MAYOR AND COUNCIL AGENDA

NO. 12 DEPT.: Community Planning and Development Services / DATE PREPARED: 9/1/05
STAFF CONTACT: Rebecca Torma, Planner II FOR MEETING OF: 9/12/05

SUBJECT: Adoption of resolution to provide for a public hearing in connection with the Annexation Petition ANX2005-00138, Westmore Development, LLC and Meadow Lo Corporation. Petition for annexation of 10.51 acres of land know as 950 North Stonestreet Avenue, legally described as part of Parcel A, Parcel B and the third parcel which is owned by Meadow Lo Corporation.

RECOMMENDATION: Adopt resolution to hold a public hearing on November 21, 2005.

DISCUSSION: The petitioners request annexation of the referenced property, consisting of three parcels of land with approximately 10.51 acres in size into the City of Rockville. Two of the parcels are known as "Part of Parcel A" which consists of 0.293 acres and "Parcel B" which consists of 10.057 acres. The third parcel is known as "Meadow Lo Corporation" and consists of 0.155 acres. Part of Parcel A and Parcel is B is currently developed with three radio transmission towers and a small radio station and served by an onsite private well and septic system. See Attachment 1 for a map of the subject area.

The subject property is currently zoned I-1 in Montgomery County and is considered to be part of "Area 5" in the joint City/County study of the East Gude Drive/Dover Road area, as stated in the City of Rockville's *Comprehensive Master Plan* that was adopted November 12, 2002. The current *Comprehensive Master Plan* states "annexation for properties in Area 5 would be considered favorably for sites that fall within the City's I-1 zone." However, the 1984 Lincoln Park Neighborhood Plan, as well as the revised draft of that Plan, recommend annexation of the property and placement in the R-60 Zone. In April 2004, Montgomery County adopted the *Upper Rock Creek Area Master Plan*. This plan recommended that "the property retain the I-1 Zone, to allow for low intensity light industrial uses that do not require community water and sewer service." It also strongly supported "residential development ... over the long term and support recommendations in appropriate City of Rockville master plans for residential development, including elderly housing, if annexation occurs." The draft Lincoln Park Neighborhood Plan recommends the property to be developed with a mix of single-family detached and attached (townhouse) units.

The petitioners request that upon annexation the majority (10.35 acres) of the subject property be Zoned R-60 (One-family detached, Residential) in the City of Rockville. The other portion known as "Meadow Lo Corporation" requests that upon annexation that it be classified as "I-1" (Service Industrial) under the City of Rockville's Zoning Ordinance. The applicant proposes a development for 22 single-family detached dwellings and 65 townhouses. Most of the single-family homes will front on Ashley Avenue and the Townhouses will be interior to the site.

The development proposal for this site includes the following pending applications:

1. TXT2005-00217, text amendment to amend the standards and requirements for the Residential Townhouse District (RTH) Special Development Procedure.

2. RTH2005-00019, initial application to provide for 22 single family detached dwellings and 65 townhouses.

The subject petition has been submitted in accordance with provisions of Article 23A of the Annotated Code of Maryland, which specifies procedures for annexation to a municipal corporation. The law requires the Mayor and Council to introduce a resolution to propose annexation promptly upon being petitioned to do so.

Board and Commissions Review: Section 25-99 of the City of Rockville Zoning and Planning Ordinance requires the Planning Commission to hold a public hearing so that interested persons who wish to speak and/or submit written comments into the official record have an opportunity to do so.

Next Steps: The Mayor and Council would hold a public hearing on the request on November 21, 2005. The Planning Commission will hold a public hearing on October 12, 2005.

PREPARED BY:

Rebecca Torma, Planner II

APPROVED BY:

R. James Wasilak — 9·1·05

R. James Wasilak, AICP, Chief of Planning — Date

APPROVED BY:

9/2/05

Arthur D. Chambers, AICP, Director, CPDS — Date

APPROVED BY:

