



*Maryland Department of Planning*

*Martin O'Malley*  
Governor

*Anthony G. Brown*  
Lt. Governor

*Richard Eberhart Hall*  
Secretary

*Matthew J. Power*  
Deputy Secretary

May 8, 2012

The Honorable Sidney Katz and Gaithersburg City Council Members  
31 South Summit Avenue  
Gaithersburg, Maryland 20877

Subject: X-184 Sears Property Annexation

Dear Mayor Katz:

Thank you for providing the Maryland Department of Planning (MDP) with information pertaining to the X-184 Sears Property Annexation to the City of Gaithersburg. We reviewed this proposed annexation and offer the following comments for consideration.

As you are aware, Article 23A, as amended by House Bill 1141, specifies that the new zoning for the annexed land cannot be substantially different from the existing County zoning, without the express consent of the County Commissioners. In reviewing this annexation request, we concur with Montgomery County's assertion that the proposed MXD zoning designation is substantially different than the uses allowed by the existing R & D zoning designation. Should the annexation be approved, be advised that the five-year rule comes into effect, which means that development plans with uses not allowed by the existing R & D zone and/or density greater than 0.525 FAR is prohibited for five years.

We noted that the subject property was designated by Montgomery County as a Priority Funding Area (PFA) and our Department concurs with that designation. Land annexed into a municipality does not automatically become or remain a Priority Funding Area. The opportunity for land annexed into the City to become a Priority Funding Area is subject to the requirements specified in the Finance and Procurement Article §5-7B-02, as amended by HB1141. We recommend that the City look at this annexation and all future annexations in the context of the Finance and Procurement Article §5-7B-02 to determine eligibility for State funding of growth related projects.

While the subject annexation property lies within Gaithersburg's MEL, it is also within the City of Rockville's MEL. Defending the assertion that Shady Grove Road should be the logical boundary between the two cities, the City of Rockville formally requested that the City of Gaithersburg remove this property from its MEL in a letter dated March 23, 2011. Montgomery County also asserted its position that the property be located in Rockville's MEL in a letter dated July 9, 2010. All of this is predicated on the existence of a Memorandum of Understanding between Montgomery County and the Cities of Rockville and Gaithersburg dated July 23, 1992. In consideration of this information, MDP urges all three parties to work together on this annexation request to reach a collaborative and workable solution prior to the public hearing.

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If you have any questions concerning these comments or if we can be of further assistance, please contact me at (410) 767-4553, or our regional planner, Steve Allan, at (410) 767-4572.

Sincerely,



Peter G. Conrad, AICP  
Director, Local Government Assistance

cc: Rich Josephson, MDP  
Amanda Conn, MDP  
Steve Allan, MDP

Attachments