

ORDINANCE NO. O-07-25

AN ORDINANCE OF THE MAYOR AND COUNCIL GRANTING APPROVAL OF Z-10120-2025, TO REZONE TWO PROPERTIES ON 13.34 ACRES FROM THE MXD (MIXED USE DEVELOPMENT) ZONE TO THE C-2 (GENERAL COMMERCIAL) ZONE IN ACCORDANCE WITH SECTION 24-12.3 (ZONING MAP AMENDMENTS) OF THE CITY CODE AND MARYLAND LAND USE CODE ANNOTATED, SECTION 4-204

**Z-10120-2025**

BE IT ORDAINED, by the Mayor and Council of the City of Gaithersburg, in public meeting assembled, that they find the following facts from the evidence of record in Zoning Map Amendment Application Z-10120-2025:

- A. Application Z-10120-2025, filed by CarMax Auto Superstores (“Applicant”) with the City on June 5, 2025 (overall, “Application”), requests to rezone two properties on 13.34 acres from the MXD (Mixed Use Development) Zone to the C-2 (General Commercial) Zone. The two properties are located at 16383 and 16411 Shady Grove Road (“Site”). The Applicant is requesting a standard method zoning map amendment, as outlined in Section 24-12.3 of the zoning ordinance, which does not require any type of site development plan.
- B. The Site, including the subject properties at 16383 and 16411 Shady Grove Road to be rezoned are collectively defined as:

Being part of the lands acquired by CarMax Auto Superstores, Inc. from Sears, Roebuck and Co. on June 5, 2013, and recorded in liber 47051 at folio 97, being lots 1 and 2 as shown on a plat entitled “Plat 1, CarMax, Lots 1 and 2” and recorded as plat 24895, all among the land records of Montgomery County, Maryland and being more particularly described in Maryland State Plane 83/91 datum:

Beginning at a rebar found marking the southeast corner of Lot 2, CarMax (Plat 24895), and being in the division line between the lands of northeast Maryland Waste Disposal Authority (Liber 11192 Folio 256) on the east and lands of CarMax Auto Superstores, Inc. (Liber 47051 Folio 97) on the west, with the division line between said lands of CarMax Auto Superstores, Inc. on the north and northeast Maryland Waste Disposal Authority (Liber 11009 Folio 629) on the south, thence with said division line and the division line between Montgomery County on the south and the City of Gaithersburg on the north, the following two (2) courses and distances;

- 1) South 36°03'27" West, 600.00 feet to a rebar with cap found, thence;
  - 2) Continuing, South 53°56'33" East 20.00 feet to a rebar with cap found marking the intersection of said division line with the division line between the lands of Montgomery County, Maryland (Liber 5369 Folio 441) on the south and said lands of CarMax Auto Superstores, Inc. on the north, thence with said division line and the division line between the City of Gaithersburg on the north and Montgomery County on the south the following two (2) courses and distances;
  - 3) South 36°03'27" West, 310.00 feet to a rebar with cap found, thence;
  - 4) Continuing, North 53°56'33" West, 180.00 feet to the intersection of said division line with the southerly right-of-way limits of Shady Grove Road (variable width right-of-way), thence with said southerly limits;
  - 5) North 35°48'45" East, 910.01 feet to the intersection of said southerly limits with the division line between the said lands of CarMax Auto Superstores, Inc. on the west and lands of the U.S. Postal Service (Liber 5943 Folio 65) on the east, thence with said division line and the said division line between CarMax Auto Superstores, Inc. on the west, and northeast Maryland Waste Disposal Authority on the east, and the said division line between the City of Gaithersburg on the west and Montgomery County on the east;
  - 6) South 53°56'33" East, 633.85 feet to the point of beginning. Containing 581,234 square feet of 13.343 acres.
- C. The Mayor and Council of the City of Gaithersburg established MXD zoning for the Site by resolution R-53-12, at the time of the original annexation X-184 in 2012, consistent with the 2009 Master Plan Land Use Element ("2009 Master Plan").