9/15/05

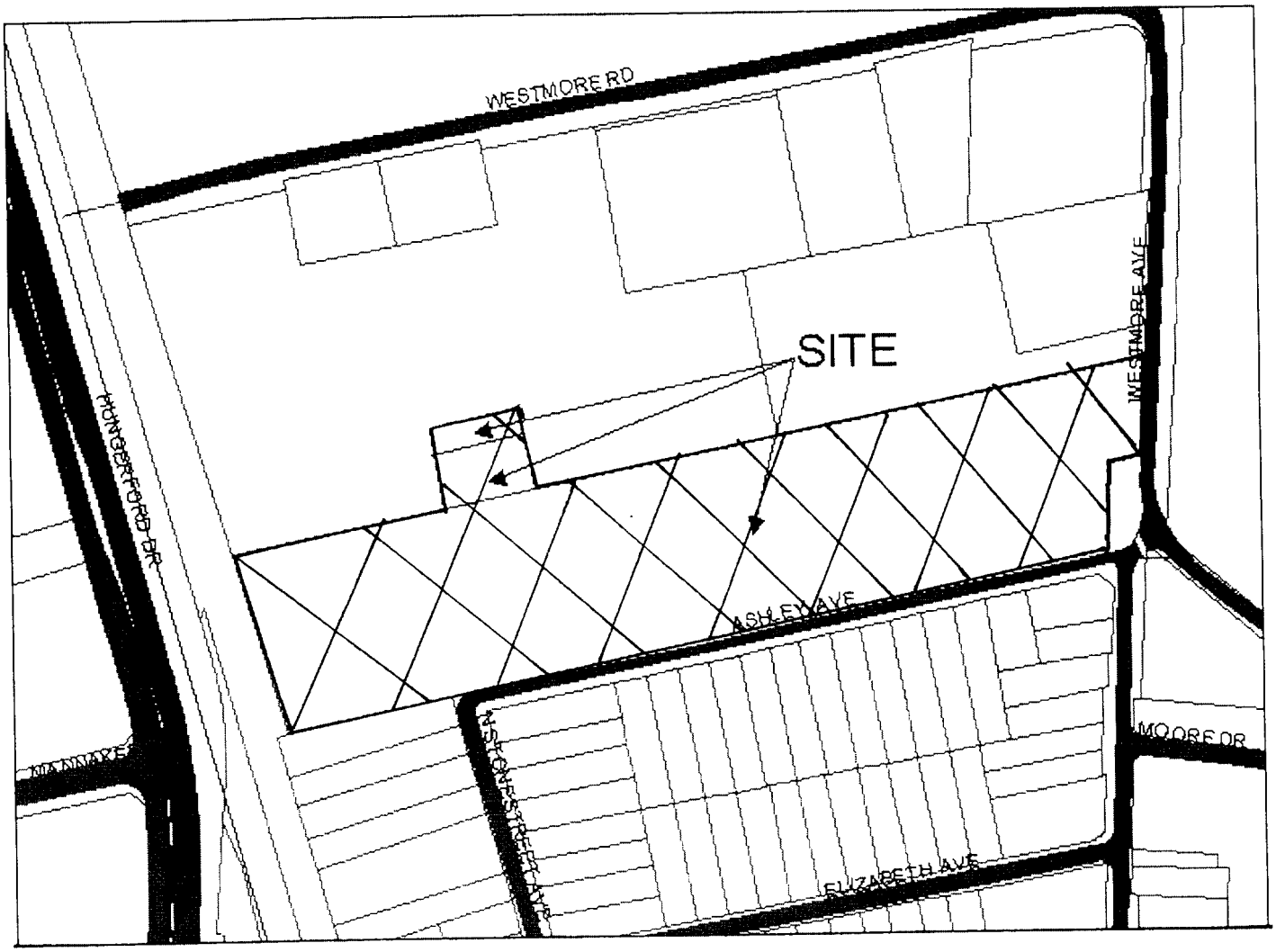
Scott Ullery, City Manager — Date

LIST OF ATTACHMENTS:

1. Site Vicinity Map
2. Resolution
3. Annexation Petition

Vicinity Map

Attachment #1



Resolution No. _____ RESOLUTION: To provide for public hearing in connection with the annexation of 10.51 acres of land, more or less, of Westmore Development, LLC, and Meadow Lo Corporation

WHEREAS, a petition has been presented by Westmore Development, LLC (formerly Rankin Development, LLC) and Meadow Lo Corporation, requesting that three parcels of land totaling 10.51 acres of land, more or less, be annexed by the Mayor and Council, which parcels are located on the north side of Ashley Avenue, the wst side of Westmore Drive and east of the CSX railroad tracks in Rockville, Maryland; and

