

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION  
8787 Georgia Avenue • Silver Spring, Maryland 20910-3760

MCPB  
Item # 3  
11/29/01

November 14, 2001

**MEMORANDUM**

TO: Montgomery County Planning Board

VIA: John A. Carter, Chief *JAC*  
Community-Based Planning Division

Sue Edwards, I-270 Corridor Team Leader *Sue*  
Community-Based Planning Division

FROM: Nellie Shields Maskal (301-495-4567) for the Montgomery County  
Department of Park and Planning *NM*

SUBJECT: City of Gaithersburg Annexation Petition X-179 (ez Storage Gaithersburg) located at the southeast quadrant of the intersection of MD 355 and South Westland Drive in the Shady Grove Sector Plan Area; approximately 1.9 Acres; Reclassification from the County's C-2 (General Commercial) Zone to the City's CD (Corridor Development) Zone.

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**STAFF RECOMMENDATION:** Approval to transmit the following comments to the City of Gaithersburg Mayor and City Council for the public hearing record:

1. The proposed CD (Corridor Development) zoning classification is generally consistent with the recommendations of the Shady Grove Sector Plan but does not meet the requirements of Section 23-A of the Annotated Code of Maryland.
2. The County Council must review this petition prior to final action by the City since the CD Zone permits uses that are substantially different from the Master Plan. To meet the requirements of Section 23-A, Annotated Code of Maryland, the County Council must take specific action to approve the zoning change as proposed.
3. The County Council should concur with the proposed CD zoning designation, only if the following conditions are part of the annexation agreement:

- a. Coordinate with the Maryland State Highway Administration (SHA) regarding:
  - One right-in and right-out access along MD 355. SHA has agreed to the one access and considered the weaving area between eastbound I-370 to northbound MD 355 off-ramp and the following right-turns into:
    - The proposed ez Storage facility
    - The Exxon Service Station
    - Eastbound South Westland Drive
  - The adequacy of the site's access turning radii for trucks to safely make deliveries and leave the site.
  - The adequacy of the traffic control along MD 355 regarding U-turn movements at O'Neill Drive and South Westland Drive.
- b. Coordinate with the City of Gaithersburg and SHA regarding an eight-foot combination sidewalk and bikeway.
- c. The applicant should agree to volunteer to pay County park taxes (currently \$923.00 annually) or make a payment in lieu of taxation.
- d. The other conditions recommended by the Gaithersburg Planning Commission pursuant to development standards and schematic development plan required by the City of Gaithersburg CD Zone are included as Attachment 5 of this report.

## **BACKGROUND**

The subject 1.89-acre property is located within the Shady Grove Sector Plan area and is contiguous to the City of Gaithersburg's corporate limits. See Figure 1. It is situated at the southeast quadrant of the intersection of South Frederick Avenue (MD 355) and South Westland Drive near the Walnut Hill community in the City's Maximum Expansion Limits (MEL's). See Figure 2. A mixture of residential, office, retail and institutional uses are located in the area. Land uses in the vicinity include Exxon Service, Gateway Commons and Walnut Hill communities, Summerfield Suites Hotel, Walnut Hill Shopping Center, and Casey Office Building.

## **ANNEXATION PROPOSAL**

Annexation Petition X-179 was filed by Adollah Malekzadeh and Siena Corporate. Currently, the subject property is improved with the Holiday Motel that has been on the property for more than 40 years, along with a discount linen shop (which has since closed). The Holiday Motel also serves as an airport taxi service office.

The contract purchaser, Siena Corporation, has submitted a concept plan for a (3) three-story 123,400 square foot self-storage (ez Storage) building on the site. The proposed building will be all brick with only one garage door. There would be one (1) employee working at the facility that will have access from South Frederick Avenue. See Figure 3.

## **ANNEXATION AND SUBDIVISION HISTORY**

This is the second attempt to annex the subject property. In 1997, the Planning Board reviewed an annexation petition (X-175) for the subject property. The annexation petition included a concept plan for a 21,147 square foot Pep Boys Superstore (an automobile sales and service store). See Attachment 1 – Planning Board Action.

The Gaithersburg Planning Commission recommended denial of the annexation and the rezoning to the City's C-2 (General Commercial) Zone. The Planning Commission agreed that the property should develop in the City but opposed the proposed use because of the concerns voiced by the community. The Planning Commission felt that a Pep Boys Store would create an inappropriate gateway to the City of Gaithersburg. The Gaithersburg Mayor and City Council voted to support the recommendation.

In 1999, since the property was not annexed into the City, Preliminary Plan No. 1-99044 was filed and subsequently approved by the Planning Board for Pep Boys Service Center. The City opposed by project and filed an administrative appeal of the administrative decision of the preliminary plan in Montgomery County Circuit Court.

## **MASTER PLAN AND ZONING**

The subject property is currently zoned C-2 (General Commercial). See Figure 4. The 1977 Shady Grove Sector Plan recommends a continuation of the existing C-2 zoning for the subject property. See Figure 5. The applicant requests that the property be rezoned to the City's CD (Corridor Development) Zone. The CD Zone allows a mixture of retail, offices, and residential uses. It should be noted that, the City's Frederick Avenue Corridor Land Use Plan (approved in 2000) proposes that the subject property be annexed into the City and specifically recommends commercial/industrial/research/office use. The continued designation of the property for retail use is generally consistent with the recommendations of the Shady Grove Sector Plan.

Action by the Montgomery County Council is required since the CD zoning classification permits uses that are not permitted in the County's C-2 Zone that are substantially different. Several uses that are permitted in the CD Zone, but not in the C-2 Zone, include production/manufacturing/assembling/processing of medical scientific, or technical instruments, devices, and equipment, retail, and wholesale of aircraft parts and service. The CD Zone permits all uses allowed (not special exception and conditional uses) in all zoning districts unless otherwise prohibited as shown in Attachment 2.

Under Article 23-A, subsection 9 ( c ) of the Maryland Annotated Code, "no municipality annexing land may, for a period of five (5) 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 or Plans . . . without the express approval of the Board of County Commissioners or the County Council in which the municipality is located.” Although the proposed CD Zone is not in complete accord with the recommendations of the Shady Grove Sector Plan, the rezoning will not adversely affect the intent of the Sector Plan.

It should be noted that, in June 2000, the Planning Board considered Annexation Petition X-178 (Casey Property) that is located within one-half mile from the subject property. See Figure 4. The Planning Board supported the proposed rezoning from the County’s R-20 Zone to the City’s CD Zone for the 5.2-acre Casey Property. See Figure 6.

## **PUBLIC FACILITIES AND SERVICES**

Transportation Planning staff has reviewed the subject annexation and their detailed comments are shown on Attachment 3. In summary, Transportation Planning staff recommends that if the subject property is annexed, the applicant agree to the following conditions:

1. Coordinate with the Maryland State Highway Administration (SHA) regarding:
  - One right-in and right-out access along MD 355. SHA has agreed to the one access and considered the weaving area between eastbound I-370 to northbound MD 355 off-ramp and the following right-turns into:
    - The proposed ez Storage facility
    - The existing Exxon Service Station
    - Eastbound South Westland Drive
  - The adequacy of the site’s access turning radii for trucks to safely make deliveries and leave the site.
  - The adequacy of the traffic control along South Frederick Avenue regarding U-turn movements at O’Neill Drive and South Westland Drive.
2. Coordinate with the City of Gaithersburg and SHA regarding an eight-foot combination sidewalk and bikeway.

## **ENVIRONMENTAL IMPACT**

Environmental Planning staff has found no sensitive resources nor any Master Plan identified conservation areas on the subject property. The proposed CD zoning category is consistent environmentally with the current County zoning.

## **COUNTY REVENUE IMPLICATIONS**

Local government revenues are tied to geography either as taxes on land itself or as revenues allocated by place of residents. The annexation of the subject property by the City of Gaithersburg will shift several revenue sources currently received by County level agencies to the City. Table 1 shows the estimated yearly tax loss to the County if the subject property is annexed by the City of Gaithersburg.

