

CITY OF GAITHERSBURG
APFO Joint Work Session



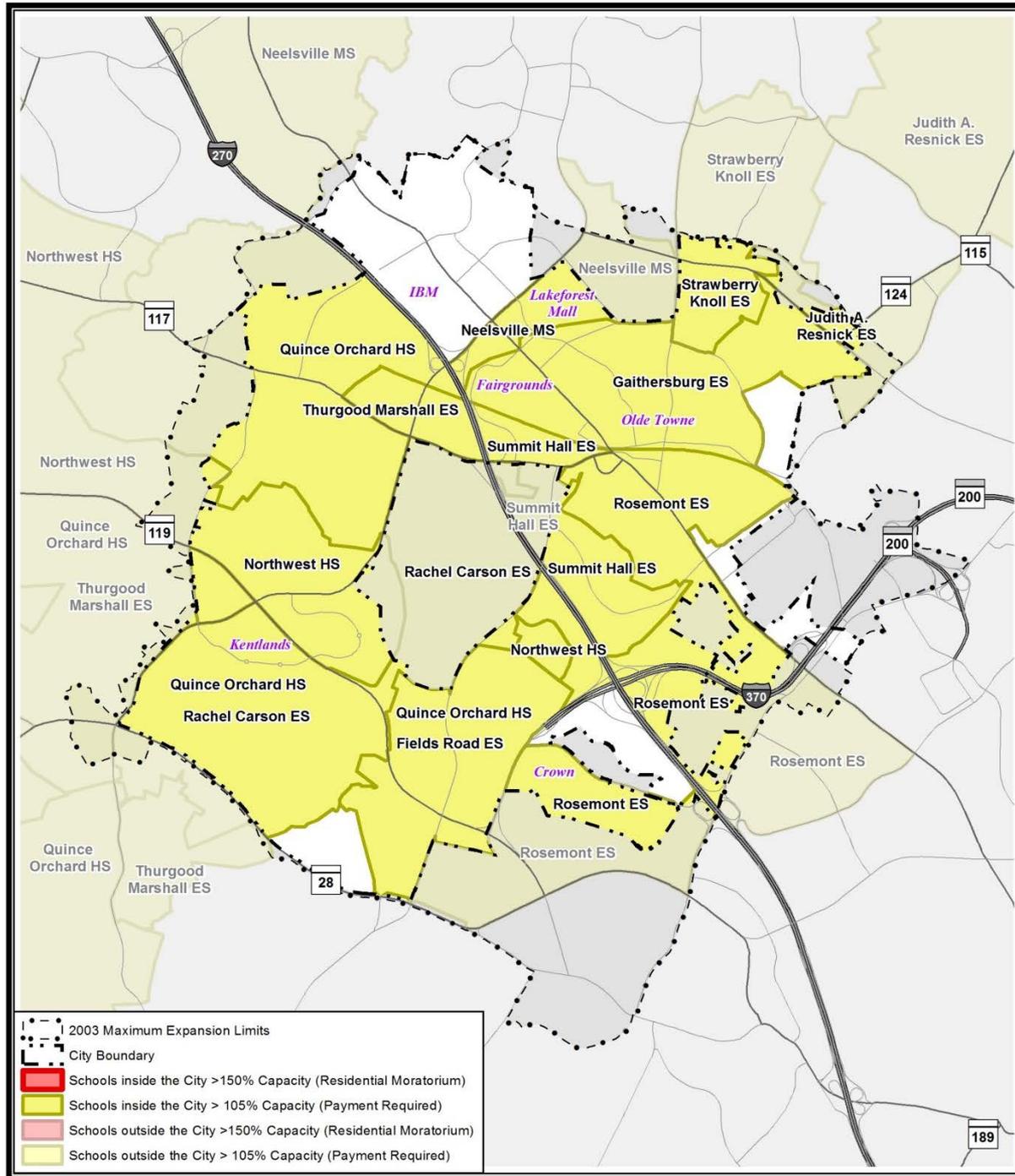
Gaithersburg

August 10, 2015

MORATORIUM LIMITS

150%