WHEREAS, the signatures on said petition have been verified and it has been ascertained that the persons signing said petition represent at least twenty-five percent (25%) of the persons who reside in the area to be annexed, who are registered voters in county elections in the precinct or precincts in which the territory to be annexed is located, and the owners of twenty-five percent (25%) of the assessed valuation of the real property located in the area to be annexed; and

WHEREAS, pursuant to the provisions of Section 19(c) of Article 23A of the Annotated Code of Maryland, a resolution has been introduced which, if adopted, would annex the additional property referenced herein, which property is more particularly described in said resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF ROCKVILLE, MARYLAND, as follows:

1. That the City Clerk is instructed to cause a public notice of the resolution which has been introduced which, if adopted, would annex property of Westmore Development, LLC and Meadow Lo Corporation, to be published not fewer than two times at not less than weekly intervals in a newspaper of general circulation in the City of Rockville and the area to be

annexed, said notice to specify that a public hearing will be held on the resolution in the office of the Mayor and Council at 7:00 p.m. or as soon thereafter as it may be held, on the 21st day of November, 2005, in the Council Chamber, Rockville City Hall, 111 Maryland Avenue, Rockville, Maryland 20850.

2. That the City Clerk is instructed to provide an outline for the extension of services and public facilities into the area proposed to be annexed to the County Executive of Montgomery County, Maryland, the Secretary of the State Department of Planning and the Chairman of the Maryland-National Capital Park and Planning Commission at least thirty days prior to the holding of the scheduled public hearing.

3. That immediately upon the first publication of the public notice of said resolution, the City Clerk is instructed to cause said public notice and the Planning Commission's Preliminary Report to be provided to the County Executive of Montgomery County, Maryland, Secretary of the State Department of Planning and the Chairman of the Maryland-National Capital Park and Planning Commission.

* * * * * * * * * * * * *

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the Mayor and Council at its meeting of

_____

Claire F. Funkhouser, CMC, City Clerk

Attachment #3

RECEIVED
CITY CLERK'S OFFICE
2005 AUG -3 PM 12: 55

BEFORE THE MAYOR AND COUNCIL
OF THE CITY OF ROCKVILLE, MARYLAND

IN THE MATTER OF THE PETITION OF :
WESTMORE DEVELOPMENT, LLC and : Annexation No. ANX2005-00138
MEADOW LO CORPORATION :
FOR ANNEXATION :

PETITION FOR ANNEXATION

The undersigned property owners ("Petitioners") hereby petition the Mayor and Council of the City of Rockville, pursuant to Section 19, Article 23A of the Annotated Code of Maryland, to annex property into the corporate boundaries of the City of Rockville. In support of this request, the Petitioners state as follows:

1. The property which is the subject of this Annexation Petition consists of three (3) parcels of land containing a total of ± 10.51 acres of land. (See attached tax plate map; marked as Exhibit A.) Two (2) of the parcels are owned by Westmore Development, LLC (formerly Rankin Development, LLC) and are known as Part of Parcel A consisting of 12,758 square feet or 0.293 acres of land and Parcel B consisting of 438,088 square feet or 10.057 acres of land. The third parcel owned by Meadow Lo Corporation consists of 6,751 square feet or 0.155 acres of land. The property is located on the north side of Ashley Avenue, the west side of Westmore Drive and east of the CSX railroad tracks as shown on the attached tax plate map (Exhibit A).

A more detailed description of the three parcels sought to be annexed is set forth by metes and bounds description in Schedule A1 (covering the two (2) Westmore Development LLC parcels) and Schedule A2 (covering the Meadow Lo Corporation parcel), a deed location plat/sketch for the Meadow Lo Corporation parcel (marked as Exhibit B), and an ALTA/ACSM Land Title Survey for the Westmore Development LLC parcels (marked as Exhibit C), all attached hereto as the "Subject Property".

LAW OFFICES
MILLER, MILLER & CANBY
CHARTERED
200-B MONROE STREET
ROCKVILLE, MARYLAND 20850
(301) 762-5212

2. The Subject Property is contiguous to and adjoining the existing corporate limits of the City of Rockville.

3. Annexation of the Subject Property will not create any unincorporated area which is bounded on all sides by real property presently within the corporate limits of the City of Rockville, or real property proposed to be within the City of Rockville, or real property proposed to be within the City of Rockville as a result of the proposed annexation, or any combination of any such properties.

