648.85 feet to a rebar and cap found at the end of the 3rd or North 36° 03' 43" East, 600.00 foot line of Exhibit C as described in a deed from Whiteacre Maryland Associates to Northeast Maryland Waste Disposal Authority and recorded among the aforementioned Land Records in Liber 11236 at folio 694, thence running with the 3rd and 2nd lines, reversed, of Exhibit C as described in Liber 11236 at folio 694 the following 2 courses and distances
4. South 36° 03' 08" West, 600.00 feet to a rebar and cap found; thence

5. South 53° 56' 52" East, 20.00 feet to a rebar and cap found on the easterly or South 35° 26' 05" West, 910.00 foot line of Parcel A as shown on the aforementioned Plat Number 7952; thence running with part of said easterly parcel line, and binding on the North 36° 02' 36" East, 910.00 foot line as described in an Inquisition in the Circuit Court for Montgomery County, Maryland, Law 42450, and recorded among the Land Records of Montgomery County, Maryland in Liber 5369 at folio 441 the following course and distance
6. South 36° 03' 08" West, 310.00 feet to a rebar and cap found; thence running with the southerly or North 54° 33' 55" East, 664.94 foot line of Parcel A as shown on the aforementioned Plat Number 7952 and binding on the outline of the property described in Liber 5369 at folio 441 the following course and distance
7. North 53° 56' 52" West, 664.96 feet to a point; thence running across Shady Grove Road and across the right of way of Interstate Route 370 as shown on the aforementioned Right of Way Plats Numbered 48474 and 48475 the following course and distance
8. North 53° 56' 52" West, 1054.99 to a point on the on the 10th or South 40° 48' 48" West, 771.72 foot line of the existing City of Gaithersburg corporate limits as described in the aforementioned annexation agreement recorded in Liber 9556 at folio 771; thence running with said 10th line, reversed, and binding on the easterly plat line as shown on a plat of subdivision entitled "GATEWAY COMMONS" and recorded among the aforementioned Land Records as Plat Number 18414 the following course and distance
9. North 40° 52' 13" East, 118.31 feet to an iron pipe found; thence running with all of the 9th line, reversed, of the existing City of Gaithersburg corporate limits as described in the aforementioned annexation agreement and binding on the southerly plat lines as shown on the aforementioned Plat Number 18414 and Plat Number 18415 the following course and distance

- 10. North 74° 44' 41" East, 349.39 feet to the Point of Beginning; containing 1214950 square feet or 27.89141 acres of land.

This description is in conformance with a boundary survey performed by Rodgers Consulting, Inc., October, 2011, Job No. 1123A and is in the meridian of the Maryland Coordinate System NAD83/91.

The undersigned, being a licensed surveyor, personally prepared or was in responsible charge of the preparation and the survey work reflected in this metes and bounds description, in compliance with the requirements set forth in "COMAR" Title 09, Subtitle 13, Chapter 06, Regulation .12.

(License Expiration Date: 9-20-2012)



LIST OF ADJOINING AND CONFRONTING PROPERTY OWNERS

(December 15, 2011)

Tax Account No.	Name	Address	Lot/Parcel	Block
Subject Property				
09-00768845	Sears Roebuck & Co.	c/o Dept. 36475 B2-112A 3333 Beverly Road Hoffman Estates, IL 60179-0001	N606	
	State Highway Administration of Maryland	707 N. Calvert Street Baltimore, MD 21202		
	Montgomery County, Maryland	Executive Office Building 101 Monroe Street Rockville, MD 20850		
Adjoining and Confronting Property Owners				
09-00768765	Betty B. Casey, Tr.	c/o Casey Management, Inc. 800 S. Frederick Avenue, Suite 100 Gaithersburg, MD 20877-4150	P761	
09-03015383	Northeast MD Waste Disp. Auth.	c/o Baker & Marbury 36 S. Charles Street Baltimore, MD 21201	P466	
09-03014765	Northeast MD Waste Disp. Auth.	25 South Charles Street Baltimore, MD 21201	N609	
09-00768721	United States Postal Service	16501 Shady Grove Road Gaithersburg, MD 20898-9201	P450	
09-03181283	HHLP Gaithersburg Associates LLC	2711 Centerville Road, Suite 400 Wilmington, DE 19808-1645	0000	A
09-02954914	Gateway Commons HOA	c/o The Mgmt. Group Assoc., Inc. 20440 Century Blvd., Suite 100 Germantown, MD 20874-7116	0000	F
09-02954787	Gateway Commons HOA	c/o The Mgmt. Group Assoc., Inc. 20440 Century Blvd., Suite 100 Germantown, MD 20874-7116	0000	B
09-02954685	Gateway Commons HOA	c/o The Mgmt. Group Assoc., Inc. 20440 Century Blvd., Suite 100 Germantown, MD 20874-7116	0000	B
09-02954617	Dean A. Shure	130 Swarthmore Avenue Gaithersburg, MD 20877-1260	0000	B
09-02954594	Janet E. Bochinski	131 Swarthmore Avenue Gaithersburg, MD 20877	0000	A
09-03034320	Nhung Pham	204 Swarthmore Avenue Gaithersburg, MD 20877-1268	0000	C
09-03034307	Fernando M. Galvan, et al.	208 Swarthmore Avenue Gaithersburg, MD 20877	0000	C
09-03034284	Myriam Gonzalez	212 Swarthmore Avenue Gaithersburg, MD 20877	0000	C
09-01759551	Montgomery County	Executive Office Building 101 Monroe Street Rockville, MD 20850	P848	

LIST OF ADJOINING AND CONFRONTING PROPERTY OWNERS

(December 15, 2011)

Tax Account No.	Name	Address	Lot/Parcel	Block
09-01562314	Betty B. Casey, Tr.	c/o Casey Management, Inc. 800 S. Frederick Avenue, Suite 100 Gaithersburg, MD 20877-4151	P819	
09-03055594	Washington Metro Area Transit Authority Office of Real Estate	600 Fifth Street, NW Washington, DC 20001	P837	
09-03683725	4811 Battery Lane LLC	P.O. Box 656 Rockville, MD 20848-0656	N385	
09-03023292	Halcyon Associates	5500 MacArthur Boulevard NW Washington, DC 20016-2536	N327	
09-02954958	Theodore R. & J. M. Stansbury	119 Bates Avenue Gaithersburg, MD 20877	12/0000	C
09-02955042	Gateway Commons Homeowners Association	c/o The Mgmt. Group Assc., Inc. 20440 Century Boulevard, Suite 100 Germantown, MD 20874-7116	0000	C
09-02954548	Irene A. Moore	121 Swarthmore Avenue Gaithersburg, MD 20877-1262	14/0000	A
09-02954652	Srinivasa R. and R. Kolluru	122 Swarthmore Avenue Gaithersburg, MD 20877-1260	29/0000	B
09-02954550	Teddy and Jamie Lok Weng	123 Swarthmore Avenue Gaithersburg, MD 20877-1262	15/0000	A
09-02954641	Chong Hui Huang & Xuimin Overall	7 Larkmeade Court Potomac, MD 20854	28/0000	B
09-02954561	Albert Luc & Dai Cam Trang	125 Swarthmore Avenue Gaithersburg, MD 20877-1262	16/0000	A
09-02954630	Jin Xing Xue, et al.	126 Swarthmore Avenue Gaithersburg, MD 20877-1260	27/0000	B
09-02954572	Jorge Szein	127 Swarthmore Avenue Gaithersburg, MD 20877-1262	17/0000	A
09-02954628	Haris & Mariella M. Dallas	5349 King Charles Way Bethesda, MD 20814-2154	26/0000	B
09-02954583	Guang Zhu & Yan Zhang	c/o Noah's Preferred Properties 313 Main Street Gaithersburg, MD 20878-5591	18/0000	A
09-03034331	Kifleyohannes Shiferaw & Wude Negash	202 Swarthmore Avenue Gaithersburg, MD 20877	44/0000	C
09-03034318	Knenh & B. Thavongsa	206 Swarthmore Avenue Gaithersburg, MD 20877	42/0000	C
09-03034295	Carlos A. & A. M. Rangel	210 Swarthmore Avenue Gaithersburg, MD 20877	40/0000	C
09-03034273	Jose Caero, et al.	214 Swarthmore Avenue Gaithersburg, MD 20877-1268	38/0000	C
09-02954798	Gateway Commons Homeowners Association	c/o The Mgmt. Group Assc., Inc. 20440 Century Boulevard, Suite 100 Germantown, MD 20874-7116	0000	B
09-02954743	Bonita V. Saunders	131 Goucher Terrace Gaithersburg, MD 20877	21/0000	B

LIST OF ADJOINING AND CONFRONTING PROPERTY OWNERS
 (December 15, 2011)

Tax Account No.	Name	Address	Lot/Parcel	Block
09-02954754	Cheng-Ih Wu	135 Goucher Terrace Gaithersburg, MD 20877	22/0000	B
09-02954823	Paulo R. & Solange Sousa	134 Goucher Terrace Gaithersburg, MD 20877-1264	23/0000	C
09-02954812	Rafael Mercado	13150 Musicmaster Drive Silver Spring, MD 20904-6845	22/0000	C
09-02954765	Ganzorig Ganbold	137 Goucher Terrace Gaithersburg, MD 20877-1266	23/0000	B
09-02954801	Fiona Suk Leung	138 Goucher Terrace Gaithersburg, MD 20877-1264	21/0000	C
Other				
	Erin E. Girard, Esq. Linowes and Blocher LLP	7200 Wisconsin Avenue Suite 800 Bethesda, MD 20814-4842		

SPECIAL WARRANTY DEED

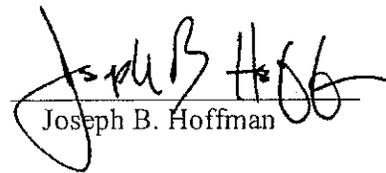
THIS SPECIAL WARRANTY DEED is made this 6th day of December, 2000, by and between Consortium One, L.P., a Delaware limited partnership, with a business address of 3299 K Street, N.W., 7th Floor, Washington, D.C. 20007, Marc F. Solomon, David B. Fink, Susan H. Fink, and Solomon Family Limited Partnership, all of which share a common business address of 4733 Bethesda Avenue, Suite 500, Bethesda, MD 20814, as tenants in common with a right to partition (collectively, the "Grantors") and Sears, Roebuck and Co., a New York corporation, with a business address of 3333 Beverly Road, Hoffman Estates, Illinois 60179 (the "Grantee")

WITNESSETH, that in consideration of the sum of Twenty One Million Dollars (\$21,000,000.00), which sum the Grantors warrant to be the full and actual consideration paid to them, Grantors do GRANT, BARGAIN, SELL AND CONVEY, unto Grantee, its successors and assigns, in fee simple, all of that certain real property situated, lying and being in Montgomery County, Maryland, being more particularly described in Exhibit A attached hereto and made a part hereof by reference.

TOGETHER with all buildings, fixtures and other improvements located in or on said property; and

TOGETHER with all water rights, sewer rights and other utilities located on the property, and any easements, licenses, appurtenances and privileges belonging or appurtenant thereto. The Grantors covenant that the Grantors will warrant specially the property hereby conveyed pursuant to the provisions of Maryland Code, Real Property Article, Section 2-106.

This is to certify that this instrument was prepared by or under the supervision of the undersigned, an attorney duly admitted to practice before the Court of Appeals of Maryland.


Joseph B. Hoffman

NOV 14 4 24 PM '00

92.45
105.00
20
5
LMP FD SURF \$
RECORDING FEE
REGISTRATION T
STATE
197.00
185.00
92.45
105.00
20
5

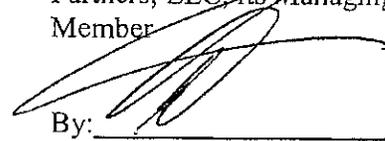
IN WITNESS WHEREOF, the Grantors have duly executed this Special Warranty Deed effective the day, month and year first above written.

GRANTORS:

Consortium One, L.P.

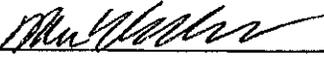
By: Millbank Capital Partners, LLC,
its General Partner

By: Bernstein Millbank Capital
Partners, LLC, its Managing
Member

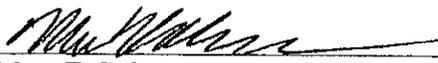


By: _____
Name: *Marc N DeBevoise*
Title: *manager.*

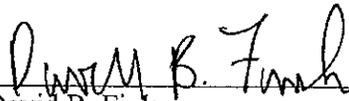
Solomon Family Limited Partnership

By: 

Marc F. Solomon
General Partner



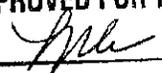
Marc F. Solomon



David B. Fink



Susan H. Fink

APPROVED FOR TRANSFER
BY  MONT., CO., MD

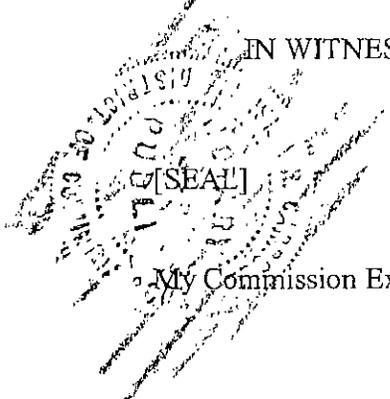
DEC 14 2000

\$ 210,000.00 TRANSFER TAX PAID

WASHINGTON)
)
) ss:
DISTRICT OF COLUMBIA)

On this the 6th day of December, 2000, I, the undersigned Notary Public in and for the jurisdiction aforesaid, do hereby certify that Marc N. Dubee, who before me personally appeared and acknowledged himself to be the duly authorized Manager of Bernstein Millbank Capital Partners, LLC, the Managing Member of Millbank Capital Partners, LLC, the General Partner of Consortium One, L.P. and that he, in such capacity, has been authorized so to sign, has executed the foregoing Special Warranty Deed and acknowledged the same before me in the jurisdiction aforesaid.

IN WITNESS WHEREOF I set my hand and official seal.



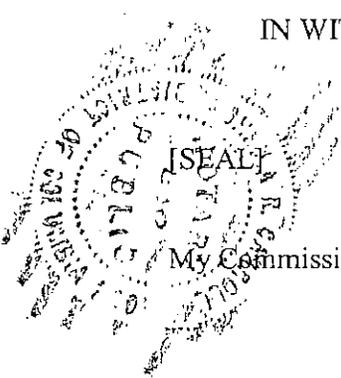
Sheila R. Carroll
Notary Public

SHEILA R. CARROLL
NOTARY PUBLIC, DISTRICT OF COLUMBIA
COMMISSION EXPIRES MARCH 31, 2002

WASHINGTON)
)
) ss:
DISTRICT OF COLUMBIA)

On this the 6th day of December, 2000, I, the undersigned Notary Public in and for the jurisdiction aforesaid, do hereby certify that Marc F. Solomon who before me personally appeared and acknowledged himself to be the duly authorized General Partner of Solomon Family Limited Partnership and that he, in such capacity, has been authorized so to sign, has executed the foregoing Special Warranty Deed and acknowledged the same before me in the jurisdiction aforesaid.

IN WITNESS WHEREOF I set my hand and official seal.



Sheila R. Carroll
Notary Public

SHEILA R. CARROLL
NOTARY PUBLIC, DISTRICT OF COLUMBIA
COMMISSION EXPIRES MARCH 31, 2002

WASHINGTON)
)
) SS:
DISTRICT OF COLUMBIA)

On this the 6th day of December, 2000, I, the undersigned Notary Public in and for the jurisdiction aforesaid, do hereby certify that Marc F. Solomon, who before me personally appeared and has executed the foregoing Special Warranty Deed and acknowledged the same before me in the jurisdiction aforesaid.

IN WITNESS WHEREOF I set my hand and official seal.



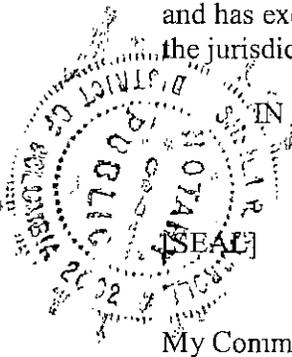
Sheila R. Carroll
Notary Public

My Commission Expires: **SHEILA R. CARROLL**
NOTARY PUBLIC, DISTRICT OF COLUMBIA
COMMISSION EXPIRES MARCH 31, 2002

WASHINGTON)
)
) SS:
DISTRICT OF COLUMBIA)

On this the 6th day of December, 2000, I, the undersigned Notary Public in and for the jurisdiction aforesaid, do hereby certify that, David B. Fink, who before me personally appeared and has executed the foregoing Special Warranty Deed and acknowledged the same before me in the jurisdiction aforesaid.

IN WITNESS WHEREOF I set my hand and official seal.



Sheila R. Carroll
Notary Public

My Commission Expires: **SHEILA R. CARROLL**
NOTARY PUBLIC, DISTRICT OF COLUMBIA
COMMISSION EXPIRES MARCH 31, 2002

WASHINGTON)
)
DISTRICT OF COLUMBIA) ss:

On this the 10th day of December, 2000, I, the undersigned Notary Public in and for the jurisdiction aforesaid, do hereby certify that, Susan H. Fink, who before me personally appeared and has executed the foregoing Special Warranty Deed and acknowledged the same before me in the jurisdiction aforesaid.

IN WITNESS WHEREOF I set my hand and official seal.



Sheila R. Carroll

Notary Public

SHEILA R. CARROLL
My Commission Expires: _____
NOTARY PUBLIC, DISTRICT OF COLUMBIA
COMMISSION EXPIRES MARCH 31, 2002

EXHIBIT "A"

Beginning for the same at an iron bar and cap now set on the southeasterly right-of-way line of Shady Grove Road (variable width), said point being the most northwesterly corner of Parcel A as laid out and shown on a plat entitled "Parcel A, Sears Addition to Shady Grove, Gaithersburg Election District, Montgomery County, Maryland", recorded among the Land Records of Montgomery County, Maryland in Plat Book 70 at Plat No. 7952, said point also being the southwest corner of land conveyed to the U.S. Postal Service in Liber 5943 at folio 65 among the Land Records of Montgomery County.

Thence running with and binding on the outlines of Parcel A, Land of the U.S. Postal Service and Land of CSX Transportation Inc., the following:

1. South 54 degrees 33' 55" East 648.85 feet; thence running with and binding on land conveyed to Northeast Maryland Waste Disposal Authority in Liber 11009 at folio 694, recorded among the Land Records of Montgomery County, the following two (2) courses and distances
2. South 35 degrees 26' 05" West 600.00 feet; thence
3. South 54 degrees 33' 55" East 20.00 feet; thence running with and binding on the outlines of Parcel A and land conveyed to Montgomery County in Liber 5369 at folio 441, recorded among the Land Records of Montgomery County, the following two (2) courses and distances
4. South 35 degrees 26' 05" West 310.00 feet to an iron bar found; thence
5. North 54 degrees 33' 55" West 664.96 feet; thence running with and binding on said southeasterly right-of-way line of Shady Grove Road the following
6. North 35 degrees 11' 23" East 910.01 feet to the point of beginning

Containing an area of 13.6566 acres of land, more or less.

EXHIBIT "A" (con't)

Being a portion of Parcel A as shown on a plat entitled "Parcel A, Sears Addition to Shady Grove, Gaithersburg Election District, Montgomery County, Maryland", and recorded among the Land Records of Montgomery County, Maryland in Plat Book 70 at Plat No. 7952.

Tax I.D. No. 9-768845 ~

After Recording

Return to

Title Insurer:

Commonwealth Land Title Insurance Company -
Attn: Denny White (00-000220)
1015 15th Street, NW, Suite 300
Washington, D.C. 20005

State of Maryland Land Instrument Intake Sheet
 Baltimore City County: Montgomery

18628 361

Information provided is for the use of the Clerk's Office, State Department of Assessments and Taxation, and County Finance Office only.