Staff recommends that the applicant volunteer to continue to pay County park taxes (currently \$923.00 annually) or make a payment in lieu of taxation.

## **GAITHERSBURG PLANNING COMMISSION RECOMMENDATION**

Annexation Petition X-179 was the subject of a public hearing on October 3, 2001, before the Gaithersburg Planning Commission. Eight citizens testified at the hearing in opposition to the proposed ez Storage facility. Most of the issues related to traffic impact, safety, and compatibility with the Gateway Commons and Walnut Hill communities. See Attachment 4.

At a worksession on November 7, 1997, the Gaithersburg Planning Commission recommended support of the annexation and the rezoning to the CD Zone. The Planning Commission did express concern regarding the proposed use. See Attachment 5. The Planning Commission would like the property to develop in the City but opposes the proposed use at the subject site. The Planning Commission felt that a self-storage building would create an inappropriate gateway to the City of Gaithersburg.

The Gaithersburg Mayor and City Council Public Hearing is scheduled for December 3, 2001.

## **CONCLUSION**

Staff is in agreement with the City that since the subject property is located at a gateway entrance to the City, annexation is reasonable. The annexation will help fulfill the City's goal to work toward the development of a more logical and recognizable boundary for the City. It also will help to improve the sense of place for the City.

Although the proposed CD Zone permits a substantially different land use than the County's Master Plan recommendation, staff believes the proposed development is consistent with the County's Master Plan recommendations. Staff, therefore, recommends that the Planning Board supports Annexation Petition X-179 with the conditions proposed by staff and the Gaithersburg Planning Commission. The Planning Board should also recommend that the County Council concur with the requested CD zoning only if the Annexation Agreement between the City and the applicant incorporates these conditions.

NSM:ha: a:\maskal2\ez storage.doc  
Attachments

**Table 1**  
**County Revenue Implications of Annexation Petition X-179**

**ESTIMATED ANNUAL TAX PAID TO THE COUNTY BEFORE ANNEXATION  
(2001 Levy Year)**

Total Appraised Value of the Properties	\$1,398,500
Assessed Value Divided by 100	\$13,985
Multiplied by the Total Tax Rate of:	1.105
<b>= Total Annual Tax Paid to the County</b>	<b>\$15,453</b>

**ESTIMATED SPECIAL SERVICE AREA TAXES PAID TO THE COUNTY THAT WOULD NOT BE PAID AFTER ANNEXATION BASED ON 2001 LEVY YEAR RATE SCHEDULE**

	TAX RATE		ASSESSED VALUE		YEARLY TAX LOSS
Recreation Tax	0.027	*	\$13,985	=	\$378
Storm Drainage Tax	0.003	*	\$13,985	=	\$42
<b>Total Yearly Loss to County</b>					<b>\$420</b>

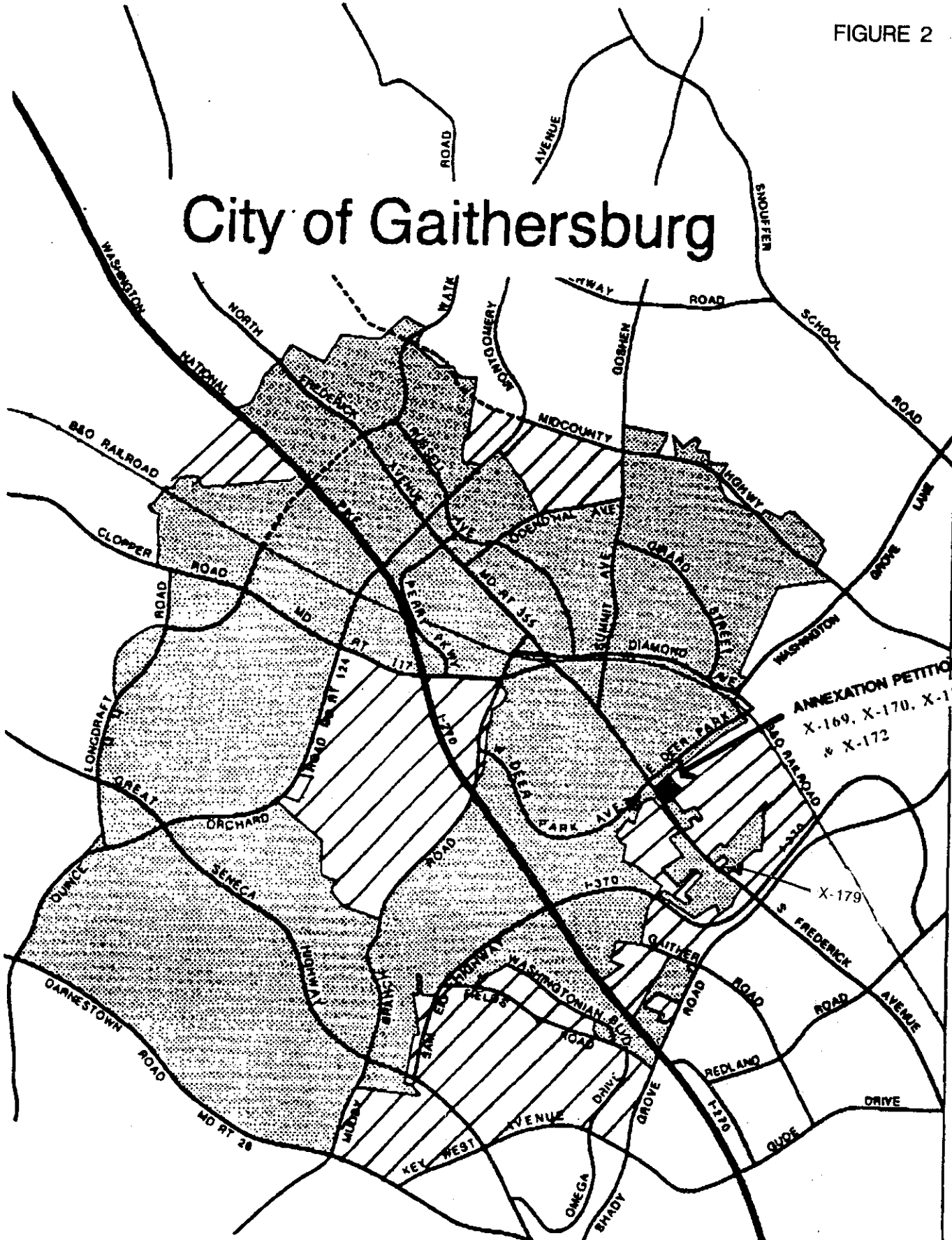
**ESTIMATED PARK TAX THAT SHOULD CONTINUE TO BE PAID AFTER ANNEXATION**

	TAX RATE		ASSESSED VALUE/100		PARK TAX
Metropolitan Tax	0.066	*	\$13,985	=	\$923

**Sources:** Montgomery County Department of Finance, State Department of Assessments and Taxation, and Montgomery County Park and Planning Department, Research and Technology Center, October, 22, 2001.



