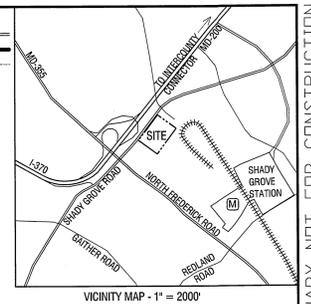


**Legend**

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



**Natural Resource Inventory / Forest Stand Delineation Notes:**

This NRI/FSD has been prepared in accordance with the City of Gaithersburg's Environmental Standards for Development.

- 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 several retail stores 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.

**Highly Erodible, Unsuitable and Unsafe Soils:**  
No highly erodible, unsuitable, or unsafe soils are mapped for the property. The soils on the property, as determined from the Natural Resources Conservation Service (NRCS) Web Soil Survey in October, 2011 are as follows:  
2B - Glenelg silt loam, 3-8% slopes  
5A - Glenville silt loam, 0-3% slopes  
400 - Urban Land\*

\*The Urban Land mapping unit applies to areas that are covered with impervious surfaces (buildings and parking lots), such as this property. The Urban Land mapping unit is characteristic of the entire property, although a small portion of the property has been mapped as Glenelg or Glenville silt loam.

**Streams & Stream Buffers:**  
No streams were observed on the property or within the adjacent property width or 100' (whichever is less) of the property. The property is within the Upper Rock Creek watershed, in the Use Class IV portion.

**Floodplain:**  
FEMA has not mapped any floodplain on or within 100' of the property.

**Wetlands:**  
No wetlands were observed on the property or in the immediate vicinity.

**Forest & Trees:**  
There is no forest on the property. Landscape trees exist within the parking islands and along the perimeter of the property, however none are of significant size.

**Danger Reach / Dam Break Analysis:**  
No dams are noted upstream of the property.

**Rare, Threatened, Endangered Species:**  
No rare, threatened, or endangered species of plants or animals were observed on the property. An environmental review request was sent to DNR on October 13, 2011.

**Existing Wildlife:**  
No wildlife was observed on the property during field visits.

**Special Protection Areas:**  
The property is not within a Special Protection Area.

**Cultural Resources:**  
No cultural or historic resources were noted in visits to the property, and none are mapped within Montgomery County's published resources for this area - the Approved and Adopted Shady Grove Sector Plan (2006) or the Montgomery County Locational Atlas and Index of Historic Sites.

**Noise & Light Pollution:**  
The property is surrounded by sources of vehicular activity and the associated noise. Sources include traffic along Shady Grove Road, trucks and heavy equipment at the transfer station, rail stock moving within the WMATA site, and vehicles entering and exiting the post office. There are also vehicles entering and exiting the property due to the retail nature of existing uses. Existing sources of light pollution are largely security derived - lights within the parking lot, at the transfer station, at the Post Office, and along Shady Grove Road.

**Significant Views & Vistas:**  
There were no significant views observed in site visits to the property.

**Other:**  
A property visit was conducted by Rodgers Consulting staff on October 18, 2011.

**CITY OF GAITHERSBURG**  
1115 E. BURNING WOOD DRIVE, GAITHERSBURG, MARYLAND 20878  
**NRI/FSD APPROVAL**  
THE CITY OF GAITHERSBURG DEVELOPMENT REVIEW TEAM HEREBY GRANTS APPROVAL OF  
**NATURAL RESOURCE INVENTORY / FOREST STAND DELINEATION**  
FOR APPLICATION NO. 07-112-0001  
DATE 1/24/12 BY [Signature]

**Mayor and City Council**  
**X-184**  
**Exhibit #23**



REVISION	DATE	REVISION	DATE	REVISION	DATE

**Applicant/Client Info:**  
Rodgers Consulting, Inc.  
19847 Century Blvd  
Suite 200  
Germantown, MD 20874  
Phone: (301) 948-4700  
Contact: Gary Unterberg

**NATURAL RESOURCES INVENTORY / FOREST STAND DELINEATION**

**RODGERS CONSULTING**  
19847 Century Boulevard  
Suite 200  
Germantown, Maryland 20874  
Ph: 301.948.4700 (Main)  
Ph: 301.253.6609 (Frederick)  
Ph: 301.948.6296  
www.rodgers.com

BY	DATE

RELEASE FOR \_\_\_\_\_  
BY \_\_\_\_\_ DATE \_\_\_\_\_

Natural Resource Inventory / Forest Stand Delineation

**THE GREAT INDOORS**

9TH ELECTION DISTRICT  
GAITHERSBURG, MONTGOMERY COUNTY, MARYLAND

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

**LINOWES**  
**AND BLOCHER LLP**  
ATTORNEYS AT LAW

February 14, 2012

**C. Robert Dalrymple**  
301.961.5208  
bdalrymple@linowes-law.com  
**Erin E. Girard**  
301.961.5153  
egirard@linowes-law.com

Ms. Trudy M. Walton Schwarz  
Community Planning Director  
City of Gaithersburg  
31 South Summit Avenue  
Gaithersburg, MD 20877

Hand Delivered

Dear Ms. Schwarz:

We represent Sears, Roebuck and Co. ("Sears"), owner of The Great Indoors property, located at 16331 Shady Grove Road ("Property") and the petitioner in the January 12, 2012 Petition for Annexation ("Petition") seeking annexation of the Property into the corporate boundaries of the City of Gaithersburg ("City"). The purpose of this letter is to provide you with additional information and materials relevant to the Petition, per your request.