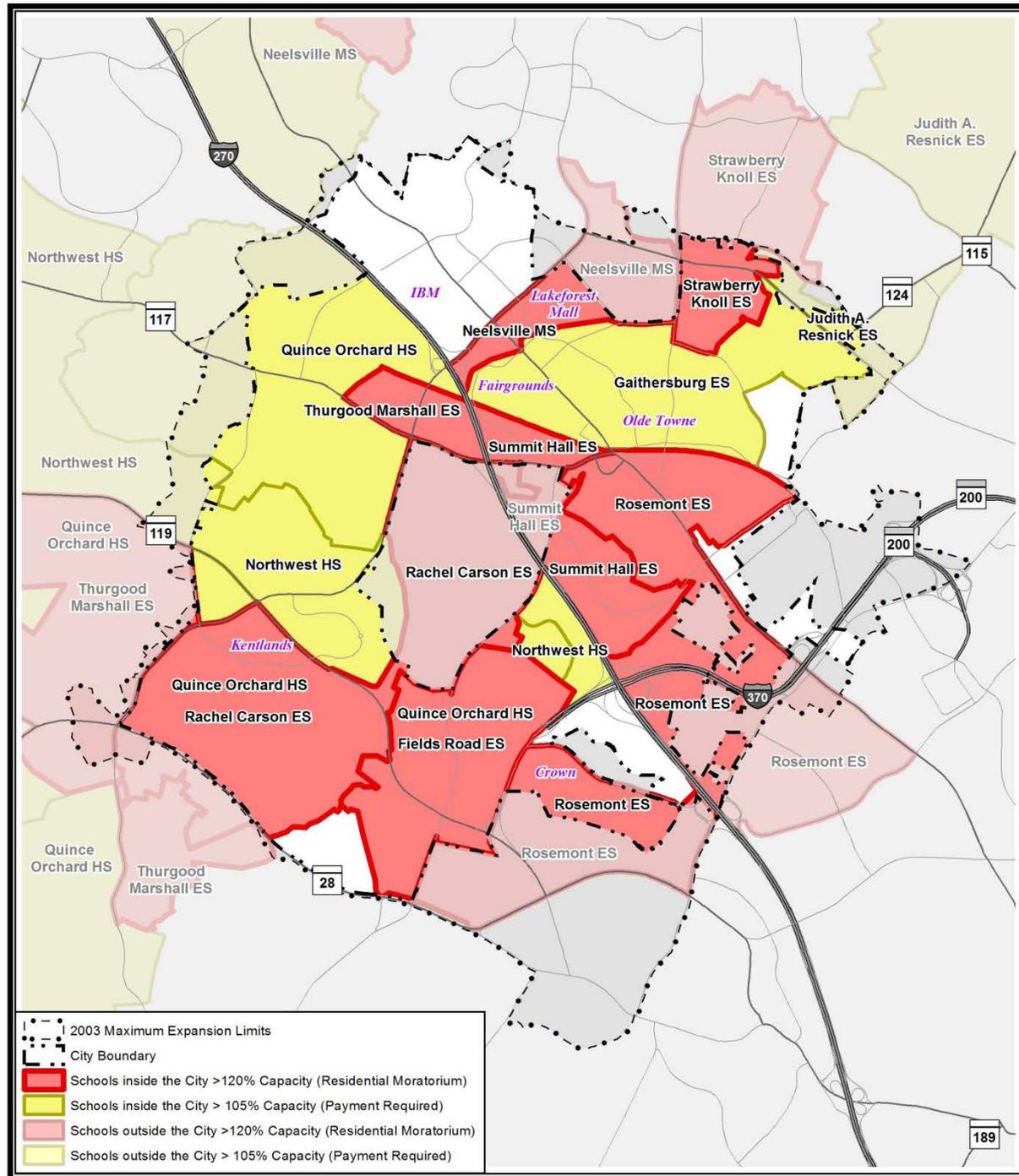
- No moratorium
- Fee required everywhere except:
 - Dufief ES
 - Fallsmead ES
 - Wash. Grove ES
 - Watkins Mill ES



