

OCCUPANT  
200 SWARTHMORE AVE  
GAITHERSBURG MD 20877

OCCUPANT  
202 SWARTHMORE AVE  
GAITHERSBURG MD 20877

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208 SWARTHMORE AVE  
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127 SWARTHMORE AVE  
GAITHERSBURG MD 20877

OCCUPANT  
200 SKIDMORE BLV  
GAITHERSBURG MD 20877

OCCUPANT  
131 GOUCHER TER  
GAITHERSBURG MD 20877

OCCUPANT  
137 GOUCHER TER  
GAITHERSBURG MD 20877

OCCUPANT  
129 GOUCHER TER  
GAITHERSBURG MD 20877

OCCUPANT  
135 GOUCHER TER  
GAITHERSBURG MD 20877

OCCUPANT  
139 GOUCHER TER  
GAITHERSBURG MD 20877

OCCUPANT  
123 SWARTHMORE AVE  
GAITHERSBURG MD 20877

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131 SWARTHMORE AVE  
GAITHERSBURG MD 20877

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125 SWARTHMORE AVE  
GAITHERSBURG MD 20877

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121 SWARTHMORE AVE  
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204 SWARTHMORE AVE  
GAITHERSBURG MD 20877

OCCUPANT  
206 SWARTHMORE AVE  
GAITHERSBURG MD 20877

OCCUPANT  
136 GOUCHER TER  
GAITHERSBURG MD 20877

OCCUPANT  
138 GOUCHER TER  
GAITHERSBURG MD 20877

CASEY BETTY BTRUST  
C/O CASEY MNGMT INC  
800 S FREDERICK AVE STE 100  
GAITHERSBURG MD 20877

MERCADO RAFAEL  
13150 MUSICMASTER DR  
SILVER SPRING MD 20904

UNITED STATES POSTAL SERV  
16501 SHADY GROVE RD  
GAITHERSBURG MD 20898

HHP GAITHERSBURG ASSOCIATES LLC  
2711 CENTERVILLE RD STE 400  
WILMINGTON DE 19808

HUANG CHONG HUI  
OVERALL XUIMIN  
7 LARKMEADE COURT  
POTOMAC MD 20854

DALLAS HARIS & MARIELLA M  
5349 KING CHARLES WAY  
BETHESDA MD 20814

ZHU GUANG & YAN ZHANG  
C/O NOAHS PREFERRED PROPERTIES  
313 MAIN ST  
GAITHERSBURG MD 20878

GATEWAY COMMONS HOA  
C/O THE MNGMNT GROUP ASSC INC  
20440 CENTURY BLVD STE 100  
GERMANTOWN MD 20874

NORTHEAST MD WASTE DISP AUTH  
% BAKER & MARBURY  
36 S CHARLES ST  
BALTIMORE MD 21201

WASHINGTON METRO AREATRUSTAN  
AUTHORITY OFFICE OF REAL EST  
600 FIFTH ST NW  
WASHINGTON DC 20001

MONTGOMERY COUNTY  
EOB 101 MONROE ST  
ROCKVILLE MD 20850

SEARS ROEBUCK & CO  
C/O DEPT 36475 B2-112A  
3333 BEVERLY RD  
HOFFMAN ESTATES IL 60179

CASEY BETTY BTRUST  
% CASEY MANGT INC  
800 S FREDERICK AVE #100  
GAITHERSBURG MD 20877

NORTHEAST MD WASTE DISP AUTH  
25 SOUTH CHARLES ST  
BALTIMORE MD 21201

ERIN GIRARD ESQ  
LINOWES AND BLOCHER LLP  
7200 WISCONSIN AVE #800  
BETHESDA MD 20814

BETTY CASEY TR  
% CASEY MGMT INC  
800 S FREDERICK AVE #100  
GAITHERSBURG MD 20877-4150

NORTHEAST MD WASTE DISP AUTH  
% BAKER & MARBURY  
36 S CHARLES ST  
BALTIMORE MD 21201

NORTHEAST MD WASTE DISP AUTH  
25 S CHARLES ST  
BALTIMORE MD 21201

US POSTAL SVC  
16501 SHADY GROVE RD  
GAITHERSBURG MD 20898-1645

HHLP GAITHERSBURG ASSOC LLC  
2711 CENTERVILLE RD #400  
WILMINGTON DE 19808-1645

GATEWAY COMMONS HOA  
MAIN STREET PROP MGM 1  
% JEFF KIVITZ  
9 PARK AVE  
GAITHERSBURG MD 20877

DEAN SHURE  
OR CURRENT RESIDENT  
130 SWARTHMORE AVE  
GAITHERSBURG MD 20877

FERNANDO GALVAN ET AL  
CURRENT RESIDENT  
208 SWARTHMORE AVE  
GAITHERSBURG MD 20877

MYRIAM GONZALEZ  
OR CURRENT RESIDENT  
212 SWARTHMORE AVE  
GAITHERSBURG MD 20877

MONTGOMERY COUNTY  
EXECUTIVE OFFICE BLDG  
101 MONROE ST  
ROCKVILLE MD 20850

WASHINGTON METRO ARE TRANSIT  
AUTHORITY OFF OF REAL ESTATE  
600 FIFTH ST NW  
WASHINGTON DC 20001

4811 BATTERY LANE LLC  
PO BOX 656  
ROCKVILLE MD 20848-0656

HALCYON ASSOC  
5500 MACARTHUR BLVD NW  
WASHINGTON DC 20016-2536

CURRENT RESIDENT  
119 BATES AVE  
GAITHERSBURG MD 20877

CURRENT RESIDENT  
122 SWARTHMORE AVE  
GAITHERSBURG MD 20877-1260

CHONG HUI HUANG &  
XUIMIN OVERALL  
7 LARKMEADE CT  
POTOMAC MD 20854

CURRENT RESIDENT  
126 SWARTHMORE AVE  
GAITHERSBURG MD 20877-1260

CURRENT RESIDENT  
127 SWARTHMORE AVE  
GAITHERSBURG MD 20877-1262

CURRENT RESIDENT  
202 SWARTHMORE AVE  
GAITHERSBURG MD 20877

CURRENT RESIDENT  
206 SWARTHMORE AVE  
GAITHERSBURG MD 20877

CARLOS & ANA RANGEL  
CURRENT RESIDENT  
210 SWARTHMORE AVE  
GAITHERSBURG MD 20877

JOSE CAERO ET AL  
CURRENT RESIDENT  
214 SWARTHMORE AVE  
GAITHERSBURG MD 20877

CURRENT RESIDENT  
131 GOUCHER TER  
GAITHERSBURG MD 20877

CURRENT RESIDENT  
135 GOUCHER TER  
GAITHERSBURG MD 20877

CURRENT RESIDENT  
134 GOUCHER TER  
GAITHERSBURG MD 20877

RAFAEL MERCADO  
13150 MUSICMASTER DR  
SILVER SPRING MD 20877

CURRENT RESIDENT  
137 GOUCHER TER  
GAITHERSBURG MD 20877

CURRENT RESIDENT  
138 GOUCHER TER  
GAITHERSBURG MD 20877

JAMES TERRELL  
SEARS ROEBUCK & CO  
3333 BEVERLY RD  
BC 102B-A  
HOFFMAN ESTATES IL 60179

Ms. Shireen Ambush  
Abaris Realty, Inc.  
Amberfield  
12009 Nebel Street  
Rockville, MD 20852

Mr. Jeff Kivitz  
Main Street Property Management, Inc.  
Bozzuto Condominums at Kentlands  
9 Park Avenue  
Gaithersburg, MD 20877

Mr. Robert Fogel  
Abaris Realty, Inc.  
Brighton East Condominium III  
12009 Nebel Street  
Rockville, MD 20852

Mr. Claude Lumpkins  
Vista Management  
Brighton West Condominium IV  
1131 University Blvd West Suite 101  
Silver Spring, MD 20902

Mr. Mike Potter  
M.T.M Management Associates  
Cedar Village  
26223 Ridge Road  
Damascus, MD 20872

Mr. Jeff Kivitz  
Main Street Property Management, Inc.  
Copperfield Crossing II Condominiums  
9 Park Avenue  
Gaithersburg, MD 20877

Ms. Barbara B. Jensen  
Quantum  
Deer Park Place (Brighton HOA)  
5101 River Road, Suite 101  
Rockville, Maryland 20816