The Mayor and Council of the City of Gaithersburg entered in an annexation agreement in conjunction with the X-184 annexation ("Agreement"). The Agreement was first amended effective June 10, 2025 ("First Amendment"), and acknowledges that:

- Based upon surrounding changes to existing and proposed land uses, C-2 zoning is the most appropriate zone for the Site;
- The Sketch Plan (ASK-1746-2013), would be treated as a C-2 Concept Plan, should there be a new rezoning to C-2; and
- All current approvals including the SDP (SDP-1747-2012), and the Final Site Plan (SP-3173-2013), are vested under the C-2 zone with an approved rezoning.

D. A joint public hearing conducted by the Mayor and City Council and Planning Commission on Z-10120-2025 was held July 7, 2025. The Applicant gave a brief presentation outlining the purpose of the rezoning request:

- The current MXD zone does not permit automotive sales so the existing use is non-conforming. Rezoning to C-2 would bring the non-conforming use at 16411 Shady Grove Road into compliance with the Code;
- There is a residential use restriction covenant on the Site held by the operating County Transfer Station so a City floating zone encouraging residential uses is no longer appropriate;
- The First Amendment acknowledged that the surrounding area has not redeveloped as a mixed-use area as anticipated in the recommendation of the 2009 Master Plan, and the existing, approved Site Plans were vested within the C-2 zone, with no further action or approvals needed should the Site be rezoned to C-2;
- Asserting substantial change justifies the rezoning based on the character of the neighborhood through developments surrounding the Site, such as Montgomery County's Division of Fleet Services and the Maryland Transportation Authority Facility;
- Outlining how the Application satisfied the findings required by Section 4-204 of the Maryland Land Use Code Ann. to support the rezoning from MXD to C-2.

During the joint public hearing, there were no questions or comments from the Mayor and City Council, the Planning Commission, or the public.

E. The Planning Commission's record on the Application closed at 5 p.m. on July 28, 2025. The Commission made its recommendation in favor of the Application and the rezoning request on August 6, 2025, with no conditions, finding it in conformance with City Code Section 24-12.3 and Section 4-204, Maryland Land Use Code Ann..

F. The Mayor and City Council's record for the Application closed at 5PM on August 15, 2025. The City Council, during their policy discussion meeting on September 15, 2025, carefully reviewed the evidence of record and considered all submitted testimony, documents and correspondence presented, including the Planning Commission's recommendation for approval and made findings with respect to the Application Z-10120-2025 as required by Section 4-204, Maryland Land Use Code Ann., which specifies that:

- 1) If the purpose and effect of a proposed map amendment is to change a Zoning Classification, the legislative body shall make findings of fact that address:
  - a. Population change:
    - i. The Application demonstrates a population change, as residential development is and will remain restricted as stated in the use restriction. Although both Montgomery County's 2006 Shady Grove Sector Plan ("2006 County Plan") and the MXD zoning recommendation in the 2009 Master Plan anticipated population growth through residential development, that growth is no longer occurring due to the imposed use restriction remaining on the Site. The proposed C-2 zoning is appropriate as it permits commercial uses only.
  - b. The availability of public facilities:
    - i. The Application has available public facilities as the Site is already serviced by public water, sewer, police, fire/emergency services, and an adequate transit network. No changes to the Site are presented as part of the rezoning request, hence no new demand will be imposed on public facilities.
  - c. Present and future transportation patterns:
    - i. The Application is consistent with present and future transportation patterns as CarMax has been operating on the Site since 2013. It faces Shady Grove Road, which provides easy access to MD 355, I-270, and MD 200. No new upgrades or operational modifications are suggested as part of the rezoning request, demonstrating that the Application will make no significant changes to current or future traffic patterns.
  - d. Compatibility with existing and proposed development for the area:
    - i. The Application proposes rezoning to a zone that indeed better reflects the existing and proposed surrounding developments, whose uses are industrial and single-use commercial in nature and for which residential development will remain limited for the foreseeable future. The current MXD zoning was based on the 2006 County Plan, which was applied under the assumption that the immediate area would redevelop with open spaces, residential uses, and neighborhood-scale commercial. However, the updated 2021 Shady Grove Sector Plan (2021 County Plan) no longer supports this vision. As a result, MXD zoning is not appropriate as defined in the First Amendment.