# City of Gaithersburg



ANNEXATION PETITIONS  
X-169, X-170, X-171,  
& X-172

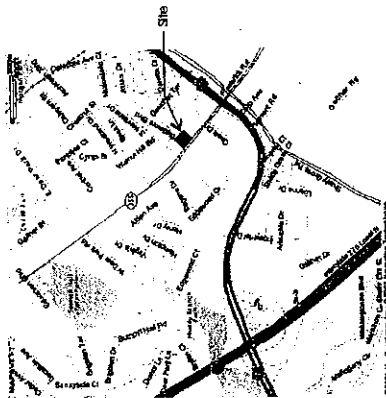
## Maximum Expansion Limits



FIGURE 3

FIGURE 3

June 4, 2001

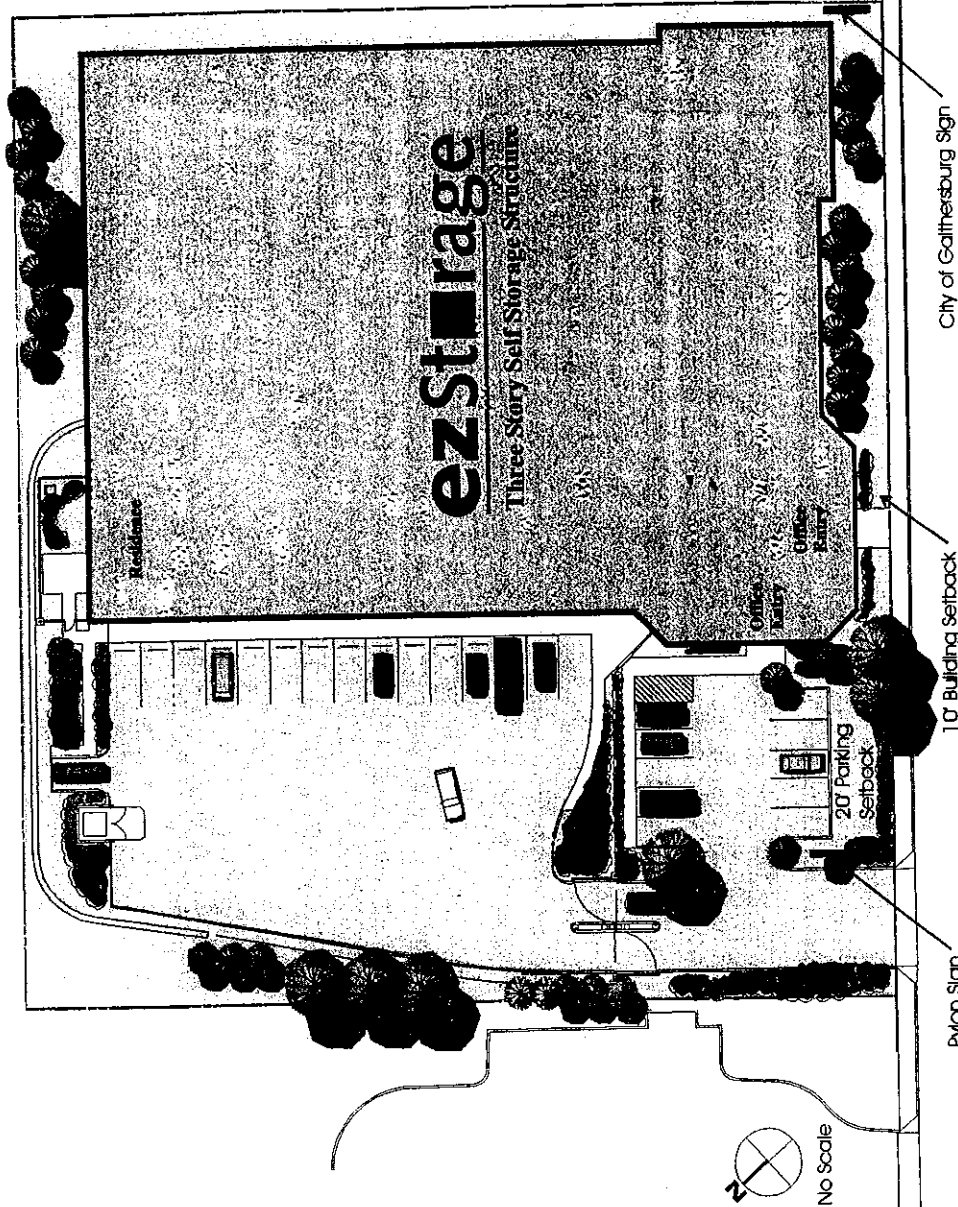


Vicinity Map

No Scale

**Proposed Development Plan**

Property is in the Montgomery County C-2 Zone  
 (Gaithersburg CD Zone if Annexed)  
 Property is Approximately 82,267 Square Feet  
 Proposed Building Area is 123,400 Square Feet (1.5 FAR)



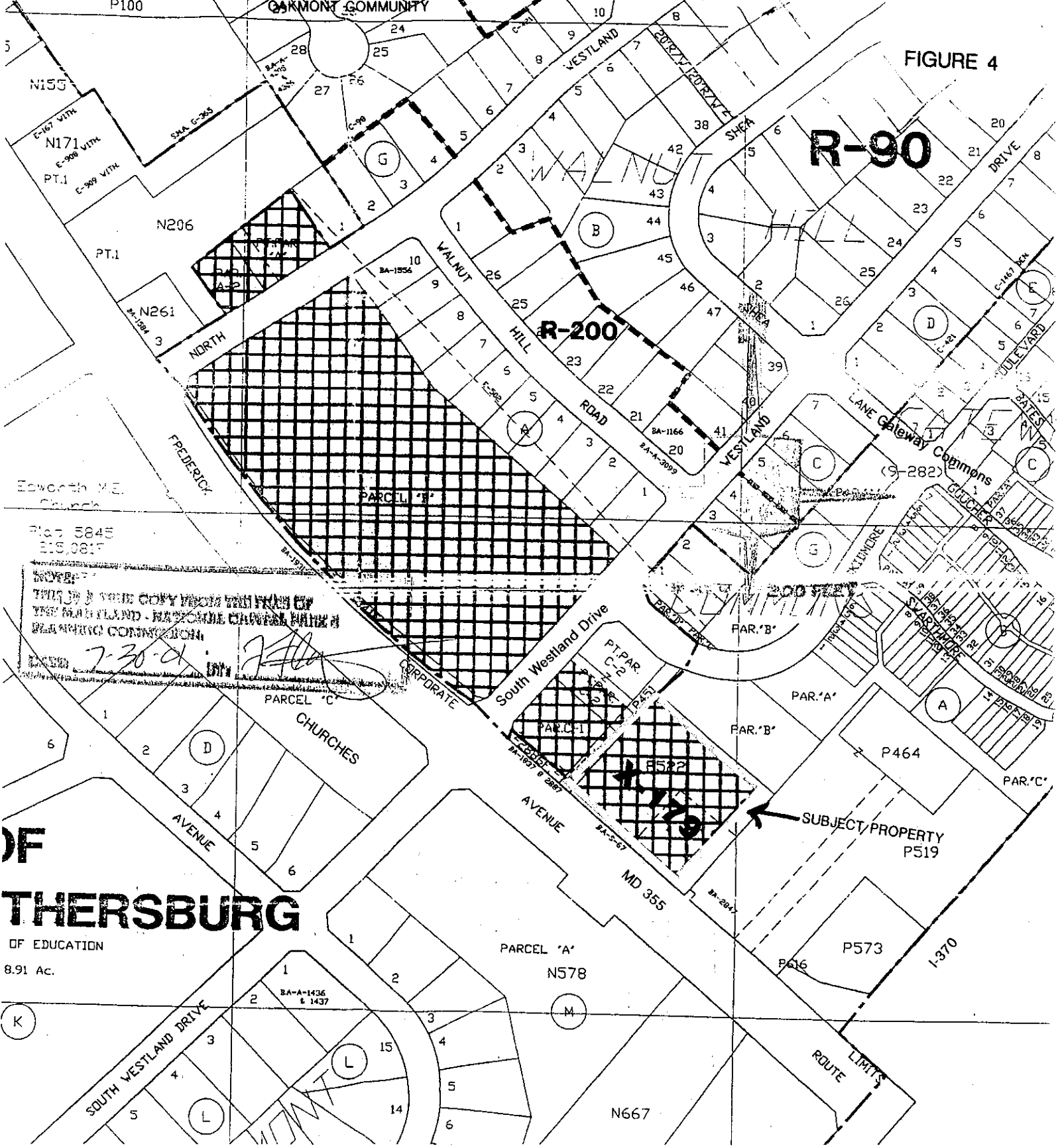
Pylon Sign

10' Building Setback

City of Gaithersburg Sign

Route 355 South Frederick Avenue

**ezStorage: Gaithersburg**  
 Developed by SIENA Corporation



R-90

R-200

PARCEL B

SUBJECT PROPERTY P519

Plot 5845  
E16,081F

NOTE:  
THIS IS A TRUE COPY FROM THE FILE OF  
THE MAIN PLAND. PLEASE CHECK WITH A  
PLANNING COMMISSION.