(Type or Print in Black Ink Only—All Copies Must Be Legible)

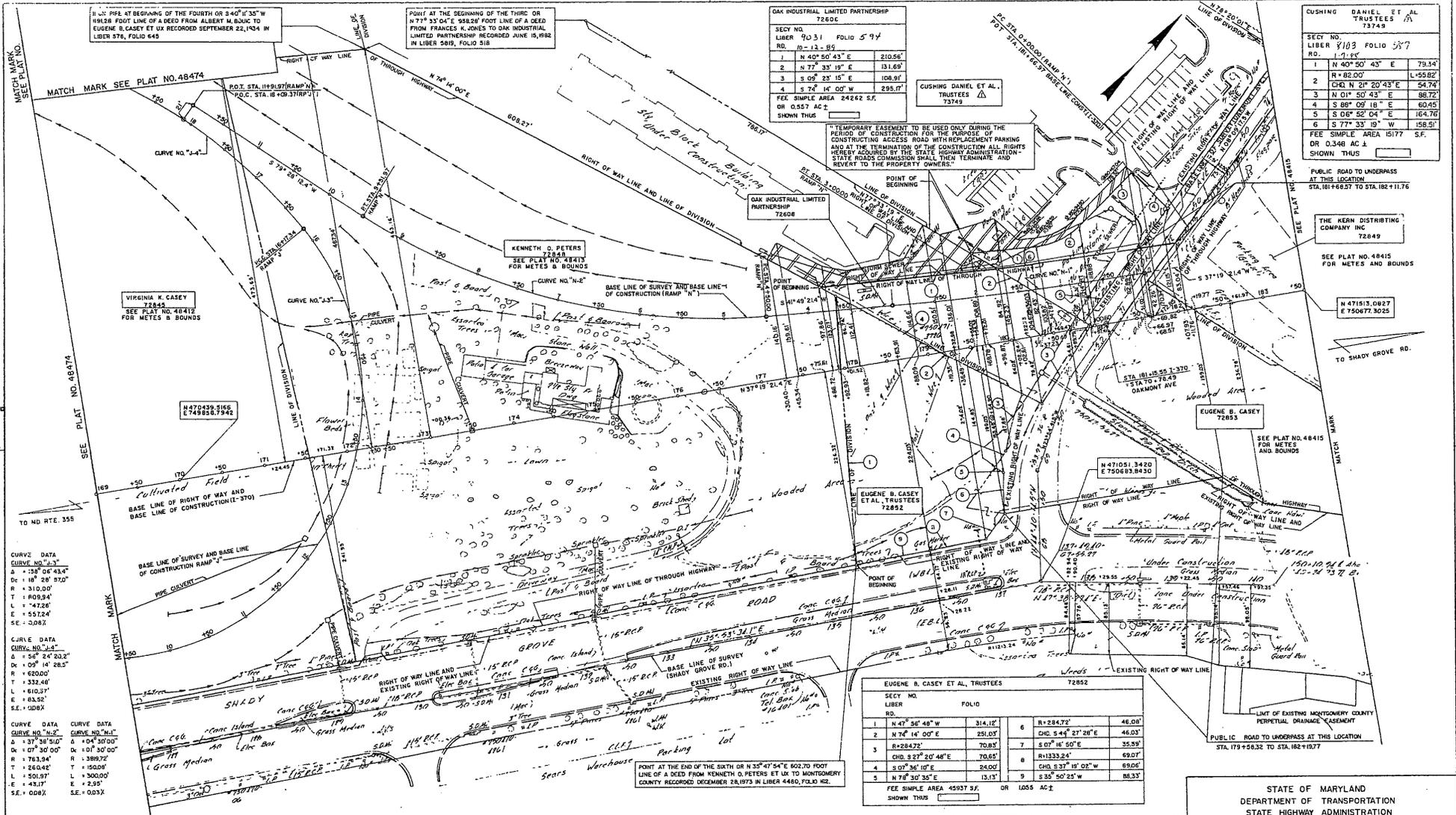
Check Box if Addendum Intake Form is Attached.

1	Type(s) of Instruments	<input checked="" type="checkbox"/> Deed	<input type="checkbox"/> Mortgage	<input type="checkbox"/> Other	<input type="checkbox"/> Other				
		<input type="checkbox"/> Deed of Trust	<input type="checkbox"/> Lease	<input type="checkbox"/>	<input type="checkbox"/>				
2	Conveyance Type Check Box	<input type="checkbox"/> Improved Sale	<input type="checkbox"/> Unimproved Sale	<input type="checkbox"/> Multiple Accounts	<input type="checkbox"/> Not an Arms-Length Sale [9]				
		Arms-Length [1]	Arms-Length [2]	Arms-Length [3]					
3	Tax Exemptions (if Applicable)	<input type="checkbox"/> Recordation							
		<input type="checkbox"/> State Transfer							
Cite or Explain Authority		<input checked="" type="checkbox"/> County Transfer							
4	Consideration and Tax Calculations	Consideration Amount		Finance Office Use Only					
		Purchase Price/Consideration	\$ 21,000,000.00	Transfer and Recordation Tax Consideration					
		Any New Mortgage	\$	Transfer Tax Consideration	\$				
		Balance of Existing Mortgage	\$	X () % =	\$				
		Other:	\$	Less Exemption Amount =	\$				
		Other:	\$	Total Transfer Tax =	\$				
		Full Cash Value	\$	Recordation Tax Consideration	\$				
5	Fees	Amount of Fees		Doc. 2					
		Recording Charge	\$ 20.00	\$	Agent:				
		Surcharge	\$ 5.00	\$	Tax Bill:				
		State Recordation Tax	\$ 92,400.00	\$	C.B. Credit:				
		State Transfer Tax	\$ 105,000.00	\$	Ag. Tax/Other:				
		County Transfer Tax	\$ 210,000.00	\$					
		Other	\$	\$					
6	Description of Property SDAT requires submission of all applicable information. A maximum of 40 characters will be indexed in accordance with the priority cited in Real Property Article Section 3-104(g)(3)(i).	District	Property Tax ID No. (1)	Grantor Liber/Folio	Map	Parcel No.	Var. LOG		
		9	768845				Part Parcel A	<input type="checkbox"/> (5)	
		Subdivision Name		Lot (3a)	Block (3b)	Sect/AR(3c)	Plat Ref.	SqFt/Acreage (4)	
		Seaside Add to Shady Grove							
		Location/Address of Property Being Conveyed (2)							
		16401 Shady Grove Rd		Gaithersburg, Md		Other Property Identifiers (if applicable)			
		Residential <input type="checkbox"/> or Non-Residential <input checked="" type="checkbox"/>		Fee Simple <input type="checkbox"/> or Ground Rent <input type="checkbox"/>		Amount:			
Partial Conveyance? <input type="checkbox"/> Yes <input type="checkbox"/> No		Description/Amt. of SqFt/Acreage Transferred:							
If Partial Conveyance, List Improvements Conveyed:									
7	Transferred From	Doc. 1 - Grantor(s) Name(s)			Doc. 2 - Grantor(s) Name(s)				
		Consortium One L.P., et al.							
		Doc. 1 - Owner(s) of Record, if Different from Grantor(s)			Doc. 2 - Owner(s) of Record, if Different from Grantor(s)				
8	Transferred To	Doc. 1 - Grantee(s) Name(s)			Doc. 2 - Grantee(s) Name(s)				
		SEARS, Roebuck and Co							
New Owner's (Grantee) Mailing Address									
		3333 Beverly Road			Hoffman Estates, Illinois 60179				
9	Other Names to Be Indexed	Doc. 1 - Additional Names to be Indexed (Optional)			Doc. 2 - Additional Names to be Indexed (Optional)				
10	Contact/Mail Information	Instrument Submitted By or Contact Person					<input type="checkbox"/> Return to Contact Person		
		Name: Denny White					<input type="checkbox"/> Hold for Pickup		
		Firm: Land America					<input type="checkbox"/> Return Address Provided		
		Address: 1015 15th St N.W. #300							
		Washington, D.C. 20009	Phone: (202) 312-5134						
IMPORTANT: BOTH THE ORIGINAL DEED AND A PHOTOCOPY MUST ACCOMPANY EACH TRANSFER									
11	Assessment Information	Yes <input checked="" type="checkbox"/> No Will the property being conveyed be the grantee's principal residence?							
		Yes <input checked="" type="checkbox"/> No Does transfer include personal property? If yes, identify:							
		Yes <input checked="" type="checkbox"/> No Was property surveyed? If yes, attach copy of survey (if recorded, no copy required).							
Assessment Use Only - Do Not Write Below This Line									
<input type="checkbox"/> Terminal Verification		<input type="checkbox"/> Agricultural Verification		<input type="checkbox"/> Whole <input type="checkbox"/> Part		<input type="checkbox"/> Tran. Process Verification			
Transfer Number:		Date Received:		Deed Reference:		Assigned Property No.:			
Year	19	19	Geo.	Map	Sub	Block			
Land			Zoning	Grid	Plat	Lot			
Buildings			Use	Parcel	Section	Occ. Cd.			
Total			Town Cd.	Ex. St.	Ex. Cd.				
REMARKS:									

Source: Reserved for Circuit Court Clerk Recording Section

Distribution: White - Clerk's Office
 Canary - SDAT
 Pink - Office of Finance
 Goldenrod - Preparer
 AOC-CC-300 (6/95)

Exhibit "E-2"



OAK INDUSTRIAL LIMITED PARTNERSHIP
7280E

SECY NO.	LIBER	FOLIO	5'94
1	N 40° 50' 43" E	210.58'	
2	N 77° 33' 19" E	131.69'	
3	S 05° 23' 15" E	108.51'	
4	S 74° 14' 00" W	295.07'	

FEE SIMPLE AREA 24262 S.F.
OR 0.557 AC ±
SHOWN THUS

CUSHING DANIEL ET AL.
TRUSTEES
73749

CUSHING DANIEL ET AL.
TRUSTEES
73749

SECY NO.	LIBER	FOLIO	5'97
1	N 40° 50' 43" E	79.34'	
2	N 82.00'	L-55.82'	
3	S 01° 50' 43" E	54.74'	
4	S 88° 09' 18" E	60.45'	
5	S 06° 52' 04" E	164.76'	
6	S 77° 33' 19" W	158.51'	

FEE SIMPLE AREA 15177 S.F.
OR 0.348 AC ±
SHOWN THUS

CURVE DATA
CURVE NO. "1-1"

Δ = 28° 04' 43"
Dc = 18' 28" 57.0"
R = 310.00'
T = 409.94'
L = 441.28'
E = 55.24'
SE = 0.04%

CURVE DATA
CURVE NO. "1-4"

Δ = 56° 24' 23.5"
Dc = 00° 14' 28.5"
R = 6200.0'
T = 332.48'
L = 810.57'
E = 83.85'
SE = 0.00%

CURVE DATA
CURVE NO. "1-2"

Δ = 37° 38' 51.0"
Dc = 07° 30' 00"
R = 783.04'
T = 260.48'
L = 501.97'
E = 43.17'
SE = 0.03%

I HEREBY CERTIFY THAT THE PROPERTY LINES SHOWN HEREON ARE A CORRECT INTERPRETATION OF THE FIELD SURVEY SUPPLIED TO ME BY THE STATE HIGHWAY ADMINISTRATION.

DATE: 11/20/84

LEGEND

- REVERSIBLE EASEMENT FOR SUPPORTING SURFACES
- PERPETUAL EASEMENT OR RIGHT FOR SPECIAL PURPOSE AS INDICATED BY NOTATION ON THIS PLAT
- PERPETUAL EASEMENT FOR SPECIAL PURPOSE AS INDICATED BY NOTATION ON THIS PLAT
- PERPETUAL EASEMENT FOR DRAINAGE FACILITY AS INDICATED BY NOTATION ON THIS PLAT
- PERPETUAL EASEMENT TO DISCHARGE FLOW OF WATER FROM OR INTO EXISTING WATERWAY OR NATURAL DRAINAGE COURSE
- PERPETUAL EASEMENT TO DISCHARGE FLOW OF WATER FROM EXISTING WATERWAY OR NATURAL DRAINAGE COURSE
- APPROXIMATE GENERAL DRAINAGE FLOW PATTERN (NOT TO SCALE FOR EXPLANATORY PURPOSE ONLY)

A PORTION OF THIS RIGHT OF WAY IS FOR AN EASEMENT AND NO ACCESS EITHER VEHICULAR OR PEDESTRIAN AND/OR ANIMAL WILL BE PERMITTED ACROSS THE LINES DESIGNATED "RIGHT OF WAY LINE OF THROUGH HIGHWAY" EXCEPT BY MEANS OF SUCH PUBLIC ROAD CONNECTIONS AS ARE AUTHORIZED BY LAW

SENT TO RECORD OFFICE: FEBRUARY 18, 1984

APPROVED BY CHAPMAN: DECEMBER 18, 1983

REVISIONS	DATE	BY	REASON
1	8-24-83	JMT/EEI	INITIAL
2	11-20-84	JMT/EEI	REVISION

LOCATED IN: MONTGOMERY COUNTY

PREPARED BY: JMT/EEI c jto venture

PROJECT MANAGER: JMT/EEI

CONSTRUCTION PROJECT: I 370 FROM WEST OF MARYLAND RTE. 355 TO EAST OF OAKMONT AVE.

CONSTRUCTION PROJECT NO.: M 248-502-372

STATE OF MARYLAND
DEPARTMENT OF TRANSPORTATION
STATE HIGHWAY ADMINISTRATION
STATE ROADS COMMISSION

RIGHT OF WAY PROJECT: I 370 FROM WEST OF MARYLAND RTE. 355 TO EAST OF GAYMONT AVE.

RIGHT OF WAY PROJECT NO.: M 248-303-372

FEDERAL AID PROJECT NO.: E-370-11210

SCALE: 1" = 50'

PLAT NO. 48475

MSA 31625-118/1176

EUGENE B. CASEY ET AL., TRUSTEES
72852

SECY NO.	LIBER	FOLIO	72852
1	N 47° 36' 48" W	314.12'	
2	N 74° 14' 00" E	251.03'	
3	R=284.72'	70.83'	
4	CHD 327° 20' 48" E	70.65'	
5	S 07° 36' 10" E	24.00'	
6	R=284.72'	46.00'	
7	S 07° 16' 50" E	35.39'	
8	R=1333.24'	69.07'	
9	CHD 837° 18' 02" W	69.06'	
10	S 35° 50' 25" W	88.33'	

FEE SIMPLE AREA 45937 S.F.
OR 1.055 AC ±
SHOWN THUS

Document filed for record
in compliance with
Montgomery County
Ordinance 10-10-01

LIBER 8440 FOLIO 243

IN THE CIRCUIT COURT FOR MONTGOMERY COUNTY, MARYLAND

STATE ROADS COMMISSION OF THE :
STATE HIGHWAY ADMINISTRATION :
Acting for and on behalf of the :
STATE OF MARYLAND :

Plaintiff :

vs. : Civil No. 12,152

BETTY BROWN CASEY, Sole Surviving :
Trustee of the Betty Brown Casey :
Trust, et al :

Defendants :

1988 AUG 29 PM 3:04
CLERK'S OFFICE
MONTGOMERY COUNTY, MD

CONSENT INQUISITION

INQUISITION made and taken at Bar in the Circuit Court for Montgomery County, Maryland, in the matter of the Petition of the State Roads Commission of the State Highway Administration vs. Betty Brown Casey, Sole Surviving Trustee of the Betty Brown Casey Trust, fee owner, and Montgomery County, tax collector, and it having been determined that the Plaintiff has the right to condemn the property hereinafter mentioned:

WITNESSETH:

THAT the Plaintiff and the Defendant, Betty Brown Casey, Trustee, fee owner, through counsel, having waived in writing a trial by Jury and having further agreed on \$8,005,000.00 as the damages which the Defendant will sustain by the taking, use and occupation of that property in the Ninth Election District of Montgomery County, Maryland, more particularly described

AGRICULTURE TRANSFER TAX IN THE :
AMOUNT OF \$ 121A :
SIGNATURE BC :

RECEIVED FOR TRANSFER
State Department of
Assessments & Taxation
for Montgomery County.
BC + 12/107
By Date

1988 JAN 25 AM 10:15

FILED
HOWARD H. SMITH
CLERK OF COURT
MONTGOMERY COUNTY, MD

COPIES DESTROYED
Document submitted for record
in a condition not permitting
reproduction, photographs
unavailable.

LIBER 8440 FOLIO 244

as follows:

ALL that property consisting of 17.168 acres, more or less, lying between the lines marked "Right of Way Line" as shown on Plats No. 48412 (Rev. 4/11/84) and 48413, which is being taken in fee simple, which said Plats are filed herein, said property being described by metes and bounds as follows:

BEGINNING at a point on Maryland Route 355 at Station 161 + 70.05 as shown on Plat No. 48412, thence by the following courses and distances:

1. North 40° 44' 10" East 956.09 feet, thence
2. South 56° 25' 29" East 717.14 feet, thence
3. South 35° 50' 25" West 448.96 feet, thence
4. With the arc of a curve to the right whose radius is 4851.07 feet an arc distance of 331.10 feet chord bearing and distance South 37° 47' 44" West 331.03 feet, thence
5. North 44° 10' 35" West 22.73 feet, thence
6. South 45° 49' 25" West 40.00 feet, thence
7. South 44° 10' 35" East 26.82 feet, thence
8. With the arc of a curve to the right whose radius is 4851.07 feet an arc distance of 118.92 feet chord bearing and distance South 40° 55' 41" West 118.92 feet, thence
9. South 41° 37' 49" West 33.12 feet, thence
10. South 86° 33' 08" West 109.37 feet, thence
11. North 49° 11' 20" West 568.00 feet, thence
12. North 40° 48' 40" East 6.00 feet, thence
13. North 49° 11' 20" West 30.00 feet, thence
14. South 40° 48' 40" West 6.00 feet, thence
15. North 49° 11' 20" West 90.03 feet to the point of beginning containing 747,834 square feet or 17.168 acres, more or less.

TOGETHER with all the buildings, improvements and fixtures thereon, if any, and the rights, ways, alleys, waters, roads, privileges, appurtenances and advantages to the same belonging or in anywise appertaining.

- 2 -

1988 JAN 25 AM 11:15

FILED
HOWARD COUNTY
CLERK OF THE
COURT

COPIES OF THIS DOCUMENT ARE AVAILABLE FOR PURCHASE AT THE CLERK'S OFFICE, MONTGOMERY COUNTY, MARYLAND.

LIBER 8440 FOLIO 245

AND the parties hereto through counsel having waived in writing a view by the Court of the property being acquired, and

UPON the consent and agreement of the parties, the Court does hereby find and determine that:

IT is necessary for the Plaintiff to acquire the said property and that the damages to be sustained by the Defendant to this cause for the taking of the described property for the purposes set out in the aforementioned Petition is the sum of EIGHT MILLION, FIVE THOUSAND AND 00/100 DOLLARS (\$8,005,000.00)

THAT upon the payment of the said sum together with the post-judgment interest set forth in the Stipulation, filed herein, to the Clerk of the Court for the use of the Defendants, Betty Brown Casey, Trustee, and Montgomery County, tax collector, the title to the property shall be held and become vested in the State of Maryland, to the use of the State Roads Commission of the State Highway Administration, clear and discharged from any claims, liens or demands of the Defendants, and the said State Roads Commission of the State Highway Administration shall thereupon have the right to immediate possession of said property.

IN WITNESS HEREOF, the Court has hereunto set its hand and seal this 25th day of January, 1988.

1988 JAN 25 AM 10 15

FILED
HOWARD C. SMITH
CLERK OF THE
MONTGOMERY COUNTY



LIBER 8440 FOLIO 246

[Handwritten Signature]

JUDGE, Circuit Court for
Montgomery County, Maryland

WE CONSENT:

[Handwritten Signature]

FRANK W. WILSON
Special Counsel for Plaintiff

MILLER, MILLER & CANBY

[Handwritten Signature]

WILLIAM M. CANBY
Attorney for Defendant,
Betty Brown Casey, Trustee

Address of Grantor: Betty Brown Casey, Trustee
1 West Deer Park Drive
Gaithersburg, Maryland 20877

Address of Grantee: State Highway Administration
707 North Calvert Street
Baltimore, Maryland 21202

Parcel ID# 9-1-768765 and
9-1-1678842

Title Insurer: None.