Mr. Jesse James  
Allied Realty  
Emory Woods Homeowners  
7605 Arlington Road  
Bethesda, MD 20814

Ms. Peggy Toland  
Community Association, Inc.  
Foxwood Homeowners Association  
15742 Crabbs Branch Way  
Derwood, MD 20855

Mr. Mike Potter  
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Greens of Warther  
26223 Ridge Road  
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Ms. Peggy Toland  
Community Association, Inc.  
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15742 Crabbs Branch Way  
Derwood, MD 20855

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Ms. Barbara B. Jensen  
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5101 River Road, Suite 101  
Rockville, Maryland 20816

Ms. Barbara B. Jensen  
Quantum  
Brighton West Condominium V  
5101 River Road, Suite 101  
Rockville, Maryland 20816

Ms. Tracy Hill  
Element National Management  
Colonade at Kentlands  
23 Arch Place  
Gaithersburg, Maryland 20878

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Courtyards at Rio  
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Diamond Farm Homes Corporation  
15742 Crabbs Branch Way  
Derwood, MD 20855

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Fernshire Farms  
PO Box 39  
Germantown, MD 20875

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Gateway Commons HOA  
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Gaithersburg, MD 20877

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Hidden Creek Homeowners Association  
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Rockville, MD 20852

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Bennington Community Association, Inc.  
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Carolann Courts Condominium  
6935 Wisconsin Avenue Suite 400  
Chevy Chase, MD 20815

Mr. David Sapoznick  
Summit Management Services, Inc. AAMC  
Copperfield Crossing Condominium I  
3833 Farragut Avenue  
Kensington, MD 20895

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Rockville, MD 20852

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Gaithersburg, MD 20878

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14904 New Hampshire Avenue  
Silver Spring, Maryland 20905

Ms. Shireen Ambush  
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Rockville, MD 20852

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Gaithersburg, MD 20878

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President  
Joan's Hill  
108 Longdraft Road  
Gaithersburg, Maryland 20878

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Gaithersburg, MD 20877

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Main Street Property Management, Inc.  
Kentlands Condominium V  
9 Park Avenue  
Gaithersburg, MD 20877

Mr. Richard Skobel  
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Kentlands View Condominium, Inc.  
9 Park Avenue  
Gaithersburg, MD 20877

Mr. Michael LaPrade  
ComSource Management, Inc.  
Lakelands Heathwalk Condominiums  
3414 Morningwood Drive  
Olney, MD 20832

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Rockville, MD 20852

Ms. Shireen Ambush  
Abaris Realty, Inc.  
Lakelands Ridge Condo 4  
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Rockville, MD 20852

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Derwood, MD 20855

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Rockville, MD 20852

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Kentlands Craftstar Condo/Towns  
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Gaithersburg, MD 20877

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PROCAM  
Lakeforest Glen  
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Silver Spring, Maryland 20905

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Rockville, MD 20852

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Abaris Realty, Inc.  
Lakelands Ridge Condo 2  
12009 Nebel Street  
Rockville, MD 20852

Ms. Shireen Ambush  
Abaris Realty, Inc.  
Lakelands Ridge Condo 5  
12009 Nebel Street  
Rockville, MD 20852

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Longdraft Estates  
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Gaithersburg, MD 20878

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Gaithersburg, MD 20877

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No. 8 Russell Avenue Condominiums  
9 Park Avenue  
Gaithersburg, MD 20877

Mr. Jeff Kivitz  
Main Street Property Management, Inc.  
Kentlands Condominium Association I  
9 Park Avenue  
Gaithersburg, MD 20877

Mr. Jeff Kivitz  
Main Street Property Management, Inc.  
Kentlands Condominium IV  
9 Park Avenue  
Gaithersburg, MD 20877

Mr. Chris Froehlich  
Community Mngmnt. Corp.  
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Rockville, MD 20852

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ComSource Management, Inc.  
Lakelands Community Association  
3414 Morningwood Drive  
Olney, Maryland 20832

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Abaris Realty, Inc.  
Lakelands Market Street Condos  
12009 Nebel Street  
Rockville, MD 20852

Ms. Shireen Ambush  
Abaris Realty, Inc.  
Lakelands Ridge Condo 3  
12009 Nebel Street  
Rockville, MD 20852

Ms. Shireen Ambush  
Abaris Realty, Inc.  
Lakelands Ridge HOA  
12009 Nebel Street  
Rockville, MD 20852

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Vice President  
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Gaithersburg, MD 20878

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The Management Group  
Newport Estates Section II  
20440 Century Boulevard, Suite 100  
Germantown, Maryland 20874

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M.T.M Management Associates  
Oaks at Washingtonian Woods COA  
26223 Ridge Road  
Damascus, MD 20872

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President  
Old Carriage Hill  
905 Wild Forest Drive  
Gaithersburg, Maryland 20879

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The Management Group  
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Germantown, Maryland 20874

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Vanguard Management Associates  
Park Summit Homeowners Association  
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Germantown, MD 20875

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President  
Reida Square Homeowners Association  
2 Glazebrook Court  
Gaithersburg, MD 20878

Mr. Richard Skobel  
Main Street Property Management, Inc.  
Saybrooke  
9 Park Avenue  
Gaithersburg, MD 20877

Mr. Mike Potter  
M.T.M Management Associates  
Shady Grove Village CCC  
26223 Ridge Road  
Damascus, MD 20872

Ms. April Day  
Community Association Services, Inc.  
Summit Crossing  
18401 Woodfield Road, Suite H  
Gaithersburg, MD 20879

Mr. Matt Snyder  
ComSource Management, Inc.  
Village Overlook  
3414 Morningwood Drive  
Olney, MD 20832

Ms. Guisela Deering  
The Simmons Management Group, Inc.  
Vistas at Washingtonian Woods  
8911 60th Avenue, 2nd Floor  
College Park, MD 20740

Ms. Jessica Cummings  
IKO Real Estate, Inc.  
Orchard Glen  
3416 Olandwood Court, Suite 210  
Olney, MD 20832

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Vanguard Management Associates  
Orchards Homeowners Association  
PO Box 39  
Germantown, MD 20875

Mr. Tony Martella  
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Parklands  
3414 Morningwood Drive  
Olney, MD 20832

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Quince Orchard Park I COA  
9 Park Avenue  
Gaithersburg, MD 20877

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IKO Real Estate, Inc.  
Reserve at Crowne Point  
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Olney, MD 20832

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President  
Seneca Mews  
108 Twelve Oaks Court  
Gaithersburg, MD 20877

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Abaris Realty, Inc.  
Shady Grove Village I COA  
12009 Nebel Street  
Rockville, MD 20852

Mr. Michael Eckloff  
ComSource Management, Inc.  
Timberbrook COA  
3414 Morningwood Drive  
Olney, Maryland 20832

Mr. Matt Snyder  
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Village Overlook IIA  
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Olney, MD 20832

Mr. Craig Chung  
The Management Group  
Warther Homes Association, Inc.  
20440 Century Boulevard, Suite 100  
Germantown, Maryland 20874

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President  
Orchard Hills  
147 Apple Blossom Way  
Gaithersburg, MD 20878

Mr. Jeff Kivitz  
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Park Summit Condominium  
9 Park Avenue  
Gaithersburg, MD 20877

Mr. Tony Martella  
ComSource Management, Inc.  
Potomac Oaks  
3414 Morningwood Drive  
Olney, MD 20832

Mr. Richard Skobel  
Main Street Property Management, Inc.  
Quince Orchard Park II COA  
9 Park Avenue  
Gaithersburg, MD 20877

Mr. Jon May  
President  
Rosemont Citizens Association  
8940 Edgewood Drive  
Gaithersburg, Maryland 20877

Mr. Bruce Blumberg  
Abaris Realty, Inc.  
Shady Grove III, Community Assoc., Inc.  
12009 Nebel Street  
Rockville, MD 20852

Mr. Bruce Blumberg  
Abaris Realty, Inc.  
Shady Grove Village II COA  
12009 Nebel Street  
Rockville, MD 20852

Ms. Kim Lee  
Villa Ridge Condominium Association  
Villa Ridge Condominiums  
414 Girard Street  
Gaithersburg, MD 20877

Ms. Lori Cohen  
Armstrong Management Services  
Village Overlook IIB  
3949 Pender Drive #205  
Fairfax, Virginia 22030