7-30-01

OF  
**THERSBURG**

OF EDUCATION  
8.91 Ac.

03-18-2001

FIGURE 27

FIGURE 5



- |            |                          |                        |
|------------|--------------------------|------------------------|
| SFD        | Single Family - Detached | Conservation - Private |
| Town House |                          | AG                     |
| PD         | Planned Development      | Park/School            |
| Commercial |                          | Institution            |
| Industrial |                          | Sector Plan Boundary   |
| Park       |                          |                        |

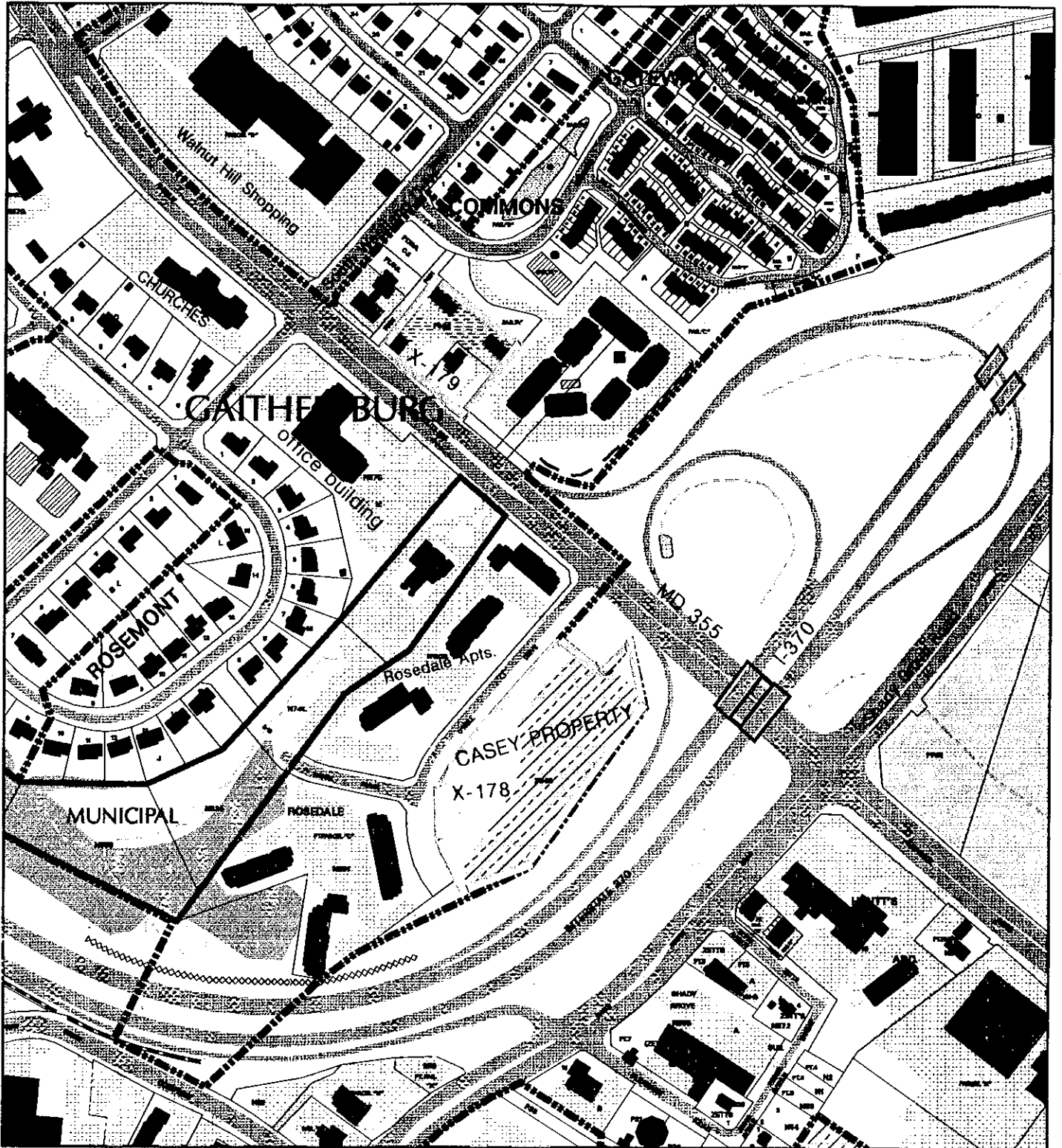
**Proposed  
Land  
Use**

**SHADY GROVE  
SECTOR PLAN**

THE MONTGOMERY COUNTY PLANNING BOARD

See text regarding possible PD3 in Area 24

# ANNEXATION PETITION X-179 (222NW08)



Map compiled on November 13, 2001 at 1:01 PM | Site located on base sheet no - 222NW08

### NOTICE

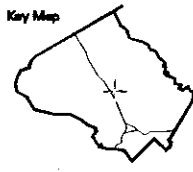
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Property lines are compiled by adjusting the property lines to topography created from aerial photography and should not be interpreted as actual field surveys. Planimetric features were compiled from 1:14400 scale aerial photography using stereo photogrammetric methods.

This map is created from a variety of data sources, and may not reflect the most current conditions in any one location and may not be completely accurate or up to date. All map features are approximately within five feet of their true location. This map may not be the same as a map of the same area plotted at an earlier time as the data is continuously updated. Use of this map, other than for general planning purposes is not recommended. - Copyright 1998

**MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING**  
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION  
8787 Georgia Avenue - Silver Spring, Maryland 20804-9760

Key Map



N

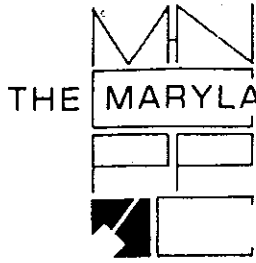


Research & Technology Center



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12



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

8787 Georgia Avenue • Silver Spring, Maryland 20910-3760

(301) 495-4605

Montgomery County Planning Board  
Office of the Chairman

November 25, 1997

W. Edward Bohrer, Jr.  
Mayor, City of Gaithersburg  
31 South Summit Avenue  
Gaithersburg, MD 20760

Re: Annexation Petition X-175

*CLARIFY*

Dear Mayor Bohrer:

At our November 20, 1997 meeting, the Montgomery County Planning Board reviewed Annexation Petition X-175. While the Planning Board found that the proposed C-2 (General Commercial) zoning classification generally conforms to the requirements of Section 23-A of the Annotated Code of Maryland, the Board agreed not to take a position on this annexation. The Board, however, would like to offer the following comments.

Regarding traffic impact, the site is currently located in the Derwood Policy Area. As of September 30, 1997, the remaining job capacity is a negative of 703. If annexed, the site would be located in the Gaithersburg City Policy Area. The remaining job capacity for this Policy Area is a negative of 5,279. If the subject property is annexed, the Board recommends that the applicant agree, at the time of subdivision, to mitigate the site-generated traffic within the Gaithersburg City Policy Area. In addition, the applicant should be required to analyze nearby roads and intersections (MD 355/Shady Grove Road and MD 355/South Westland Drive) for adverse traffic impacts and provide off-site improvements to alleviate these impacts. See circle page 1 of the attached Staff Report for detailed Transportation Planning staff comments.

Finally, as recommended in previous annexation petitions, the annexation of the subject property by the City will shift several revenue sources currently received by County level agencies to the City of Gaithersburg. This annexation is small in the Countywide scheme of things, but as has been documented in the past, cumulatively it is large. Each annexation reduces the amount of revenue The Maryland-National Capital Park and Planning Commission (M-NCPPC) needs to purchase and construct park facilities. For example, once a property is annexed, the M-NCPPC Metropolitan (park) taxes will no longer be paid even though M-NCPPC continues to provide park facilities to all County

W. Edward Bohrer, Jr.  
November 25, 1997  
Page 2

and City residents. The Planning Board recommends that the applicant volunteer to continue to pay County park taxes (currently \$809.00 annually) or make a payment in lieu of taxation.