AUG. 20 1988
9-1-768765 & 1678842
All taxes on assessments certified to the
Collector of Taxes for Montgomery County
Md. by *[Handwritten Signature]* have been paid Dept. of
Finance Montgomery County, Md. This
statement is for the purpose of permitting
recording and is not assurance against
further taxation even for prior periods. It
does not guarantee satisfaction of outstand-
ing tax sales.

\$409,055.50 TRANSFER TAX PAID
MONTGOMERY COUNTY, MARYLAND

[Handwritten Signature]

TRANSFER TO GOVERNMENTAL, RELIGIOUS,
OR CHARITABLE ORGANIZATION

- 4 -

FILED
HOWARD M. SMITH
CLERK OF COURT
MONTGOMERY COUNTY, MD.
1988 JAN 25 AM 10 15

Exhibit "E-4"

LIBER 9043 FOLIO 676

1989 OCT 20 PM 12:00

SHA 63.11-25 2/1/89 OFFICE OF COUNSEL 707 N. Calvert Street Baltimore, Maryland 21202 Mail Address - P.O. Box 111 Baltimore, Maryland 21203	DEED TO THE STATE OF MARYLAND TO THE USE OF THE STATE HIGHWAY ADMINISTRATION OF THE DEPARTMENT OF TRANSPORTATION	PAGE 1 Right of Way Icon No. 73650/73934 State Highway Administration Project No. M 248-303-372
--	---	--

This Deed, Made this 20th Exhibit Exhibit E-4 in the year 1989

(A) WHEREAS, the State Highway Administration of the Department of Transportation, acting for and on behalf of the State of Maryland, finds it necessary to acquire the land, easements, rights and/or controls, shown and/or indicated on State Highway Administration's Plats Numbered

4A474 and 48476

which are duly recorded, or intended to be recorded, among the Land Records of

Montgomery County(ies) in the State of Maryland in order to lay out, open, establish, construct, extend, widen, straighten, grade and improve as a part of the State Roads System of Maryland, a highway and/or bridge, together with the appurtenances thereto belonging, under its Contract Number H 248-302-372 and known as the I-370 From West of Maryland Route 355 To East of Oakmont Avenue

and to thereafter use, maintain and/or further improve said highway and/or bridge, as a part of the Maryland State Roads System.

(B) NOW, THEREFORE, THIS DEED AND RELEASE WITNESSETH: That for and in consideration of the above premises, One Dollar (\$1.00) and other good and valuable considerations, the receipt whereof is hereby acknowledged, we do hereby grant and convey unto the STATE OF MARYLAND, TO THE USE OF THE STATE HIGHWAY ADMINISTRATION OF THE DEPARTMENT OF TRANSPORTATION, its successors and assigns, FOREVER IN FEE SIMPLE, all our right, title and interest, free and clear of all liens and encumbrances, in and to

(C) ALL THE LAND, together with the appurtenances thereto belonging, or in anywise appertaining, lying between the right-of-way lines designated "Right of Way Line," as shown and/or indicated on the hereinbefore mentioned plats, all of which plats are made a part hereof, so far as our property and/or our rights may be affected by the said proposed highway and/or bridge, and the appurtenances thereto belonging, or in anywise appertaining.

~~(D) AND THE GRANTORS DO FURTHER GRANT unto the State of Maryland, to the use of the State Highway Administration of the Department of Transportation, its successors and assigns, the right to create, use and maintain on the area of the land shown hatched thus [diagonal lines] on the above designated plats, such slopes as are necessary to retain and support the highway and/or adjacent property; it being agreed between the parties hereto, however, that at such time as the contour of the land over which this slope easement is granted is changed so that the easement required for slopes is no longer necessary to retain, support or protect the highway construction within the area conveyed in fee simple, then said easement for slopes shall cease to exist.~~

~~(E) AND THE GRANTORS DO FURTHER GRANT unto the State of Maryland, to the use of the State Highway Administration of the Department of Transportation, its successors and assigns, the perpetual right to create, use and maintain on the area of the land shown cross-hatched thus [cross-hatch] on the above designated plats such stream changes, side ditches, inlet ditches, pipes, culverts and all other drainage facilities as are necessary in the opinion of the State Highway Administration to adequately drain the highway or adjacent property and/or control the flow of water through those drainage structures to be built to protect said highway.~~

~~(F) AND THE GRANTORS DO FURTHER GRANT unto the State of Maryland, to the use of the State Highway Administration of the Department of Transportation, its successors and assigns, the perpetual right to discharge the flow of water from such stream changes, side ditches, inlet ditches, outlet ditches, pipes, culverts and all other drainage facilities as are necessary in the opinion of the State Highway Administration to adequately drain the highway or adjacent property and/or control the flow of water through those drainage structures to be built to protect said highway (either within the areas shown cross-hatched thus [cross-hatch] or within the limits of the areas hereinbefore conveyed in the fee simple) into existing waterways or natural drainage courses, as indicated by the symbol [arrow] and/or upon the existing ground, as indicated by the symbol [arrow] at the outlet and of the drainage facilities so created by the State Highway Administration, all of which are shown graphically and indicated by appropriate symbols and supplementary notations on the aforesaid plats.~~

(G) AND THE GRANTORS DO FURTHER GRANT unto the State of Maryland, to the use of the State Highway Administration of the Department of Transportation, its successors and assigns, ANY AND ALL RIGHT WHATSOEVER OF THE GRANTORS, their heirs, successors and assigns, of any means whatsoever of ingress or egress between the THROUGH HIGHWAY and their remaining property across the lines which are designated "Right of Way Line of Through Highway," to the end that there never will be any vehicular, pedestrian and/or animal access to or from said Through Highway and their remaining property across those lines which are so marked on the above mentioned plats, except by means of such valid road connections as are authorized by law.

~~(H) AND THE GRANTORS DO FURTHER GRANT unto the State of Maryland, to the use of the State Highway Administration of the Department of Transportation, its successors and assigns, ANY AND ALL RIGHT WHATSOEVER OF THE GRANTORS, their heirs, successors and assigns, of whatever nature or kind between their remaining property and the highway across those portions of the right of way lines which are hereby designated "Right of Way Line of Through Highway," to the end that there never will be any vehicular access to or from said highway and their remaining property across those portions of the said right of way lines which are so marked on the above mentioned plats.~~

~~The actual construction of said highway and/or bridge shall be in accordance with the plans and specifications of the State Highway Administration.~~

GRAFTING SECT OCT 16, 1989

COPIES IN EACH 2

(I) TOGETHER with the temporary right during the period of construction to use the area of land shown Hatched thus  on the aforesaid Plat(s) for the purpose of removal of building.

Upon completion of this construction, all right to utilize this area by SHA shall cease to exist.

(J) AND THE GRANTORS HERIN do hereby covenant and agree, on behalf of themselves, their heirs, successors and assigns, to abide by and respect each and every control or restriction set forth in this instrument of writing, it being the intention of this conveyance to perpetuate all the rights and privileges granted to the State of Maryland, to the use of the State Highway Administration, by this deed. It is expressly understood and agreed that these covenants shall run with and bind upon the GRANTORS, their heirs, successors and assigns, forever.

(K) BEING part of the property conveyed by deed dated 12/22/58 and recorded 12/30/58 in Liber 2545 at folio 227 and re-recorded 4/6/71 in Liber 4056 at folio 569 and by deed dated 10/26/70 and recorded 10/28/70 in Liber 4012 at folio 419 among the Land Records of Montgomery County, Maryland as to Item #73650. Also

BEING part of the property conveyed by deed dated 10/26/70 and recorded 10/28/70 in Liber 4012 at folio 415 and by deed dated 7/6/72 and recorded 7/10/72 in Liber 4239 at folio 183 among the Land Records of Montgomery County, Maryland as to Item #73934.

It is agreed that the State Highway Administration, by acceptance of this deed and recording in the Land Records, will issue a permit to construct entrances on Maryland Route 355 between Station 204+40 and Station 205+60 as per SHA Plat No. 48476 dated May 10, 1984 revision date December 10, 1979 (47207) entitled I-370 from West of Maryland Route 355 to East of Oakmont Avenue (copy attached) Construction Project M-248-502-372 to provide access to the properties owned by John Panagos, et ux. containing 1.88717 acres ± of land, and to properties owned by Robert H. Teunis, et ux. and Ralph D. Teunis, et ux., containing 28.73 acres of land ± (the Teunis property, being adjacent to and adjoining the Panagos property), to allow the Panagos property and the Teunis property to be developed to their highest and best use for uses other than residential detached single-family. The zoning and uses contemplated to be developed on the Panagos and Teunis properties are industrial/commercial and townhouses, it being the intent of the parties that the entrance will be adequate to service the ultimate development of the Panagos and Teunis properties. The exact location, width and geometrics of a directional (Right Turn In/Right Turn Out) point of access, will be determined by the Administration after a review of plans and traffic data for the development of the properties. All costs associated with the construction of the entrance will be the Owners and/or the Developers, but not the SHA. The point of access may be either a private commercial/industrial entrance or a public road. This agreement will be incorporated into the deed of conveyance to the SHA.

OCT. 20 1988

9-1-777521
9-1-777510

Douglas D. Buring

All taxes on assessments certified to the Collector of Taxes for Montgomery County, Md. by ~~10/20/88~~ have been paid Dept. Finance Montgomery County, Md. This statement is for the purpose of permitting recordation and is not assurance against further taxation even for prior periods. It does not guarantee satisfaction of outstanding tax sales.

OCT. 20 1988

9-1-777532

All taxes on assessments certified to the Collector of Taxes for Montgomery County, Md. by ~~10/20/88~~ have been paid Dept. Finance Montgomery County, Md. This statement is for the purpose of permitting recordation and is not assurance against further taxation even for prior periods. It does not guarantee satisfaction of outstanding tax sales.

TRANSFER TO GOVERNMENTAL, RELIGIOUS, OR CHARITABLE ORGANIZATION

TOU

\$ 19,248.28 TRANSFER TAX PAID MONTGOMERY COUNTY, MARYLAND

99 *TOU*

CONTINUED ON PAGE 3

FAHMS TAX PAID

OCT. 20 1988

BINDING MARGIN DO NOT WRITE IN THIS SPACE

BINDING MARGIN
DO NOT WRITE IN THIS SPACE

SHA 63.11-25 2/1/89

CONTINUED FROM PAGE 2

PAGE 3

(V) TOGETHER with the buildings and improvements thereupon erected, made or being and all and every the rights, roads, alleys, ways, waters, privileges, appurtenances and advantages, to the same belonging, or anywise appertaining.

(W) IT IS UNDERSTOOD AND AGREED that the State Highway Administration shall have no further obligation or liability for the results of construction, reconstruction, maintenance or further construction of said highway and/or bridge.

(X) TO HAVE AND TO HOLD the land and premises above described and mentioned and hereby intended to be conveyed unto the proper use and benefit of the State of Maryland, to the use of the State Highway Administration of the Department of Transportation, its successors and assigns forever in fee simple, together with the rights, easements, privileges and controls hereinbefore mentioned.

The property conveyed in fee simple by this instrument is 198,343 square feet.

(Y) AND the grantors covenant that they have neither done, nor suffered to be done, anything to encumber the property, easements and/or rights, etc., hereby conveyed, and that they will execute such other and further assurance of same as may be requisite.

(Z) AND join in this conveyance for the purpose of releasing the land, easements and/or rights herein conveyed from the operation and effect and any mortgage and/or lien which they hold upon the property of the grantors, retaining their rights as mortgagees and/or lienors in and to the remainder of the land of the grantor not affected by this conveyance.

IN WITNESS WHEREOF we have hereunto set our hands and seals.

WITNESS <u>Melvin Sligo</u>	<u>Robert Huettt Teunis</u> (SEAL) ROBERT HUETT TEUNIS
WITNESS <u>Barbara Williams</u>	_____ (SEAL)
WITNESS <u>Melvin Sligo</u>	<u>Betty Lu Teunis</u> (SEAL) BETTY LU TEUNIS
WITNESS <u>Rachy Williams</u>	_____ (SEAL)
WITNESS <u>Barbara Williams</u>	<u>Ralph Dewey Teunis, Jr.</u> (SEAL) RALPH DEWEY TEUNIS, JR.
WITNESS _____	_____ (SEAL)
WITNESS <u>Doris Douglas Teunis</u>	<u>Doris Douglas Teunis</u> (SEAL) DORIS DOUGLAS TEUNIS
WITNESS _____	_____ (SEAL)
WITNESS _____	_____ (SEAL)
WITNESS _____	_____ (SEAL)

Please Have Notary Public Complete Acknowledgements on Page 4

SEE PAGE 4 FOR ACKNOWLEDGMENTS

ACKNOWLEDGMENTS



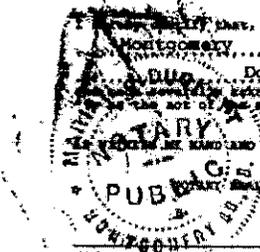
OF MONTGOMERY

I, the subscriber, a NOTARY PUBLIC of the STATE OF MARYLAND, in and for Montgomery County, personally appeared Robert Huyett Teunis and Doris Douglas Teunis, his wife and each personally acknowledged the foregoing deed and release to be his, her or their respective act, or to be the act of the said body corporate. (NOTE: strike out the words not applicable.)

AS WITNESS BY HAND AND NOTARIAL SEAL, this 20th day of September, 1989

NOTARY SEAL My Commission expires 7-1-90

STATE OF MARYLAND - COUNTY OF MONTGOMERY



I hereby certify that, before me, the subscriber, a NOTARY PUBLIC of the STATE OF MARYLAND, in and for Montgomery County, personally appeared Ralph Dewey Teunis, Jr. and Doris Douglas Teunis, his wife and each personally acknowledged the foregoing deed and release to be his, her or their respective act, or to be the act of the said body corporate. (NOTE: strike out the words not applicable.)

AS WITNESS BY HAND AND NOTARIAL SEAL, this 21st day of September, 1989

NOTARY PUBLIC My Commission expires 7-1-90

STATE OF MARYLAND - COUNTY OF

I hereby certify that, before me, the subscriber, a NOTARY PUBLIC of the STATE OF MARYLAND, in and for County, personally appeared and each severally acknowledged the foregoing deed and release to be his, her or their respective act, or to be the act of the said body corporate. (NOTE: strike out the words not applicable.)

AS WITNESS BY HAND AND NOTARIAL SEAL, this day of in the year

NOTARY SEAL My Commission expires

DEED FROM

ROBERT H. TEUNIS, et al

TO THE STATE OF MARYLAND TO THE USE OF THE DEPARTMENT OF TRANSPORTATION

Received for Record at o'clock, P.M. same day recorded in Liber No. Police & C. County, and examined per Clerk.

Cost of Record \$

I hereby certify that this instrument has been prepared under my supervision, an attorney admitted by the Court of Appeals of Maryland.

Special Counsel
State Highway Administration
Frank W. Wilson

TO - State Highway Administration

This conveyance has been recorded in the office of Real Estate Ledger.

No Extra property was acquired by deed

Extra property has been acquired and entered in property record - Form (M-5)

INDEXED IN LEDGER DATE

LEDGER CLERK

COFF CONVEYANCES MADE

Return Recorded Deed to: Chief, Records and Research Section, State Highway Administration, 2001 North Calvert Street - Room 403, Calvertown, Maryland 21013-0111

BOOK 9043 PAGE 80

ATTACHED TO AND MADE A PART OF THAT CERTAIN INSTRUMENT DATED THE _____ DAY OF _____, 1982

CLERK'S INDEX SHEET
(For the purpose of proper indexing only)

Pursuant to the provisions and requirements of Section 3-501 of Subtitle 5, Real Property Article, *Annotated Code of Maryland* (1981) Repl. Vol.), the following additional information is declared by the parties hereto to be contained within this instrument:

- 1. TYPE OF INSTRUMENT: Deed
- 2. GRANTOR'S NAME AND ADDRESS: Robert H. Teunis, et ux and
Ralph Dewey Teunis, Jr., et ux
c/o Linowes and Blocher
P. O. Box 8728
Silver Spring, MD 20907
- 3. GRANTEE'S NAME AND ADDRESS: STATE HIGHWAY ADMINISTRATION
707 North Calvert Street
Baltimore, Maryland 21202
- 4. CONSIDERATION (APPLIES ONLY TO DEEDS): \$1,251,124.00
- 5. PARCEL ID/TAX ACCOUNT NO(S): Item #73650 - 9-1-777521 & 9-1-777510
Item #73934 - 9-1-777532
- 6. PROPERTY DESCRIPTION: See attached Metes and Bounds
Descriptions:
Item #73934, Parcels 1 and 2
Item #73650, 1 parcel
- 7. STREET ADDRESS OF THE LAND AND PREMISES DESCRIBED IN THIS INSTRUMENT:
817 South Frederick Avenue
Gaithersburg, MD 20877
- 8. NAME OF TITLE INSURANCE COMPANY: NONE.

Mr. Clerk: After recording please see that the original of the foregoing instrument is:

Mailed (additional \$0.50 cost)
OR
 Held at Clerk's Office

For: _____
(name) **FRANK W. WILSON**
P. O. BOX 319
POOLESVILLE, MD. 20837

(address)

**DO NOT WRITE BELOW THIS LINE
TO BE COMPLETED BY CLERK OF THE COURT**

Verified by: _____
(Clerk's Office)

ATTACHMENT TO
CLERK'S INDEX SHEET

ROBERT H TEUNIS
ET AL,

ROBERT TEUNIS ET AL
73934

73934 PARCEL 1

PARCEL 2

SECY NO.	LIBER	FOLIO
1	N 40° 48' 40" E	501.72'
2	N 74° 31' 45" E	348.78'
3	S 40° 44' 10" W	1061.83'
4	N 49° 11' 20" W	195.00'
5	N 40° 48' 40" E	270.00'

SECY NO.	LIBER	FOLIO
1	S 49° 11' 20" E	240.00
2	S 40° 48' 40" W	40.00
3	N 49° 11' 20" W	228.13
4	N 40° 48' 40" E	10.00
5	N 49° 11' 20" W	11.87
6	N 40° 48' 40" E	30.00

FEE SIMPLE AREA 178234 S.F
OR 4.092 ACRES±

FEE SIMPLE AREA 9481 S F
OR 0.218 ACRES I

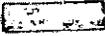
SHOWN THUS 

SHOWN THUS 

ROBERT H TEUNIS
ET UX
7365C

SECY NO.	LIBER	FOLIO
1	S 40° 46' 40" W	100.00'
2	N 49° 11' 20" W	166.04'
3	N 40° 48' 40" E	40.00'
4	S 61° 55' 13" E	190.75'
5	S 76° 28' 56" E	67.23'

FEE SIMPLE AREA 10628 S F
OR 0.244 ACRES±

SHOWN THUS 

CIRCUIT COURT FOR MONTGOMERY COUNTY

WRIT OF POSSESSION

Case Number 65117 Law

State Roads Commission of the State Highway Administration

Plaintiff/Judgment Holder
9300 Kenilworth Avenue, P.O. Box 329

Greenbelt, Maryland 20770

Address

VS

Kenneth O. Peters

Defendant/Judgment Debtor
16415 Shady Grove Road

Gaithersburg, Maryland 20877

Address

STATE OF MARYLAND, MONTGOMERY COUNTY TO WIT:

TO THE SHERIFF OF MONTGOMERY COUNTY:

Upon a Judgment entered, and in accordance with instructions attached,
you are directed to place State Roads Commission of the State Highway Administration
(Judgment Holder)
in possession of property known as: 16415 Shady Grove Road, Gaithersburg, Maryland

Note: Enter either street address or metes and bounds description, and County where property is located.

In the event the Judgment in this proceeding awards possession of the property, or payment of it's value in the alternative, you are hereby directed to levy upon real or personal property of a value equal to the value stated in the attached instructions, if the property specified in those instructions cannot be found.

WITNESS the Honorable Chief Judge of the Sixth Judicial Circuit of Maryland.