As a preliminary matter, enclosed please find a revised Existing Conditions plan that now reflects the existing floor area, floor to area ratio, green space, uses, and required and existing parking on the Property. Also enclosed is a CD containing electronic copies of all of the materials submitted to date in connection with the Petition.

You also requested a statement demonstrating compliance of the Petition with Section 24-160D.10(a) of the Gaithersburg City Code, which pertains to findings required for MXD zoning. We believe the Petition complies with the requirements of this section as follows:

*(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*

Although no immediate redevelopment of the Property is proposed as part of the Petition, and therefore many of the MXD zone's specific objectives will not be apparent until future entitlement processes, the classification of the Property in the MXD zone will serve to implement several City policies. A major objective of the MXD zone is to carry out the purposes of approved and adopted master plans. As noted in the Petition, the annexation of the Property into the City is recommended by the City's 2009 Land Use Plan. Zoning the Property MXD would therefore be "proper for the comprehensive and systematic development of the city" and

Mayor and City Council  
X-184  
Exhibit #24

Ms. Trudy M. Walton Schwarz  
February 14, 2012  
Page 2

“consistent with the applicable master plan...and other applicable planning and land use policies” because it would achieve the City’s objective of expanding the municipal limits of the City to include the Property (and the intervening right-of-way for Shady Grove Road and I-370), allow for retail and office use of the existing improvements in the short term, generate additional tax revenue for the City, and give the City control over the future redevelopment of the Property.

The Property consists of approximately 13.66 acres, which meets the ten acre minimum requirement for the zone, as well as the zone’s objective of encouraging large scale comprehensively planned developments. Designating the Property in the MXD zone would also ensure the compatibility of any future redevelopment of the Property with internal and surrounding uses by subjecting it to more intensive design review.

Placement of the Property in the MXD Zone will also achieve the zone’s objective of locating employment and retail uses convenient to residential areas. The Property, which currently houses retail and service uses, has direct access to Shady Grove Road, meeting the requirement of being adjacent to and readily accessible from an existing highway, and it is located just south of a large area devoted to residential uses. The Property also has existing water and sewer service, in conformance with the requirements of the MXD zone.

*(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*

As noted above, the Petition is consistent with the recommendations of the City’s 2009 Land Use Plan, which recommends annexation of the Property into the City and its classification in the City’s MXD zone.

*(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.*

As noted above, no redevelopment of the Property is currently proposed. Accordingly, there is no sketch plan currently under review by the City. Therefore, compatibility will be more fully addressed at the time of future entitlement processes (including sketch plan) when redevelopment of the Property is proposed. With regard to existing uses, the Property is not currently contiguous to other MXD zoned areas. It is bordered by the Montgomery County Service Park to the south, a United States post office facility to the east, the Shady Grove and I-370 rights-of-way and confronting residential uses to the north, and the Service Park entrance and a vacant parcel to the west. Existing retail and service uses on the Property are compatible with these surrounding uses. To ensure future compatibility with adjacent uses, specifically concerning the County Service Park to the south, the Petition includes a commitment from Sears

Ms. Trudy M. Walton Schwarz  
February 14, 2012  
Page 3

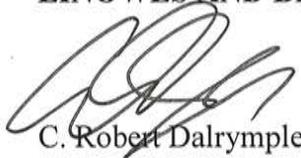
that no residential uses will be developed on the Property so long as the County Service Park remains an adjoining use to the south.

In addition to the above, you had also requested documents addressing compliance of the Petition with Article 23A, §19 of the Maryland Code. In response to this request, we note that Article 23A, §19(o)(3)(iii) states, "for annexations that begin on or after October 1, 2009, the annexation plan shall be consistent with the municipal growth element of the comprehensive plan of the municipal corporation." Attached hereto are relevant excerpts from the April 6, 2009 City of Gaithersburg Municipal Growth Element ("Growth Element"). As shown on pages 22, 46 and 60 of the Growth Element, the Property is clearly included within the City's Maximum Expansion Limits and is accounted for in the Growth Element's analysis regarding the future adequacy of public facilities, including schools, libraries, police, fire and rescue, water and sewer, stormwater management and recreation. Therefore, the Petition complies with Article 23A, §19 of the Maryland Code.

Thank you for your attention to this material. We look forward to working with you on this Annexation Petition. 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.