120%

□ 48.3% in moratorium

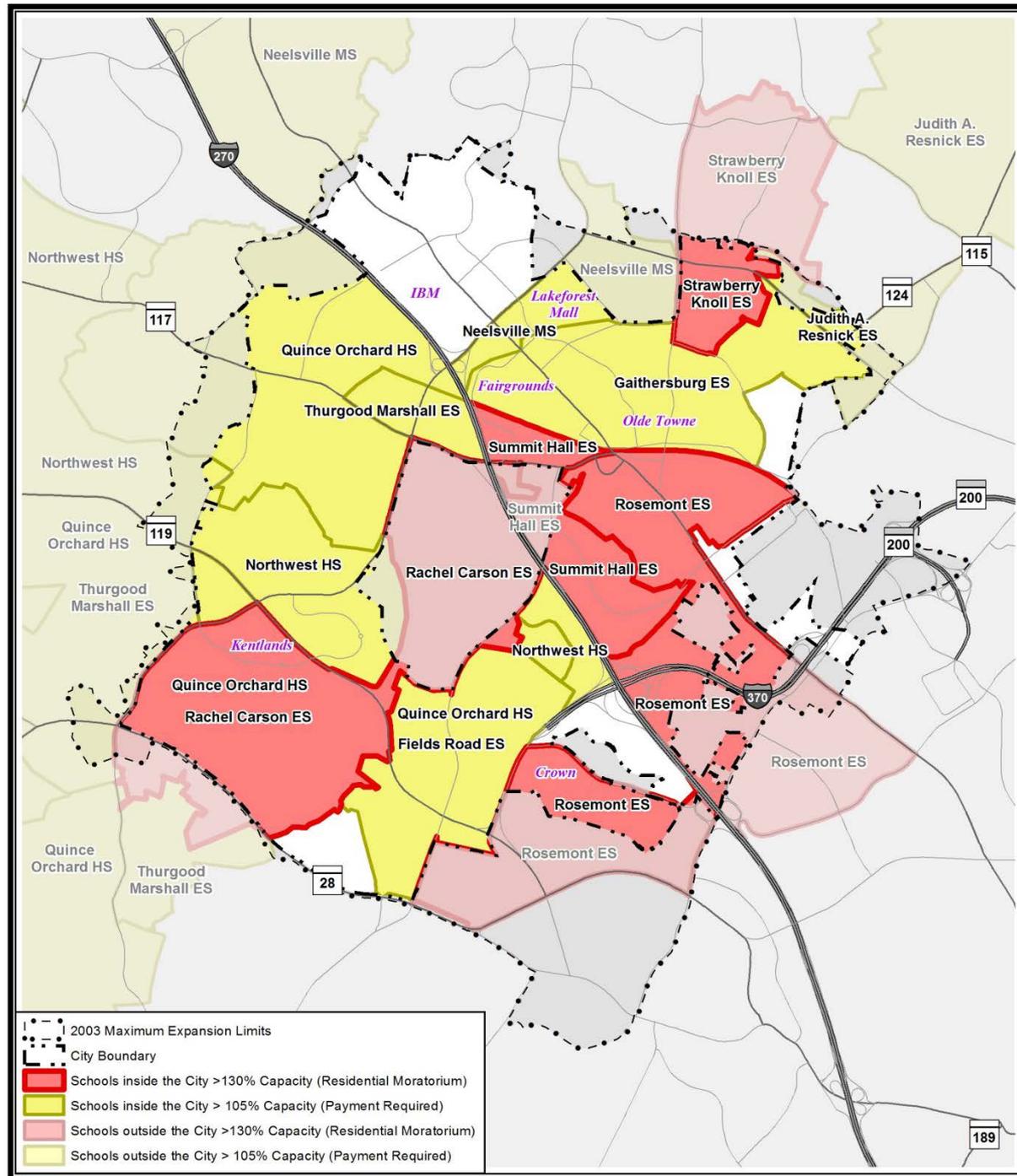
□ Neelsville MS
Rachel Carson ES
Fields Road ES
T. Marshall ES
Rosemont ES
S'berry Knoll ES
Summit Hall ES



