



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
Montgomery County Department of Park and Planning

February 11, 2005

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, I-270 Corridor Team
Community-Based Planning Division, (301/495-4567) *Nellie*

SUBJECT: City of Gaithersburg Annexation Petition X-181 located at the northwest and southwest quadrant of the intersection of Sam Eig Highway and Diamondback Drive in the Shady Grove Study Area Master Plan area; Reclassification from the County's R-200/TDR (Single-Family Residential) Zone to the City's RP-T (Medium-Density Residential) Zone; 16.2 acres of land known as Crown Farm Point.

STAFF RECOMMENDATION: Approve transmittal of the following comments to the City of Gaithersburg Mayor and City Council as part of the public hearing record:

1. The proposed RP-T zoning classification conflicts with the recommendations (low-density residential) of the Shady Grove Study Area Master Plan, and does not meet the requirements of Section 23-A of the Annotated Code of Maryland.
2. The County Council must review this annexation petition prior to final action by the City since the RP-T Zone permits uses (multi-family residential) that are substantially different from the Shady Grove Study Area 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 RP-T zoning designation, only if the following conditions are part of the annexation agreement:
 - a. The concept plan should be amended to incorporate the master planned right-of-way of the interchange for Sam Eig Highway and Diamondback Drive.

- b. The applicant should submit the revised traffic study for the Local Area Transportation Review (LATR) using proper geometric intersection configurations.
- c. No multi-family dwelling units are to be developed on the property under the RP-T Zone.
- d. For all dwelling units in excess of the base zoned density, which is R-200/TDR (two units per acre), or 26 units for the property, agriculture easements are to be recorded through the purchase of transferable development rights at the rate of one TDR for each unit above the base density. These rights are to be recorded under procedures described by the Montgomery County agricultural preservation program prior to the recordation of plat(s) by the City.
- e. The applicant should pay the park taxes voluntarily or make a payment in lieu of taxes to support Countywide park operations.
- f. Other conditions recommended by the City of Gaithersburg Planning Commission as shown on pages 2 and 3 of this staff report are included in the annexation agreement.

BACKGROUND AND LOCATION

The subject petition has been submitted in accordance with provisions of Article 23-A of the Annotated Code of Maryland, which specifies procedures for annexation to a municipal corporation. The subject 16.2-acre property consists of two parcels of land (7.07-acre northern parcel and 6.11-acre southern parcel) and the surrounding right-of-way for Crown Farm Road, Story Drive, and Diamondback Drive (see Attachments 1 and 2). The construction of Sam Eig Highway separates the subject property from the original 180-acre Crown Farm. The property is located west of Sam Eig Highway, south of Crown Farm Road near Diamondback Drive. Land uses in the vicinity include a mixture of townhouses and single-family detached residential units, City-owned Green Park, and the large vacant Crown Farm. The Washington Village Community is located north of the property and the Washingtonian Center is located nearby.

This property is contiguous to the City of Gaithersburg on three sides, and it is located directly across from Washingtonian Village. The City of Gaithersburg 1997 Master Plan discusses the area of the subject annexation as a potential area to be incorporated in the municipal boundaries in the Neighborhood Three Element. It is not shown in the 1997 Master Plan as part of the City's Maximum Expansion Limits.

ANNEXATION PROPOSAL

In November 2004, the new property owner, North Gaithersburg Investment, LLC, filed Annexation Petition X-181. Currently, the subject 16.2-acre property, known as Crown Farm Point, is unimproved. North Gaithersburg Investment, LLC, has submitted a conceptual site plan for the construction of 72 units (63 single-family attached and 9 single-family detached units) on the site as shown in Attachment 3.

GAITHERSBURG PLANNING COMMISSION RECOMMENDATION

Annexation Petition X-181 was the subject of a public hearing on December 1, 2004, before the Gaithersburg Planning Commission. At a worksession on January 19, 2005, the Gaithersburg Planning Commission recommended approval of the annexation and rezoning to the City's RP-T Zone with the following conditions:

1. The applicant must amend the concept site plan to incorporate the following:
 - a. Depict the master planned right-of-way of the interchange for Sam Eig Highway and Diamondback Drive;
 - b. Amend noise study to account for noise of potential interchange and increased traffic volume and analysis of the revised site plan and recommend noise attenuation measures for development;
 - c. Provide a combination wall, berm, and landscaping (similar to one provided along the right-of-way of MD 28 by the Kentland's developers) next to Sam Eig Highway and the proposed interchange;
 - d. Incorporate Traditional Neighborhood Design (TND) with a mix of townhouses and single-family detached units;
 - e. Provide single-family detached units and lot sizes similar to Washingtonian Village on the north parcel;
 - f. Revise conceptual stormwater management before any approval of the site plan;
 - g. Each parcel must stand on its own for green space, open space, parking spaces, amenities, afforestation, and the RP-T Zone development requirements;
 - h. Afforestation areas may not overlap the green area required per dwelling unit to encourage its use in common by the occupants of the project in leisure activities.
2. The traffic study must be revised to incorporate and respond to the comments made in the traffic analysis;
3. Sewer category service must be changed to S-1 before preliminary site plan/subdivision;
4. If the developer chooses to take advantage of the Transferable Development Rights (TDR) and Moderately Priced Dwelling Units (MPDU) bonus density, the developer must participate in those programs;
5. The applicant must participate in the Arts in Public Places program;
6. The applicant must provide a Staging Plan concerning the impact of the development on schools based on the City's Master Plan Education Theme;
7. In accordance with the traffic noise analysis, the architectural elevations must show brick construction on all three sides of the townhouse units and four sides of single-family detached units;

8. Crown Farm Drive must be improved with dedication to a full 60 feet of right-of-way, providing paving for two lanes of travel and parking on both sides of the street, with curb and gutter, street trees, lighting, and a sidewalk on both sides; and
9. The City and the applicant need to meet with the Montgomery County Department of Public Works and Transportation (DPWT) to evaluate locations for bus shelters both north and south of Diamondback Drive before preliminary plan approval.

A public hearing on the annexation before the Gaithersburg Mayor and Council was held on February 7, 2005.

MASTER PLAN AND ZONING

The subject property is located in the area covered by the 1990 Shady Grove Study Area Master Plan (see Attachment 4). It is currently zoned R-200/TDR with an optional density of 5 units per acre in accordance with the recommendations of the 1990 Master Plan (see Attachments 5 and 6). The Master Plan contains no specific recommendations for the subject property, although it does contain land use recommendations for the Crown Farm.

The Master Plan contains the following language on pages 61 and 62 concerning the Crown Farm:

“The Plan recommends a residential land use pattern that locates high-density housing near two proposed transit stops. The western portion of the farm is proposed for lower-density housing in order to encourage a mix of apartments and attached and detached dwelling units.

This Plan proposes a total of 2,000 dwelling units on the Crown Farm. The majority of these units would be located near the transit stops and consist of multi-family units. The balance of the housing would be located on the western portion of the farm. This Plan strongly encourages the provision of detached housing on the western portion of the Crown Farm, but the actual number that must be provided will be determined at time of subdivision and site plan review.”

The 1990 Master Plan clearly recommends TDR development for the subject property. The property is in a designated TDR receiving area (TDR-5) and zoned R-200/TDR consistent with the Master Plan. The Master Plan recognizes that TDR areas may be annexed by municipalities and proposes the following policy on page 137 when this occurs:

- “The cities should require the use of TDR’s in their annexation agreements when TDR receiving areas are involved. In the absence of TDR’s, the County Council should not concur in zoning densities greater than the base density shown in the Master Plan.

- The cities of Rockville and Gaithersburg and the County should agree to develop a memorandum of understanding on maximum expansion limits and annexation issues. This agreement would provide the policy basis for reviewing all future annexation applicants.”

Staff recommends that the Annexation Agreement contain a provision that will require acquisition and use of TDR's. The number of development rights which the developer should acquire should be calculated as follows: the differences between the number of units which would be allowed on the property based on the R-200/TDR Zone and the number of units which the applicant proposes.

The petitioner requests that the property be rezoned to the City's RP-T (Medium-Density Residential) Zone. The RP-T Zone permits apartments with an allowable density of 9 units per acre as shown in Attachment 7. The 1997 City of Gaithersburg Neighborhood Three Master Plan recommends medium-low density residential use for the northern portion of the property and three options, medium-density residential, commercial, or open space for the southern portion of the property. Although the proposed RP-T Zone conflicts with the recommendations of the County's Master Plan, the rezoning will not adversely affect the intent of the Master Plan if the annexation agreement includes the conditions recommended by staff.

Action by the Montgomery County Council is required since the uses permitted by the RP-T zoning classification are substantially different from those recommended (low-density residential) in the Shady Grove Study Area Master Plan. 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.