*Gaithersburg*  
*A Character Counts! City*

City of Gaithersburg

# MUNICIPAL GROWTH

**A Master Plan Element**

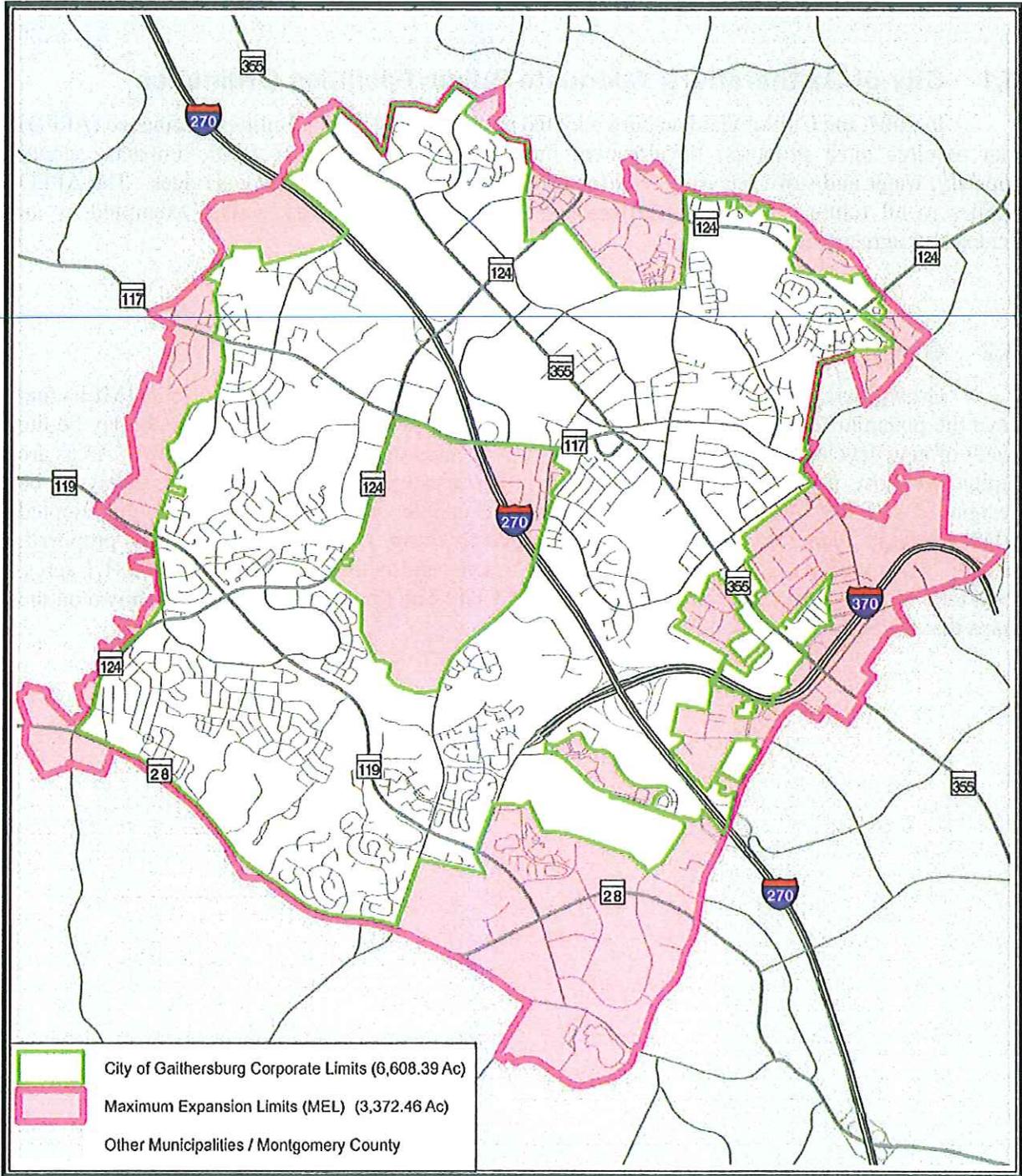
**Adopted April 6, 2009**

*Published April 14, 2009*

2003  
MASTER PLAN