Ms. Shireen Ambush  
Abaris Realty, Inc.  
Washingtonian Towns  
12009 Nebel Street  
Rockville, MD 20852

Mr. Eric Cooper  
Property Management People  
Washingtonian Woods  
955-A Russell Avenue  
Gaithersburg, Maryland 20879

Ms. JoAnn Schimke  
President  
West Riding Citizens Association  
734 Tiffany Court  
Gaithersburg, MD 20878

M. Peyton Harris  
Capital Management  
Windbrooke COA  
12011 Lee Jackson Highway #350  
Fairfax, VA 22033

Ms. Peggy Toland  
Community Association, Inc.  
Woodland Hills  
15742 Crabbs Branch Way  
Derwood, MD 20855

Mr. Mike Potter  
M.T.M Management Associates  
Woods at Muddy Branch  
26223 Ridge Road  
Damascus, MD 20872

Mr. Mike Potter  
M.T.M Management Associates  
Woods at Muddy Branch HOA Inc.  
26223 Ridge Road  
Damascus, MD 20872

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## STAFF COMMENTS FOR PLANNING COMMISSION

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**MEETING DATE:** March 21, 2012

**ANNEXATION:** **X-184**

**TITLE:** **Sears/Great Indoors Property**

**REQUEST:** **RECOMMENDATION TO Mayor & Council**

**ADDRESS:** 16331 & 16401 Shady Grove Road

**ZONE:** Montgomery County - R&D Zone  
Proposed Gaithersburg - MXD Zone

**Applicant:** Linowes & Blocher, Robert Dalrymple & Erin Girard

**Owner:** Sears, Roebuck & Company, James Terrell

**STAFF LIAISON:** Trudy Schwarz, Community Planning Director

**Enclosures:**

Location Map

Staff Report

Index of Memorandum and Exhibits may be viewed by clicking on the following link,  
[www.gaithersburgmd.gov/projects](http://www.gaithersburgmd.gov/projects) and viewing:

X-184 Sears/Great Indoors Property Annexation

Mayor and City Council  
X-184  
Exhibit #40

## STAFF COMMENTS

Articles 23A and 66B of the *Maryland Annotated Code* and Chapter 24 (Zoning) of the City of Gaithersburg Code outline the requirements and process for a proposed annexation. The Planning Commission is required to review the proposed annexation and associated rezoning and land use plan for consistency with the City's master plan and adequacy of public facilities , and provide a recommendation to the Mayor and City Council at least 15 days prior to the required Mayor and City Council public hearing. The public hearing before the Mayor and City Council is scheduled for May 21, 2012

The applicant will present the annexation petition to the Planning Commission. This has been listed a Public Discussion to allow testimony from the public.

**Staff recommends that the Commission leave their record open for 21 days, April 11, 2012.** This will allow the Planning Commission to make a recommendation at the April 18, 2012, Planning Commission meeting.



KZS  
Transmittal Number: 9713880

CORPORATION SERVICE COMPANY

## Rejection of Service of Process

### Return to Sender Information:

Trudy Schwarz  
City of Gaithersburg  
31 South Summit Avenue  
Gaithersburg, MD 20877

**Date:** 03/19/2012

**Party Served:** Hhlp Gaithersburg Associates, LLC  
**Title of Action:** In re: 16331 & 16401 Shady Grove Road  
**Case/Reference No:** X-184

The service of process received for the party served, as listed above, cannot be forwarded to the intended party for the reason listed below:

According to our records and the records at the Secretary of State, or other appropriate state agency, we are not the registered agent for the company you are trying to serve. It is your responsibility to verify this information with the Secretary of State or other appropriate state agency.

Our customer records are confidential. We do not release any information related to our customers, agent representation or service of process received. Please contact the Secretary of State or other appropriate agency for more information.

For an electronic copy of the identified service, send your request by e-mail to [sop@cscinfo.com](mailto:sop@cscinfo.com). Please include the transmittal number located in the upper right-hand corner of this letter.

2711 Centerville Road | Wilmington, DE 19808  
(888) 690-2882 | [sop@cscinfo.com](mailto:sop@cscinfo.com)

Mayor and City Council  
X-184  
Exhibit #41



KZS  
Transmittal Number: 9713881

CORPORATION SERVICE COMPANY

## Rejection of Service of Process

### Return to Sender Information:

Trudy Schwarz  
City of Gaithersburg  
31 South Summit Avenue  
Gaithersburg, MD 20877

**Date:** 03/19/2012  
**Party Served:** Hhlp Gaithersburg Associates, LLC  
**Title of Action:** In re: 16331 & 16401 Shady Grove Road  
**Case/Reference No:** X-184

The service of process received for the party served, as listed above, cannot be forwarded to the intended party for the reason listed below:

According to our records and the records at the Secretary of State, or other appropriate state agency, we are not the registered agent for the company you are trying to serve. It is your responsibility to verify this information with the Secretary of State or other appropriate state agency.

Our customer records are confidential. We do not release any information related to our customers, agent representation or service of process received. Please contact the Secretary of State or other appropriate agency for more information.

For an electronic copy of the identified service, send your request by e-mail to [sop@cscinfo.com](mailto:sop@cscinfo.com). Please include the transmittal number located in the upper right-hand corner of this letter.

2711 Centerville Road | Wilmington, DE 19808  
(888) 690-2882 | [sop@cscinfo.com](mailto:sop@cscinfo.com)

Mayor and City Council  
X-184  
Exhibit #42



March 26, 2012

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

Dear Mr. Jonson:

Please publish the following legal advertisement in the **April 4, 11, 18 and 25, 2012**, issues of the ***Gaithersburg Gazette***.

Sincerely,

Trudy W. Schwarz, Community Planning Director  
Planning and Code Administration

ASSIGN CODE: X-184

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### NOTICE OF PUBLIC HEARING

The Mayor and Council of the City of Gaithersburg will conduct a joint public hearing on X-184, filed by Sears, Roebuck and Company, on

**MONDAY  
MAY 21, 2012  
AT 7:30 P.M.**

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

The application requests annexation of 27.89 acres of land adjacent to the present corporate limits, known as the Sears Property, located at 16331 & 16401 Shady Grove Road. The application requests a reclassification of the subject property from the current Montgomery County Research and Development (R&D) Zone to the Mixed Use Development (MXD) Zone in the City of Gaithersburg, Maryland.

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

Trudy W. Schwarz, Community Planning Director  
Planning and Code Administration  
mg

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

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MAYOR  
Sidney A. Katz

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

CITY MANAGER  
Angel L. Jones

Mayor and City Council  
X-184  
Exhibit #43



Service Center & Repair), located at 16331 & 16401 Shady Grove Road, and adjacent road rights-of-way, adjacent to the present corporate limits. The application requests a reclassification of the subject property from the current Research & Development (R&D) Zone in the County to the Mixed Use Development (MXD) Zone in the City of Gaithersburg, Maryland.  
PUBLIC DISCUSSION

Community Planning Director Schwarz introduced this application, located the property on an aerial photograph, noted the land uses surrounding it, and provided background information. She indicated that accompanying this petition there is a request for rezoning the property to the MXD classification and a site plan for the current 204,490-square foot retail use. She noted this property was included as part of the maximum expansion limits in the 2003 Master Plan Municipal Growth Element, adopted in 2009, and in the Land Use Element of the 2009 Master Plan, adopted in 2011. Mrs. Schwarz stated the public hearing before the City Council is scheduled for May 21, 2012.

*Attorney for the applicant, Robert Dalrymple, Linowes and Blocher, LLP*, discussed the characteristics of the property, including the existing uses, i.e., The Great Indoors store and a parts center in the rear, and expanded on the background relating to the property. He noted the County's Master Plan rezoned the property to the R&D designation with the intent for redevelopment as an office/employment park, which the applicant's marketing study results found unattainable at this time. He reported The Great Indoors stores would be closing nationwide and the flexibility of the City's MXD Zone is sought to find an appropriate tenant for that building. The parts center is planned to remain on the site.

*Erin Girard, Linowes and Blocher, LLP*, pointed out the intent of the applicant is for mixed uses that exclude residential. She reiterated there are no short-term plans for redevelopment, but its 13 acres would make it possible for a more intense use in the future, as the property meets the criteria for the MXD Zone.

The applicant and staff answered questions of the Commission regarding other possible zoning designations for the property, noting that MXD is the most appropriate given the City Council's adoption of the Master Plan Land Use Element and the strategic directions for the City.