4. The Subject Property is owned by the respective Petitioners which own one hundred percent (100%) of the assessed value of the property in the area to be annexed.

5. No persons registered as voters in the County reside on the Subject Property. Accordingly, no additional consents are necessary for the Petition.

6. The Subject Property is identified in the City's Comprehensive Master Plan (adopted on November 12, 2002) as a critical site for the City and is recommended for annexation and development with residential use. As such, annexation of the Subject Property would achieve stated Master Plan goals and provide a logical corporate boundary for the City of Rockville.

7. The Subject Property is currently classified in the I-1 (Light Industrial) zone in Montgomery County. Petitioner Westmore Development, LLC requests that upon annexation its property be classified as follows: Part of Parcel A which consists of 12,758 square feet (or 0.293 acres) of land be classified in the City's I-1 (Service Industrial) zone; and Parcel B which consists of 438,088 square feet (or 10.057 acres) of land be classified in the R-60 (One-Family Detached, Residential) zone. Petitioner Meadow Lo Corporation requests that upon annexation its property (which consists of 0.155 acres of land) be classified in the City's I-1 (Service Industrial) zone.

LAW OFFICES
MILLER, MILLER & CANBY
CHARTERED
200-B MONROE STREET
ROCKVILLE, MARYLAND
301 762-5212

WHEREFORE, Petitioners respectfully request that the Mayor and the Council of the City of Rockville initiate all steps necessary for final enactment of a resolution annexing the Subject Property into the corporate boundaries of the City of Rockville, including the development of an Annexation Agreement to be executed between the Mayor and Council and Petitioners prior to adoption of the resolution, as well as a companion resolution rezoning the Subject Property to the R-60 and I-1 zones as requested above.

WESTMORE DEVELOPMENT, LLC
By: **PAXTON-MAYBERRY COMPANY, LLC**
Its Managing Member

Robert E. Reiver, Managing Member

8/2/05
Date

MEADOW LO CORPORATION

Robert O. Eisinger, President

8/2/05
Date

LAW OFFICES
MILLER, MILLER & CANBY
CHARTERED
200-B MONROE STREET
ROCKVILLE, MARYLAND
301 762-5212

STATE OF MARYLAND

SS:

COUNTY OF Montgomery

I hereby certify that on this 2nd day of Aug., 2005, before me, the undersigned, personally appeared **Robert E. Reiver**, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, who acknowledged himself to be the Managing Member of PAXTON-MAYBERRY COMPANY, LLC, a Maryland limited liability company (which is the Managing Member of WESTMORE DEVELOPMENT, LLC, also a Maryland limited liability company) and who did further acknowledge that he, being authorized so to do, executed the foregoing Petition for Annexation in said capacity on behalf of PAXTON-MAYBERRY COMPANY, LLC and WESTMORE DEVELOPMENT, LLC, for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

SUSANA RIVERO
Notary Public, State of Maryland
My Commission Expires Aug. 13, 2007

Notary Public

My Commission Expires: _____

STATE OF MARYLAND

SS:

COUNTY OF Montgomery

I hereby certify that on this 2nd day of Aug., 2005, before me, the undersigned officer, personally appeared **Robert O. Eisinger**, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, who acknowledged himself to be the President of MEADOW LO CORPORATION, a Maryland corporation, and who did further acknowledge that he, being authorized so to do, executed the foregoing Petition for Annexation in said capacity on behalf of MEADOW LO CORPORATION for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

SUSANA RIVERO
Notary Public, State of Maryland
My Commission Expires Aug. 13, 2007

Notary Public

My Commission Expires: _____

LAW OFFICES
MILLER, MILLER & CANBY
CHARTERED
200-B MONROE STREET
ROCKVILLE, MARYLAND
301 762-5212

SCHEDULE A1

Being part of Parcel A and all of Parcel B of a conveyance from United Broadcasting Company, Inc., a Maryland Corporation, to United Broadcasting Limited Partnership, a Maryland limited partnership, by deed dated June 29, 1994 and recorded in Liber 12728 at Folio 639 among the Land Records of Montgomery County, Maryland.