Mayor and City Council  
X-184  
Exhibit #25

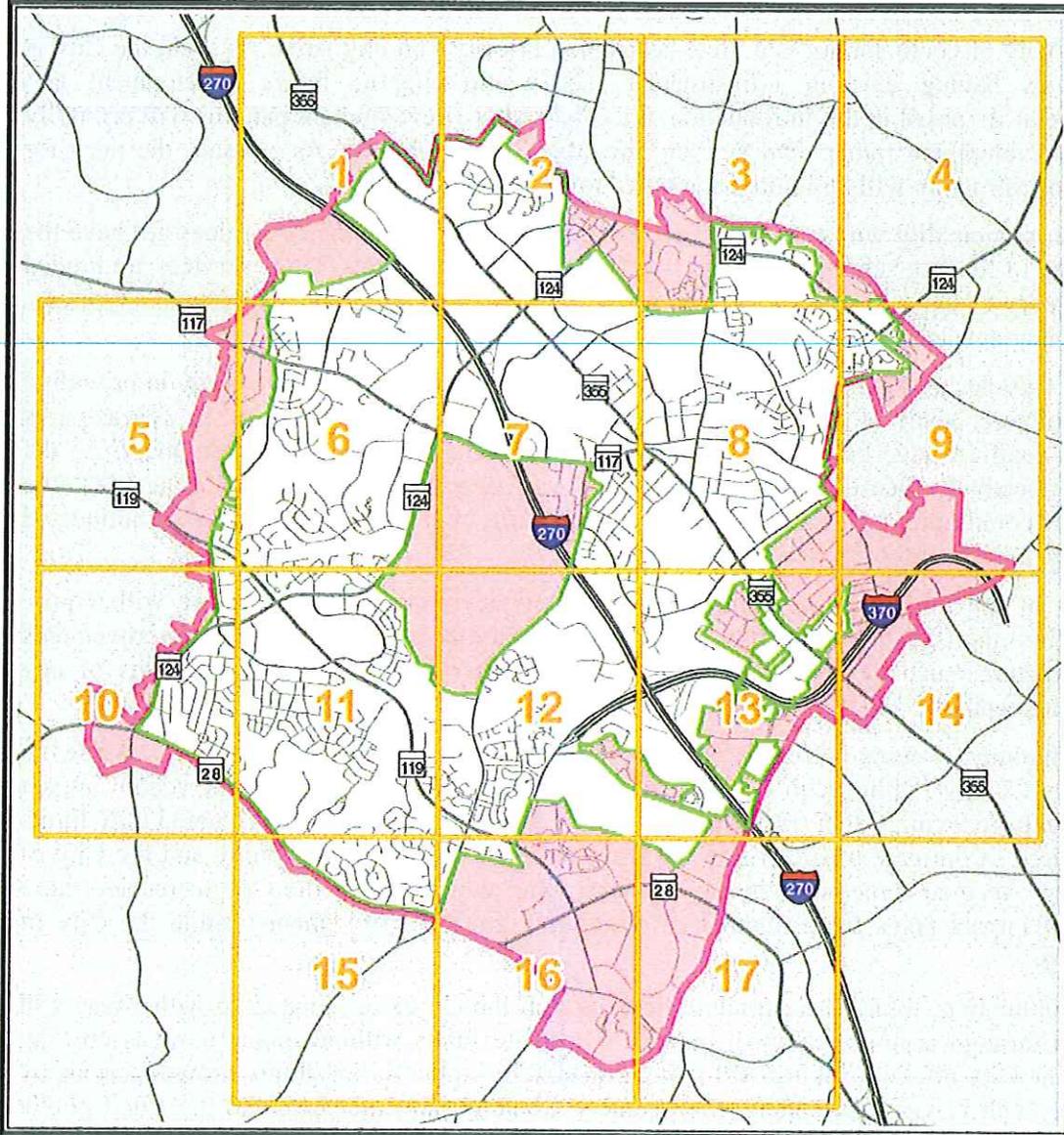
Map 2: Maximum Expansion Limits (MEL) for Gaithersburg



Please refer to Appendix A for more detailed maps of properties within the MEL.