TRANSPORTATION

Transportation Planning staff reviewed the subject annexation and offers the following findings:

Master Plan Roadway and Site Location

The Crown Farm Point site is located along the west side of Sam Eig Highway, north and south of its intersection with Diamondback Drive. The southern portion of the site is proposed to have a single access from Crown Farm Road. The proposed access points are connected to the Diamondback Drive and Sam Eig Highway intersection that is signalized. Nearby Diamondback Drive is built as a four-lane divided arterial roadway. According to the 1990 Shady Grove Study Area Master Plan, this intersection is recommended to be grade-separated and a concept plan for the grade-separation is included in Appendix A of the 1990 Master Plan.

The submitted concept plan does not contain the future interchange as shown in Attachment 8 at the site. Staff forecasts of year 2030 traffic conditions prepared for the revision to the 1985 Gaithersburg Vicinity Master Plan indicate that the interchange recommended in the 1990 Master Plan remains warranted at this location. Staff recommends that the concept plan be amended to incorporate the master planned interchange at this location.

Transportation Adequate Public Facilities Review

The applicant submitted a traffic impact analysis for the proposed residential development that conforms to Local Area Transportation Review (LATR) guidelines. The traffic study indicates that all of the Study Area intersections are projected to operate at satisfactory levels of service with the exception of the Great Seneca Highway (MD 119) and Muddy Branch Road intersection. The traffic study does not include the proper lane usage for two intersections: MD 119 at Muddy Branch Road and Sam Eig Highway at Diamondback Drive. If the proper lane usage is included, the Sam Eig Highway and Diamondback Drive intersection is also projected to operate at unsatisfactory levels of service. Staff recommends that the applicant revises the traffic study using the proper lane usage and develop the trip mitigation measures acceptable to the City of Gaithersburg and the DPWT, if the intersections are projected to operate at unsatisfactory levels of service with the proposed development of the site.

ENVIRONMENT

The Environmental Planning staff has reviewed the annexation petition and recommends approval of the annexation. Staff comments are as follows:

“The land is generally bowl-shaped, sloping towards the corners of Sam Eig Highway and Diamondback Drive. There are no wetlands, streams, forests, or sensitive environmental features onsite. The site is open grass with some scattered trees on the edges of the property. It is zoned R-200/TDR and recommended for a road interchange. The petition is a request to rezone the property to the City’s RP-T Zone to facilitate the construction of townhouse units. The net environmental impact will be the same for either use.

The water and sewer categories for the property are W-1 and S-4, respectively. There are existing water and sewer mains close enough that the proposed development can tie into, that there will be no additional environmental impacts from the introduction of new lines.”

COMMUNITY CONCERNS

To date, staff has received letters in opposition of the proposed development from nearby residents and the Shady Grove Village III Homeowners Association. These letters raised several issues in connection with the annexation proposal, such as traffic congestion, proposed density, need for more single-family detached units, affordable housing, and overcrowded schools (see Attachment 9).

COUNTY REVENUE IMPLICATIONS

Local government revenues are tied to geography either as taxes on land itself or as revenues allocated by place of residence. Attachment 10 shows the estimated yearly tax loss to the County if the subject property is annexed by the City of Gaithersburg. The subject property is currently assessed as agricultural use, which affects the estimated park taxes for this property as shown in Attachment 10.

Staff recommends that the applicant volunteer to continue to pay County park taxes (currently \$31.00 annually) or make a payment in lieu of taxation.

CONCLUSION

Staff is in agreement with the applicant that the annexation will help fulfill the City's goal to work toward the development of a more logical and recognizable boundary for the City along Sam Eig Highway. Although the proposed RP-T Zone permits a substantially different land use (multi-family) than the County's Master Plan recommendation (low-density residential), staff believes a mix of townhouse and single-family detached units as recommended by the Gaithersburg Planning Commission is appropriate for the property. In addition, the continued designation of the property for residential use would be generally consistent with the County's Master Plan recommendations.

Staff recommends that the Planning Board support Annexation Petition X-181 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 RP-T zoning only if the Annexation Agreement between the City and the applicant incorporates these conditions.

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Attachments

- Attachment 1: Vicinity Map 1
- Attachment 2: Vicinity Map 2
- Attachment 3: Concept Site Plan
- Attachment 4: Shady Grove Study Area – Major Properties
- Attachment 5: Shady Grove Study Area – Recommended Base Zones at SMA
- Attachment 6: Shady Grove Study Area – Land Use Plan
- Attachment 7: Proposed RP-T Zone
- Attachment 8: Shady Grove Study Area – Proposed Highway Plan
- Attachment 9: Citizens Letters
- Attachment 10: County Revenue Implications of Annexation Petition X-181