Date Issued April 4, 1985

Howe Capt. Test

Howard M. Smith

Clerk

Howard M. Smith
CLERK

Frank W. Wilson
P.O. Box 319
Poolesville, Maryland 20837
972-8798

SHERIFF'S RETURN

SHERIFF

Note: Execution of this writ shall be accordance with Md. Rule 2-647.

Exhibit "E-5"

IN THE CIRCUIT COURT FOR MONTGOMERY COUNTY, MARYLAND

STATE ROADS COMMISSION OF THE :
STATE HIGHWAY ADMINISTRATION :
Acting for and on behalf of the :
STATE OF MARYLAND :

Plaintiff : Law No. 65,117

vs. :

KENNETH O. PETERS, et al :

Defendants :

.....
INSTRUCTIONS TO SHERIFF

Mr. James A. Young, Sheriff:

Pursuant to the Writ of Possession issued herein by the Clerk of the Court, please be advised:

1. A final judgment was entered on ~~March~~ ^{November} 29, 198~~7~~⁴ upon an Inquisition of a Jury.
2. The Inquisition awarded possession of the subject premises to the State Highway Administration upon payment by the State of \$2,040,936.30 to Defendant, Kenneth O. Peters. The monies have been paid in full, together with accrued interest.

3. The subject property is described as follows:

All that parcel of land consisting of 8.22 acres, with all buildings and improvements thereon, being all the land and improvements acquired by Kenneth O. Peters, surviving tenant by the entirety of Ethel O. Peters, deceased, in Liber 2873, folio 549, saving and excepting 0.6408 acres conveyed to Montgomery County in Liber 4480, folio 162.

The address of the premises is 16415 Shady Grove Road, Gaithersburg, Maryland. A copy of SRC Plat #48,413 is

1985 APR -3 PM 12:07

FILED
HOWARD M. SMITH
CLERK'S OFFICE
MONTGOMERY CO MD

attached hereto showing the subject premises outlined in "yellow".

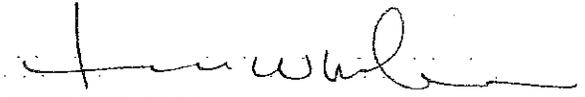
4. The Writ of Possession can either be served on the Defendant, Kenneth O. Peters, at:

16415 Shady Grove Road
Gaithersburg, Maryland

or at his new home at:

10111 Norton Road
Potomac, Maryland 20854

5. If necessary, the State will engage a private eviction service. The Right-of-Way Agent who will accept possession on behalf of the State Highway Administration is Richard Ravenscroft, Right-of-Way Agent, telephone #345-7100.



Frank W. Wilson
P. O. Box 319
Poolesville, Maryland 20837
972-8798
Special Counsel for Plaintiff

Right of Way Line And Line of Division

1

Point of Beginning

VIRGINIA, K. CASEY
72845
SEE PLAT NO. 48412
FOR METES & BOUNDS

473.65
Line of Division

463.16'

5

SEE PLAT NO. 48412

N47°04'39.5166"
E74°9'58.7942"

MATCH MARK

TO INTERSTATE
ROUTE 270

MICRO

169

180

70

+50

171

+24.45

50

71.32

172

50

cherry

cultivated Field

Flower Beds

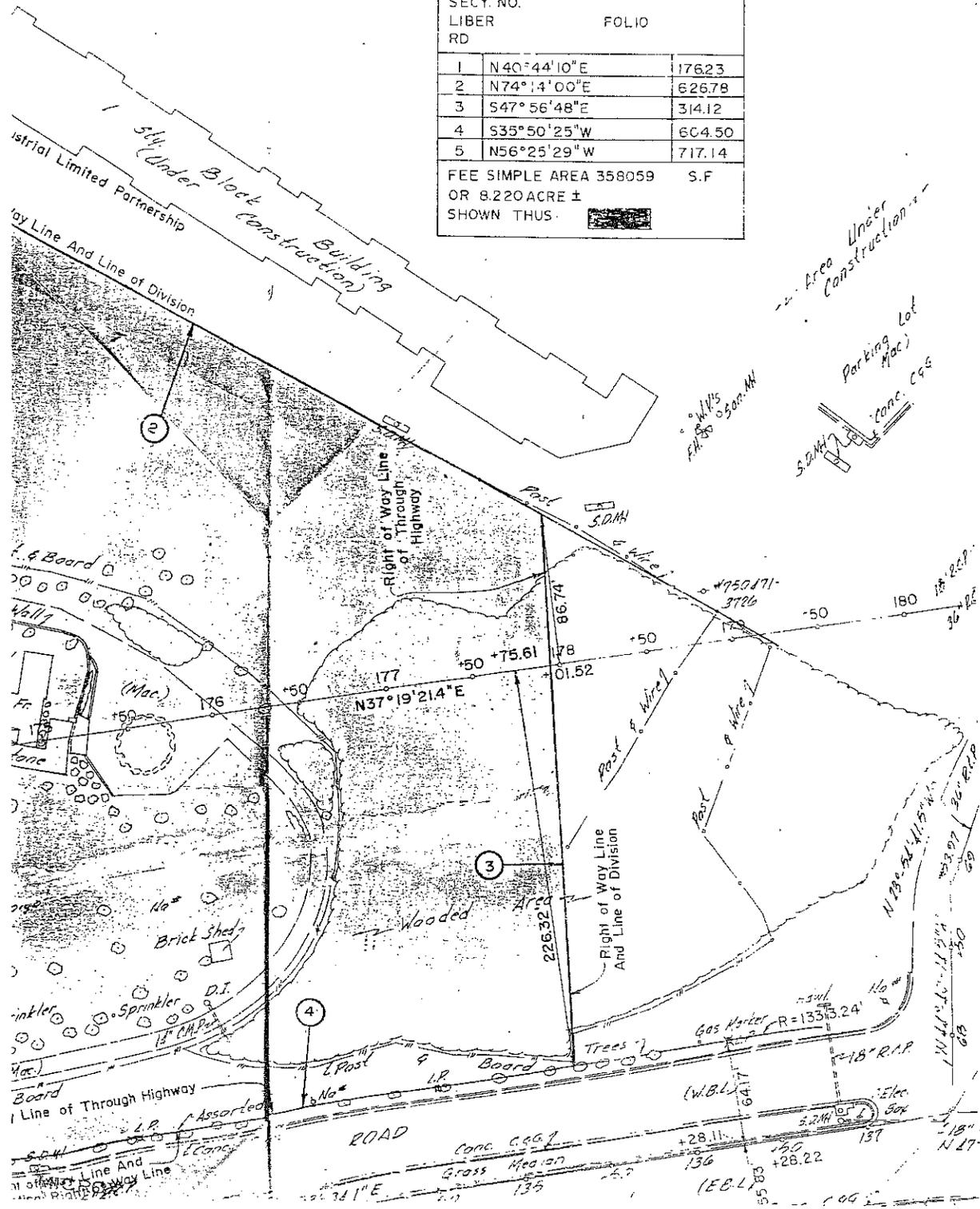
Apple Trees

2

241.95

E 4th CR.
FROM
HELEN
IN LIBER

KENNETH O. PETERS, ET UX		
72848		
SECY. NO.	FOLIO	
LIBER	RD	
1	N40°44'10"E	176.23
2	N74°14'00"E	626.78
3	S47°56'48"E	314.12
4	S35°50'25"W	604.50
5	N56°25'29"W	717.14
FEE SIMPLE AREA 358059		S.F
OR 8.220ACRE ±		
SHOWN THUS: 		



Area Under Construction
Parking Lot
(cont. CGS)

ROAD CONC. CGG?
Gross Meas. 135
+28.11
136
+28.22
(E.B.L.)
137
138
139
140
141
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200

SEE PLAT NO. 48412
FOR METES & BOUNDS

N470439.5166
E749858.7942

SEE PLAT NO. 48412

TO INTERSTATE
ROUTE 270

MATCH MARK

473.65
LINE OF DIVISION

5

Apple Trees

Flower Beds

Cherry

169 50 70 50 171 +50 +71.32 172 +24.45

2

3

Right of Way Line of Through Highway

Right of Way Line And Existing Right of Way Line

SHADY

Conc. C&G
Grass Median

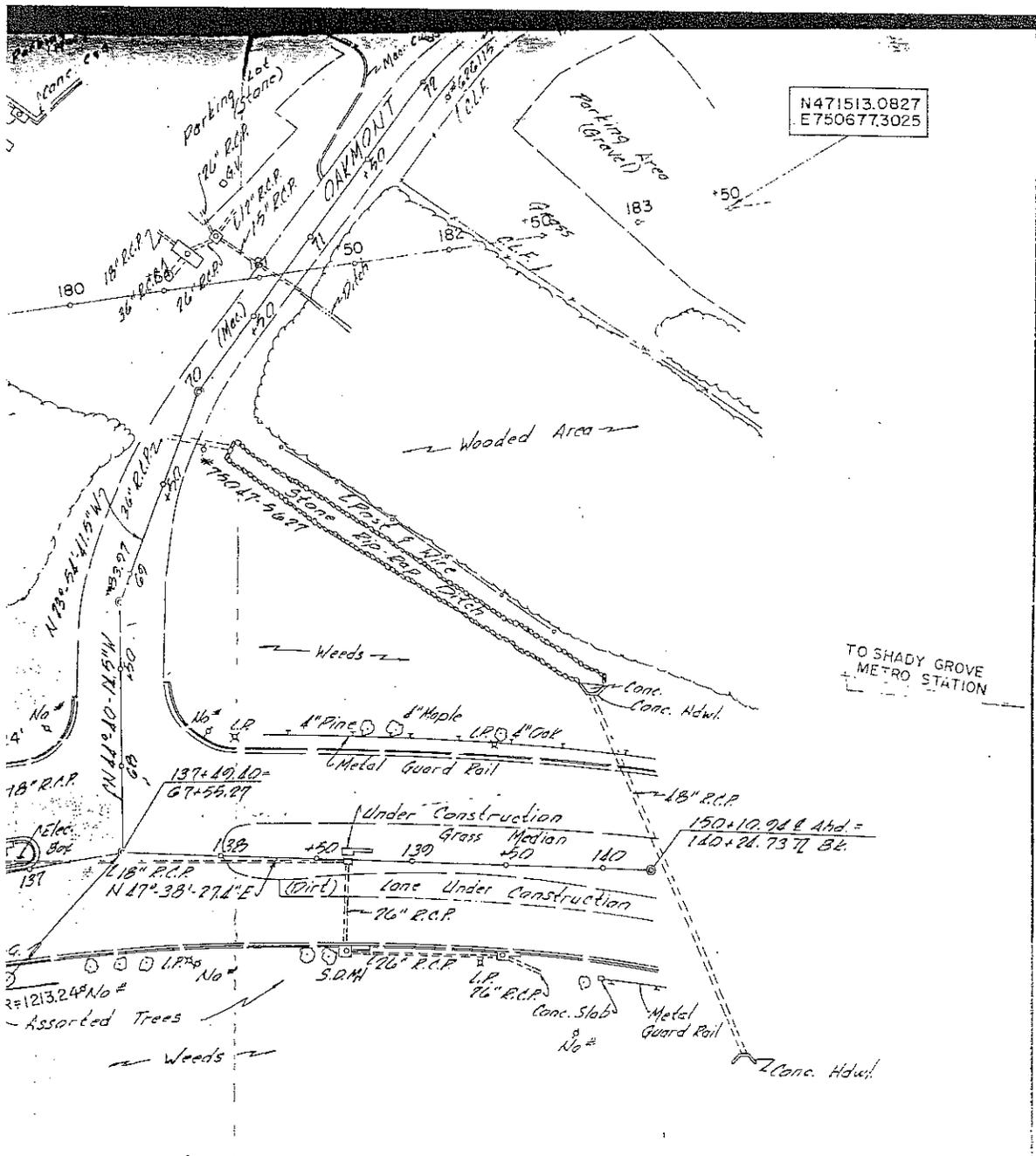
Conc. C&G
Elev. Box

5.0' HA 1.8" R.C.P.

I HEREBY CERTIFY THAT THE PROPERTY SHOWN HEREON ARE A CORRECT INTERPRETATION OF THE FIELD SURVEY SUPPLIED TO ME BY THE STATE HIGHWAY ADMINISTRATION.

DATE

- LEGEND
- [Symbol] REVERTIBLE EASEMENT FOR SUPPORTING SLOPE
 - [Symbol] REVERTIBLE EASEMENT OR RIGHT FOR SPECIAL
 - [Symbol] PERPETUAL EASEMENT FOR SPECIAL PURPOSE
 - [Symbol] PERPETUAL EASEMENT FOR DRAINAGE FACILITY
 - [Symbol] ARROW INDICATES GENERAL DRAINAGE FLOW
 - [Symbol] PERPETUAL EASEMENT TO DISCHARGE FLOW OF NATURAL DRAINAGE COURSE
 - [Symbol] PERPETUAL EASEMENT TO DISCHARGE FLOW OF APPROXIMATE GENERAL DRAINAGE PATTERN



N471513.0827
E750677.3025

TO SHADY GROVE
METRO STATION

RIGHT OF WAY ADEQUATE
FOR CONSTRUCTION

RECOMMENDED FOR APPROVAL

[Signature]
DATE 8-22-83

[Signature]
DATE 8-22-83

UNDER CERTIFICATION AND APPROVAL
PER FHWA PER 5-5-82 PER FHWA
DATE JULY 30, 1982

8-22-83
DATE

MONTGOMERY COUNTY

STATE OF MARYLAND
DEPARTMENT OF TRANSPORTATION
STATE HIGHWAY ADMINISTRATION
STATE ROADS COMMISSION

PROJECT MANAGER
PROJECT: I-370 FROM ± 3000' WEST OF
ROUTE 355 TO ± 200' EAST OF OAKMONT AVENUE
PROJECT NO: M 248-502-372

RIGHT OF WAY PROJECT: I-370 FROM WEST OF MARYLAND ROUTE
TO EAST OF OAKMONT ROAD
RIGHT OF WAY PROJECT NO. M248-303-372
FEDERAL AID PROJECT NO. I-370-1(2)0
ISSUED August 7, 1983 SCALE 1" = 50'
CHIEF BUREAU OF PLATS & SURVEYS

PLAT No. 48413

MICROX

Exhibit "F-1"

SHADY GROVE ROAD

PARCEL "A"
13.9321 ACRES

SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT THE PLAN ABOVE HEREON IS CORRECT; THAT IT IS A SUBDIVISION OF ALL THE LANDS OWNED BY VIRGINIA C. CASEY, HERESETOFORE KNOWN AS VIRGINIA C. CASEY AND HER HUSBAND GEORGE HERSON CASEY IN DECEASED, ET AL. AS DEED DATED APRIL 5, 1961 AND RECORDED IN LIBRA 346 AT FOLIO 280 BEING THE LAND RECORDS OF MONTGOMERY COUNTY, MARYLAND, AND THAT 100' PIPES MARKED THUS \odot ARE IN PLACE AS INDICATED.

DATE: JULY 22, 1965.

HOLMEAD, FREY & ASSOCIATES
 JAMES F. SHEEHAN
 SURVEYOR
 M.C. REC. NO. 5084

PLAT No 7952

VICINITY MAP

MONTGOMERY COUNTY, MARYLAND
 DEPARTMENT OF PUBLIC WORKS

APPROVED: July 3, 1965

AS TO ROAD AND SIDEWALKS

BY: [Signature]
 DIRECTOR OF PUBLIC WORKS

FOR PUBLIC STREETS AND WATER SYSTEMS
 THE MARYLAND NATIONAL CAPITAL PLAN AND PLANNING COMMISSION
 MONTGOMERY COUNTY PLANNING BOARD

APPROVED: July 27, 1965

[Signature] [Signature]
 CHAIRMAN SECRETARY-TREASURER

M.M.C.R. & P.C. RECORD FILE NO. 193-75

ST. NO.	BEARING	DIST.	CURVE DATA	CHORD BEARING	CHORD DIST.	TAN
1	106° 30'	75.24	R 173.30'	N 30° 49' 00" E	172.05	83.80

OWNER'S DEDICATION

WE, JAMES H. CADANAS, SIDNEY GREENBERG, JOHN R. AMBROSIO AND PHIL DAVID, OWNERS OF THE PROPERTY SHOWN AND DESCRIBED HEREON HEREBY ADMIT THIS PLAN OF SUBDIVISION, ESTABLISH THE MINIMUM BUILDING RESTRICTION, 100' LINE DEDICATE THE STREET TO PUBLIC USE AND GRANT TO MONTGOMERY COUNTY, MARYLAND, A SLOPE EASEMENT 20' WIDE ON THE LOT SHOWN HEREON WHERE ADJACENT PARALLEL, AND CONTIGUOUS TO STREET RIGHTS OF WAY LINES. SUCH EASEMENTS GRANTED HEREON SHALL BE ESTABLISHED AFTER ALL REQUIRED PUBLIC IMPROVEMENTS AND UTILITY SAID EASEMENTS HAVE BEEN LAWFULLY COMPLETED AND HAVE BEEN ACCEPTED FOR MAINTENANCE BY MONTGOMERY COUNTY, MD, OR APPROPRIATE AGENCY.

DATE: JULY 22, 1965.

FILED
SEP 21 1965

PARCEL "A"
SEARS ADDITION TO
SHADY GROVE
GAITHERSBURG ELECTION DISTRICT
MONTGOMERY COUNTY, MARYLAND
SCALE: 1" = 100' JULY, 1965

HOLMEAD, FREY & ASSOCIATES
 SURVEYING & ENGINEERING
 SILVER SPRING, MD.
 586-8469

RECORDED: _____
 PLAT BOOK: _____
 PLAT NO.: _____

65-856
193-75

Maryland State Archives

1973 NOV 29 PM 4:24

DEED

This DEED made this 24th day of October, 1973, by and between VIRGINIA K. CASEY VISNICH, GRANTOR, and MONTGOMERY COUNTY, MARYLAND, GRANTEE, hereinafter called the "COUNTY".

WITNESSETH:

That in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, the said GRANTOR does hereby grant, convey in fee simple, and release unto the "COUNTY", a body corporate, its successors and assigns, all that price or parcel of ground situate and lying in Montgomery County, Maryland, and more particularly described as follows:

Montg. Co.
not for

Parts of a tract or parcel of land conveyed by J. Hampton Jones, Jr. to Virginia K. Casey by deed dated September 17, 1947 and recorded among the Land Records of Montgomery County, Maryland, in Liber 1125 at Folio 61, more particularly described as follows:

Part One

Beginning at a point on the westerly right-of-way line of Shady Grove Road, 120 feet wide, said point being at the end of the seventh line of Parcel No. 2 in a deed from Virginia K. Casey Visnich and George Visnich to Montgomery County, Maryland, dated June 29, 1970, and recorded among said Land Records in Liber 3978 at Folio 127 and running thence with the proposed westerly right-of-way line of Shady Grove Road (1) 158.52 feet along the arc of a curve to the left having a radius of 4851.07 feet and a long chord bearing and distance of N 36°44'08"E 158.51 feet to a point; thence (2) N 35°47'54"E 451.72 feet to a point on the first or S 57°20'55"E 780.40 feet line of a deed to Kenneth O. Peters and Ethel E. Peters recorded in Liber 2873 at Folio 549; thence with part of said line as now surveyed (3) S 55°28'00"E 62.30 feet to the end thereof; thence (4) with part of the westerly line of a parcel dedicated for Shady Grove Road on a plat of Parcel "A" Sears Addition to Shady Grove recorded in Plat Book 79, Plat 7952 as now surveyed S 36°12'40"W 318.88 feet; thence (5) S 53°57'24"E 60.04 feet to the westerly corner of said Parcel "A"; thence with the easterly right-of-way line of Shady Grove Road (6) S 35°47'54"W 135.04 feet to a point; thence (7) 162.43 feet along the arc of a curve to the right having a radius of 4971.07 feet and a long chord bearing and distance of S 36°44'08"W 162.42 feet to a point; thence with the eighth line of said Parcel No. 2 reversed (8) N 52°19'38"W 120.00 feet to the point

of beginning and containing 54,893 square feet or 1.2602 acres of land. And the said Grantor does further grant and convey unto the County, its successors and assigns, an easement for the purpose of creating and maintaining graded slopes necessary for stabilizing and draining the roadway and abutting property over 19,245 square feet of land, more or less, of the remaining property of said Grantor as it abuts the land conveyed to the County for the construction of Shady Grove Road, said slopes to extend varying distances between 5 feet and 25 feet into said property from the easterly and westerly right-of-way lines for Shady Grove Road, all as shown on Dedication Plats No. 1 and 2, Shady Grove Road, prepared by Matz, Childs, and Associates. Said slope easements shall be extinguished after all required public improvements have been completed and accepted for maintenance by Montgomery County.