The Planning Board thanks you for the opportunity to comment on this annexation petition, and looks forward to working with the City of Gaithersburg on future planning matters.

Sincerely,



William H. Hussmann  
Chairman

WHH:NSM:ss: a:\maskal\175b.wpd

Attachment

ORDINANCE NO. 0-12-00

AN ORDINANCE TO AMEND CHAPTER 24 OF THE CITY CODE (CITY ZONING ORDINANCE), ARTICLE III, TO CREATE NEW DIVISION 22, ENTITLED "CD ZONE (CORRIDOR DEVELOPMENT)," TO PROVIDE FOR USES ALLOWED, LOCATIONAL AND DEVELOPMENT STANDARDS AND APPROVAL PROCEDURES APPLICABLE TO THIS ZONING DISTRICT

Text Amendment No. T-341

BE IT ORDAINED, by the Mayor and City Council of the City of Gaithersburg, in public meeting assembled, that Chapter 24 of the City Code (City Zoning Ordinance), Article III, Division 22, Section 24-160G.1 through 24-160G.9, is hereby enacted to read as follows:

ARTICLE III. REGULATIONS APPLICABLE TO PARTICULAR ZONES

\* \* \*

DIVISION 22. CD ZONE, CORRIDOR DEVELOPMENT

\* \* \*

Sec. 24-160G.1. Purpose.

It is the purpose of the Corridor Development Zone to:

- (a) Encourage a form of development, consistent with the goals and provisions of the respective corridor area master plan for the City, that will achieve the physical characteristics necessary to enhance the economic vitality, planned visual character and quality of life within an identified transportation corridor in the City.
- (b) Create a more attractive and cohesive development pattern and to enhance the City's sense of place through the creation of individual character associated with the corridor in the applicable corridor master plan.
- (c) Encourage development and redevelopment and renovation of declining or underutilized properties along the corridor.
- (d) Encourage the use of consistent, compatible and attractive architecture, streetscape and visual themes.
- (e) Create a streamlined process for zoning and plan approvals.

**Sec. 24-160G.4. Development standards.**

Except as otherwise provided in the land use element or other element of the applicable corridor development area master plan as set forth in special regulations or requirement relating to design, construction building height, setbacks, parking, lighting, signage and streetscaping that may be adopted by resolution of the City Council, the following standards shall apply:

(a) *Height of buildings and structures.* No building or structure in this zone shall exceed the following heights, exclusive of decorative elements, mechanical, communications or other equipment placed upon the roof.

- (1) Any residential district identified in a corridor development area master plan - three (3) stories and not to exceed 35 feet in height.
- (2) Any commercial district identified in a corridor development area master plan - four (4) stories and not to exceed 45 feet in height.
- (3) Any employment district identified in a corridor development area master plan - six (6) stories and not to exceed 65 feet in height.

(b) *Building and structure placement.*

- (1) All buildings and building frontages shall be sited so as to front the nearest public street or public right-of-way with pedestrian entrances along the building frontage line. Buildings on a corner lot shall have the front of the building facing the major street.
- (2) Screen walls may be allowed in the absence of a building facade with concurrence of the City Council and Planning Commission.
- (3) Loading docks, service areas and ancillary structures shall be located to the rear of a building and shall be screened by sight-tight fencing, walls and/or natural vegetation.
- (4) A setback may be required along residential side streets, to be determined by the Mayor and City Council or Planning Commission at the time of schematic development plan or final site plan approval.

(c) *Building and/or structure setbacks.* Shall be as specified in the applicable corridor development master plan. Where no setbacks are specified in the master plan, the setbacks shall be established by the City Council at the time of schematic development plan approval, or in the absence of such schematic development plan approval or establishment thereof, by the City Planning Commission at site plan approval; provided, however, the following requirements shall be imposed in either case:



- (2) All parking areas shall contain a ten (10) foot landscape perimeter between the parking area and public space or between differing uses. This ten (10) foot area may be shared by adjacent properties with like uses. Interior landscaping within parking islands separating separate sections of parking areas shall also be provided.
- (3) All parking areas shall contain dedicated pedestrian ways from street and parking areas to building entrances.
- (4) When feasible, interior access drives with allowance for interconnection between abutting properties and/or shared access to the nearest roadway shall be provided. This should be provided in the rear of properties by alleyways or parking lot connections in order to avoid extensive service drives that make pedestrian access to buildings more difficult.
- (5) Direct pedestrian access from rear lot parking areas to the closest public street shall be provided.

(f) *Streetscape and signage.* Streetscape and signage shall be coordinated between adjoining uses and be thematic in approach, in accord with the purposes of the zone, the overall character of the surrounding area and any design criteria set forth in the corridor development area master plan. The City Council is authorized to adopt by resolution, guidelines and/or requirements regarding streetscaping and signage which shall apply to all site development plan approvals for property in the CD Zoning District. This section shall be supplemental and complimentary to the sign ordinance requirements in Article IX of this Chapter.

(g) *Buffers.* Adequate buffers shall be required between existing and proposed uses when needed. These buffers shall be in the form of fences, hedges, or walls that adequately buffer views and noise.

**Sec. 24-160G.5. Waiver of development standards.**

(a) The City Council may, by resolution, waive the building and structure height requirements in the Corridor Development Zone (CD Zone) for an employment district only, and allow a height not to exceed eight (8) stories, or ninety (90) feet, upon a finding that:

- (1) The applicant will provide either on-site or off-site public amenities to further enhance the Corridor Development Zone and the purposes of the CD Zone; and
- (2) The additional height is necessary to implement the master plan and a specific corridor plan for Gaithersburg, or attract an appropriate and compatible type or caliber of user; and

- (b) Approve or deny the CD Zone and require the applicant to file a Schematic Development Plan for separate approval by City Council.
- (c) The City Council may condition its approval of the CD Zone and/or Concept Plan.

(b) *Application for CD Zone and schematic development plan approval.*

- (1) An applicant shall file, together with the prescribed application fee, an application for the CD Zone, to be processed pursuant to the provisions of Sections 24-196 and 24-197 of this Code, and in addition submit for approval as part of the application for separate approval, a schematic development plan, scaled at one inch equals fifty (50) feet and shall contain, at a minimum, all documents and information required in Section 24-160D.9(b)(1) of this Chapter except for items h. and j. thereof.
- (2) An application for CD Zone approval and Schematic Development Plan approval shall be subject to joint public hearings before the Mayor and City Council and City Planning Commission. The City Planning Commission shall thereafter submit its recommendation to the City Council and the City Council shall render a final decision. The City Council may set conditions on the approval of the Schematic Development Plan which are in the public interest.

(c) *Applications for concept plan approval or schematic development plan approval only.* Applicants seeking to develop, redevelop or improve property zoned CD without an approved schematic development plan shall file for approval of either a concept plan or a schematic development plan pursuant to the procedures hereinafter provided:

(1) *Concept plan approval only.*

- (a) An applicant shall file together with the prescribed application fee a Concept Plan, scaled at one-inch equals fifty (50) feet, and shall contain the information and items described in the concept plan checklist established by the City Manager or his/her designee.
- (b) The concept plan shall be subject to the same public hearing notification procedures as required for local map amendments.
- (c) The City Council shall conduct a public hearing and either approve the concept plan, with or without conditions or require the applicant to file a schematic development plan pursuant to Section 24-160G.5(b) of this chapter.

(f) *Amendments to a schematic development plan or concept plan.* Property within the CD zone shall be governed by the process set forth in Section 24-198(c) of the City Code.

(g) *Final Site Plan Review.* Following approval of a concept plan or 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 concept or 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) Demonstration of compliance with any architectural, signage, lighting, streetscape, landscape, parking or other regulations, requirements and guidelines approved by the City Council for development in the relevant corridor area.
- (6) A proposed covenant, suitable for filing in the land records for 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.

