

Resolution No.: 17-530
Introduced: July 24, 2012
Adopted: July 31, 2012

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS A DISTRICT COUNCIL FOR THAT PORTION
OF THE MARYLAND-WASHINGTON REGIONAL DISTRICT
WITHIN MONTGOMERY COUNTY, MARYLAND**

By: District Council

SUBJECT: Approval of the City of Gaithersburg's request to express approval for the reclassification of the Sears Great Indoors Property from the R&D zone to the MXD zone (Annexation Petition No. X-184)

Background

1. Article 23A, Section 9(c) of the Annotated Code of Maryland provides that no municipality annexing land may, for a period of five years following annexation, place that land in a zoning classification which permits a land use substantially different from the use for the land specified in the current and duly adopted master plan without express approval of the County Council.
2. The City of Gaithersburg is proposing to annex approximately 27.9 acres of land located near the southeastern quadrant of Frederick Road (MD 355) and Shady Grove Road. (The private property in the proposed annexation consists of 13.7 acres. More than half of the area proposed for annexation is comprised of State and County rights-of-way.)
3. The Shady Grove Sector Plan is the applicable sector plan. The Sector Plan limits the FAR to .35 for non-residential uses and does not allow any dwelling units. The Plan did not recommend residential development because of the site's proximity to the County's solid waste transfer station.
4. The property is included in the maximum expansion limits of both the City of Gaithersburg and the City of Rockville.
5. Under the annexation proposal, the Sears property would be reclassified to the City's MXD (Mixed-Use District) zone, which allows a mix of residential and commercial uses.
6. Planning Staff, in a memorandum to the Planning Board completed April 19, 2012, found that the petition proposes new zoning that includes uses substantially different from the uses allowed by the existing zoning and recommended in the 2006 Approved and Adopted Shady Grove Sector Plan.

7. On April 26, 2012, the Montgomery County Planning Board reviewed Annexation Petition No. X-184. The Board unanimously voted to recommended approval of the annexation if it included a condition that the City of Gaithersburg not approve plans for residential uses on the subject property due to proximity to the Solid Waste Transfer Station.
8. In a letter to the Mayor and Council of Gaithersburg dated May 8, 2012, the Maryland Department of Planning agreed with Planning Staff that the petition proposes new zoning that includes uses substantially different from the uses allowed by the existing zoning and recommended in the 2006 Approved and Adopted Shady Grove Sector Plan.
9. On June 11, 2012, the Planning, Housing, and Economic Development Committee reviewed the annexation petition and recommended approval of the City of Gaithersburg's request to express approval for the reclassification of the Sears Great Indoors property from the R&D zone to the MXD zone (Annexation Petition No. X-184), if the Council could be assured that residential development would not occur on the annexed property.
10. The owner of the property to be annexed has unilaterally decided to place a restrictive covenant on its property that would preclude residential use of the property for so long as the transfer station remains an operative use on the adjoining property.
11. On July 31, 2012, the County Council reviewed Annexation Petition No. X-184 and agreed with the recommendations of the Planning, Housing, and Economic Development Committee. The Council concluded that would give its express approval to the proposed reclassification of the Sear's Great Indoors property from the R&D zone to the MXD zone.

Action

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland approves the following resolution:

Under Article 23A Section 9(c) of the Annotated Code of Maryland, the District Council approves the reclassification by the City of Gaithersburg of the Sears Great Indoors Property from the County's Research and Development (R&D) zone to the City's Mixed-Use Development (MXD) zone.

This is a correct copy of Council action.



Linda M. Lauer, Clerk of the Council