Part Two

Beginning at a point on the easterly right-of-way line of Shady Grove Road, said point being the northerly corner of Parcel "A", Sears Addition to Shady Grove, as shown on a plat recorded among said Land Records in Plat Book 79, Plat 7952, and running thence across Shady Grove Road, as now surveyed,

- (1) N 53°57'24"W 113.27 feet to a point; thence
- (2) N 25°48'30"E 8.43 feet to a point; thence
- (3) N 47°53'20"W 5.30 feet to a point on the westerly right-of-way line for Shady Grove Road; thence with said westerly line (4) N 35°47'54"E 88.38 feet to a point; thence
- (5) 69.07 feet along the arc of a curve to the right having a radius of 1333.24 feet and a long chord bearing and distance of N 37°16'57"E 69.06 feet to a point; thence
- (6) N 06°39'50"W 34.15 feet to a point; thence
- (7) N 56°16'50"E 119.42 feet to a point; thence (8) S 26°43'10"E 122.58 feet to a point on said easterly line of Shady Grove Road; thence with said easterly line (9) 149.93 feet along the arc of a curve to the left having a radius of 1213.24 feet and a long chord bearing and distance of S 39°20'18"W 149.83 feet to a point; thence (10) S 35°47'54"W 97.75 feet to the point of beginning and containing 34,539 square feet or 0.7929 acre of land. And the said Grantor does further grant and convey unto the County, its successors and assigns, an easement for the purpose of creating and maintaining graded slopes necessary for stabilizing and draining the roadway and abutting property over 9,346 square feet of land, more or less, of the remaining property of said Grantor as it abuts the land conveyed to the County for the construction of Shady Grove Road, said slopes to extend varying distances between 20 feet and 28 feet into said property from the easterly and westerly right-of-way lines for Shady Grove Road, all as shown on Dedication Plat No. 4 prepared by Matz, Childs and Associates. Said slope easements shall be extinguished after all required public improvements have been completed and accepted for maintenance by Montgomery County, Maryland.

Part Three

Beginning at a point on the dividing line between said Virginia K. Casey property and the property of Cornelius M. Whalen, described in Liber 2982 at Folio 206, said point being 2.76 feet from the end of the 7th or N 00°09'40"W 96.11 feet line of said Whalen deed, and running thence with part of said line reversed, as now surveyed, (1) S 06°59'10"W 69.37 feet to a point; thence leaving said deed line (2) 69.85 feet along the arc of a curve to the right having a radius of 284.72 feet and a long chord bearing and distance of N 26°50'54"W 69.68 feet to a point on the line dividing said Casey property and the property of R.J. Jones recorded in Liber 1020 at Folio 21; thence with part of said dividing line (3) N 73°48'20"E 23.99 feet to the point of beginning and containing 919 square feet or 0.0211 acre of land.

Part Four

Beginning at a point on the southerly right-of-way line for Shady Grove Road where said line intersects the 11th line of said deed to Virginia K. Casey, and running thence across said Shady Grove Road (1) N 06°49'40"E 131.70 feet to the northerly right-of-way line for said road; thence with said northerly line (2) N 72°30'00"E 66.18 feet to a point; thence again crossing Shady Grove Road (3) S 83°34'40"E 295.94 feet to the southerly line thereof; thence with said southerly line (4) S 72°30'00"W 390.96 feet to the point of beginning and containing 27,430 square feet or 0.6297 acre of land. And the said Grantor does further grant and convey unto the County, its successors and assigns, an easement for the purpose of creating and maintaining graded slopes necessary for stabilizing and draining the roadway and abutting property over 8,700 square feet of land, more or less, of the remaining property of said Grantor as it abuts the land conveyed to the County for the construction of Shady Grove Road, said slopes to extend 20 feet into said property from the northerly and southerly right-of-way lines for Shady Grove Road as shown on Dedication Plat No. 7 Shady Grove Road, prepared by Matz, Childs and Associates. Said slope easements shall be extinguished after all required public improvements have been completed and accepted for maintenance by Montgomery County.

PARCEL No. 2

Part of a tract or parcel of land conveyed by Stuart E. Trigger to Virginia K. Casey by deed dated June 7, 1949, and recorded among the Land Records of Montgomery County, Maryland, in Liber 1263 at Folio 388, and more particularly described as follows: Beginning at a point on the first or S 13°08'40"W 603.04 feet line of said deed, 239.55 feet from the end thereof, and running thence with part of said first line as now surveyed (1) S 13°07'20"W 139.44 feet to a point; thence leaving said first line and running with the southerly right-of-way line of Shady Grove Road (2) S 72°30'00"W 245.18

feet to a point; thence (3) N 83°34'40"W 295.94 feet to the northerly right-of-way line of Shady Grove Road; thence with said northerly line (4) N 72°30'00"E 586.74 feet to the point of beginning and containing 49,920 square feet or 1.146 acres of land. And the said Grantor does further grant and convey unto the County, its successors and assigns, an easement for the purpose of creating and maintaining graded slopes necessary for stabilizing and draining the roadway and abutting property over 16,560 square feet of land, more or less, of the remaining property of said Grantor as it abuts the land conveyed to the County for the construction of Shady Grove Road, said slopes to extend 20 feet into said property from the northerly and southerly right-of-way lines for Shady Grove Road as shown on Dedication Plats No. 7 and 8 prepared by Matz, Childs, and Associates. Said slope easements shall be extinguished after all required public improvements have been completed and accepted for maintenance by Montgomery County.

TOGETHER WITH all the rights, privileges, easements, appurtenances and advantages thereto belonging or appertaining,

THE COUNTY proposes to use the land herein conveyed for the improvement of Shady Grove Road.

TO HAVE AND TO HOLD the above granted property and rights unto the said COUNTY, its successors or assigns in fee simple.

AND the said GRANTOR does hereby covenant that she will warrant specially the property hereby conveyed, and that she will execute such further assurances of said lands as may be requisite.

ATTEST:

Virginia M. Titus

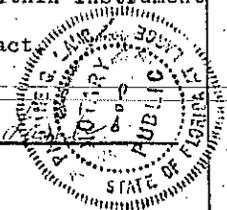
Virginia K. Casey (SEAL)
Virginia K. Casey Visnich

FLORIDA
STATE OF ~~MARILAND~~)
DADE) SS:
COUNTY OF ~~MONTGOMERY~~)

I hereby certify that on this 24th day of November, 1973, before the subscriber, a Notary Public in and for the aforesaid State and County personally appeared Virginia K. Casey Visnich personally well known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument and did acknowledge the foregoing deed to be her act

My Commission Expires:
Notary Public, State of Florida at Large
My Commission Expires May 1, 1976

Pauline J. [Signature]
Notary Public



I hereby certify that I am an attorney duly admitted to practice before the Court of Appeals of Maryland and that within 10 days of the date of this instrument...

NOV 29 1983 663,644
9-1-83 110,121
11-21-70

All Taxes on accounts certified to the
Collector of Taxes for Montgomery County
for 1983 are hereby notified.

5617299-04-15-83 TAX PAID IN ADVANCE
MONTGOMERY COUNTY
B. [Signature]

NOV 29 1983 [Signature]

AGENCY CERTIFY THIS PROPERTY HAS BEEN PAID
TAXES TO THE COUNTY OF MONTGOMERY COUNTY
TAXPAYER NAME DIVISION OF RESERVES
30877

CLERK'S OFFICE
MONTG. CO., MD.

1973 DEC 28 PM 2:37

D E E D

Montgomery Co

THIS DEED made this 10th day of DECEMBER, 1973, by and between KENNETH O. PETERS and ETHEL E. PETERS, his wife, Tenants by the Entirety, and the following, who join in this Deed for the purpose of agreeing to release the land, easements and/or rights and appurtenances hereinafter described from the operation and effect of any mortgage, deed of trust, judgment, and/or lien which they may hold against the property of the above-mentioned persons, it being understood and agreed that they retain their rights as mortgagees, trustees, and/or lienors in and to the remaining land of the above-mentioned persons not hereby agreed to be conveyed;

M. Bradley Griggs, Joseph F. Zegowitz, Jr., and George H. Bauchort, Jr., Trustees, under a Doed of Trust dated July 27, 1961, recorded August 7, 1961, securing M. BRADLEY GRIGGS, Treasurer of National Permanent Savings and Loan Association, all as recorded in the Land Records of Montgomery County, Maryland; the party of the first part, hereinafter called the "GRANTORS", and MONTGOMERY COUNTY, MARYLAND, party of the second part, hereinafter called the "COUNTY".

W I T N E S S E T H:

That in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, the said GRANTORS do hereby grant, convey in fee simple, and release unto the COUNTY, a body corporate, its successors and assigns, all those pieces or parcels of ground and other rights situate and lying in Montgomery County, Maryland, and more particularly described as follows:

FEE TAKING

Part of a tract or parcel of land conveyed by The Disciples Home to Kenneth O. Peters and Ethel E. Peters by deed dated July 27, 1961, and recorded among the Land Records of Montgomery County, Maryland, in Liber 2873 at Folio 549, more particularly described as follows:

Beginning at the end of the 5th or N. 24° 55' 35" E. 162.50 line of the aforesaid deed to Peters, and running thence with the 5th, 4th, 3rd, 2nd, and part of the 1st lines of said deed, reversed, as now surveyed, the following 5 courses and distances: (1) S. 25° 48' 30" W. 162.50 feet; (2) S. 27° 05' 10" W. 122.46 feet; (3) 171.23 feet along the arc of a curve to the right having a radius of 1062.90 feet and a long chord bearing and distance of S. 31° 42' 05" W. 171.05 feet; (4) S. 36° 19' 00" W. 148.00 feet; (5) N. 56° 28' 00" W. 62.30 feet to a point on the westerly right of way line for Shady Grove Road; thence with said right of way line (6) N. 35° 47' 54" E. 602.70 feet to intersect the 6th line of the aforesaid Peters deed; thence with part of said 6th line reversed, as now surveyed (7) S. 47° 53' 20" E. 5.30 feet to the point of beginning and containing 27,913 square feet or 0.6408 acre of land.

SLOPE EASEMENT

And the said GRANTORS do further grant and convey unto the COUNTY, its successors and assigns, an easement for the purpose of creating and maintaining graded slopes necessary for stabilizing and draining the roadway and abutting property over 22,120 square feet of land, more or less, of the remaining property of said GRANTORS as it abuts the land conveyed to the COUNTY for the construction of Shady Grove Road, said slopes to extend varying distances between 25 feet and 50 feet into said property, all as shown on Dedication Plats No. 2 and 3, Shady Grove Road, prepared by Matz, Childs and Associates. Said slope easements shall be extinguished after all required public improvements have been completed and accepted for maintenance by Montgomery County.

TOGETHER WITH all the rights, privileges, easements, appurtenances and advantages thereto belonging or appertaining.

THE COUNTY proposes to use the land herein conveyed for the improvement of Shady Grove Road.

TO HAVE AND TO HOLD the above granted property and rights unto the said COUNTY, its successors or assigns in fee simple.

AND the said GRANTORS do hereby covenant that they will warrant specially the property hereby conveyed, and that they will execute such further assurances of said lands as may be requisite.

WITNESS their hands and seals the day and year first above written.

ATTEST:

Martha L. Obenstine
MARTHA L. OBENSTINE

Kenneth O. Peters (SEAL)
Kenneth O. Peters

(see to book)

Ethel E. Peters (SEAL)
Ethel E. Peters

NATIONAL PERMANENT SAVINGS AND
LOAN ASSOCIATION

Nancy L. Hite
NANCY L. HITE

By: M. Bradley Griggs (SEAL)
M. Bradley Griggs, Treasurer

Nancy L. Hite
NANCY L. HITE

M. Bradley Griggs (SEAL)
M. Bradley Griggs, Trustee

Nancy L. Hite
NANCY L. HITE

Joseph F. Zegowitz (SEAL)
Joseph F. Zegowitz, Jr., Trustee

Betty J. Hairston
BETTY J. HAIRSTON

George H. Beuchert, Jr. (SEAL)
George H. Beuchert, Jr., Trustee

STATE OF MARYLAND :
COUNTY OF MONTGOMERY : ss:

I hereby certify that on this 10th day of December, 1973, before the subscriber, a Notary Public in and for the afore-said State and County, personally appeared KENNETH O. PETERS and ETHEL E. PETERS, his wife, personally well known to me (or satisfactorily proven) to be the persons whose names are subscribed to the within instrument and did acknowledge the afore-going deed to be their act.

My Commission Expires: July 1, 1974

Martha L. Obenstine
Notary Public - MARTHA L. OBENSTINE



DEC 28 1973

9-1-9915-2417

All Taxes and assessments levied to the Collector of Taxes for Montgomery County Md. Year 1973 have been paid Dept. of Finance Montgomery County, Md. Tax statement is for the purpose of providing receipt of a 1% net securities transfer fee and the net proceeds for the period, not less than the amount of outstanding tax sale.

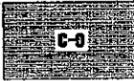
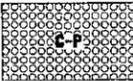
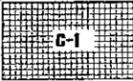
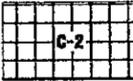
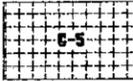
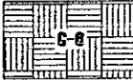
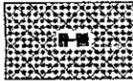
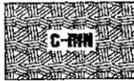
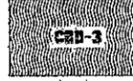
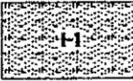
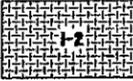
3,198.00 TRANSFER TAX PAID
MONTGOMERY COUNTY, MARYLAND
BY *Robert S. [Signature]*

TAXES PAID DEC 28 1973

LIBER 4480 FOLIO 167

RECORDS SECTION THIS PRESENTLY HAS BEEN
DUPLICATE FILED IN THE MONTGOMERY
COUNTY RECORDS SECTION
Q. M. [Signature]
REGISTER CLERK, DIVISION OF ASSESSMENTS

ZONING LEGEND

	OFFICE BUILDING, MODERATE INTENSITY	maximum floor area ratio of 1.5
	COMMERCIAL, OFFICE BUILDING	★ 
	COMMERCIAL, OFFICE PARK	★ 
	CONVENIENCE COMMERCIAL	
	GENERAL COMMERCIAL	
	C-2/OVERLAY ZONE	Arlington Road District Overlay Zone Sec. 59-C-18.12 Montgomery County Code
	HIGHWAY COMMERCIAL	
	LIMITED COMMERCIAL	
	LOW-DENSITY, OFFICE COMMERCIAL	
	LOW-DENSITY, REGIONAL COMMERCIAL	
	HOTEL-MOTEL	minimum lot area of two acres
	COUNTRY INN ZONE	minimum lot area of two acres ★ 
	CENTRAL BUSINESS DISTRICT 0.5	maximum base floor area ratio of 0.5
	CENTRAL BUSINESS DISTRICT, RESIDENTIAL, 1.0	
	CENTRAL BUSINESS DISTRICT, RESIDENTIAL, 2.0	
	CENTRAL BUSINESS DISTRICT 1.0	maximum base floor area ratio of 1.0
	CENTRAL BUSINESS DISTRICT 2.0	maximum base floor area ratio of 2.0
	CENTRAL BUSINESS DISTRICT 3.0	maximum base floor area ratio of 3.0
	LIGHT INDUSTRIAL	★ 
	HEAVY INDUSTRIAL	★ 
	TECHNOLOGY AND BUSINESS PARK	
	LOW INTENSITY, LIGHT INDUSTRIAL	
	RESEARCH AND DEVELOPMENT	★ 
	LIFE SCIENCES CENTER	maximum base floor area ratio of 0.3 ★ 
		

MARCH 2006

APPROVED AND ADOPTED

SHADY GROVE

SECTOR PLAN



Prepared by:

The Maryland-National Capital Park and Planning Commission

Approved by:

The Montgomery County Council

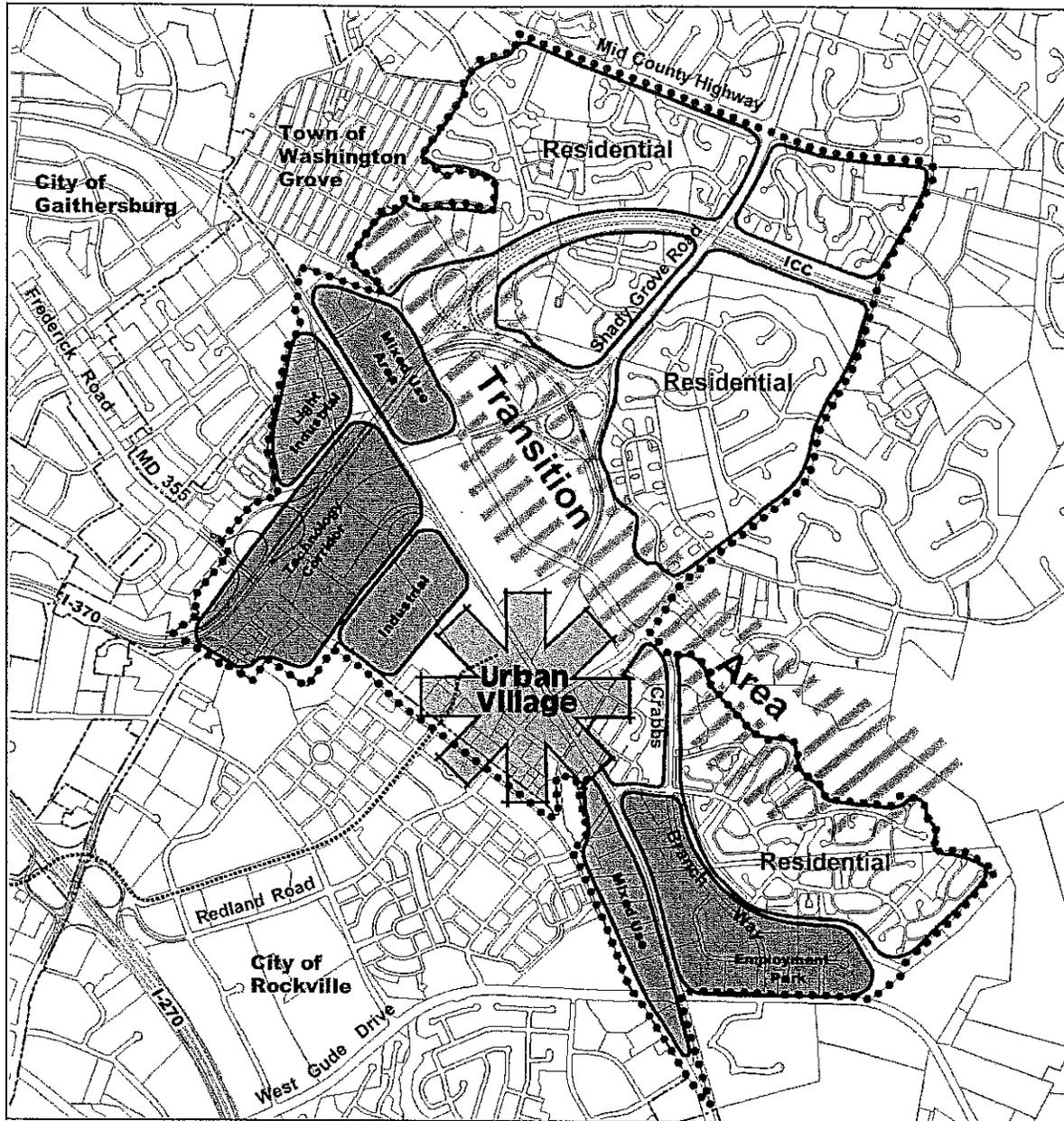
January 17, 2006

Adopted by:

The Maryland-National Capital Park and Planning Commission

March 15, 2006

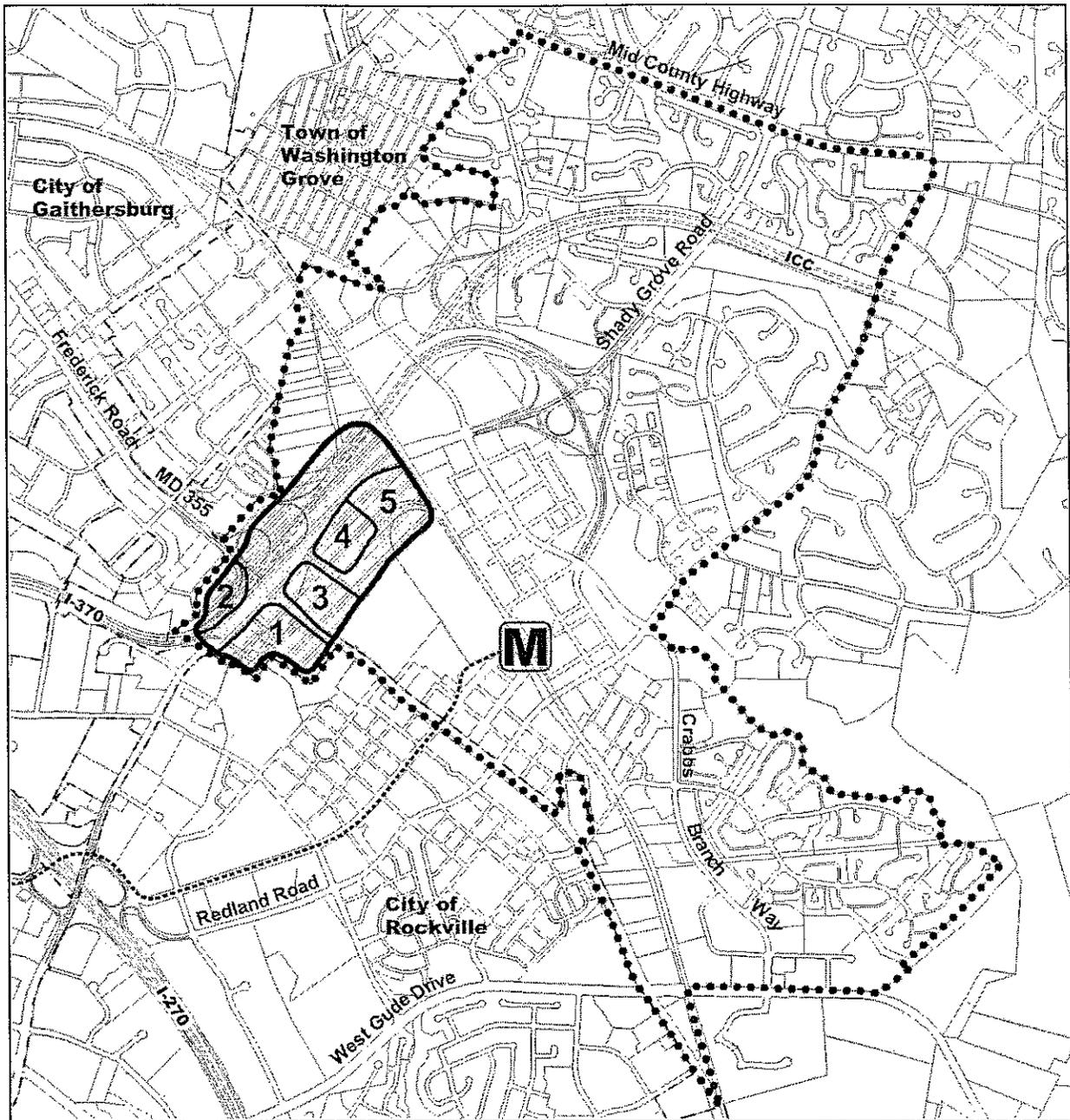
Land Use Vision



	Urban Village-mixed-use residential uses at Metro		Mixed Use Area-light industrial/office, residential, parks		Shady Grove Sector Plan Boundary
	Residential		Transition Area-parks, schools, low-density residential		City of Gaithersburg, City of Rockville, Town of Washington Grove
	Technology Corridor-R&D, technology uses				Corridor Cities Transitway
	Industrial-maintain existing uses				
	Employment Park-maintain existing uses				
	Mixed Use-commercial				



Shady Grove Road Technology Corridor



 Technology Corridor

- 1 Shady Grove Plaza
- 2 Casey Property
- 3 Casey Property
- 4 The Great Indoors
- 5 Post Office

-  Shady Grove Sector Plan Boundary
-  City of Gaithersburg, City of Rockville, Town of Washington Grove
-  Corridor Cities Transitway
-  Shady Grove Metro Station



SHADY GROVE ROAD TECHNOLOGY CORRIDOR

Existing Conditions

Shady Grove Road runs through the planning area from Midcounty Highway to MD 355. At its western end, the corridor is commercial and industrial in character, busy with through traffic to the Metro station and I-370, and truck traffic to the Oakmont industrial area and the Solid Waste Transfer Station. East of I-370, the corridor is bordered by residential communities and gives access to neighborhoods. Reconciling these two characters, preserving pedestrian access, and buffering the residential neighborhoods are challenges for this Plan.

Objectives

- Create opportunities for advanced technology and biotechnology businesses along Shady Grove Road, thus extending the existing pattern in the western end of the corridor.
- Relocate, as much as possible, the corridor's current industrial uses to more appropriate locations to change the character of the roadway.
- Minimize the vehicular and environmental impacts of the Solid Waste Transfer Station.
- Protect the Derwood communities from the noise impacts of Shady Grove Road.
- Improve pedestrian and bicycle access to Metro and between the communities bordering the corridor.
- Enhance the visual and landscape character of Shady Grove Road.
- Protect the existing, adjacent residential neighborhoods.

Concept

This Plan creates a Technology Corridor from MD 355 to the CSX rail line, relocates the County Service Park's industrial uses to allow mixed-use residential redevelopment, and preserves existing communities east of I-370. Industrial and commercial areas north of Shady Grove Road such as the Oakmont Industrial Park will remain industrial areas. Shady Grove Road should be viewed as a major highway that also provides local access and should be improved with extensive landscape treatment to achieve a more positive visual character for the entire corridor. The Plan recognizes that alternative land use recommendations (housing or potential relocation of County Service facilities) on Casey 6 and 7 will create a different character within this area of Shady Grove Road and will need enhanced landscape screening to ensure compatibility.

Land Use and Urban Design Recommendations

Shady Grove Plaza (Site 1)

This existing mixed-use commercial center is located at the southwest corner of MD 355 and Shady Grove Road at the site of the original "shady grove." Some of the original trees remain. This center is not anticipated to undergo significant redevelopment within the life of this Plan although existing zoning does allow substantial additional density. The existing uses include a hotel, a five-story office building, a variety of retail uses, and auto-related services. Several small vacant parcels located at the end of Pleasant Street will likely redevelop with more commercial uses. This Plan recommends:

- Extending Pleasant Street to connect with the street network of the King Farm community as envisioned in the 1990 *Shady Grove Study Area Master Plan*.
- Preserving existing old trees to maintain vestiges of the original "shady grove."
- Any redevelopment within the commercial area to be street-oriented, with direct and safe pedestrian access, and increased shade trees.
- Maintaining the existing commercial and mixed-use zoning.

Casey Property (Vacant Site 2)

Located in the northwest quadrant of MD 355 and I-370, this five-acre site has limited access but still has the potential to contribute to creating a technology corridor. This Plan recommends:

- Providing technology, research and development, or office uses to help establish the technology corridor.
- Orienting buildings toward O'Neill Drive and screening all loading docks and trash areas from view.
- Rezoning this site from R-20 to R&D with an I-3 standard method allowing expanded employment.

Casey Property (Vacant Site 3)

This highly visible site is located at the intersection of MD 355 and Shady Grove Road and is a key redevelopment opportunity in the Corridor. This site is also appropriate for a fire station, needed in this area. Environmental concerns, vehicular and pedestrian access, and building siting need careful consideration to achieve efficient, compatible, and desirable development of the property. This Plan recommends:

- Providing technology, research and development, and office uses to create a technology corridor.
- Preserving existing wetlands, accommodating afforestation along MD 355, and maintaining the required stream buffer.
- Orienting buildings and entrances toward Shady Grove Road and screen all parking facilities from major roads. Site lighting should not produce glare or dominate the night view from the roadway.
- Development along MD 355 is constrained due to traffic and environmental conflicts.
- Rezoning this site from I-1 to R&D with an I-3 standard method allowing expanded employment uses. Housing is not appropriate given the site's proximity to the Solid Waste Transfer Station.
- Ensuring that any redevelopment of the site preserves and enhances the pedestrian environment of Shady Grove Road and MD 355.

The Casey 3 property provides an opportunity within the Shady Grove area to locate a future MCFRS station and possibly ancillary MCFRS facilities. A station at this location would provide easy access to MD 355, I-270, Shady Grove Road and the ICC, as well as the busy service areas of Rockville and Gaithersburg. The site's environmental constraints are extensive and may limit development. Other sites within the vicinity will also be considered during the site evaluation process that meet MCFRS's criteria for location and site suitability. Colocation of the fire station with other necessary public facilities should be explored. This Plan recommends:

- As an alternative to technology or research and development uses on this site, a public fire and rescue station would be appropriate to serve the immediate and surrounding areas.

Great Indoors Site (Site 4)

While the current use is a building supply use, this property may eventually have redevelopment potential. At that time, it should contribute to the area's technology uses. This Plan recommends:

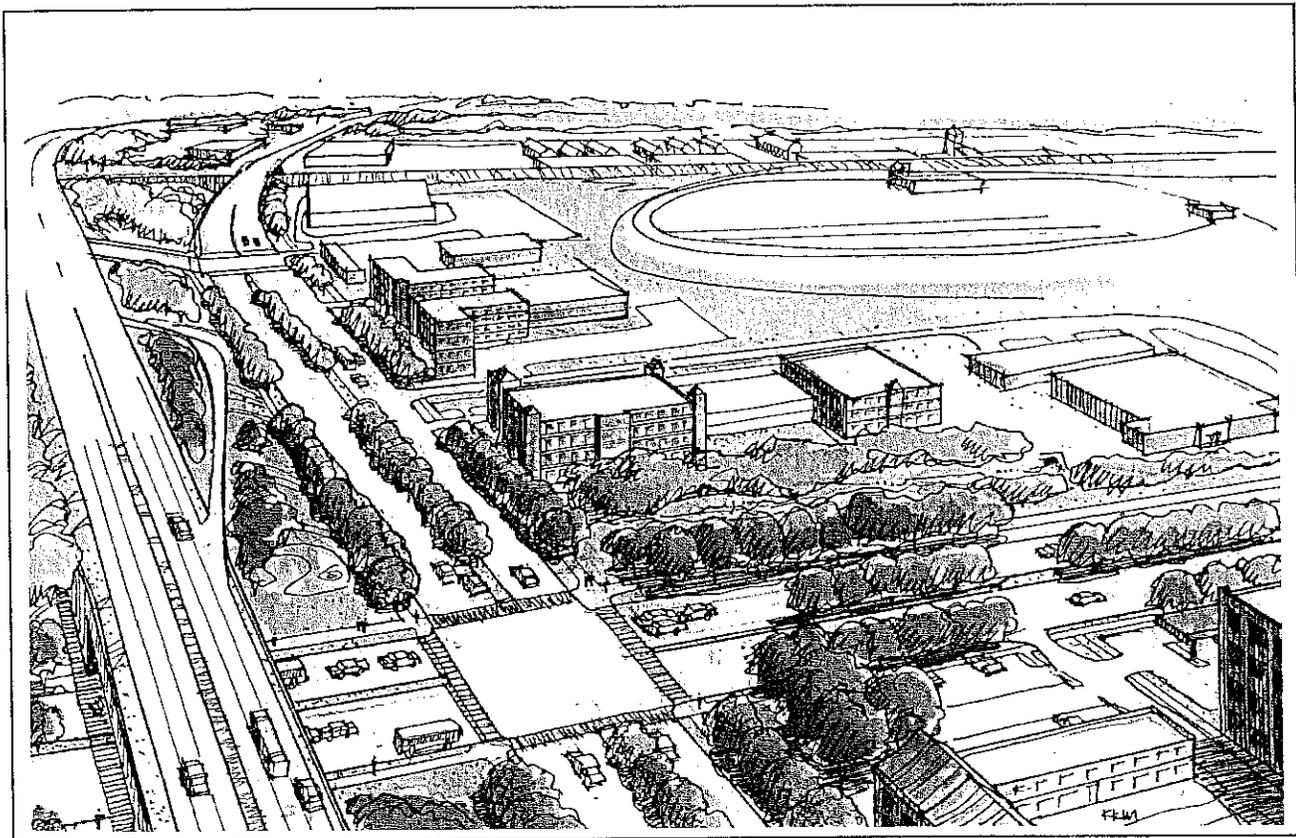
- Providing technology, research and development, and office uses to create a technology corridor.
- Orienting buildings toward street frontage and screening parking from Shady Grove Road.
- Ensuring that any redevelopment of the site preserves and enhances the pedestrian environment of Shady Grove Road.
- Rezoning this site from I-1 to R&D with an I-3 standard method zone. Development should not exceed 0.35 FAR to maintain a balance of jobs to housing within the plan area. Housing is not appropriate given the site's proximity to the Solid Waste Transfer Station.

Post Office Site (Site 5)

This Plan recognizes the importance of the postal distribution center. If the Post Office or a new user decides to redevelop the site, both use and site design should contribute to the Shady Grove Road Corridor's technology emphasis. This Plan recommends:

- Providing technology, research and development, and office uses to create a technology corridor.
- Orienting buildings toward street frontage and screen parking from Shady Grove Road.
- Ensuring that any redevelopment of the site preserves and enhances the pedestrian environment of Shady Grove Road.
- Designing the site to minimize truck traffic on Shady Grove Road.
- Rezoning this site from I-1 to R&D with an I-3 standard method allowing expanded employment uses. Development should not exceed 0.35 FAR to maintain a balance of jobs to housing within the plan area. Housing is not appropriate.

View of Shady Grove Road Technology Corridor





Gaithersburg
A Character Counts! City

City of Gaithersburg
LAND USE
PLAN

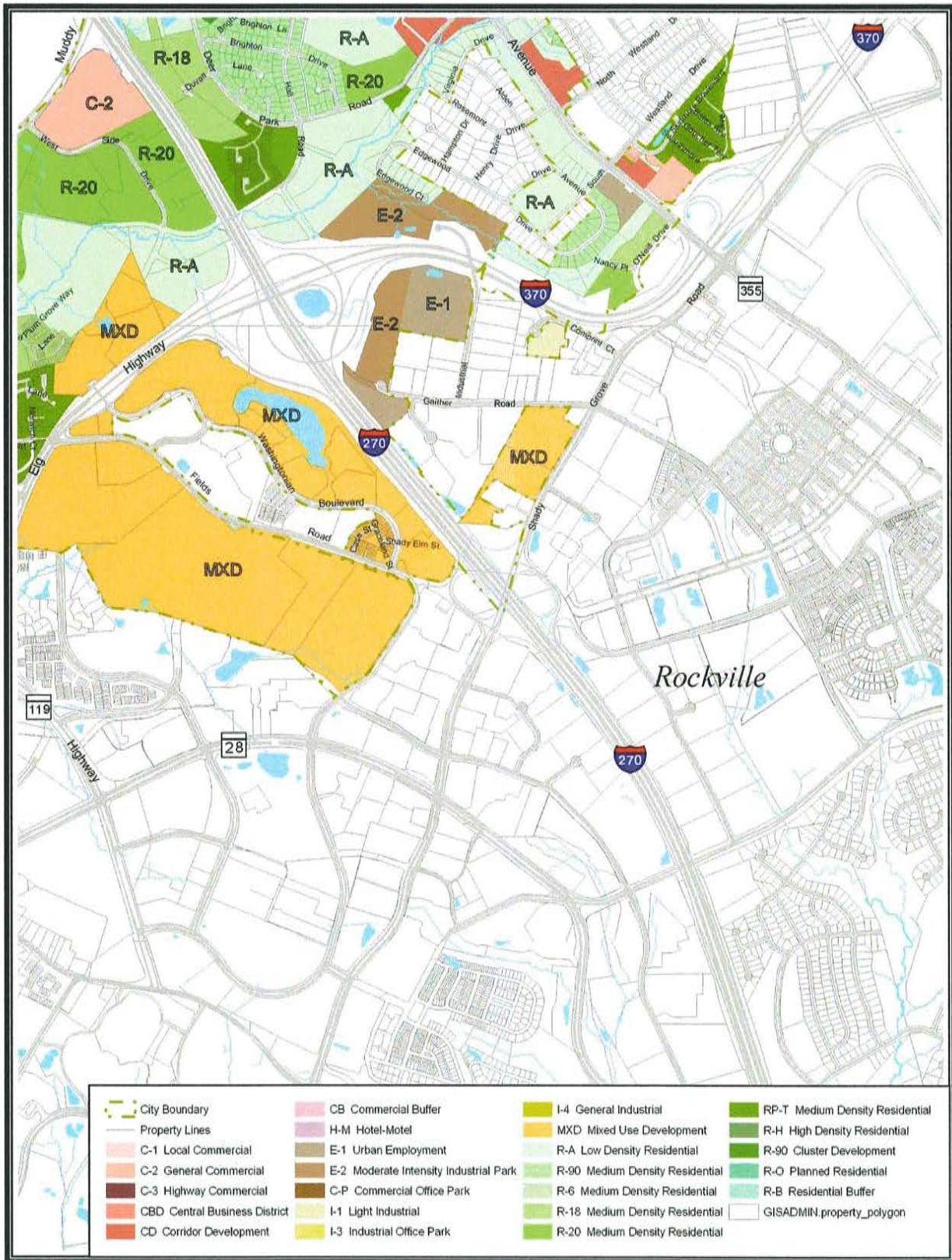
A Master Plan Element

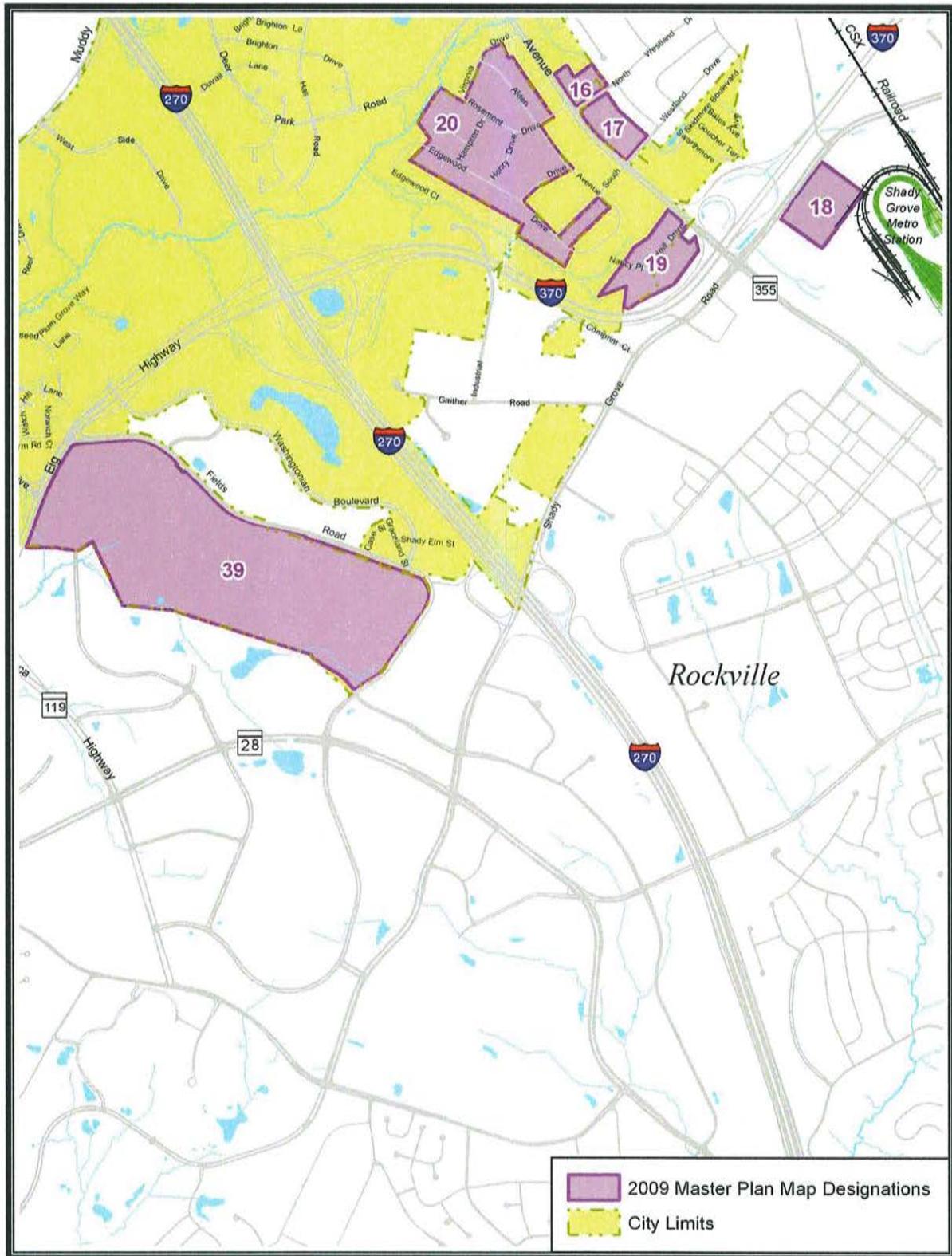
***draft* January 5, 2011**

Published ??