# 15. Appendix A: Detailed Maps of MEL, Growth Areas, Zoning

## Index of Detailed Appendix Map Sheets

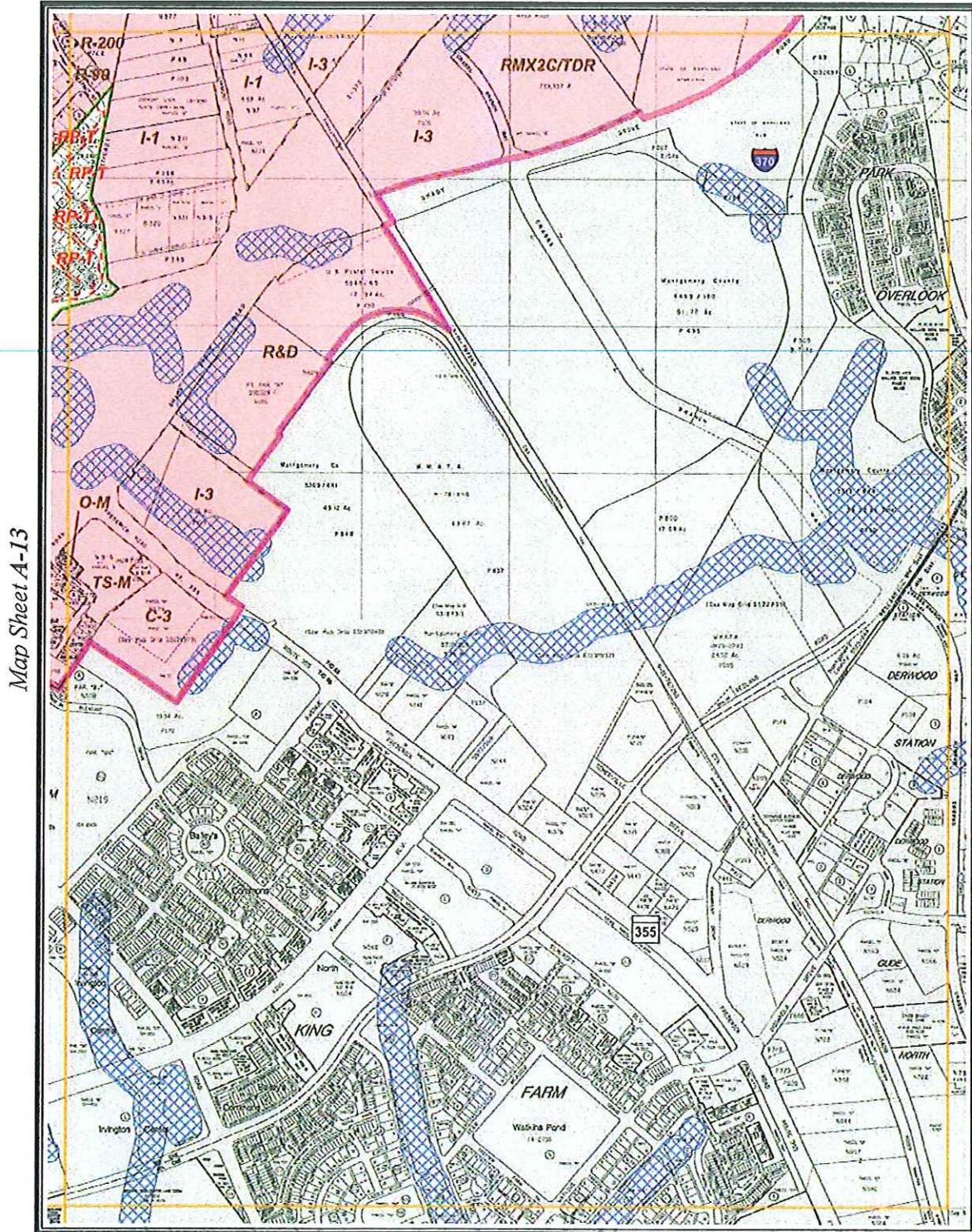


### Legend Key for Appendix Map Sheets

- |  |                                   |
|--|-----------------------------------|
| City of Gaithersburg Corporate Limits    | Growth Areas - City               |
| Maximum Expansion Limits (MEL)           | Growth Areas - MEL                |
| Other Municipalities / Montgomery County | Map Sheet Border                  |
| R-90 City Zoning                         | Non-Buildable Environmental Areas |
| R-200 County Zoning                      |                                   |

Map Sheet A-14

Map Sheet A-09



Map Sheet A-13

(12) Telecommunications facilities located entirely within an existing structure or located on the rooftop of an existing structure other than a single-family dwelling unit, subject to the requirements to section 24-167A(C)(1).  
 (Ord. No. O-1-85, 3-4-85; Ord. No. O-17-93, 11-15-93; Ord. No. O-21-97, 11-17-97; Ord. No. O-5-04, 1-20-04)

**Sec. 24-160B. Special exception uses.**

The following uses are permitted in the E-2 Zone as special exceptions upon approval by the board of appeals in accordance with the provisions of section 24-189:

- Art or cultural centers.
- General offices.
- Hospitals.
- Private clubs.
- Public utility buildings and public utility structures.
- Radio and television broadcasting stations, towers and accessory structures.
- Recreational or entertainment establishments, commercial.
- Service organizations.

Telecommunications facilities, subject to the requirements of section 24-167A(C)(2).  
 (Ord. No. O-1-85, 3-4-85; Ord. No. O-21-97, 11-17-97)

**Sec. 24-160C. Development standards and requirements.**

All uses in the E-2 Zone shall comply with the development standards and requirements set forth in section 24-152 through and including section 24-160, inclusive of this Code. Provided, however, the Traditional Neighborhood Design (TND) option may be used as an alternate method of development, subject to compliance with the standards set forth in section 24-22.3 of Chapter 24 of this Code.  
 (Ord. No. O-1-85, 3-4-85; Ord. No. O-3-99, 1-19-99)

**Sec. 24-160D. Reserved.**

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 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 developments 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 and external compatibility of applicable residential and nonresidential uses by providing a suitable residential environment that is enhanced and complemented by uses such as commercial, recreational, open space, employment and institutional uses and amenities within a multi-use development. A multi-use development is defined as a single parcel or a group of contiguous parcels of land zoned MXD which, among the various parcels comprising that contiguous area, include residential, commercial, recreational, open space, employment and institutional uses and amenities.
- (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 nonvehicular 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 nonvehicular 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, watercourses 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.

(Ord. No. O-11-88, 11-7-88; Ord. No. O-7-06, 7-1-06)

**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, or unless the proposed development otherwise satisfies the purposes and objectives of the MXD Zone. Approval of the MXD Zone for land which is not recommended for this zone in an approved master plan shall require the affirmative vote of four (4) members of the city council.

(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. Such parcels are not required to contain multiple uses but should contribute to a multi-use development and are subject to the provisions of 24-160D.9(a)(1).

(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.