Speaker from the audience:

*Anton Huntsman, Dakota Drive business owner*, spoke in favor of the application.

Mrs. Schwarz recommended the Commission keep its record open for 21 days, closing on April 11, 2012, and make its recommendation to the City Council on April 18, 2012.

Chair Bauer considered the proposal to be in alignment with the City's Master Plan and supported the request for the reclassification to the MXD Zone. Commissioner Winborne agreed. Commissioner Hopkins voiced his support, noting the proximity of the property to Metrorail lends itself to a mixed use development in the long term.

Vice-Chair Kaufman moved, seconded by Commissioner Lanier, to hold the Commission's hearing record open on X-184 until 5 p.m., April 11, 2012.

Vote: 5-0

Alternate Commissioner Coratola did not participate in this item, since Commissioner Hopkins arrived during the course of this hearing.

APPROVAL OF MINUTES (Continued from Page 1)

December 7, 2011, Planning Commission Meeting

Commissioner Hopkins moved, seconded by Alternate Commissioner Coratola, to approve the Minutes of December 7, 2012, Planning Commission meeting.

Vote: 3-0-3 (Abstained: Kaufman, Lanier and Winborne)

IV. FROM THE COMMISSIONCommissioner Winborne

Encouraged everyone to vote at the upcoming Presidential Primary Elections on April 3.

V. FROM STAFFCommunity Planning Director Schwarz

Listed upcoming joint meetings with the City Council, including a joint work session on March 26 (Z-316 – Montgomery County Fairgrounds), and a joint public hearing on April 16 (Text Amendment T-405). She noted the Commission's April meetings would follow the regular schedule.

VI. ADJOURNMENT

There being no further business to come before this session, the meeting was duly adjourned at 8:15 p.m.

Respectfully submitted,



M. Gonzalez  
Recording Secretary

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CITY OF GAITHERSBURG PLANNING COMMISSION

MEETING HELD ON MARCH 21, 2012

7:30 p.m.

HEARING FOR RECOMMENDATION TO MAYOR AND CITY COUNCIL

ANNEXATION PETITION X-184 - SEARS PROPERTY

TRANSCRIBED BY: MYRIAM GONZALEZ, RECORDING SECRETARY

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**COMMISSIONERS PRESENT:**

- JOHN BAUER, Chairman
- LLOYD KAUFMAN, Vice Chair
- MATTHEW HOPKINS, Commissioner
- DANNY WINBORNE, Commissioner
- GERI LANIER, Commissioner
- JOSEPH CORATOLA, Alternate Commissioner

**STAFF PRESENT:**

- LAUREN PRUSS, Planning Director
- TRUDY SCHWARZ, Community Planning Director

A T T E N D A N C E

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SPEAKERS ON BEHALF OF APPLICANT:

ROBERT DALRYMPLE, ESQ., Linowes and Blocher, LLP

ERIN GIRARD, ESQ., Linowes and Blocher, LLP

SPEAKER FROM THE PUBLIC:

ANTON HUNTSMAN, Dakota Drive Business Owner

## P R O C E E D I N G S

(7:32 P.M.)

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3 CHAIR BAUER: Next, a recommendation to the Mayor and  
4 Council, there's one item, X-184: Sears/The Great Indoors Property C.  
5 Robert Dalrymple & Erin E. Girard, Linowes and Blocher, LLP, for  
6 Sears, Roebuck and Company. Application for annexation of  
7 approximately 27.89 acres (595,029 square feet) of land, known as the  
8 Sears Property (The Great Indoors and Sears Service Center & Repair),  
9 located at 16331 & 16401 Shady Grove Road, and adjacent road rights-  
10 of-way, adjacent to the present corporate limits. The application  
11 requests a reclassification of the subject property from the current  
12 Research & Development (R&D) Zone in the County to the Mixed Use  
13 Development (MXD) Zone in the City of Gaithersburg, Maryland. This is  
14 a public discussion and starting this off is Trudy Schwarz from Staff.  
15 Good evening, Trudy.

16 TRUDY SCHWARZ: Good evening, thank you for reading the  
17 introduction. The owners of the 13+ acres are Sears, Roebuck and  
18 Company, as stated, and then the rest of the annexation is right-of-  
19 way that belongs to the State Highway Administration and Montgomery  
20 County, they have jurisdiction at this public right-of-way. The  
21 subject property is located northeast of the intersection of Route 355  
22 and Shady Grove Road and it is south of the intersection of Oakmont  
23 Avenue and Shady Grove Road. The property consists of one parcel and

1 two road rights-of-way and is approximately 27.89 acres. The Sears  
2 property consists of approximately 13.66 acres, while the right-of-way  
3 is 11.84 for I-370 and 2.39 acres for Shady Grove Road. The roadways  
4 and the parcel are adjacent and contiguous to the current City limits.

5 Northeast of the property is the U.S. Postal Distribution  
6 Center and Post Office at Shady Grove, and that is zoned R&D in  
7 Montgomery County; and north of that is the CSX right-of-way and the  
8 County Service Park, which is zoned Transit Oriented, Mixed Use Zones,  
9 and the short-term, I don't know how they use this acronym, but it's  
10 TOMX-2, and that also surrounds the WMATA right-of-way, or the Shady  
11 Grove Metro Station, and also the County's Transfer Station, which is  
12 located here (points to its location an aerial photograph) and those  
13 are all zoned in the I-1 Zone of Montgomery County.

14 Southeast of the property is the truck entrance into the  
15 Transfer Station, and it is I-1, and south of that is the I-3 property  
16 that belongs to the Casey holdings, and that property is vacant and  
17 does include an existing wetland and stream.

18 West of the proposed annexation is the C-2 Zone in the City  
19 of Gaithersburg, the Hyatt House, which is zoned C-2, as I mentioned,  
20 and then the Gateway Commons subdivision, which is a mixed density  
21 development in the RP-T Zone. It has townhouses, back-to-back  
22 townhouses, and single-family units. Northwest is the I-1 Zone in the  
23 County of the Oakmont Industrial Park, which has a mix of retail,

1 warehouse, and industrial businesses. The property was originally  
2 subdivided and developed as a Sears warehouse outlet in the mid 1960's  
3 and a major portion of the building was converted to retail in 2001,  
4 and The Great Indoors opened.

5 Sears has submitted a petition for annexation to the City  
6 and, as part of that annexation request, they're asking to have the  
7 property zoned from the County's R&D Zone to Gaithersburg's MXD Zone.  
8 The site plan shows the current use as 204,490 square feet of retail  
9 and warehouse use and that has been submitted as part of this  
10 application.

11 The Planning Commission in accord with Articles 23A and 66B  
12 of the Maryland Annotated Code and Chapter 24 of the City of  
13 Gaithersburg Code is required to review the proposed annexation and  
14 the associated rezoning and land use plan for consistency with the  
15 City's Master Plan, and provide a recommendation to the Mayor and City  
16 Council 15 days prior to their public hearing. The Mayor and City  
17 Council are required to hold a public hearing and make a final  
18 decision on the requested annexation and rezoning. And the public  
19 hearing for that is scheduled for May 21, 2012. Just to oriented to  
20 how this relates to our Master Plan, I'll bring up a part of the  
21 Municipal Growth, which was adopted April 6, 2009, and this property  
22 is included as part of the Maximum Expansion Limits, which are shown  
23 in the highlighted pink, and just to show you where it is on the map

1 in the Maximum Expansion Limits of the Municipal Growth Element of the  
2 Master Plan shows the property right here (points to it).

3           Additionally, the 2009 City of Gaithersburg Master Plan  
4 Land Use Element, adopted in December 2011, discussed the property and  
5 identified it as Map Designation 23, and the land and the zoning  
6 recommendation was to adopt the commercial/industrial-research-office  
7 land use designation, if annexed, and recommends CD or MXD zoning, or  
8 a future zone that facilitates sustainable development standards, if  
9 annexed. And with that, I'd like to introduce Ms. Erin Girard and  
10 Mr. Robert Dalrymple, from Linowes and Blocher, who represent the  
11 applicant.