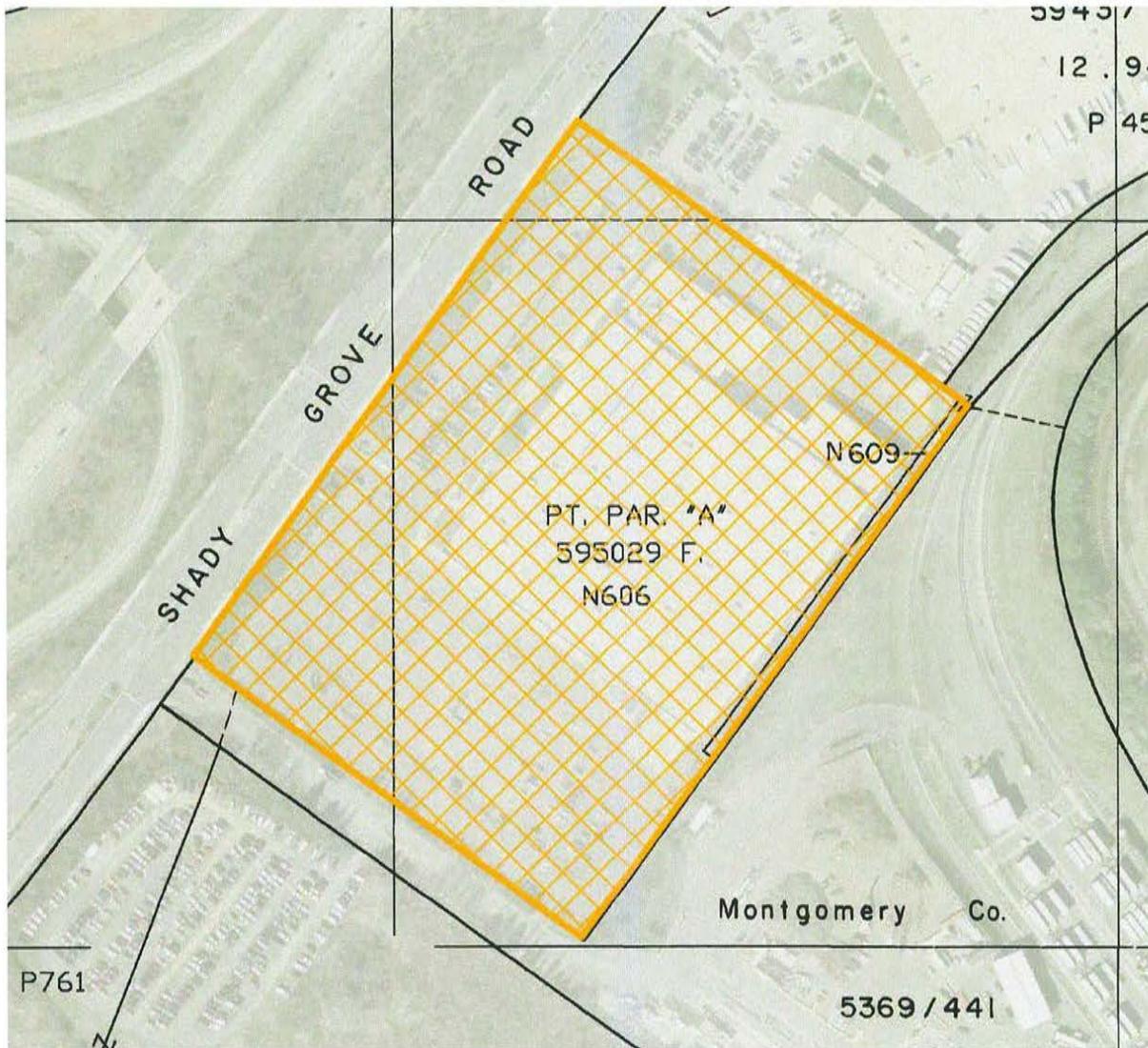
Exhibit "I"

2009
MASTER PLAN





18. Tax Map GS13 Parcels N606 and N609



This 13.7-acre area contains a large one-story retail building (The Great Indoors) with a large surface parking lot. This property is within the City's Maximum Expansion Limits, is contiguous with the City's current boundary, and could be annexed without creating an enclave. This property is currently surrounded by a mix of warehouse and industrial uses.

Land Use and Zoning Actions:

- Adopt Commercial/Industrial-Research-Office land use designation, if annexed
- Recommend CD or MXD Zoning, or a future zone that facilitates sustainable development standards, if annexed



Legend

- Site Boundary
- Soils Lines and Text
- Existing Canopy Edge
- 15-25% Slopes
- Slopes 25% and greater
- Existing Contours
- Existing Light Pole

VICINITY MAP - 1" = 2000'

General Notes:
Tax Map(s): GS13
Lots / Parcels: N606
Property Area: 13.66 Acres +/-
Existing County Zone: Research and Development (R&D)
Property Description:
 The property is currently within Montgomery County, but is requesting annexation into the City of Gaithersburg. The property currently contains one building housing retail and warehouse uses, and associated parking lots. Northeast of the property is a U.S. Postal Service facility, northwest of the property is Shady Grove Road with I-370 beyond, southwest of the property is the access road for the transfer station for the Montgomery County landfill, and beyond that a fallow field with the remains of a gravel parking lot. South of the property is the transfer station, and southeast of the property are abandoned railroad tracks, with the WMATA maintenance facility for the red line of Metro beyond. The Shady Grove Metro station is approximately half a mile (straight line) and one mile (walking distance) from the property.
Boundary and Topography:
 Boundary information and two-foot contour interval information for the site was field run by Rodgers Consulting, Inc. in October, 2011.
Other Property Information:
 Gross Floor Area: 204,490 sf
 Floor Area Ratio: 0.34
 Green space: 13.4%
 Parking Required:
 Retail, General 5 spaces/1000 sf: 681 spaces
 Warehouse 1.5 spaces/1000 sf: 102 spaces
 Existing Parking: 810 spaces

REVISION	DATE	REVISION	DATE	REVISION	DATE
Revised to include info requested by Gaithersburg	2/28/12				

Applicant/Client Info:
 Sears Holdings
 c/o Dept. 36475 B2-112A
 3333 Beverly Road
 Hoffman, IL 60179-0001
 Contact: James Terrell

EXHIBIT J EXISTING CONDITIONS MAP

RODGERS CONSULTING
 Knowledge • Creativity • Enduring Values

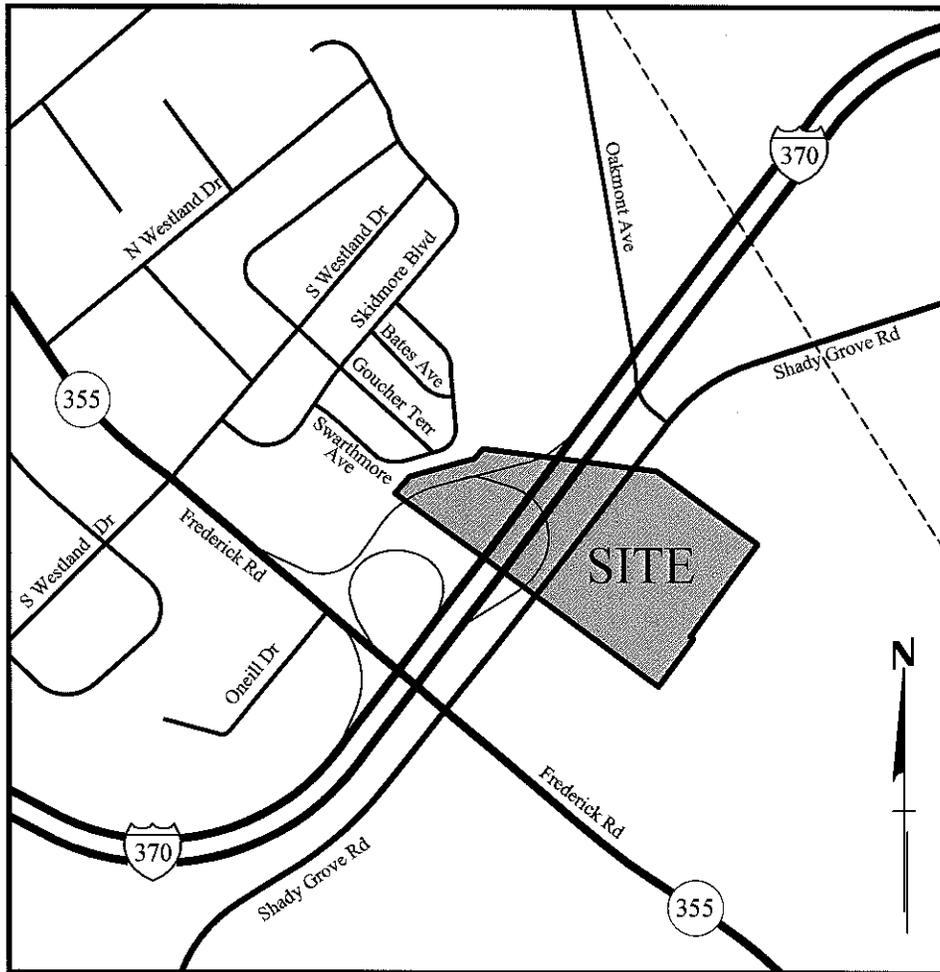
19847 Century Boulevard
 Suite 200
 Germantown, Maryland 20874
 Ph: 301 948 4700 (Voice)
 Ph: 301 253 6609 (Frederick)
 Fax: 301 948 6256
 www.rodgers.com

BY	DATE
BASE DATA	
DESIGNED	
DRAWN	
REVIEWED	
RODGERS CONTACT:	
RELEASE FOR	
BY	DATE

THE GREAT INDOORS

9TH ELECTION DISTRICT
 GAITHERSBURG, MONTGOMERY COUNTY, MARYLAND

SCALE: 1" = 50'
 JOB No. 1123A
 DATE: 12/11
 SHEET No. 1 of 1



Vicinity Map: 1" = 1000'

VICINITY MAP
EXHIBIT L

9TH ELECTION DISTRICT
MONTGOMERY COUNTY

RODGERS
CONSULTING

Knowledge • Creativity • Enduring Values

19847 Century Boulevard
Suite 200
Germantown, Maryland 20874
Ph: 301.948.4700 (Main)
Ph: 301.253.6609 (Frederick)
F: 301.948.6256
www.rodgers.com

	BY	DATE	SCALE: 1:1000
BASE DATA			JOB No. 1123A
DESIGNED			DATE: 12/11
DRAWN	HRM	12/11	
REVIEWED	GU	12/11	
RELEASE FOR			SHEET No. 1 OF 1
BY _____	DATE _____		

DATE: 12/11 11:23 AM

AN ORDINANCE TO AMEND CHAPTER 24 OF THE CITY CODE (CITY ZONING ORDINANCE), ARTICLE III, ENTITLED "REGULATIONS APPLICABLE TO PARTICULAR ZONES", SO AS TO CREATE NEW DIVISION 19, ENTITLED "MXD ZONE, MIXED USE DEVELOPMENT", SECTION 24-160D.1 THROUGH 24-160D.11, INCLUSIVE, ESTABLISHING OBJECTIVES, USES, STANDARDS, PROCEDURES AND REGULATIONS RELATING TO LARGE-SCALE DEVELOPMENTS WITHIN THIS ZONING DISTRICT

Text Amendment T-255

BE IT ORDAINED, by the Mayor and City Council of the City of Gaithersburg, in public meeting assembled, that new Division 19 of Article III of the City Code, to be entitled "MXD ZONE - MIXED USE DEVELOPMENT", is hereby created and enacted to read as follows:

ARTICLE III. REGULATIONS APPLICABLE TO PARTICULAR ZONES.

* * * *

Division 19. MXD ZONE, Mixed Use Development.

Sec. 24-160D.1. Purposes and Objectives of Zone.

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

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

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

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

(d) To ensure the integration and internal compatibility of applicable residential and nonresidential uses by providing a suitable residential environment that is enhanced and complemented by commercial, recreational, open space, employment and institutional uses and amenities within all land use components of the multi-use project.

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

(f) To encourage the efficient use of land by: locating employment and retail uses convenient to residential areas; reducing reliance upon automobile use and encouraging pedestrian and other non-vehicular circulation systems; retaining and providing useable open space and active recreation areas close to employment and residential populations; and providing for the development of comprehensive non-vehicular circulation networks, separated from vehicular roadways, which constitute a system of linkages among residential areas, open spaces, recreational areas, commercial and employment areas, and public facilities.

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

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

This zone and any accompanying development plan(s) may be approved upon findings that the application is proper for the comprehensive and systematic development of the city, is capable of accomplishing the purposes of this zone, is an internally and externally compatible form of development and is consistent with the applicable master plan, special conditions within such plan relating to the property under consideration, and other applicable planning and land use policies. In order to enable the city council or the city planning commission to

evaluate the conformance with the standards contained herein and elsewhere within Division 19, specific sets of plans shall be submitted in accord with Section 24-160D.9, and the city council and/or the commission, as authorized pursuant to this Division 19, may approve said plan(s) if they find the plans capable of accomplishing the above purposes and in compliance with the standards and requirements of this zone.

Sec. 24-160D.2. Minimum Location and Development Requirements.

(a) Master Plan. No land shall be classified in the Mixed Use Development Zone unless the land is within an area for which there is an approved and adopted master plan which recommends mixed use development for the land which is the subject of the application.

(b) Minimum Area. No land shall be classified in the Mixed Use Development Zone unless it contains a minimum of ten (10) acres. Parcels or tracts less than the minimum acreage may be permitted if they are contiguous to an existing MXD zoned area and may be harmoniously integrated into the MXD area, consistent with the objectives and purposes of this zone.

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

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

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

Sec. 24-160D.3. Uses Permitted.

(a) Residential. All types of residential uses allowed by right or by special exception in Chapter 24 of the City Code shall be permitted, as well as all accessory uses thereto.

(1) The various residential housing types must be planned and constructed in accordance with recommendations and special conditions, if any, of the approved and adopted master plan.

(2) The location and type of all residential uses proposed on the site must be shown on the plans submitted

in accordance with the requirements of Section 24-160D.9 and Article V of this Code, with the level of specificity increasing at each level of plans review.

(3) Residential uses should be a prominent element in any Mixed Use Development Zone where the applicable master plan specifically recommends that residential development is to be an integral component of a proposed multi-use project.

(4) Residential uses may be mixed with proposed commercial/industrial/employment uses, rather than located in a separate residential area on the site, upon a finding by the city council that combining residential and nonresidential uses at one location, within a site, will not adversely affect the overall development proposed.

(b) Commercial/Employment/Industrial. All uses allowed by right or by special exception in the R-B, C-B, C-1, C-2, C-3, E-1 and I-3 Zones are permitted uses, except the following uses, which are specifically prohibited:

- Manufacture, compounding, and processing of goods or articles
- Drive-in Theatres
- Automobile Paint and Body Repair Shops

(1) The approximate location and general type of commercial, employment and industrial uses proposed on the site must be shown on sketch plan and schematic development plan submitted in accord with Section 24-160D-9.D and Article V, with the level of specificity increasing at each level of plans review.

(2) In order to establish an appropriately mixed character within the entire MXD zoned area, the following percentages of floor area proposed on site as shown on a sketch plan shall not exceed:

retail commercial	-	60%
employment/office	-	65%
other commercial/ institutional	-	15%

Individual percentages may be exceeded by approval of the city council upon application by an applicant and for good cause shown; provided, however, the cumulative total of all categories shall not exceed 100%.

Sec. 24-160D.4. Density and Intensity of Development.

(a) Residential.

(1) The residential density in the MXD Zone shall not exceed the residential density or total number of dwelling units stated in the applicable master plan, if any. The total number of dwelling units and the corresponding overall density, as well as the approximate location of such units, shall be established at the time of sketch plan approval pursuant to Section 24-160D.9(a).

(b) Commercial/Employment/Industrial. The commercial/employment/industrial density in the Mixed Use Development Zone shall be compatible with any gross floor area or floor area ratio recommended in the applicable area master plan or special conditions or requirements, if any are stated therein. The maximum density of commercial/employment/industrial development shall be based on the area shown for commercial/employment/industrial uses on the sketch plan or schematic development plan, and shall not exceed a floor area ratio of 1.5, except where authorized by a waiver of the city council after public hearing and recommendation thereon by the city planning commission.

Sec. 24-160D.5. Compatibility Standards.

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

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

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

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

setback approved by the city planning commission.

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

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

(b) Compliance with these requirements shall not in and of itself be deemed to create a presumption of compatibility.

Sec. 24-160D.6. Minimum Green Area, Landscaping and Amenity Requirements.

(a) The amount of green area, including designated parks, public and private open space, active and passive recreational areas, required for the residential portion of a mixed use development shall be not less than 40 percent of the total area shown for residential use. The minimum green area requirement, which shall include designated parks, public and private open space, active and passive recreational areas, for the commercial/employment/industrial portion of a mixed use development shall be not less than 25 percent of the total area devoted to commercial/employment/ industrial uses, except that comparable amenities and/or facilities may be provided in lieu of green area if the city council determines that such amenities or facilities are sufficient to accomplish the purposes of the zone, and would be more beneficial to the proposed development than strict adherence to the specific green area requirement.

(b) All recreation areas, facilities and amenities, and all open space and landscaped areas shall be reflected on the final site plans for approval by the city planning commission. With respect to such areas, facilities and amenities, the site plan or accompanying documents shall reflect:

(1) That such areas, facilities or amenities shall not be constructed, converted or used for any purposes other than reflected and designated on the site plan unless amended by consent of the city planning commission.

(2) A staging or construction timetable specifying the construction of all recreational areas,

facilities and amenities. This staging or construction timetable may be related to the number of residential units under construction or complete, or population levels, or other appropriate standard. The adherence to the performance of such timetable shall be secured by appropriate bond, letter of credit or security acceptable to the City.

(3) A detailed plan with copies of proposed supporting covenants to be filed among the Land Records prior to the issuance of building permits for each phase of development, which shall enumerate the property owner's and all successors' obligations for perpetual maintenance of all common area, green space, recreation areas, facilities and amenities, and all common landscaped areas.