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

**Sec. 24-160G.7. Findings required.**

- (a) The City Council may approve CD zoning by local map amendment only upon finding that:
- (1) The application meets or accomplishes the purposes, objectives, and minimum standards and requirements of the zone; and

(d) The City Planning Commission may approve a final site plan consistent with the findings required in sections 24-170 and 24-170A of this Code, and upon considerations, determinations and powers set forth in section 24-171 of this Code. The City Planning Commission shall, as a condition of its approval, require the posting of all necessary bonds or other security instruments, the execution of required agreements, and recording of covenants.

**Sec. 24-160G.8. Procedures for amendment.**

Amendments to a 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.

**Sec. 24-160G.9. Existing buildings and uses.**

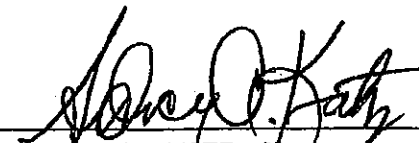
Any building or structure for which a building permit was issued and any lawful use which was instituted prior to the adoption of this ordinance shall not be regarded as a non-conforming building or use, and may be structurally altered, restored or repaired either:

- (a) In conformance with the standards and requirements of the CD Zone; or
- (b) Following the submission and approval of a schematic development plan pursuant to this Division at a size and intensity that existed prior to the adoption of this ordinance.

**Sec. 24-160G.10. Special regulations and requirements.**

The City Council may adopt, by resolution, special regulations and requirements not inconsistent with the provisions of this Division 22, relating to design and construction of buildings, structures, canopies, signs lighting, parking areas and structures, amenities and amenity areas, and landscaping within the central business district. Such regulations and requirements shall be applied by the City Council, City Planning Commission or City Planning and Code Administration for matters within their respective jurisdictions to ensure compliance with the goals and provisions of the applicable corridor development area master plan.

ADOPTED this 7th day of August, 2000 by the City Council of Gaithersburg, Maryland.

  
\_\_\_\_\_  
SIDNEY A. KATZ, Mayor  
President of the Council

M-NCPPC



## MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL  
PARK AND PLANNING COMMISSION

8787 Georgia Avenue  
Silver Spring, Maryland 20910-3760

November 20, 2001

**MEMORANDUM**

TO: Nellie Maskal, Planner  
Community-Based Planning Division

VIA: Daniel K. Hardy, Supervisor *DKH*  
Transportation Planning

FROM: Ed Axler, Planner/Coordinator *EA*  
Transportation Planning

SUBJECT: City of Gaithersburg Annexation Petition X-179  
Property Owner: Abdollah Malekzadeh  
Proposed User: ezStorage  
805 and 807 South Frederick Avenue  
Derwood to Gaithersburg City Policy Area

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This memorandum is Transportation Planning staff's adequate public facilities (APF) review of the subject annexation case. The subject property is contiguous with the existing corporate area and within the maximum expansion limits of the City of Gaithersburg. The petitioner proposes to reclassify the property from Montgomery County's C-2 zone to the City of Gaithersburg's C-D (Corridor Development) zone in accordance with the Frederick Avenue Corridor Development Land Use Plan.

**FINDINGS**

If this property for non-residential development is annexed into the City of Gaithersburg (therefore moved in Montgomery County from the Derwood Policy Area to the Gaithersburg City Policy Area), the applicant should coordinate the subsequent APF review for subdivision with Park and Planning staff. The APF test includes Policy Area Review and Local Area Transportation Review (LATR).

1. Limit the land use to self- or mini-storage facility up to 86,400 square feet of gross leasable area without vehicle rentals and with an apartment for an on-site employee.

2. Coordinate with the Maryland State Highway Administration (SHA) regarding:
  - a. One right-in and right-out access along South Frederick Avenue. SHA has considered the weaving area between the I-370 (northbound MD 355) off-ramp and the following right-turns along South Frederick Avenue into:
    - 1) The proposed ezStorage
    - 2) The existing Exxon station
    - 3) Eastbound South Westland Drive.
  - b. The adequacy of the site access turning radii for trucks to turn safely into and leave the site.
  - c. The adequacy of the traffic control along South Frederick Avenue regarding U-turn movements at O'Neill Drive and South Westland Drive.
3. Coordinate with the City of Gaithersburg and SHA regarding an eight-foot combination sidewalk and bikeway.

## **DISCUSSION**

### **Site Location and Access**

The site is a 1.89-acre, unrecorded parcel P522. The parcel is located on the east side of South Frederick Avenue between the I-370 off-ramp and South Westland Drive. Site access would be from South Frederick Avenue and is limited to right-in and right-out movements. The proposed curb cut is located at the northernmost edge of the site along South Frederick Avenue to maximize the length of the weaving area between the I-370 northbound MD 355 off-ramp and the right-turns into the proposed ezStorage, the existing Exxon station, and onto eastbound South Westland Drive.

### **Existing Land Uses on the Site**

The existing land uses on the site include a 12-room motel (the Holiday Motel), a 4,100-square-foot office (Montgomery Air Shuttle), and a 1,600-square-foot discount-linen retail store.

### **Master Plan Roadways and Bikeways**

According to the *Gaithersburg Vicinity Master Plan*, the nearby roadways and bikeways are designated as follows:

1. South Frederick Avenue is designated as a six-lane major roadway, M-6, with a 120-foot right-of-way and an existing Class I bikeway, S-37. An eight-foot combination sidewalk and bikeway are planned along the east side of South Frederick Avenue. The segment of MD 355 is named South Frederick Avenue north

of Shady Grove Road within the City of Gaithersburg and called Frederick Road south of Shady Grove Road within Montgomery County.

2. South Westland Drive is not designated in the master plan and has an existing right-of-way of 70 feet.
3. Interstate I-370 is designated as a six-lane freeway, F-9, with a 300-foot right-of-way.
4. Shady Grove Road is designated as a six-lane major roadway, M-42, with a 120-foot right-of-way and a planned Class II or I bikeway, P-45.

### Prior Development Actions

The site is located in the Derwood Policy Area, which was in a moratorium for non-residential development prior to July 31, 2001. For a proposed Pep Boys Service Center on this site (Parcel 522), the Planning Board held a public hearing on November 20, 1997, to provide their comments to the County Council regarding the City of Gaithersburg's Annexation Petition No. X-175. Parcel 522 was not annexed into the City of Gaithersburg because the Gaithersburg City Council did not approve the annexation. Afterward, the Pep Boys filed a subdivision application within Montgomery County. The Planning Board approved the subdivision application for the Pep Boys Service Center on the site on June 3, 1999, as Preliminary Plan No. 1-99044, Gateway Commons. The preliminary plan was approved under the *FY 99 Annual Growth Policy's* Alternative Review Procedure for Expedited Development Approval ("Pay-and-Go") because the policy area was in moratorium for non-residential development at that time. Approvals under Pay-and-Go are based upon the size (e.g., 9,620 square feet) of the generalized non-residential land use as specified in the Pay-and-Go legislation. The proposed self-storage facility (equal to 86,400 square feet alone without the on-site apartment) is approximately 4.4 times larger than the "grand fathered" Pay-and-Go square footage.

### Transportation Adequate Public Facilities Review

The APF Review process is summarized in Attachment No. 1 for transportation impacts within Montgomery County. Transportation Planning staff's comments are summarized below:

1. Local Area Transportation Review
  - a. Existing Site-Generated Traffic

The number of peak-hour trips generated by the existing land uses is shown in the table below during the morning peak period (7:00 to 9:00 a.m.) and the evening peak period (4:00 to 6:00 p.m.):

Existing Land Use	Square Feet or Number of Rooms	Morning Peak Hour	Evening Peak Hour
		Total	Total
Motel	12 Rooms	5	6
General Office (Air Shuttle)	4,100 Square Feet	6	10
General Retail (Discount Linen)	1,600 Square Feet	3	11
Total Peak-Hour Trips		14	27

The trip-generation rates for the existing land uses are from the *Local Area Transportation Review Guidelines* and the Institute of Transportation Engineers' (ITE) *Trip Generation Report*.

b. Projected Site-Generated Traffic by the Proposed Self-Storage Facility

The site traffic for a self-storage facility of 86,400 square feet of gross leasable area was determined using the same trip-generation data as used in the analyses for two other previously approved ezStorage sites:

- 1) Preliminary Plan No. 1-01072 on Parklawn Drive in North Bethesda
- 2) Preliminary Plan No. 1-01047 on East Gude Drive in Derwood.