(f) *Frontage on public streets.* Anything to the contrary notwithstanding in any regulation in this Code, lots in this zone shall not be required to have direct access to a public street provided that such condition will promote the creation of affordable housing, or will be designed in such a way as to foster the purposes and objectives of this zone, provided that satisfactory access to a public street is provided over private rights-of-way. (Ord. No. O-11-88, 11-7-88; Ord. No. O-16-90, 8-6-90; Ord. No. O-3-93, 3-1-93; Ord. No. O-7-06, 7-1-06)

**Sec. 24-160D.3. Uses permitted.**

(a) *Residential.* All types of residential uses allowed by right in Chapter 24 of this 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 chapter, 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.
- (5) A lot intended for use for a single-family attached or detached dwelling unit may contain both a principal dwelling unit and an urban cottage, under the following restrictions and conditions.
  - (i) Maximum floor area of an urban cottage shall be one thousand two hundred (1,200) square feet in size.
  - (ii) Maximum height of an urban cottage shall be two and one-half (2½) stories or thirty (30) feet.
  - (iii) There shall be not more than one (1) urban cottage per lot.
  - (iv) Parking for an urban cottage shall be determined in accordance with section 24-219(b).
  - (v) Urban cottages shall be counted toward the maximum number of dwelling units permitted in an MXD zoned development, if such a maximum number is specified in an approved sketch plan, schematic development plan or final site plan in accordance with the following formula:

<i>Unit Size</i>	<i>Dwelling Unit Count</i>
0 to 699 square feet	0.25/DU
700 to 899 square feet	0.50/DU
900 to 1200 square feet	0.75/DU

(vi) In addition to compliance with all applicable city codes and regulations including, but not limited to, those dealing with buildings, fire safety, health and sanitation, property maintenance and rental housing licensing, the construction, occupancy and use of urban cottages shall be controlled by the following restrictions:

- (aa) At least one dwelling unit on a lot containing an urban cottage shall be occupied by an owner of the lot.
- (bb) There shall be only one cooking facility in an urban cottage.
- (cc) Occupancy of an urban cottage shall be in accordance with the following schedule:

<i>Unit Size</i>	<i>Maximum Number of Occupants</i>
0 to 699 square feet	2
700 to 899 square feet	3
900 to 1200 square feet	4

(b) *Commercial/employment/industrial.* All uses allowed by right in any of the following zone: R-B, C-B, C-1, C-2, C-3, E-1, E-2 and I-3 Zones are permitted uses. The following uses are specifically prohibited:

- Adult-oriented business.
- Automobile paint and body repair shops.
- Body piercing establishments
- Drive-in theaters.
- Hotel, extended stay.
- Manufacture, compounding, and processing of goods or articles.
- Pawnshops.
- Tattoo parlor.

(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 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 one hundred (100) percent.

(c) *Bed and breakfast.* Bed and breakfast subject to the requirements contained in section 24-167B.

(d) *Special exception uses.* The following uses shall be special exception uses in the MXD zone subject to approval by the city board of appeals notwithstanding the fact that such use may be allowed as a permitted use in any other zones referred to in the above subsections (a) and (b):

Amusement center, whether operated separately or in conjunction with any other permitted or special exception use<sup>1</sup>.

Assembling from prepared materials of electronic devices and electrical appliances.

Boarding homes.

Care homes.

Cemeteries.

Child or elderly care facilities in dwelling units other than single-family detached or duplexes accommodating not more than eight (8) individuals.

Child or elderly care facilities for accommodating more than eight (8) individuals.

Clinics.

Commercial parks and other outdoor places of amusements, including miniature golf courses, driving ranges, carnivals and fairs.

Funeral parlors and undertaking establishments.

Group residential facilities operated by nonprofit or public entities.

Hospitals.

Nursing and care homes.

Private clubs.

Public utilities uses, such as electric substations and offices, excluding the storage of material and trucks and repair facilities.

Radio and television broadcasting stations, towers and accessory structures.

Telecommunications facilities.

Towers, poles, antennas, buildings or other structures intended for use in connection with the operation of a commercial radio or television broadcasting station.

(Ord. No. O-11-88, 11-7-89; Ord. No. O-12-89, 9-5-89; Ord. No. O-17-93, 11-15-93; Ord. No. O-21-97, 11-17-97; Ord. No. O-9-02, 11-4-02; O-15-02, 12-16-02; Ord. No. O-6-04, 2-17-04)

<sup>1</sup> Amusement centers in the MXD Zone shall not be required to comply with the standard of subsections (1), (2) and (3) of section 24-144(a) of this Code.

#### **Sec. 24-160D.4. Density and intensity of development.**

(a) 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 0.75; provided, however, that any land zoned to the MXD category prior to January 1, 1991, and any land not exceeding twelve (12) acres in size incorporated into such acreage zoned MXD prior to January 1, 1991, shall have a floor area ratio not to exceed 1.5. The mayor and city council may, by separate resolution, waive any or all the floor area ratio development standards when necessary to incorporate environmental site design or implement the master plan.

(Ord. No. O-11-88, 11-7-88; Ord. No. O-5-91, 3-11-91; Ord. No. O-5-10, 4-5-2010)

#### **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 one hundred (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 one hundred (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 one hundred (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) Telecommunications facilities in residential MXD Zones must be enclosed in existing structures.