Sec. 24-160D.7. Public Facilities and Utilities.

(a) A mixed use development should conform to the facilities recommended for the site by the approved and adopted master plan, including and granting such easements or making such dedications to the public as may be shown thereon or as shall be deemed necessary by the city to ensure the compatibility of the development with the surrounding area and to assure the ability of the area to accommodate the uses proposed by the application.

(b) All utility lines in the Mixed Use Development Zone shall be placed underground. The developer or subdivider shall ensure final and proper completion and installation of utility lines. Poles and lamps for street lighting shall be provided by the developer in accordance with the approved site plan.

(c) All streets to be dedicated to public use shall be shown on the schematic development plan and the final site plan, respectively. All private streets and alleyways shall also be shown on the schematic development plan and the final site plan, but they will only be allowed where they are found to be more appropriate due to the type and density of development or other applicable factors. All private streets and alleyways are to be constructed to the same width and road code standards as are applicable to public streets unless waivers of any street standard or road code requirement are granted by the council as part of the schematic development plan review or by separate public hearing.

(d) An applicant for approval under the MXD Zone shall demonstrate at the time of filing a schematic development plan, and at time of site plan approval that all public facilities are either presently adequate to service the development requested for approval or will be provided or in place by the completion of construction of the development reflected in the schematic development plan. It is the intent

of this provision that development shall be staged in such a manner as to coordinate development with the provision of public facilities, and that such facilities shall be operational at acceptable service levels and capacities.

(e) All public facilities to be provided by an applicant shall be secured at the time of receipt of building permits by a bond or other financial security satisfactory to the city to ensure completion. The city may require as part of site plan approval, written agreements, either secured or unsecured, to be executed to ensure satisfactory completion of all public facilities and project amenities.

Sec. 24-160D.8. Parking Requirements.

Off-street parking shall be provided in accordance with Article XI of this Chapter, except as may be authorized below:

(a) The council, at the time of schematic development plan review, shall determine the appropriate approximate number of spaces. At the time of final site plan approval, the commission shall determine the final number of spaces, based upon considerations of safety, convenience, pedestrian and vehicular circulation, and added landscaping within parking lot areas. In addition, the planning commission may reduce the number of spaces required for any use in Article XI, Section 24-219(b) of this Code where such reduction will meet the purposes of the MXD Zone.

Sec. 24-160D.9. Application and Processing Procedure.

Procedures governing the application for the MXD Zone and approvals necessary to seek building permits shall be subject to the following multi-step process:

(a) Application for the MXD Zone and Sketch Plan Approval.

(1) An applicant shall file, together with the prescribed application fee, an application for the MXD Zone pursuant to the provisions of Section 24-196 of this Code, and in addition, shall submit for approval as part of the application for separate approval, a sketch plan reflecting at a minimum, the following:

A. The boundaries of the entire tract or parcel.

B. Generalized location of existing and proposed external roads and adjacent land use and development.

C. Generalized location and description of various internal proposed land use components, including information as to proposed densities and intensities, proposed size and heights of development.

D. Generalized location, description and timing of proposed roads, proposed dedicated public lands and perimeter setback or buffer areas.

E. Proposed phasing or staging plan of development, public facilities and information regarding such plan's consistency with provision of master planned or otherwise necessary public facilities.

F. Generalized area of woodlands, streams and watercourses and other areas intended for natural preservation.

G. Demonstration of general compliance with any master plan recommendations for the property, including any special conditions or requirements related to the property set forth in the master plan.

(2) The city council and city planning commission shall conduct a public hearing(s) on the application subject to the notification procedures in Section 24-196 of this code. Such hearings may be held jointly by the city council and city planning commission. The planning commission shall deliver its recommendation to the city council within thirty (30) days of the close of the commission's hearing record. The council shall take action on the application within ninety (90) days after the close of the council's hearing record. If the council shall fail to do so, the application shall be deemed denied.

(b) Application for Schematic Development Plan Approval.

(1) A schematic development plan shall be filed for approval by the city council of all or portions of the area zoned MXD and reflected within the approved sketch plan, together with the required filing fee. The schematic development plan shall be scaled at 1" equals 50' and shall contain, at a minimum, the following:

A. Boundary survey and identification plat or survey plat.

B. The use(s) of all buildings and structures within the schematic development plan area, as well as existing uses of adjacent property external to the MXD zoned area and proposed uses within adjoining MXD zoned areas.

C. The location, height, approximate dimensions and conceptual elevations of all buildings and structures, and the setbacks and densities and/or square footage thereof.

D. The location of points of access to the site and all public and private roads, pedestrian and bike paths.

E. The location and setbacks of parking areas.

F. Existing topography, including:

1. Contour intervals of not more than two feet (2');
2. Major vegetative growth, as well as natural treed areas to be preserved and those to be removed;
3. One hundred year floodplans;
4. Other natural features, such as rock outcroppings and scenic views;
5. Utility easements, if any; and
6. Historic buildings, structures or areas.

G. All landscaped areas, proposed conceptual screen planting, open spaces, plazas, malls, courts, community identification signage, recreation and amenity areas.

H. Proposed phasing or staging plan of development and information relating to such plan's consistency with the provision of public facilities.

I. Demonstration of general compliance with any master plan recommendations for the property, including any special conditions or requirements related to the property set forth in the master plan.

J. A proposed covenant or other form of agreement indicating how the area will be included in any homeowners' association or other organization, and how any open space, community space or amenities located within the area subject to review will be perpetually maintained.

(2) Unless a prior waiver is obtained from the city planning commission, a schematic development plan shall contain at a minimum at least 200 dwelling units and/or 100,000

square feet of proposed retail/office development, or a comparable equivalent mix of such development. This restriction shall not apply to amendments of schematic development plans.

(3) The city council and city planning commission shall conduct a public hearing(s) on the application subject to the notification procedures in Section 24-196 of this code. Such hearings may be held jointly by the city council and city planning commission. The planning commission shall deliver its recommendation to the city council within thirty (30) days of the close of the commission's hearing record. The council shall take action on the application within ninety (90) days after the close of the council's hearing record. If the council shall fail to do so, the application shall be deemed denied.

(4) The approval of a schematic development plan shall substitute for preliminary site plan approval.

(c) Final Site Plan Review.

Following approval of a schematic development plan, an applicant shall submit to the city planning commission a final site plan for approval, which shall be in accord with the approved schematic development plan and shall include the following:

(1) All information and documentation required pursuant to Section 24-169 of this Code.

(2) Proposed phasing or staging plan of development and information regarding such plan's consistency with the provision of public facilities.

(3) Demonstration of general compliance with any master plan recommendations for the property, including any special conditions or requirements related to the property set forth in the master plan.

(4) Demonstration of compliance with the approved schematic development plan.

(5) A proposed covenant, suitable for filing in the Land Records of Montgomery County, which shall indicate in specific language that the property which is the subject of the application is restricted in its use and/or development standards to the schematic development plan and any accompanying or qualifying text material submitted with such plan, as such plan may be approved or modified by the planning commission at the time of final site plan review. The covenant to be filed in the Land Records shall also indicate that such restrictions shall be in effect until such time as the property

may be rezoned, at which time such restrictions shall be removed.

(6) A site plan enforcement agreement to be signed by the applicant and the city, requiring the applicant to execute all of the features shown on the site plan and the sequence and timing when said features will be completed. The commission may require that performance of the terms of the agreement be secured by a bond, letter of credit or other security acceptable to the city.

Approvals, processes, procedures and amendments to site plans shall be in accord with Article V of this Chapter 24 of the Code.

Sec. 24-160D.10. Findings Required.

(a) The city council shall approve MXD zoning and the accompanying sketch plan only upon finding that:

(1) The application meets or accomplishes the purposes, objectives, and minimum standards and requirements of the zone; and

(2) The application is in accord with recommendations in the applicable master plan for the area and is consistent with any special conditions or requirements contained in said master plan; and

(3) The application and sketch plan will be internally and externally compatible and harmonious with existing and planned land uses in the MXD zoned areas and adjacent areas.

(b) The city council shall approve a schematic development plan only upon the finding that:

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

(2) The plan meets or accomplishes the purposes, objectives and minimum standards and requirements of the zone; and

(3) The plan is in accord with the area master plan and any accompanying special condition or requirements contained in said master plan for the area under consideration; and

(4) The plan will be internally and externally compatible and harmonious with existing and planned land uses in the MXD zoned area and adjacent areas; and

(5) That existing or planned public facilities are adequate to service the proposed development contained in the plan; and

(6) That the development staging or phasing program is adequate in relation to the provision of public facilities and private amenities to service the proposed development; and

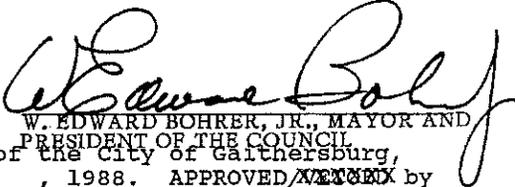
(7) That the plan, if approved, would be in the public interest.

(c) The city planning commission shall approve a final site plan consistent with the findings required in Sections 24-170 and 24-170A of this Code, and upon considerations, determinations and powers set forth in Section 24-171 of this Code. The city planning commission shall, as a condition of its approval, require the posting of all necessary bonds or other security instruments, the execution of required agreements, and recording of covenants.

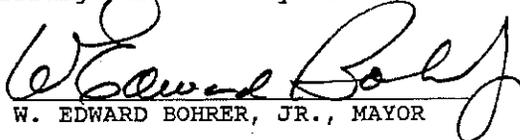
Sec. 24-160D.11. Procedures for Amendment.

Amendments to a sketch plan or schematic development plan may be permitted, consistent with the procedures for amendment of optional method plans as provided in Section 24-198(c) of this Code.

ADOPTED by the City Council of Gaithersburg, this 7th day of November , 1988.


W. EDWARD BOHRER, JR., MAYOR AND
PRESIDENT OF THE COUNCIL

DELIVERED to the Mayor of the City of Gaithersburg, this 7th day of November , 1988. APPROVED ~~BY~~ by the Mayor of the City of Gaithersburg this 7th day of November , 1988.


W. EDWARD BOHRER, JR., MAYOR

RESOLUTION NO. R-88-11

RESOLUTION OF THE MAYOR AND CITY COUNCIL
ADOPTING THE 2009 LAND USE ELEMENT
AMENDMENT TO THE GENERAL PLAN
FOR THE CITY OF GAITHERSBURG MASTER PLAN

AS APPROVED AND RECOMMENDED BY
THE PLANNING COMMISSION ON NOVEMBER 16, 2011

AS ADOPTED BY THE MAYOR AND CITY COUNCIL ON DECEMBER 19, 2011

WHEREAS, Section 3.05 of Article 66B of the Annotated Code of Maryland sets forth the function and duty of the Planning Commission to make and approve a general plan or amendments thereto and recommend same to the local legislative body for adoption, to serve as a guide to public and private actions and decisions to ensure the logical development of public and private property in appropriate relationships; and

WHEREAS, as codified in Article 66B of the Annotated Code of Maryland, the General Plan, at a minimum, is required to contain goals, objectives, principles, policies, and standards, which shall serve as a guide for the development and economic and social well-being of the local jurisdiction; and

WHEREAS, Section 3.08 of Article 66B of the Annotated Code of Maryland states that the local legislative body shall adopt the plan and or amendment thereto, and

WHEREAS, Section 3.05(a)(4)(i) of Article 66B of the Annotated Code of Maryland sets forth that the General Plan must include "A statement of goals and objectives, principles, policies, and standards, which shall serve as a guide for the development and economic and social well-being of the local jurisdiction"; and

WHEREAS, Section 3.05(a)(4)(ii) of Article 66B of the Annotated Code of Maryland sets forth that the General Plan must include a Land Use Element; and

WHEREAS, the City has drafted a Land Use Element, dated January 5, 2011 and entered into the record as Exhibit 1, that was the subject of a joint Planning Commission and Mayor and City Council public hearing on March 7, 2011 (MP-1-11); and

WHEREAS, joint Planning Commission and Mayor and City Council work sessions were conducted on April 11, 2011; July 11, 2011; and September 26, 2011; and

WHEREAS, the City has revised and amended the Land Use Element in response to the aforementioned joint public hearing, joint work sessions, and public comments received, with all changes reflected and in the public record as Exhibit 153; and

WHEREAS, the Planning Commission approved Resolution No. PCR-1-11 on November 16, 2011, being the approval of a master plan amendment entitled the 2009 Land Use

Element and transmitted an attested copy of the same and a copy of the November 17, 2011 Communication: Planning Commission as its recommendation to the Mayor and City Council, which is hereby attached and incorporated as part of this resolution; and

WHEREAS, the Mayor and Council discussed the aforementioned 2009 Land Use Element and the Planning Commission recommendation (PCR-1-11) during its regular meeting on November 16, 2011; and

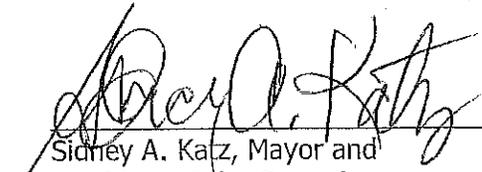
WHEREAS, the General Plan and amendments made from time to time provide a general framework for assisting the Mayor and City Council and City Planning Commission in making land use policy and facilities decisions:

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council that the Master Plan Amendment MP-1-11, the 2009 Land Use Element amendment to the General Plan and entered into the official record as Exhibit 153, thoroughly reviewed by the legislative body during the joint public hearing conducted on March 7, 2011 and the joint work sessions held on April 11, 2011; July 11, 2011; and September 26, 2011; approved by the City Planning Commission on November 16, 2011 (as PCR-1-11); and recommended to the legislative body in a Communication: Planning Commission, dated November 17, 2011, is hereby adopted by the Mayor and City Council as an amendment to the General Plan for the City, the 2009 City of Gaithersburg Master Plan Land Use Element, as heretofore amended.

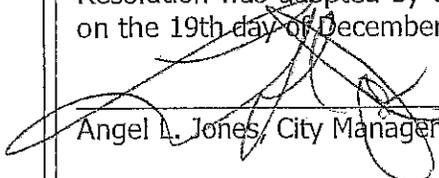
NOW, THEREFORE, BE IT FURTHER RESOLVED, that all other recommendations of the City Planning Commission, as documented in Exhibit 163 (November 17, 2011 Communication: Planning Commission) pursuant to the adoption of PCR-1-11, are hereby approved and ratified to the extent not inconsistent with this Resolution.

NOW, THEREFORE, BE IT FURTHER RESOLVED, that maps, tables and illustrative material may be revised where necessary to conform to City Council actions. The text may be revised as necessary to achieve clarity and consistency and to convey the actions of the City Council.

ADOPTED by the City Council this 19th day of December, 2011.


Sidney A. Katz, Mayor and
President of the Council

THIS IS TO CERTIFY that the foregoing Resolution was adopted by the City Council on the 19th day of December, 2011


Angel L. Jones, City Manager

LINOWES
AND BLOCHER LLP
ATTORNEYS AT LAW

January 12, 2012

C. Robert Dalrymple
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Erin E. Girard
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egirard@linowes-law.com

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

Dear Mayor Katz and Councilmembers:

On behalf of our client, Sears, Roebuck and Co. (“Sears”), owner of The Great Indoors Property, located at 16331 Shady Grove Road (“Property”), enclosed please find a Petition for Annexation and supporting materials seeking annexation of the Property into the corporate boundaries of the City of Gaithersburg (“City”). The Property is identified as property number 18 in the approved and adopted 2009 amendment to the City’s Land Use Plan, and is recommended therein for annexation into the City.

The Property is currently developed with The Great Indoors, a home-improvement showcase center, an appliance repair center, and associated parking, all of which were developed on or around 1966. The Property is serviced by two points of access from Shady Grove Road, is relatively flat, with no significant environmental features, and is currently adequately served by all public utilities.

In 2006, Montgomery County comprehensively rezoned the Property to Research and Development (“R&D”), which does not permit retail uses. With The Great Indoors use being grandfathered as part of the comprehensive rezoning, Sears did not participate in the County’s Master Plan process to the extent it should have to ensure greater flexibility in the use of the Property until alternative uses envisioned by the County’s master plan for the area are viable. The lack of demand for R&D space in the area, currently and for the foreseeable future, renders the R&D zone very problematic for the Property. Through the proposed annexation, Sears hopes to achieve more flexible and realistic zoning for the Property and, to that end, is requesting MXD zoning from the City, consistent with the recommendation of the City’s Land Use Plan. Such a zone will allow for viable uses within the existing improvements on the Property until the market will support redevelopment of the Property. We believe, therefore, that the proposed annexation benefits both Sears and the City, with the City being ensured of future tax revenue from the Property and Sears being given the flexibility it needs to keep the Property productive.

City of Gaithersburg Mayor and Council

January 12, 2012

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Thank you for your attention to this request. If you have any questions, or require any additional information, please feel free to contact us.

Very truly yours,

LINOWES AND BLOCHER LLP



C. Robert Dalrymple



Erin E. Girard

cc: Mr. Tony Tomasello
Lynn Board, Esq.
Mr. James Terrell
Marianne Simonini, Esq.

VERIFICATION

I HEREBY CERTIFY, that in accordance with Article 23A §19 of the Annotated Code of Maryland, I have caused to be verified, as shown on Exhibits A and B attached hereto and incorporated herein, the signatures contained in the Petition for Annexation filed for the annexation of the property owned by Sears, Roebuck and Co, known as the Great Indoors property, and based on this examination certify that the persons signing the Petition and consenting to the annexation meet the not less than twenty-five per centum (25%) of the persons who reside in the area to be annexed and who are registered as voters in county elections in the precinct or precincts in which the territory to be annexed is located and the persons signing the Petition and consenting to the annexation are the owners of not less than twenty-five per centum (25%) of the assessed valuation of the real property located in the area to be annexed requirements.

Dated this 15th day of February, 2012.



SIDNEY A. KATZ, MAYOR and
President of the Council

MEMORANDUM

TO: Mayor Sidney A. Katz
FROM: N. Lynn Board, City Attorney *NLB*
RE: Petition for Annexation – Great Indoors Property
DATE: February 15, 2012

Please be advised that I have verified with the Montgomery County Board of Elections that no persons reside on the property subject to the above Petition for Annexation who are registered as voters in county elections in the precinct or precincts in which the property to be annexed is located. This meets the consent requirements of Article 23A §19 of the Annotated Code of Maryland.

cc Trudy Schwarz

EXHIBIT A

Lynn Board

From: Britta Monaco
Sent: Monday, February 13, 2012 4:50 PM
To: Lynn Board
Subject: FW: Attn: N. Lynn Board, City Attorney

Lynn, this came to your attention through the City Hall e-mail box.

Britta

From: Campbell, Susan [<mailto:Susan.Campbell@montgomerycountymd.gov>]
Sent: Monday, February 13, 2012 4:45 PM
To: CityHall External Mail
Cc: Jurgensen, Margaret
Subject: Attn: N. Lynn Board, City Attorney

To. N. Lynn Board, City Attorney, City of Gaithersburg

In response to your correspondence dated February 7, 2012, Petition for Annexation – Sears, Roebuck, and Co., the Board of Elections has confirmed that there are no registered voters residing at the property known as The Great Indoors at 16331 Shady Grove Road in Gaithersburg or at any house number within the street range of 16301-16499 on Shady Grove Road.

Please contact us if additional information is needed.

S. Campbell for Margaret A. Jurgensen, Director of Montgomery County Board of Elections

MEMORANDUM

TO: Mayor and City Council
FROM: N. Lynn Board, City Attorney
RE: Petition for Annexation – Great Indoors Property
DATE: February 15, 2012

Please be advised that I have examined the Land Records and Assessment Records for Montgomery County, Maryland with regard to the above-referenced Petition for Annexation. Based on this examination, the Petitioner, Sears, Roebuck and Co., a New York corporation, owns not less than twenty-five percent (25%) of the assessed valuation of the real property located in the area to be annexed. This meets the ownership requirements of Article 23A §19 of the Annotated Code of Maryland.

cc Trudy Schwarz

EXHIBIT B