- e. The recommendation of the planning commission:
  - i. The Planning Commission in their recommendation for the Application emphasized that it satisfies Section 24-12.3(F)(2) of the City's zoning ordinance as it shows that "events that have occurred to render the current applicable master plan recommendation no longer relevant." The 2009 Master Plan assumed that the greater area would be redeveloped as mixed-use including residential in the future, and recommended MXD zoning to potentially allow residential uses in the future or be more harmonious in a greater mixed-use context. However, the surrounding development has not developed into residential uses, but instead, has resulted in and is master planned to maintain a distinctly single-use commercial and light-industrial character. The proposed rezoning to C-2 would better maintain consistency with the current and proposed land use context around the Site and therefore supersedes the 2009 MXD zoning recommendation.
  
- f. The relationship of the proposed amendment to the local jurisdiction's plan.
  - i. The Application reflects the City's current intent, noting that the 2009 Master Plan had recommended MXD zoning based primarily on the 2006 County Plan. However, that vision for development never materialized. The 2021 County Plan, which supersedes the 2006 version, now identifies the area surrounding the Site not as a future residential site but as predominantly commercial and industrial. In light of this, the First Amendment outlines the justification for an updated zoning for the Site, effectively acknowledging that the 2009 Master Plan's zoning recommendation is outdated and no longer applicable. Instead, the proposed C-2 zoning accurately reflects the City's current goals for the area.

- 2) The legislative body may grant the amendment to change the zoning classification based on finding that there was:
- a. A substantial change in the character of the neighborhood where the property is located; or
  - b. A mistake in the existing zoning classification
    - i. The Application demonstrates substantial and unanticipated changes in the area surrounding the Site, making the original MXD zoning designation no longer suitable. In particular, the 2021 County Plan reaffirms the industrial and commercial nature of the surrounding properties, including the Transfer Station located directly south of the Site. The updated Plan no longer supports the type of redevelopment anticipated in 2006; instead, it recognizes that the Transfer Station is expected to remain in its current location for the long term. Consequently, the existing use restriction that prohibits residential development on the Site is likely to persist, effectively preventing the kind of mixed-use development that the MXD zone was intended to support.
    - ii. In recent years, the physical development surrounding the Site has increasingly aligned with the vision set forth in the 2021 County Plan, shifting the area's character toward a more industrial focus rather than the mixed-use approach that would have included residential, as outlined in 2006. To the west of the Site, a surface parking lot has been developed, while to the east several industrial facilities have been established, including the Montgomery County Division of Fleet Management Services and the Maryland Transportation Authority Facility. These additions, along with the existing U.S. Post Office, have collectively contributed to the corridor being dominated by auto-oriented, commercial, and light industrial uses. As such, a rezoning of the Site to a commercial zone would be consistent with the surrounding land use pattern.

Conclusion

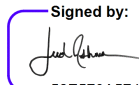
The Application conforms to and satisfies the requirements for rezoning to a non-floating zone and the purposes of the C-2 Zone. Approval of this Application will be compatible and harmonious with the existing industrial and single-use commercial uses in the surrounding area. The Applicant intends to maintain the Site as an automobile sales establishment, and a rezoning is needed so the Site can conform to its intended use and zone. The proposed rezoning would also align with the updated 2021 County Plan, in which Montgomery County no longer envisions the relocation of the Transfer Station—which restricts residential development—or any mixed-use development. Any future redevelopment must be approved by the City Planning Commission in an open, public process, and must meet specific findings for approval, including those that address compatibility with surrounding uses.

Based upon the evidence in the record and the facts and findings cited above, Zoning Map Amendment Application Z-10120-2025 is granted with no conditions.

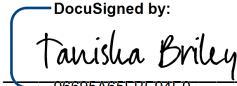
ADOPTED by the City Council this 15th day of September 2025.

Signed by:  
  
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JUD ASHMAN, MAYOR and  
President of the Council

DELIVERED to the Mayor of the City of Gaithersburg, Maryland, this 15th day of September 2025. APPROVED by the Mayor of the City of Gaithersburg, this 15th day of September 2025.

Signed by:  
  
52E570A5749C472...  
Jud Ashman, Mayor

THIS IS TO CERTIFY that the foregoing Ordinance was adopted by the Mayor and Council of the City of Gaithersburg, in public meeting assembled, on the 15th day of September 2025, and that the same was approved by the Mayor of the City of Gaithersburg on the 6th day of October 2025. This Ordinance will become effective on the 6th day of October 2025.

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Tanisha R. Briley, City Manager