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

(Ord. No. O-11-88, 11-7-88; Ord. No. O-21-97, 11-17-97)

**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 forty (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 twenty-five (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. Subsequent to the completion of work, the city manager is authorized to declare as abandoned and forfeited, any cash bond posted pursuant to a requirement of this chapter, and relinquish proceeds thereof to the general treasury of the city, when after giving the applicant or permittee who posted the cash bond thirty (30) days written notice first by registered mail, and if unclaimed by first-class mail, such applicant or permittee fails to request of the city the return of the cash bond. Upon failure to request of the city the return of the cash bond, as provided herein, the applicant or permittee, its successors, heirs and assigns relinquish all claim to said cash bond.
- (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 areas, green space, recreation areas, facilities and amenities, and all common landscaped areas.

(Ord. No. O-11-88, 11-7-88; Ord. No. O-13-95, 7-24-95)

**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 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. Subsequent to the completion of work, the city manager is authorized to declare as abandoned and forfeited, any cash bond posted pursuant to a requirement of this chapter, and relinquish proceeds thereof to the general treasury of the city, when after giving the applicant or permittee who posted the cash bond thirty (30) days written notice first by registered mail, and if unclaimed by first-class mail, such applicant or permittee fails to request of the city the return of the cash bond. Upon failure to request of the city return of the cash bond, as provided herein, the applicant or permittee, its successors, heirs and assigns relinquish all claim to said cash bond.

(Ord. No. O-11-88, 11-7-88; Ord. No. O-13-95, 7-24-95)

#### **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.

(Ord. No. O-11-88, 11-7-88)

#### **Sec. 24-160D.9. Application and processing procedures.**

Procedures governing the application for the MXD Zone and approvals necessary to seek building permits shall be subject to the following multistep 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. The requirements of section 24-169(a), except for items (4), (5), (6) and (7)f.

- c. 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.
  - d. 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.
  - e. In addition to the requirements of this subsection, for parcels less than ten (10) acres the sketch plan shall provide sufficient detail to demonstrate harmonious integration into contiguous and existing MXD areas.
- (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 include the following:
    - a. The requirements of section 24-169(b).
    - b. Proposed phasing or staging plan of development and information relating to such plan's consistency with the provision of public facilities.
    - c. 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.
    - d. A proposed covenant or other form of agreement indicating how the area will be included in any homeowner's 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) 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.

- (3) 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. Subsequent to the completion of work, the city manager is authorized to declare as abandoned and forfeited, any cash bond posted pursuant to a requirement of this chapter, and relinquish proceeds thereof to the general treasury of the city, when after giving the applicant or permittee who posted the cash bond thirty (30) days written notice first by registered mail, and if unclaimed by first-class mail, such applicant or permittee fails to request of the city the return of the cash bond. Upon failure to request of the city return of the cash bond, as provided herein, the applicant or permittee, its successors, heirs and assigns relinquish all claim to said cash bond.

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

(Ord. No. O-11-88, 11-7-88; Ord. No. O-15-91, 7-1-91; Ord. No. O-23-92, 12-7-92; Ord. No. O-13-95, 7-24-95; Ord. No. O-7-06, 7-1-06; Ord. No. O-5-10, 4-5-2010)

**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 other requirements of the City Code; 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.

(Ord. No. O-11-88, 11-7-88; Ord. No. O-5-10, 4-5-2010)

**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.

(Ord. No. O-11-88, 11-7-88)

**Sec. 24-160D.12. Regulations adopted as part of schematic development plans.**

(a) The city council may adopt as part of a schematic development plan in the MXD Zone, all or portions of any proposed regulations, rules or standards specific and unique to the application under consideration.

(b) Such rules, regulations and standards may apply to:

Building/structure setbacks and lot coverage;

The location and type of accessory buildings and structures;

Type and nature of accessory uses;

Appearance of buildings and structures, configuration of building elements and type of building materials.

Provided however, no such rules, regulations and standards shall exceed any maximum development standard or be less than any minimum development standard or permit any use otherwise prohibited in the MXD Zone. All owners of property subject to the schematic development plan and their assigns shall be notified of such rules, regulations and standards at the time of taking title to property located within the schematic development plan area or as otherwise provided in subsection (c) below.

(c) The provisions of this section shall apply to any existing sketch or schematic development plan previously approved by the city council for the MXD Zone which contains such rules, regulations and standards.

(d) No person, firm or corporation may violate any such rules, regulations or standards and any such violation shall be enforceable by the city and subject to such enforcement and penalties provided by sections 1-9 through 1-11 inclusive of this Code.

(Ord. No. O-22-97, 12-1-97; Ord. No. O-5-10, 4-5-2010)

**Sec. 24-160D.13. Traditional Neighborhood Design (TND) option.**

In addition to the procedural requirements contained in this division, the Traditional Neighborhood Design (TND) option should be used as a guide for development within this zoning category, subject to compliance with the standards set forth in section 24-22.3 of Chapter 24 of this Code.