Part of Parcel A

Beginning for the same at the point of beginning of Parcel A of the above mentioned conveyance, said point also being on the southerly most property line of Parcel C, 349.33 feet from an iron pipe found at the southwesterly end thereof as shown on a plat of subdivision entitled PARCEL C., WESTMORE and recorded in Plat Book 97 as Plat Number 10724 among the above mentioned Land Records. Thence with part of the last line reversed of the above mentioned conveyance and the outline of the above mentioned plat of subdivision.

1.	North 07° 58' 00" West,	85.03 feet to the end of the first line of a conveyance from United Broadcasting Limited Partnership, a Maryland limited partnership, to Fling Limited Partnership, a Maryland limited partnership, by deed dated September 16, 1997 and recorded in Liber 15202 at Folio 601, thence leaving the last line of Parcel A in Liber 12728 at Folio 639 and crossing to include a part thereof with all of the second line of the conveyance in Liber 15202 at Folio 601.
2.	North 82° 02' 00" East,	150.04 feet to a point being on and 45.00 feet from the end of the second line of Parcel A in the conveyance in Liber 12728 at Folio 639, thence with the remainder reversed of said second line.
3.	South 07° 58' 00" East,	85.03 feet to the beginning thereof, thence with all of the first line of said Parcel A reversed.
4.	South 82° 02' 00" West,	150.04 feet to the point of beginning, ceontaining 12,758 square feet or 0.29288 of an acre of land.

Parcel B

Beginning for the same at the beginning of a conveyance from Roger H. Ashby, unmarried, and Richard Eaton and Margret G. Eaton, his wife, by deed dated October 9, 1951 and recorded in Liber 1584 at Folio 572 among the Land Records of Montgomery County, Maryland. Said point also being on the eastern limit of the C.S.X. Transportation, Inc. right of way and on the northern most line of Lot 1, Block 5 as shown on a plat of subdivision entitled H.L. ENGLANDS 2ND ADDITION TO LINCOLN PARK and recorded in Plat Book 4 as Plat Number 342. Thence leaving said plat line and running with the eastern limit of the C.S.X. Transportation, Inc. right of way and all of the outlines of the abovementioned conveyance in Liber 1584 at Folio 572 the six following lines:

SCHEDULE A1

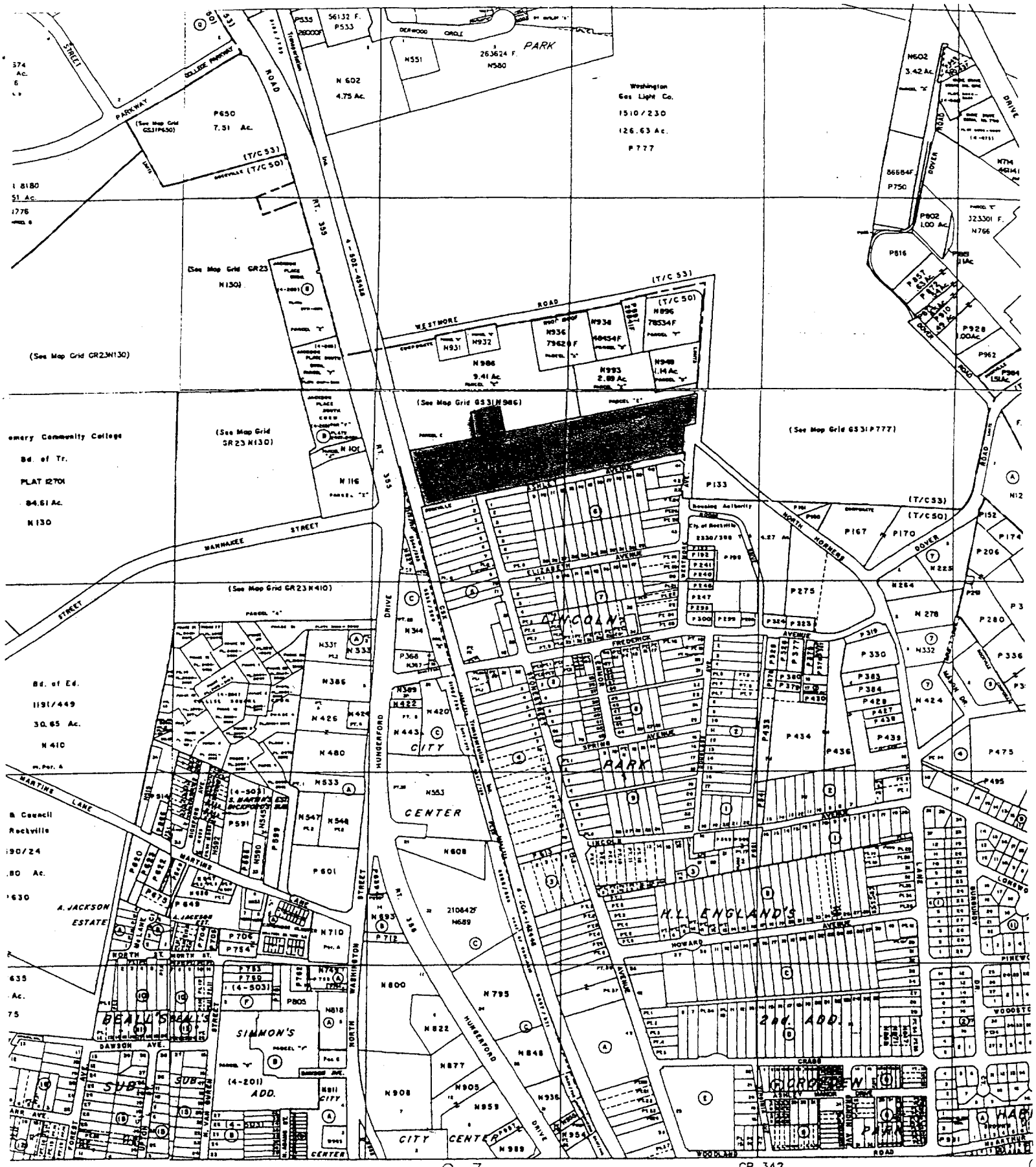
1. North 11° 41' 00" West,	300.63 feet to an iron pipe found at the southwest corner of Parcel C as shown on a plat of subdivision entitled PARCEL C, WESTMORE and recorded in Plat Book 97 as Plat Number 10724. Thence with all of the southerly line of said plat of subdivision, all of the southerly line of Parcel's E and D as shown on a plat of subdivision entitled PARCELS D & E, WESTMORE and recorded in Plat Book 106 as Plat Number 12216 and still with the outlines of the above mentioned conveyance.
2. North 82° 02' 00" East,	1,527.02 fee to an iron pipe found on the western right of way line of Westmore Avenue, 40 feet wide, as shown on the second above mentioned plat of subdivision, thence along the western side of Westmore Avenue, still with the outline of the first above mentioned conveyance.
3. South 05° 28' 00" West,	158.44 feet to a point, thence
4. South 82° 02' 00" West,	40.00 fee to a point, thence,
5. South 05° 28' 00" West,	150.00 feet to a point at the northwest corner of the intersection of Westmore Avenue with Ashley Avenue. Thence along the northerly side of Ashley Avenue (approximately along the edge of the existing asphalt pave surface) and with the last line of the above mentioned conveyance.
6. South 82° 02' 00" West,	1,395.89 feet to the point of beginning, containing 10.06889 acres of land.

SCHEDULE A2

Part of a Confirmatory Deed dated June 5, 1984 between Suburban Bank, Personal Representative of the Estate of Richard Eaton, Grantor, and United Broadcasting Company, Inc., Grantee, recorded in Liber 6418, Folio 666 among the Land Records of Montgomery County, Maryland.

Beginning for the same at the end of the second (2nd) line of the abovementioned conveyance, thence with a part of said line reversed:

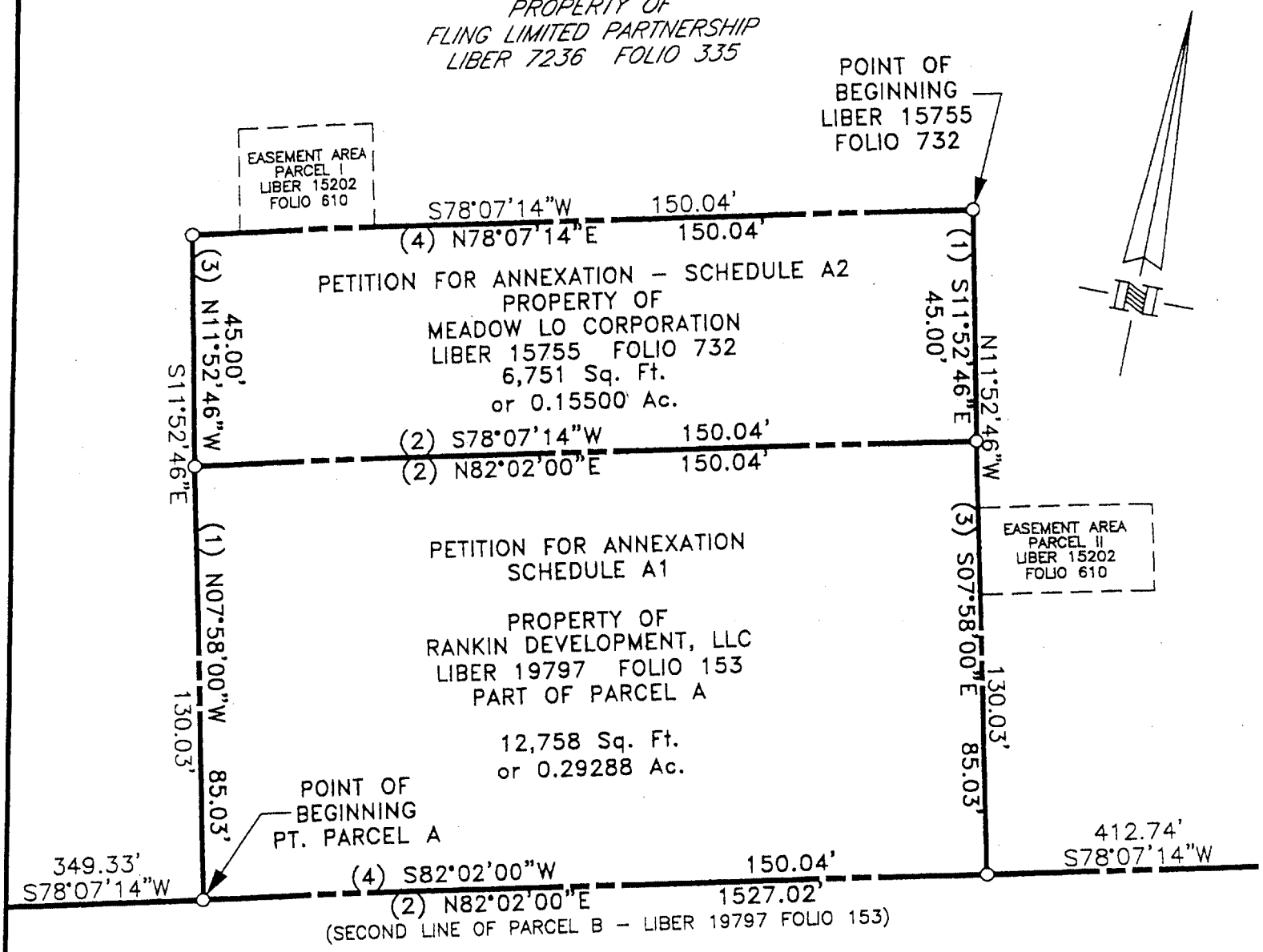
1.	South 11° 52'46" East 45.00	feet, thence leaving said second (2nd) line to cross and include a part of the conveyance;
2.	South 78° 07'14" West 150.04	feet to a point 45.00 feet along the fourth (4th) line of said conveyance, thence with a part of said line reversed;
3.	North 11° 52'46" West 45.00	feet to the beginning thereof, thence with the third (3rd) line reversed;
4.	North 78° 07'14" East 150.04	feet to the beginning, containing 6751.80 square feet, or 0.15500 of an acre.