For these analyses, trip-generation data was collected at three similar self-storage facilities for Preliminary Plan No. 1-99028, Burtonsville Self-Storage. Their transportation consultant collected vehicle driveway counts at five existing self-storage facilities with and without available vehicle rentals (e.g., Storage USA) within Montgomery County. Three sites did not have vehicle rental, while two sites rented vehicles. For the three facilities without vehicle rental (e.g., located in Rockville, Bethesda, and Silver Spring), the average number of weekday peak-hour trips entering and leaving each location was observed to range from two to four peak-hour trips during the morning peak period and two to eight peak-hour trips during the evening peak period. For each site, trip-generation rates per storage unit were derived by dividing the number of trips by the number of storage units. The traffic data from Storage USA is more representative than the general trip-generation rates for mini-warehouses from ITE's *Trip Generation Report*. ITE's trip-generation rates are based on data collected four to nine years earlier at sites located in California. Based on the derived average weekday trip-generation rates, the proposed ezStorage (with 86,400 square feet of gross leasable area and without vehicle rentals) would generate three new peak-hour trips during the morning peak period and four new peak-hour trips during the evening peak period.



The on-site apartment is the residence of an ezStorage employee who would live on-site. Therefore, the apartment would not generate any weekday peak-hour trips.

c. Projected Site-Generated Traffic by Alternative Land Uses

As an alternative type of self-storage facility, vehicle rentals may occur on the site. However, self-storage facilities without vehicle rentals generate fewer weekday peak-hour trips than facilities with vehicle rentals. For this reason, two other Storage USA sites with vehicle rentals (in Gaithersburg and on Livingston Road in Prince George's County) were also surveyed but not used to derive a trip-generation rate for the proposed land use. For example, the proposed ezStorage (with 86,400 square feet of gross leasable area) and with vehicle rentals would generate nine more (or twelve) peak-hour trips during the morning peak period and eight more (or twelve) peak-hour trips during the evening peak period.

Another alternative land use is the previously approved Pep Boys Service Center. The proposed self-storage facility without vehicle rentals generates fewer weekday peak-hour trips than the previously-approved Pep Boys Service Center. The table below compares the traffic generated by the previously-approved versus proposed land uses:

Land Use	Square Feet	Morning Peak Hour		Evening Peak Hour	
		New	Total	New	Total
Proposed Pep Boys	19,620	45	45	39*	95
Self-Storage Facility	86,400	3	3	4	4
Net Decrease in Peak-Hour Trips		+42	+ 42	+35	+91

\* Used 41% new trips with remainder being 43% pass-by trips and 16% diverted trips.

The trips generated by the proposed Pep Boys Service Center were determined based on trip-generation rates derived from driveway counts collected at three existing Pep Boys Service Centers.

d. The Need for a Traffic Study for Subdivision Review

If reviewed as a subdivision application for LATR in Montgomery County, a traffic study (to analyze the impact of the site-generated traffic at nearby intersections) would not be required because the proposed land use generates fewer than 50 total peak-hour trips during the morning peak period and/or the evening peak period.

e. Congestion Levels at Nearby Intersections

Traffic counts were collected in May and September of 1998 for nearby intersections along South Frederick Avenue to the north at South Westland Drive and to the south at Shady Grove Road. These traffic counts were used in a traffic study prepared for a nearby preliminary plan application. Based on that traffic study, the critical lane volumes (CLV) at the two nearby intersections for the existing and background traffic conditions during the morning and evening peak periods are as follows:

Intersection	Congestion Standard (Policy Area)	Peak Period	Traffic Condition	
			Existing	Background
Frederick Avenue/ Road and Shady Grove Road	1,800 (Shady Grove)	Morning	1,349	1,361
		Evening	1,668	1,738
Frederick Avenue and South Westland Drive	1,525 (Derwood)	Morning	1,470	1,516
		Evening	1,326	1,362

The background traffic condition included the projected traffic from the phased build-out of the King Farm and Gateway Common (i.e., the Pep Boy Service Center). In both traffic conditions, these two intersections along South Frederick Avenue/Frederick Road do *not* exceed the applicable congestion standard (of CLV of 1,800 and 1,525 for the Shady Grove (Metrorail) Policy Area and Derwood Policy Areas, respectively).

The capacity analyses for the intersection of South Frederick Avenue/Frederick Road and Shady Grove Road did *not* include the following intersection improvements at South Frederick Avenue/Frederick Road and Shady Grove Road:

- 1) The improvement proposed in the *Preliminary Traffic Impact Assessment*, dated June 1995 for the City of Rockville's Comprehensive Planned Development No. 95-0002, King-Irvington Farm. The intersection improvement was to construct a second southbound left-turn lane on South Frederick Avenue/Frederick Road.
- 2) The improvement proposed in SHA's Congestion Relief Study, M-18, to add a northbound (Frederick Road) through lane, an eastbound (Shady Grove Road) through lane, and reconfigure the eastbound combination left-turn and through lane to a through-only lane. This improvement has Category I funding for construction with an estimated completion date of October 2002.

## 2. Policy Area Review/Staging Ceiling Condition

The site is currently located in the Derwood Policy Area. As of October 31, 2001, the remaining capacities in the Derwood Policy Area are positive 526 jobs (units of

non-residential development) and positive 2,041 housing units under the *FY 02 Annual Growth Policy*.

The remaining capacities in the Gaithersburg City Policy Area are negative 7,278 jobs and negative 3,516 housing units. Policy Area Review for the Gaithersburg City Policy Area would be satisfied under the "Ceiling Flexibility –De Minimis Impacts" provision of the *Annual Growth Policy*. A De minimis impact is five or fewer new peak-hour trips during the morning and evening peak periods. A self-storage facility would generate five or fewer new peak-hour trips and have a De minimis impact only if with no vehicle rentals (refer to section 1.c. above).

For Policy Area Review purposes only, a self-storage or mini-warehouse in the pipeline of approved development is assumed to create one job (and not be confused with Local Area Transportation Review which analyzes peak-hour trips).

EA:cmd

Attachment

cc: Greg Cooke  
Mary Goodman  
Robert Dalrymple

Annexation Petition X-179 ezStorage.doc

Attachment: The Adequate Public Facilities Review Process

Within Montgomery County, the traffic impact is reviewed under the Adequate Public Facilities Ordinance which includes:

1. Local Area Transportation Review (LATR)

For this petition, a traffic study would not be required to satisfy LATR because the entire site generates fewer than 50 peak-hour trips during both the weekday morning and the evening peak period. The morning peak period is considered to be from 7:00 to 9:00 a.m. The evening peak period is considered to be from 4:00 to 6:00 p.m. Thus the operation of nearby intersections and roads would be analyzed to determine if the calculated critical lane volume is below the LATR congestion standard (or established critical lane volume value) for the applicable policy area. The critical lane volume values established as LATR congestion standards were adopted as part of the *Annual Growth Policy*.

2. Policy Area Review (or the Staging Ceiling Condition)

The congestion in each delineated portion of the County (or policy area) is analyzed annually. Key concepts are as follows:

- a. Jobs: Equivalent travel from non-residential land uses. Also, known as employees.
- b. Housing Units: Equivalent travel from dwelling units.
- c. Staging Ceiling Capacity: The maximum amount of travel that can be accommodated by the existing and programmed public transportation facilities. Travel includes trips by private vehicles, buses, passenger trains, and other non-motorized modes of transportation. For each policy area, its capacity is adopted by the Montgomery County Council and given in the *Annual Growth Policy*.
- d. Pipeline: Previously approved development which is partially or not yet built.
- e. Remaining Capacity: The adopted staging ceiling capacity minus the pipeline. When the pipeline exceeds the capacity, the policy area is considered to be in a moratorium.