12           ROBERT DALRYMPLE, good evening. For the record, I'm Bob  
13 Dalrymple with Linowes and Blocher; my partner, Erin Girard is with me  
14 and will also participate in the presentation here this evening. The  
15 property, as Trudy explained, is currently the site of The Great  
16 Indoors. It is also in the rear portion of the property, back in this  
17 area here (pointing), the Sears still operates a parts and a service  
18 operation that has been in existence since it opened up in the late  
19 1960's as the Sears warehouse, and there are some Sears offices back  
20 there as well. The property is 13.8 acres and most of the  
21 improvements are the current location of The Great Indoors, which is  
22 operated by Sears and Roebuck. I should say that our client is an  
23 out-of-town client, their offices are based in Chicago and they were

1 planning on coming in, but they ran into some travel difficulties and  
2 wanted me to extend their apologies and they're hoping that we can  
3 adequately represent them tonight, and, I guess, you'll be the judge  
4 of whether we've adequately done that or not.

5 COMMISSIONER WINBORNE: (laughing) we'll let them know that.

6 ROBERT DALRYMPLE: (laughing) I appreciate that... maybe. The  
7 building was initially built in 1966 and, as Trudy discussed, was  
8 built primarily to be the Sears warehouse. I grew up in this area and  
9 I can always remember coming to this site with my Dad... we were  
10 laughing yesterday about the fact that the City of Rockville claims us  
11 to be in its annexation limits as well, but I grew up in Aspen Hill  
12 and I know that when we went to the Sears warehouse, my Daddy always  
13 said, we're going to Gaithersburg (laughing), that's proof right  
14 there. Sears has had many shifts in products and store types over the  
15 years, as a lot of the retailers have shifted their focus and as  
16 recently as 1996, Sears was actually recognized as the third largest  
17 shopping center developer still in the country. They operated under  
18 different name... I can't remember the name that it did, but they were  
19 very much programmed towards retail and towards trying to address the  
20 current market needs of its clientele. When the warehousing  
21 operations for Sears started becoming a little less viable in this  
22 location, they actually sold this property in the mid 1990's. It was  
23 shortly thereafter that they... while they did sell it, they still

1 maintained the product service and the parts and the offices in the  
2 back, so that was always part of the lease patent. They never lost  
3 control over that. After selling the property, they... Sears as a  
4 company developed the concept of The Great Indoors and it was really  
5 to provide experience for people to be able to come to the store, get  
6 their ideas, purchase the product and actually have the Great Indoors,  
7 the Sears's staff go and do the installation as well. So it was a  
8 great concept. In order to go back into this building as The Great  
9 Indoors, the property at the time was zoned I-3 in the County and the  
10 County was able to give them a zoning interpretation that the Great  
11 Indoors operated as a building supplies and warehousing facility, and  
12 with that, gave them occupancy permits to be able to refit the  
13 warehouse to service The Great Indoors. And with that, they  
14 repurchased the property to the sellers that they had sold it a couple  
15 of years earlier, at a substantial profit to those folks, and they did  
16 launched The Great Indoors, which, at the time, they were nine  
17 original Great Indoors across the country, this being one of the nine.  
18 And the intent was to quickly within two or three years grow that to  
19 over a 100 stores. It didn't quite work out as they had hoped. What  
20 they found, even though this store remains the most successful of the  
21 nine, the problem that they are significantly underperforming. What  
22 they're finding is that they do have a lot of foot traffic, people  
23 come in, I have to admit I'm guilty of this as well, get the great

1 idea and then go shop online and get better prices and then hire the  
2 kids down the street to install. So the fundamental intent and  
3 purpose of The Great Indoors really did not become as successful as  
4 they had hoped.

5 A couple of years ago, I guess around 2009, end of 2009,  
6 when it was becoming apparent that the company was going to be... need  
7 to do something in a different direction, The Great Indoors was not  
8 going to continue to expand nationally and they were trying to make a  
9 decision as to whether to maintain the nine that they had going, again  
10 this was a successful one, so they wanted to keep this one going, but  
11 we started exploring with Sears what various alternatives would be for  
12 the repurposing of these improvements. The County's Master Plan had  
13 gone through for this area, Sears did not participate, unfortunately,  
14 in that process, it was before we were involved with them, and the  
15 County did change the zoning of the property from I-3 to R&D and the  
16 County's Master Plan intent for the property is for it to be  
17 redeveloped as employment for office uses, and employment park type of  
18 environment, which is a fine vision for a longer period of time, but  
19 it's a vision that... and Sears did try to market the property to see if  
20 there was a market for that type of use and user to redevelop the  
21 property as an employment park, and really candidly, there was not  
22 even a nibble. So they knew that they had to try to find some  
23 alternatives, that The Great Indoors was not going to stay at this

1 location. A way to try to repurpose the existing improvements in  
2 order to keep the lights on and to keep it as both an income-producing  
3 property, according to Sears, and as a revenue-producing property to  
4 the County. The R&D Zone, frankly, doesn't allow that if there are no  
5 uses within the R&D Zone that can work at this location and that  
6 whoever made the interpretation that building supplies and warehousing  
7 means that you can do just anything you want, I guess, they're no  
8 longer making those decisions and it was becoming very difficult. At  
9 that point, we did have some conversations with City staff and they  
10 reminded us that this property was in the maximum expansion limits of  
11 the City and, in fact, at the time the 2009 City Master Plan was back  
12 for you for adoption to reconfirm the Maximum Expansion Limits and to  
13 adopt the Municipal Growth Element that is required now under the  
14 State Law for all municipalities and the City did express an interest  
15 in having this property brought into the municipal limits of the City.  
16 This was an attractive option to Sears as well, especially if it could  
17 yield some more flexibility in terms of an interim use of the existing  
18 improvements, again, to keep it as an income-producing property and a  
19 revenue-producing property for both the owner and for the County and  
20 now, hopefully, the City. So we did work with staff to file a  
21 petition. We are seeking to have the property brought into the City  
22 under the City's MXD Zone with the flexibility to be able to repurpose  
23 the current improvements.

1           The decision has been made corporate-wide to close down the  
2 nine site for The Great Indoors operation. They're phasing them out,  
3 this will probably be the last of the nine to be phased out because it  
4 is still drawing some modest income to the company, but we are told  
5 that this store will probably shut down for good by the end of 2012.  
6 The use of the rear part of the property for the Sears Servicing and  
7 Parts will remain as well as the offices that are back there for the  
8 Sears and Roebuck operations. They will remain in place.

9           So we are very interested in pursuing this annexation and  
10 in pursuing the flexibility to be able to put a productive tenant back  
11 in the building. As recently as within the last couple of weeks there  
12 was a very promising tenant that was being courted by Sears and had a  
13 very strong interest in being in this location. Unfortunately, that  
14 company I'm not at liberty to disclose who it is, but it would've been  
15 a very nice fit for the property. They are a corporation that also is  
16 going through their redefinition of strategic planning in what that  
17 particular corporation was a retail operation wants to be in, and that  
18 contract did not ever come to fruition. Right now there are no  
19 tenants identified for the property. Sears is anxious to have the  
20 flexibility to be able to take it to market to try to get a good  
21 tenant for this building. They still very strongly that this property  
22 could be the employment user or mixed use redevelopment site that at  
23 some point in the future, when? I don't know. Interestingly, there

1 was a press release just within the last several days announcing that  
2 Sears itself as a company that is back into the development business  
3 and it's starting to look at some of the sites across the site for  
4 mixed use for redevelopment projects. So it could be very well that  
5 Sears itself will hold the site, hopefully, find a new tenant, and  
6 then look to a higher and better use of it when the market is more  
7 favorable.

8 CHAIR BAUER: Just to clarify something, right now in the  
9 County, it's zoned R&D, which sounds like what you're saying is that  
10 it precludes leasing it. Since your grandfather is The Great Indoors,  
11 that was okay in the I-3 and it's not okay in the R&D. Is that what  
12 you're implying and trying to find a similar tenant wouldn't fit under  
13 the current zoning?

14 ROBERT DALRYMPLE: the R&D did grandfather the use, the  
15 supplies and warehousing use. We have talked to the zoning folks at  
16 the County Department of Permitting Services and they have said that  
17 they would not approve a Use and Occupancy Certificate for other  
18 retail uses on the site.