130%

□ 34.0% in moratorium

□ Rachel Carson ES
Rosemont ES
S'berry Knoll ES
Summit Hall ES



FACILITIES PAYMENT FEE

Gaithersburg School Facilities Payment Fee

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- Due from residential built where school(s) exceed 105% capacity
- School-, not cluster-based
- Funds must be used for capital needs of school, or another school that relieves congestion
- Funds returned if not used within fifteen (15) years

School-based v. Cluster-based Example

- Cluster has two schools, School A at 120% and School B at 100% averaging 110%
- In County, Fee would be due from all development in cluster
- In City, Fee would be due only within the School A boundaries

Montgomery County School Facilities Payment Fee

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- County Fee calculated annually
- Based on 60% estimated cost to house students generated by development
- Fee is different for elementary, middle and high schools
- Student generation rates vary based on housing type

Fee Calculation Example

- Development proposes 100 townhomes and 100 apartments
- Both elementary and middle schools exceed 105% capacity
- Townhomes generate 0.214 elementary and 0.082 middle school students per unit
- Apartments generate 0.146 elementary and 0.055 middle school students per unit

Fee Calculation Example (cont.)

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□ Townhome Fee =

$$100 \times ((0.214 \times \$19,439) + (0.082 \times \$21,250))$$

□ Apartment Fee =

$$100 \times ((0.146 \times \$19,439) + (0.055 \times \$21,250))$$

□ $\$590,300 + \$400,700 = \$991,000$

□ Each Townhome incurs a \$5,903 fee

□ Each Apartment incurs a \$4,007 fee

City Facilities Payment Fee Process

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- Procedures to be in City Regulation adopted under separate process
- Fee determined at Preliminary/Schematic Plan
- Approved by M&CC or PC as appropriate
- Fee collected at Building Permit
- Planning staff recommends use of funds to M&CC
- City and County initiate MOU for use of funds
- Funds transferred to appropriate CIP with County

County Facilities Payment Fee History

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- Fees collected in nine clusters since FY 2011 including Gaithersburg and Wootton
- A total of \$4.2 million has been collected, most (almost \$4 million) in the last two years
- \$725,000 collected in Gaithersburg Cluster
- A total of \$3.0 million has been spent or earmarked
- \$658,000 has been spent or earmarked for Diamond Elementary

PROPOSED WAIVERS

Annexation Waiver Intent

- The intent of this waiver is to allow the Council to consider properties considering annexation into the City without the need for an annexation agreement negotiation.

Annexation Waiver Justifications

- FY 2016 Strategic Plan, Planning “...aggressively pursue annexation”
- 2009 Master Plan, State Vision 3 “...Explore opportunities for those areas located within the City’s Maximum Expansion Limits”
- 2009 Master Plan, State Vision 11 “Stewardship...the creation of sustainable communities...including possible annexations...”

Annexation Waiver Options

- Include the waiver as presented
- Do not include this waiver

Special Study Area Waiver Intent

- The intent of this waiver is to identify specific areas of the City determined to be of importance for redevelopment.