Commissioner Bauer moved, seconded by Commissioner Keller, to hold the record on HD-29 open indefinitely.

Vote: 4-0

- 2) X-179 -- Robert Dalrymple, Linowes and Blocher, LLP, for Abdollah Malekzadeh. The application requests annexation of 1.89+ acres (82,267+ square feet) of land, located at 805 and 807 South Frederick Avenue (Tax Map FS63, Parcel P522). The annexation petition requests rezoning of the property that is presently zoned C-2 (General Commercial) in Montgomery County to the City's C-D (Corridor Development) Zone.

Planner DePoe introduced this application, noting the hearing was advertised in the September 12 and 19, 2001, issues of the Gaithersburg *Gazette* and there are 26 filed exhibits.

*Attorney for the applicant, Robert Dalrymple, Linowes & Blocher*, presented a photograph of the existing site, noting its annexation application includes a development proposal for a three-story self-storage facility with a residential apartment unit for a resident manager. He stated the property is presently zoned C-2 in the County, subject to the County's development standards and review process. Mr. Dalrymple indicated that since the City had in the past expressed an interest in annexing this parcel, and the contract purchaser has agreed to the City's Corridor Development requirements, this application was filed with a proposed plan that is a significant improvement over a previous proposal for this site. However, he pointed out that this development proposal would meet County rezoning requirements and could proceed with development, in spite of the County's moratorium, due to the low-impact nature of the use.

He presented rendered elevations of a prototype facility and compared them with the conceptual elevations and site plan for the facility actually proposed on the subject property, noting the latter includes features in compliance with the City's C-D Zone standards. He discussed the proposed streetscape and building architecture, noting the structure fronting along the street with parking on the side and rear. He identified glass and brick materials and commented that the applicant is interested in providing additional landscaping on City-owned property adjacent to the rear of the site. Mr. Dalrymple reported that the applicant had made a presentation of this proposal to the adjacent residential community.

*Engineer for the applicant, Alfred Blumberg, SSI*, noted the proposed building would be two stories high in the rear due to the grade difference. He indicated the proposal would eliminate one of the two existing access points that is closest to I-370 and discussed the parking and internal traffic design, noting there would be no opportunity for customer traffic backing up to Md. Route 355. He answered questions of the Commission relating to I-370 deceleration lane design modifications, fencing, office space, and retail, indicating there would be fencing along the site perimeter and office space in service of the primary use. He noted there would be no retail, other than the sale of boxes or other materials intended for storage customers only.

Commissioner Bauer inquired whether the County would allow by right the building size, use and parking requirements as proposed, and requested staff provide this information at the time the application comes back before the Commission for recommendation to the City Council. He also asked staff to investigate any pending road improvements on Md. Route 355 at the I-370 deceleration lane that may impact site access.

The following was testimony from the public:

*Diana Sauder, 531 Skidmore Boulevard*, asked the City to ensure minimal impact from development of this property on the adjacent residential area, particularly in terms of the building rear appearance, trees, fencing, and traffic. She voiced safety concerns associated

with the proximity of the site entrance to the I-370 ramp and customer traffic. She stated she would favor annexation if that were the best means for minimizing development impact.

*Azizollah Abrishamian, 9328 Edgewood Court*, provided a list of signatures and his written testimony in opposition to this proposal, noting it endangers public safety and lowers the quality of life. He voiced many concerns over the incidence of storage of dangerous substances and criminal activity at facilities such as the one proposed on this site.

*Myung Lee, 9316 Edgewood Court*, expressed her hopes for a development proposal that is appropriate for the City at this gateway location, noting it must have an attractive building and landscaping design.

*Richard Arkin, 121 Selby Street*, voiced his conceptual support of the annexation application, excluding the accompanying development proposal because he considered the storage use inappropriate for this prominent site. He suggested a low-intensity office use or appropriate commercial space. Nevertheless, he commented favorably on the proposed building architecture, noting, however, the south and east elevations would need enhancing.

*Frank Grisalva, 107 Swarthmore Avenue*, noted that the proposed development plan on this property is in conflict with the City's vision for a gateway location.

*Alan Day, 16600 Shae Lane*, shared the above comments in opposition to the proposal, adding that southbound traffic on Md. Route 355 would also have much difficulty accessing this site.

*Don Jackson, 16617 Chestnut Street*, favored annexation of this property into the City so that there can be greater control over its development. He had no objection of the conceptual plan presented tonight, but voiced concerns over safety in relation to the proposed access and traffic impact. He expressed additional concerns over the City's vision for its southern entrance and the timing of its implementation, pointing out the relevancy of this issue to the development of this site calls for careful consideration on the part of the City.

*James Pope, 16537 South Westland Drive*, expressed his belief that traffic would not significantly change from the existing situation, citing flea markets on Saturdays on the site. He supported the annexation request and had no objections to the proposed development.

Mr. Dalrymple noted the Germantown Ez Storage facility is not comparable to the facility proposed on this site, as it was developed with minimal restrictions in the County. He addressed the testimony concerns by pointing out that the proposed facility has a significant level of safety/security in terms of maintenance, exterior/interior cameras, and other surveillance measures. He added it is a very low traffic generator and will be an improvement over the existing situation.

In response to Commissioner Bauer, Ms. Russel indicated that annexation petitions are normally accompanied by a conceptual site development plan and any issues relating to the site are studied and included in the staff analysis for incorporation into an annexation agreement. She noted the latter is a contract binding on the land regardless of property ownership.

Commissioner Bauer requested that information from the Police Department be provided regarding the incidence of abuses and violations associated with the proposed use, as reported in tonight's testimony.

Commissioner Keller moved, seconded by Commissioner Bauer, to hold the record on Annexation Application X-179 open for 30 days.

Vote: 4-0

**STAFF RECOMMENDATION:**

Staff recommends approval of the applicant's request to annex into the City of Gaithersburg and to re-zone the Property, known as the Abdollah Malekzadeh Property, from the C-2 zone to the proposed CD zone. The following demonstrate the need and desire to annex this Property into the City of Gaithersburg in a positive manner:

- The Property is contiguous to the City of Gaithersburg and will fill a void within the City and the Property is a reasonable and logical addition to the City.
- This annexation will help to solidify the eastern City limits consistent with the Maximum Expansion Limits of the City Master Plan.
- This annexation will fulfill the City's goal to promote annexation for logically situated parcels and to work toward the development of more reasonable and recognizable boundaries for the City and will help to improve the sense of place for the City.
- Annexation into the City would necessitate the submission of additional development reviews by the Planning Commission, notably preliminary and site plans reviews. This allows interested citizens, specifically the owners of the adjacent properties, to participate in the development process at the local level to ensure compatibility in terms on site design features, access and scale.

There are several issues that should be addressed in connection with this annexation petition and therefore are suggested for inclusion in the annexation agreement to be promulgated between the City and the applicant and Property owners.

1. The site plan should strictly comply with the adopted Environmental Standards. A Natural Resource Inventory Plan (NRI) shall be submitted to the City prior to final action/approval of the annexation petition by the Mayor and City Council. All required State and Federal Permits regarding any environmental regulations must be obtained prior to the issuance of any building permit for the Property.
2. Conduct and provide a weave analysis study to review I-370, MD 355 and South Westland Drive to be reviewed and approved by City Staff and State Highway Administration. Address and obtain approval from the State Highway Administration regarding the six (6) comments of the October 23, 2001 SHA letter.
3. The owner/developer is responsible for removal, replacement and addition of public improvements to meet the approved streetscape design standard of the Frederick Avenue Corridor Master Plan.
4. The Property is subject to the design codes and land use of the Frederick Avenue Corridor Master Plan. The owner/developer shall provide any additional architectural improvements, landscaping and screening/buffering required by the City of Gaithersburg to meet the requirements of the Frederick Avenue Corridor Master Plan and/or as required to be less obtrusive to the surrounding properties and uses.
5. The applicant participate in the Art in Public Places Program. There are many opportunities for public art at the entrance to the City of Gaithersburg. If public art is not recommended, then the applicant could provide some type of entrance feature to the City.