19 CHAIR BAUER: so then Sears petitioned for that rezoning or  
20 was it swept up in a comprehensive rezoning?

21 ROBERT DALRYMPLE: It was a comprehensive rezoning and  
22 quite candidly they were asleep at the wheel. They didn't participate  
23 in the process and it was only after the fact that we then went to the

1 County and said, you put the hand-cuffs on us here. We can't... there  
2 would be no ability to keep this as an income-producing property with  
3 what you've done to it with zoning, and the response that we got was,  
4 you should've been more aware of what was going on. It's a very  
5 short-sighted view, but it is the view that they seem to be taking.  
6 So the opportunity to come into the City, the timing is very good for  
7 Sears, because is within... it has been since 2003 in the Maximum  
8 Expansion Limits of the City. We think it's a good fit with the City  
9 as well. Obviously, we need to annex some of the rights-of-way to get  
10 the contiguous boundary, but that's been known all along in  
11 identifying this within the Maximum Expansion Limits. So with that  
12 I'd like to switch it over to Erin, who will walk you through some of  
13 the technical aspects of the annexation petition.

14 ERIN GIRARD: right. I just want to clarify one point.  
15 When we're talking about mixed use, one of the things that Sears is  
16 very sensitive to, and we understand there's a concern from the County  
17 as a residential on the site. I don't think they're envisioning it.  
18 As long as the Transfer Station is to the south, we're not talking  
19 mixed use with residential, it's more a mixed office/retail kind of  
20 thing.

21 CHAIR BAUER: I know you're going to get to the zoning  
22 piece, but... so is the closing of The Great Indoors imminent?

23 ROBERT DALRYMPLE: Yes, by the end of 2012. Too many

1 people like me going in stealing ideas and..

2 CHAIR BAUER: So regardless of finding a replacement tenant  
3 or whatever, it's scheduled to be closed?

4 ROBERT DALRYMPLE: They have not received the actual notice  
5 to close, but we were told yesterday by high ranking officials with  
6 Sears that they'd be surprised if the lights are still on by the end  
7 of 2012. So there's a strong push... we really want to keep it alive  
8 and going and don't think anybody wants to see a big, empty dark  
9 building at that location.

10 ERIN GIRARD: so we were watching... at the same time we were  
11 examining the use of the property, we noticed that you were going  
12 through your Master Plan process and we're following that. In fact, I  
13 mean, we remember... I believe it was a joint work session and Jim  
14 Terrell of Sears testified... um... in favor of including The Great  
15 Indoors in that plan as a potential in the annexation property. So as  
16 that was complete, we filed the annexation on January 12 of this year,  
17 as Bob mentioned we're looking for a more flexible and realistic  
18 zoning than what was suggested. In the plan was MXD, which is what,  
19 in fact, we've asked for it to be rezoned concurrently with the  
20 annexation. As outlined in the February 12, 2012, letter that we  
21 submitted, we kind of went through the criteria of the MXD Zone. This  
22 would require to do... um... the issue is it's not really redeveloping,  
23 there's no short-term plan to redevelop it to achieve a lot of the

1 goals in the MXD Zone because usually you're seeing a redevelopment at  
2 the same time. So it's a little bit different; but do we feel that it  
3 carries out the intent in the MXD Zone and it's compliant with the  
4 Master Plan for sure, which specifically calls for its annexation.  
5 It's fairly a big piece of land, 13 acres, so in the future it would  
6 be the site of a large-scale conference of planned development that  
7 obviously would have the more intensive design review to ensure  
8 compatibility. It also currently provides retail near or pretty  
9 proximate to residential to that north... um... and it's adjacent... clearly  
10 accessible... it's right off Shady Grove Road... um... very close to I-370,  
11 I-270... um... so it definitely meets the criteria being adjacent to major  
12 highways. It also has some annexation pieces, existing  
13 infrastructure, it's got water, sewer, all of those things... um... and  
14 just generally, we comply with Article 23A, Sec. 19 of the Maryland  
15 Code. That calls for the consistency with the Municipal Growth  
16 Element and, as Trudy alluded to, it has been identified in the  
17 Maximum Expansion Limits. It was in the April 6, 2009, Municipal  
18 Growth Element, pgs. 22, 46 and 60. So it's accounted for in the  
19 City's... um... and now it says of its Adequate Public Facilities,  
20 schools, libraries, police, fire & rescue, storm water, all that kind  
21 of stuff. So it's a good site and it definitely meets the criteria  
22 that it needs to meet for the annexation and we hope that you'll look  
23 at it favorably.

1           ROBERT DALRYMPLE: I was just whispering with Trudy, I  
2 asked her if the post office is within the Maximum Expansion Limits of  
3 the City and she tells it, in fact, is. I'm sure you've heard what  
4 I've heard, which is that the postal service is considering shutting  
5 down that facility as well. So we're potentially looking at a large  
6 land mass here of property that needs to become something. I have  
7 much greater faith that it will remain productive and become even more  
8 productive in the City than it will in the County and I hope that you  
9 give us this opportunity and I'd love to see the postal service  
10 property come into the City as well. I don't know how we could work  
11 that one, but I'm a tax payer... (laugh)

12           CHAIR BAUER: Trudy, in a rezoning application, you  
13 ordinarily see the sketch plan or some sort of redevelopment component  
14 to the rezoning application, in our process you can do it either way,  
15 right? You can come in with an existing use or there's the alternate  
16 use. What is...?

17           COMMUNITY PLANNING DIRECTOR SCHWARZ: What we've discussed  
18 is, since there's an existing viable building on the property, the  
19 applicant has chosen to bring in this site plan, the existing  
20 conditions as their site plan and asked that it be treated as a final  
21 site plan.

22           CHAIR BAUER: Okay. That's a straight up rezone process for  
23 us, there's no mystery.

1 COMMUNITY PLANNING DIRECTOR SCHWARZ: Yes.

2 CHAIR BAUER: ...and as they've outlined it that's about the  
3 only way to allow another tenant to come in and use the building as  
4 is.

5 COMMUNITY PLANNING DIRECTOR SCHWARZ: That's correct.

6 CHAIR BAUER: Okay, any questions? Go ahead.

7 VICE-CHAIR KAUFMAN: Trudy, the Master Plan, I believe, as  
8 you wrote to us said something about the CD Zone as well?

9 COMMUNITY PLANNING DIRECTOR SCHWARZ: Yes. It gave the  
10 option of two different zones, the CD or the MXD Zone.

11 VICE-CHAIR KAUFMAN: What would be the advantage to the  
12 City if it came under the CD? Would there be an advantage?

13 COMMUNITY PLANNING DIRECTOR SCHWARZ: I think there might  
14 be a little bit more restrictions in the CD Zone and the way that the  
15 CD Zone is currently written it really only addresses the Frederick  
16 Avenue Corridor and it doesn't have any other areas where it  
17 specifically addresses, so we would have to do some sort of text  
18 amendment to the CD Zone to have this property zoned that way. So not  
19 having a text amendment need outweighed the warrant for the CD zoning...

20 VICE-CHAIR KAUFMAN: So the MXD would be just, basically, a  
21 vote, up or down?

22 COMMUNITY PLANNING DIRECTOR SCHWARZ: Yes.

23 COMMISSIONER HOPKINS: Just following up on Lloyd's

1 question, you know, CD and MXD, fairly new zones, sounds to me like  
2 we're talking about an applicant is really looking at this almost in a  
3 Euclidean way, you know, what makes us dismiss C-B, the Buffer Zone,  
4 the C-2, what makes us dismiss these old Euclidean zones?

5 COMMUNITY PLANNING DIRECTOR SCHWARZ: Well, I could defer  
6 to the applicant, but I think the MXD gives us the most flexibility.  
7 It addresses... it allows the use that is currently there, but it also  
8 allows us to put in, in some sort of future, mixed use development,  
9 which is what we've been promoting throughout the City.

10 COMMISSIONER HOPKINS: yeah, absolutely. It's an  
11 aspirational zone, but I don't hear any aspiration coming from the  
12 applicant (laughing). I think um...

13 CHAIR BAUER: one thing at a time (laughing)

14 COMMISSIONER HOPKINS: yeah, right. When we talk about  
15 limited, you know, no retail in the old County's I-3, we talk about  
16 changing that to an R&D Zone that, again, totally restricts retail.  
17 The zoning demand is that there be retail on this site. It's what  
18 sort of presented to us, I mean, I certainly would agree from a market  
19 standpoint, this might not be actually needed there; but and if it is,  
20 certainly not in a form that um C-2 would support. It's pretty big  
21 setbacks...

22 COMMUNITY PLANNING DIRECTOR SCHWARZ: and I think with  
23 that, they're looking at a straight C-2 Zone would be... would really, I

1 think, raise the bar about the decision that the County Council has to  
2 make about whether it's a substantially different zone.