(Ord. No. O-3-99, 1-19-99)

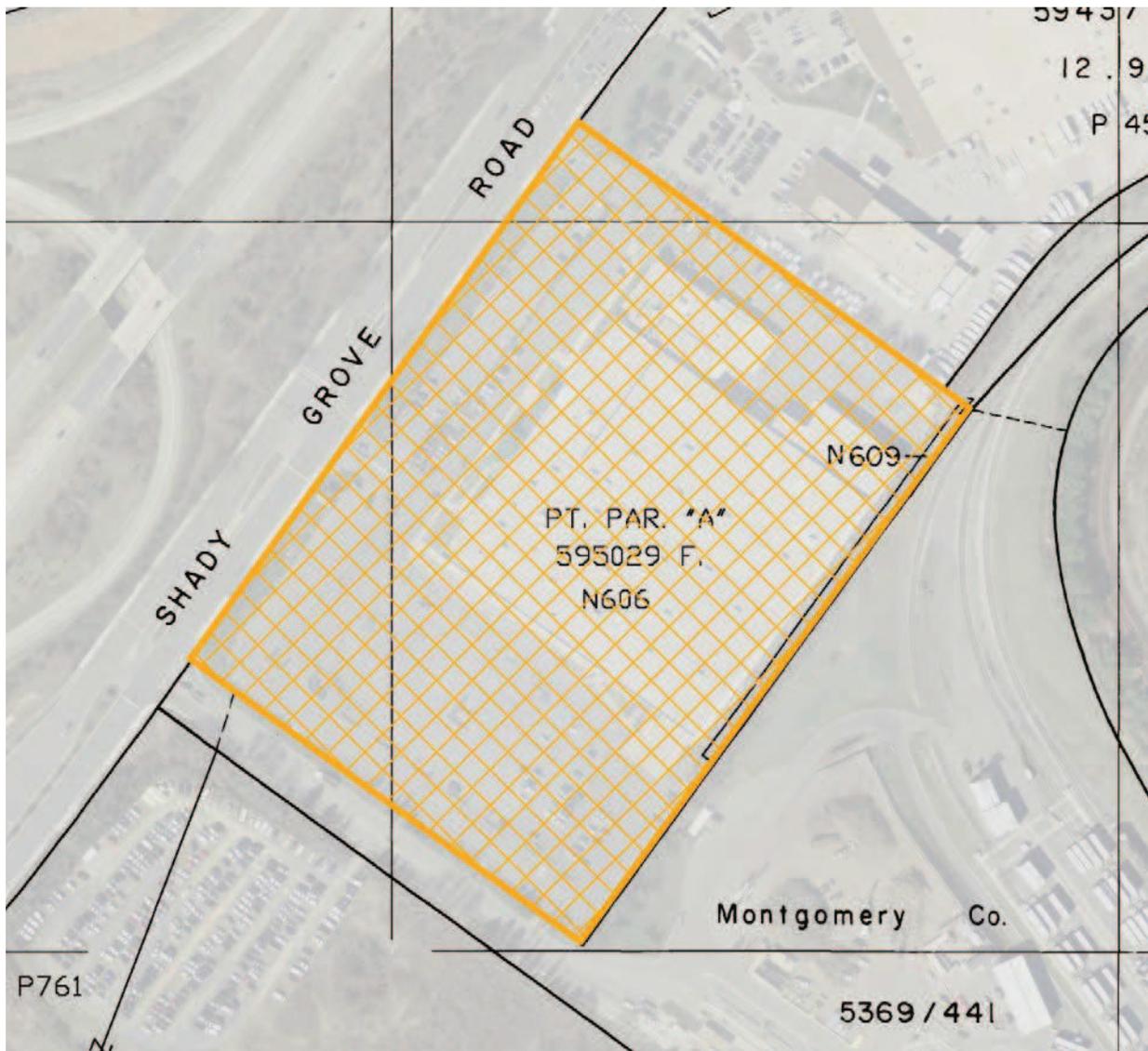
**Editor's note**—Ord. No. O-3-99, adopted Jan. 19, 1999, set out provisions pertaining to the traditional neighborhood design option. To maintain the numeric sequencing of this Code, these provisions have been included as § 24-160D.13 at the discretion of the editor to read as herein set out. See the Code Comparative Table.

## DIVISION 20. H-M ZONE, HOTEL-MOTEL

**Sec. 24-160E.1. H-M Zone, purposes.**

It is the purpose of this zone to provide sites for hotels and motels adjacent to, and directly or indirectly accessible from, major highways or limited access freeways. It is intended that

### 23. The Great Indoors, 2 parcels, 13.8 acres



#### Tax Map GS13 Parcels N606 and N609

This 13.8-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.

#### Applicable Strategic Direction: Planning, Economic

#### 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

## 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 15<sup>th</sup> 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

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**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

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**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**

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 8<sup>th</sup> 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 8<sup>th</sup> 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 3<sup>rd</sup> 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 3<sup>rd</sup> and 2<sup>nd</sup> 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 10<sup>th</sup> 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 10<sup>th</sup> 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 9<sup>th</sup> 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