PARK
Washington Gas Light Co.
1510/230
126.63 Ac.
P777
N602
4.75 Ac.
P650
7.51 Ac.
(See Map Grid GR23 N130)
(See Map Grid GR23N130)
(See Map Grid GS31N986)
(See Map Grid GS31P777)
(See Map Grid GR23N410)
Bd. of Tr.
PLAT 12701
84.61 Ac.
N130
Bd. of Ed.
1191/449
30.65 Ac.
N410
Rockville
A. JACKSON ESTATE
BEALL'S
SIMMON'S
ADD.
SUB
CITY CENTER
LINCOLN PARK
H.L. ENGLAND'S
2nd. ADD.
GROSSEN PARK
WESTMORE ROAD
MANNAKEE STREET
MARTINS LANE
NORTH WASHINGTON STREET
HUNGERFORD DRIVE
DOVER ROAD
NORTH HORNERS
ELIZABETH AVENUE
FREDERICK AVENUE
SPRING AVENUE
HOWARD AVENUE
LINCOLN AVENUE
DAWSON AVE.
WOODLAND ROAD
CRABB
G 3
GR 342
MAP GR
W.S.S.C. 219
Location: R
SCALE IN FEET
200 0 200 400
MDP
Maryland
Department of Planning

EXHIBIT A

11



NOTE: THE BEARINGS SHOWN HEREON ARE THOSE RECORDED IN THE LAND RECORDS FOR EACH OF THE RESPECTIVE PROPERTIES. LIBER 15755 AT FOLIO 732 IS IN THE DATUM OF THE WASHINGTON SUBRUBAN SANITARY COMMISSION AS SHOWN ON A PLAT OF SUBDIVISION RECORDED IN PLAT BOOK 97 AS PLAT 10724. LIBER 19797 AT FOLIO 153 IS IN THE DEED DATUM AS RECORDED IN LIBER 1584 AT FOLIO 572. ALTHOUGH THE DATUMS ARE NOT THE SAME, THE ANGLES FORMED BY THE RECORDED BEARINGS ARE EQUAL AND PRODUCE COINCIDENTAL LINES. THERE ARE NO GAPS, GORES OR OVERLAPS WITH THE ADJOINING PROPERTIES.

PETITION FOR ANNEXATION
SCHEDULE A1

PROPERTY OF
RANKIN DEVELOPMENT, LLC
LIBER 19797 FOLIO 153
PARCEL B

SKETCH SHOWING
THE PROPERTY OF MEADOW LO CORPORATION
AS RECORDED IN LIBER 15755 AT FOLIO 732
AND

FOWLER ASSOCIATES, INC. Civil Engineers • Land Surveyors • Planners 255 North Washington Street Suite 300, Rockville, Md. 20850 Phone: (301) 762-2377	PART OF THE PROPERTY OF RANKIN DEVELOPMENT, LLC AS RECORDED IN LIBER 19797 AT FOLIO 153 INCLUDED IN THE PETITION FOR ANNEXATION INTO THE CITY OF ROCKVILLE	**EXHIBIT B**
T:/EP–DWG/WESMOR/WINX/WINX.DWG	ROCKVILLE ELECTION DISTRICT No. 4 MONTGOMERY COUNTY, MARYLAND	

DATE: 01/2004	SCALE: 1"=30'	DRAWN BY: CAPJ	JOB NO.: 69–016–2B	SHEET: 1 OF 1

NOTES

LEGEND

UNITED BROADCASTING
LIMITED PARTNERSHIP
RESIDUE
PARCEL A
LIBER 12728 FOLIO 639
12,758 SQ. FT.
0.29288 ACRES

UNITED BROADCASTING LIMITED PARTNERSHIP
PARCEL B
LIBER 12728 FOLIO 639
10.06889 ACRES

P.O.B.
PARCEL A

P.O.B.
PARCEL B

ASHLEY AVENUE

WESTMORE AVENUE

HORNERS LANE

STONESTREET AVENUE

VICINITY MAP 1"=2000'

SITE

13

EXAMINATION OF TITLE

PREPARED BY COMMONWEALTH LAND TITLE INSURANCE COMPANY
DATED MARCH 15, 1996
FILE NO. MC961156A

SCHEDULE B

SURVEYOR'S CERTIFICATE

EXHIBIT C

ALTA/ACSM LAND TITLE SURVEY
THE PROPERTY OF
UNITED BROADCASTING
LIMITED PARTNERSHIP
AS RECORDED IN
LIBER 12728 AT FOLIO 639

CITY OF ROCKVILLE — MONTGOMERY COUNTY, MARYLAND

FOWLER ASSOCIATES, INC.
CIVIL ENGINEERS • LAND SURVEYORS • PLANNERS