3 COMMISSIONER HOPKINS: I guess that's what I'm getting to,  
4 so you think it'd be more different?

5 COMMUNITY PLANNING DIRECTOR SCHWARZ: the C-2 Zone would be  
6 more different than the MXD Zone.

7 COMMISSIONER HOPKINS: I guess that was my concern. You  
8 know, I'm a proponent of open zoning and then let's get down the  
9 trenches and master plan it and then get applications from the  
10 property owners. I think that's every should be approached, but we're  
11 under the thumb on the requirements of the County to say.. you know, a  
12 similar zoning, and I don't see, you know, the sort of a large scale  
13 aspirational definitions of the MXD Zone as being at all similar to an  
14 R&D Zone from the County, which is really restrictive.

15 COMMUNITY PLANNING DIRECTOR SCHWARZ: I'll let the  
16 applicant address that.

17 ROBERT DALRYMPLE: I think that reading the R&D Zone in the  
18 context with the Master Plan that was driving the R&D Zone, it is very  
19 much discussing having a planned employment corridor where there would  
20 be some flexibility. I happen to agree with you. I think the R&D Zone  
21 is rather a horrible zone, it's a tough, tough zone, and I have to  
22 deal with it on a couple of different applications where at every turn  
23 of the way seems there's a problem with that zone and I don't really

1 understand why the County would've put that zone on us..

2 COMMISSIONER HOPKINS: I'm coming from as an advocate for  
3 getting rid of all I-3's and R&D zones, it's ridiculous, it's an  
4 antiquated idea; but what I'm trying to get through is how do I, as a  
5 Planning Commissioner, say, yes, it's a comparable zone to those who  
6 were advising when, you know, it's like we're rezoning the property  
7 instead of annexing with a similar zoning.

8 COMMUNITY PLANNING DIRECTOR SCHWARZ: right. Well, your  
9 job is to look at this application and say, does it match what's  
10 written in the Master Plan as far as land use and zoning? So..

11 CHAIR BAUER: it's the County Council to decide whether is  
12 too much of a shift from the current zoning.

13 COMMUNITY PLANNING DIRECTOR SCHWARZ: that is correct.

14 CHAIR BAUER: that's an important distinction, yeah. We're  
15 on the receiving end here. We have to decide whether it aligns with  
16 what we have as aspirations in terms of our expansion over all.

17 ROBERT DALRYMPLE: and your Master Plan did specify really  
18 two choices: the corridor zoning or the MXD zoning, and to us the MXD  
19 zoning was the most consistent with the County's Master Plan and  
20 zoning was for this area, and, frankly, it is a vision that Sears has  
21 for the site. It's just that vision is way down the road and in the  
22 mean time we need to something else with the site. That's all.

23 CHAIR BAUER: yeah, keeping them back into the process, I

1 think they'd be aligned with our own... Any other questions?

2           ROBERT DALRYMPLE: I should have mentioned that we do have  
3 an annexation agreement that has been submitted and is currently in  
4 process. I don't think that there's anything in the annexation  
5 agreement per se that is controversial and it's... we haven't even had  
6 our first sit-down with staff to see what may or may not be agreeable  
7 to the City, but the primary benefit to Sears, you know, as it's  
8 obvious, is to be able to have more flexibility.

9           CHAIR BAUER: Sure. Trudy, in the record, um sorry, I kind  
10 of had a thought there, a fleeting thought that didn't last long  
11 (laugh), um... is customary... anything that we read into the record is  
12 grounds for aligning with this annexation, for example, you mentioned  
13 that it fall within the Gaithersburg zip code and it's often been  
14 referred to by address as Gaithersburg, or... you know, just as an  
15 example, is that something that's part that the record should  
16 acknowledge? Or is that just sort of a conversation?

17           COMMUNITY PLANNING DIRECTOR SCHWARZ: I mean that's part of  
18 the record. It's platted in the Gaithersburg Election District, it's  
19 just all the items that are part of this property.

20           CHAIR BAUER: And do you think... or is there any challenge  
21 to this with the right-of-way separating this particular site, not the  
22 property, just say the site itself from the rest of the... you know for  
23 this question about contiguous or adjacent?

1           COMMUNITY PLANNING DIRECTOR SCHWARZ: I don't think so.  
2 We've gone across the I-370 right-of-way when we annexed the Comprint  
3 Court property and we've gone across a lot of road rights-of-way in  
4 annexations.

5           CHAIR BAUER: The road right-of-ways can be included in  
6 the...

7           COMMUNITY PLANNING DIRECTOR SCHWARZ: Yes.

8           COMMISSIONER HOPKINS: it's a public facilities...

9           CHAIR BAUER: I notice there's a guest in the audience.  
10 Would you like to comment on this application?

11           ANTON HUNTSMAN: I operate a small business on Dakota  
12 Drive, which is across the street and I go in there and I buy my  
13 coffee there all the time, so I saw the sign. The lady at the coffee  
14 shop told me they are closing down at the end of April, which, you  
15 know, you said it's possible at the end of this year. So anyway I was  
16 just curious and that's why I showed up at the meeting here. Looks  
17 like I'm the only public, I mean, non-professional member here. I  
18 kind of approve of the basic use of the property. Maybe they can get  
19 somebody to keep on using it as a retail space and maybe puts some  
20 fabrication shops in there to along with everything here. That was  
21 just my basic idea, so I don't think that would change the zoning or  
22 anything now, would it? You might offer some more services here.

23           ROBERT DALRYMPLE: if you can find that user, you'll get

1 six percent commission (laugh)

2 ANTON HUNTSMAN: anyway, that was my basic idea, just from  
3 seeing the sign. Thank you.

4 CHAIR BAUER: thank you. Alright. Trudy why don't you  
5 wrap up with the staff recommendation?

6 COMMUNITY PLANNING DIRECTOR SCHWARZ: Well, staff is  
7 recommending that you keep your record open for 21 days, that would  
8 be... that would allow you to make a recommendation on the April 18  
9 Planning Commission meeting.

10 CHAIR BAUER: okay.

11 VICE-CHAIR KAUFMAN: Opening this from now?

12 COMMUNITY PLANNING DIRECTOR SCHWARZ: Yes, 21 days from  
13 today. It'd close on April 11.

14 VICE-CHAIR KAUFMAN: Sorry. Let me get the days right.

15 CHAIR BAUER: So barring any technicalities and some of the  
16 zoning requirements or some of the requirements that might be passing  
17 back to the County, I do see very good alignment with our Maximum  
18 Expansion Limits, or with our basic vision of where the overall Master  
19 Plan was and I wholeheartedly encourage and support this. Does  
20 anybody have any other issues we should address or at least raised to  
21 the Council?

22 COMMISSIONER WINBORNE: No, I think that mixed use is the  
23 proper... um... I immediately gave um... the most flexibility, that was

1 good. If they ask us, if Sears asks us, then we would say that you  
2 did a great job... (laughing)

3 COMMISSIONER HOPKINS: yeah, I just wanted to ad that from  
4 a master plan stand point I think the City's effort and the  
5 applicant's request for the City to get across that Shady Grove piece,  
6 that roads are not, I think, from a planning standpoint, a natural  
7 barrier for Cities. I think streams, large tree buffers, mounds, you  
8 know, those are natural buffers, and I think the City's vision, and  
9 the City's job, which property owners and their representatives, you  
10 know, they can't unfortunately be expected to do. The City's job is  
11 to think 20, 30, 40 years ahead, and on that 30-year horizon, let's  
12 say, anybody's betting up here, I think that obviously that Shady  
13 Grove's metro's got to be a substantial mixed use community, a small  
14 city in and of itself. So the City's effort to gather our, you know,  
15 the properties around Shady Grove Road and make sure we have some  
16 control over them and make sure that we're the ones providing those  
17 adequate public facilities to those properties. It's really important  
18 to our Master Plan.

19 COMMISSIONER WINBORNE: agree.

20 CHAIR BAUER: Well, we'll formalize our recommendation on  
21 April 18. So I think for tonight, the idea is to keep our record open  
22 and I think everybody agrees with that... and then we'll wrap this in  
23 some form of a formal recommendation. Any other comments or questions

1 before we do that? So I need a motion to close the record on April 11,  
2 close of business? Is that right?

3 VICE-CHAIR KAUFMAN: 5 p.m.

4 CHAIR BAUER: 5 p.m. April 11, 2012. A motion please?

5 VICE-CHAIR KAUFMAN: Mr. Chairman, I make a motion that we  
6 hold our record open on issue... X-184 for 21 days until 5 p.m. on April  
7 11, 2012.

8 COMMISSIONER LANIER: Second.

9 CHAIR BAUER: all in favor please sea eye.

10 (ALL): Eye.

11 CHAIR BAUER: Opposed? (silence) Abstained? (silence) is  
12 that a unanimous? So it passes unanimously. Thank you very much, a  
13 thorough presentation. I appreciate it, thank you.

14 COMMUNITY PLANNING DIRECTOR SCHWARZ: a clarification? Who  
15 did vote? (Inaudible as multiple voices speak concurrently) I just  
16 want to make sure it's done properly, 5-0 vote, so Mr. Coratola did  
17 not participate.

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## STAFF COMMENTS FOR PLANNING COMMISSION

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**MEETING DATE:** April 18, 2012

**ANNEXATION:** **X-184**

**TITLE:** **Sears/Great Indoors Property**

**REQUEST:** **RECOMMENDATION TO MAYOR & COUNCIL**

**ADDRESS:** 16331 & 16401 Shady Grove Road

**ZONE:** Montgomery County - R&D Zone  
Proposed Gaithersburg - MXD Zone

**Applicant:** Linowes & Blocher, Robert Dalrymple & Erin Girard

**Owner:** Sears, Roebuck & Company, James Terrell

**STAFF LIAISON:** Lauren Pruss, Planning Director (Presenting)  
Trudy Schwarz, Community Planning Director

**Enclosures:**

Location Map

Staff Comments

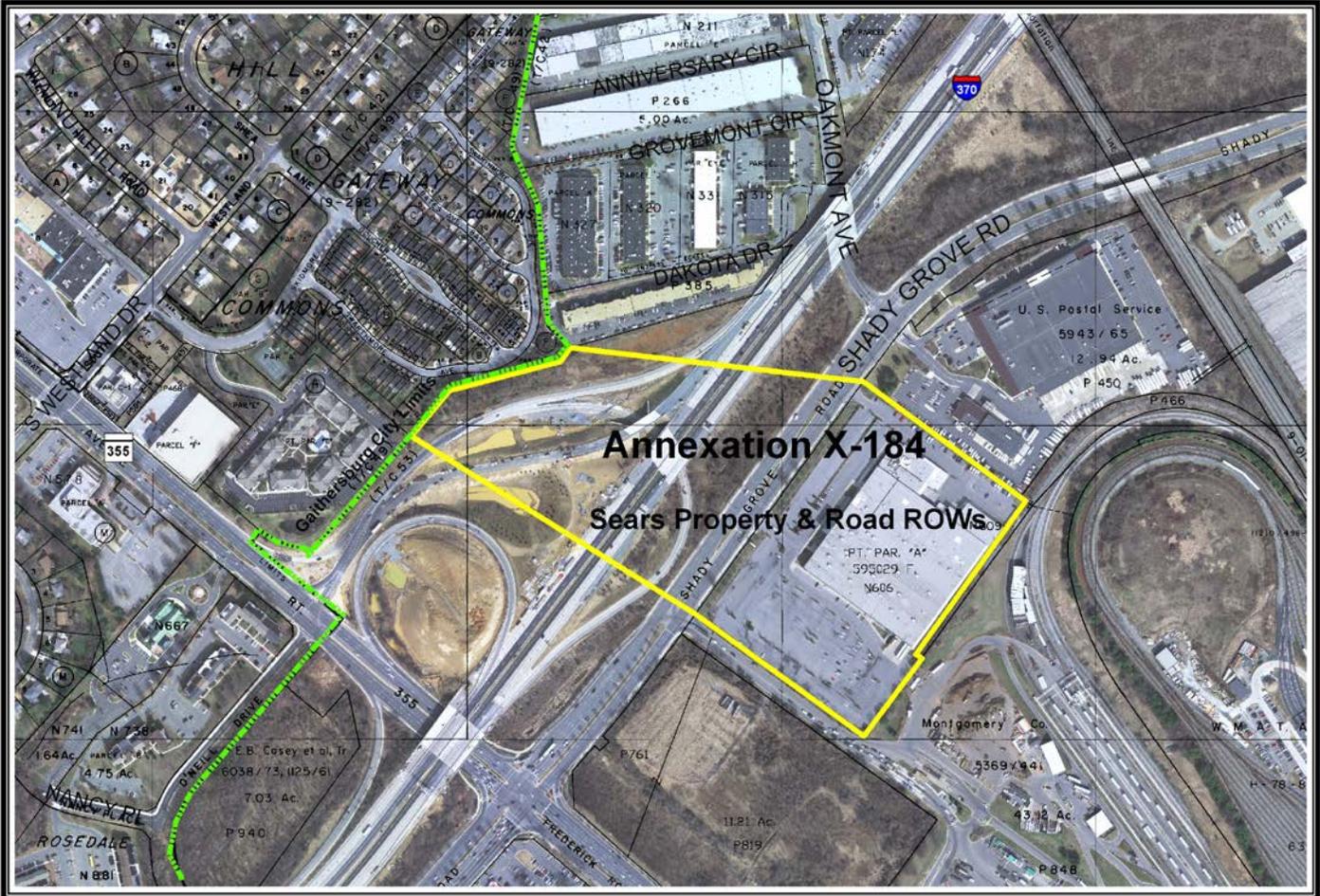
Index of Memorandum and Exhibits Marked in **Bold**

Previous Exhibits may be viewed by clicking on the following link,

[www.gaithersburgmd.gov/projects](http://www.gaithersburgmd.gov/projects) and viewing:

X-184 Sears/Great Indoors Property Annexation

Mayor and City Council  
X-184  
Exhibit #46



**Annexation X-184**

**Sears Property & Road ROWs**

## **STAFF COMMENTS**

Sears and Roebuck Company has submitted a petition for annexation, X-184, to the City. The applicant is requesting a rezoning from the current Montgomery County Research and Development (R&D) Zone to the City of Gaithersburg Mixed Use Development (MXD) Zone. There is no change to the requested retail/warehouse site.

Articles 23A and 66B of the *Maryland Annotated Code* and Chapter 24 (Zoning) of the City of Gaithersburg Code outline the requirements and process for a proposed annexation. The Planning Commission is required to review the proposed annexation and associated rezoning and land use plan for consistency with the City's master plan and adequacy of public facilities, and provide a recommendation to the Mayor and City Council at least 15 days prior to the required Mayor and City Council public hearing. The public hearing before the Mayor and City Council is scheduled for May 21, 2012.

The Planning Commission conducted a review of the annexation at its March 21, 2012,<sup>1</sup> meeting. The Commission discussed the zoning designation with the applicant. There was one person who testified in favor of the annexation.

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

Staff finds that the proposed petition for annexation, X-184, complies with the City's Master Plan. The associated rezoning to the MXD Zone and land use plan is consistent with the City's *2009 Land Use Element of the Master Plan*. The property is part of the Municipal Growth area within the *Municipal Growth Element of the 2003 Master Plan*. The annexation will further the City's stated goals of promoting economic development, diversifying local economy to allow a variety of uses, allowing for redevelopment opportunities on underutilized sites, promoting a mix of uses for "24/7 activity" and increasing the City's tax base. Additionally, staff supports the proposed annexation as it increases area in the City for jobs, which assists in balancing the Jobs to Housing Ratio. The proposed annexation, as identified in the City's adopted Maximum Expansion Limits, will conform to City's municipal growth boundary. Lastly, the proposed annexation will not be unduly burdening to existing public facilities.

**STAFF RECOMMENDS THAT THE PLANNING COMMISSION RECOMMEND TO THE MAYOR & CITY COUNCIL APPROVAL OF ANNEXATION APPLICATION X-184 BASED UPON THE FINDINGS AS PRESENTED IN THE STAFF ANALYSIS AND THE AFOREMENTIONED STAFF RECOMMENDATION AND FURTHER, THAT BECAUSE THE NATURE OF THE PROPOSED PROJECT FULFILLS MANY OF THE CITY'S STATED GOALS, IT WOULD BE A BENEFIT TO THE GREATER COMMUNITY.**

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<sup>1</sup> Minutes and a complete transcript of the meeting have been included as Exhibits 44 and 45