Special Study Area Waiver Justifications

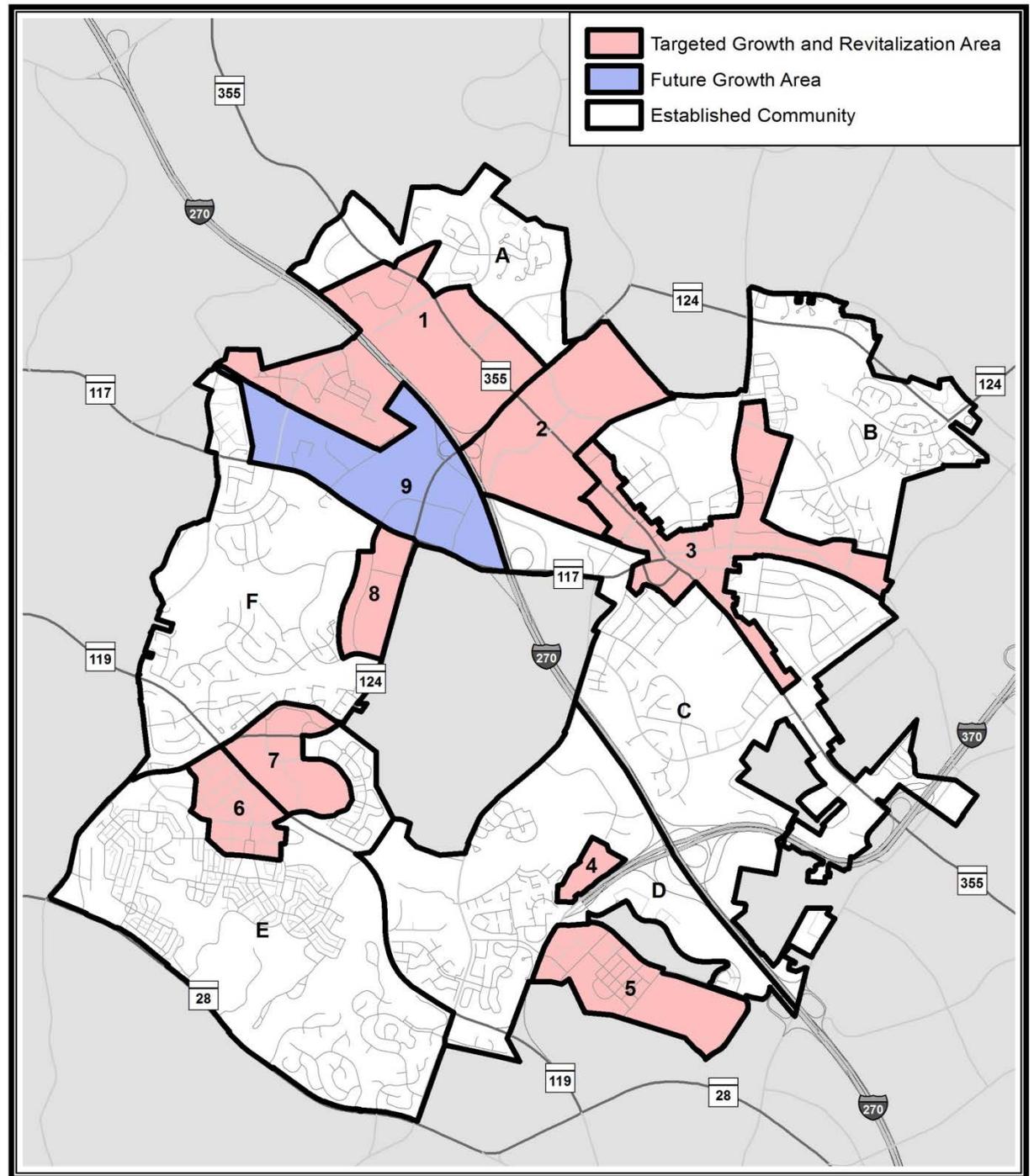
- FY 2016 Strategic Plan Key Strategy, Economic Development “Support implementation of...”
- FY 2016 Strategic Plan Key Strategy, Economic Development “Stimulate revitalization...”
- 2009 Master Plan, State Vision 3 “Focus growth within the City...”
- 2009 Master Plan, State Vision 8 “Develop City incentives to facilitate implementation of...”

Special Study Area Waiver Options



- Include the waiver as presented
- Do not include this waiver
- Limit the waiver provision to one or more of these areas
- Identify other/additional areas to be considered for inclusion

Adopted PlanMaryland Areas



Transit Waiver Intent

- The intent of this waiver is to consider those projects that strive to be Transit-Oriented Developments (TOD) and thereby locate residential near alternative modes of transportation and usually in a mixed-use environment (live where you work), thus reducing the negative impacts of single-occupancy vehicular commutes.

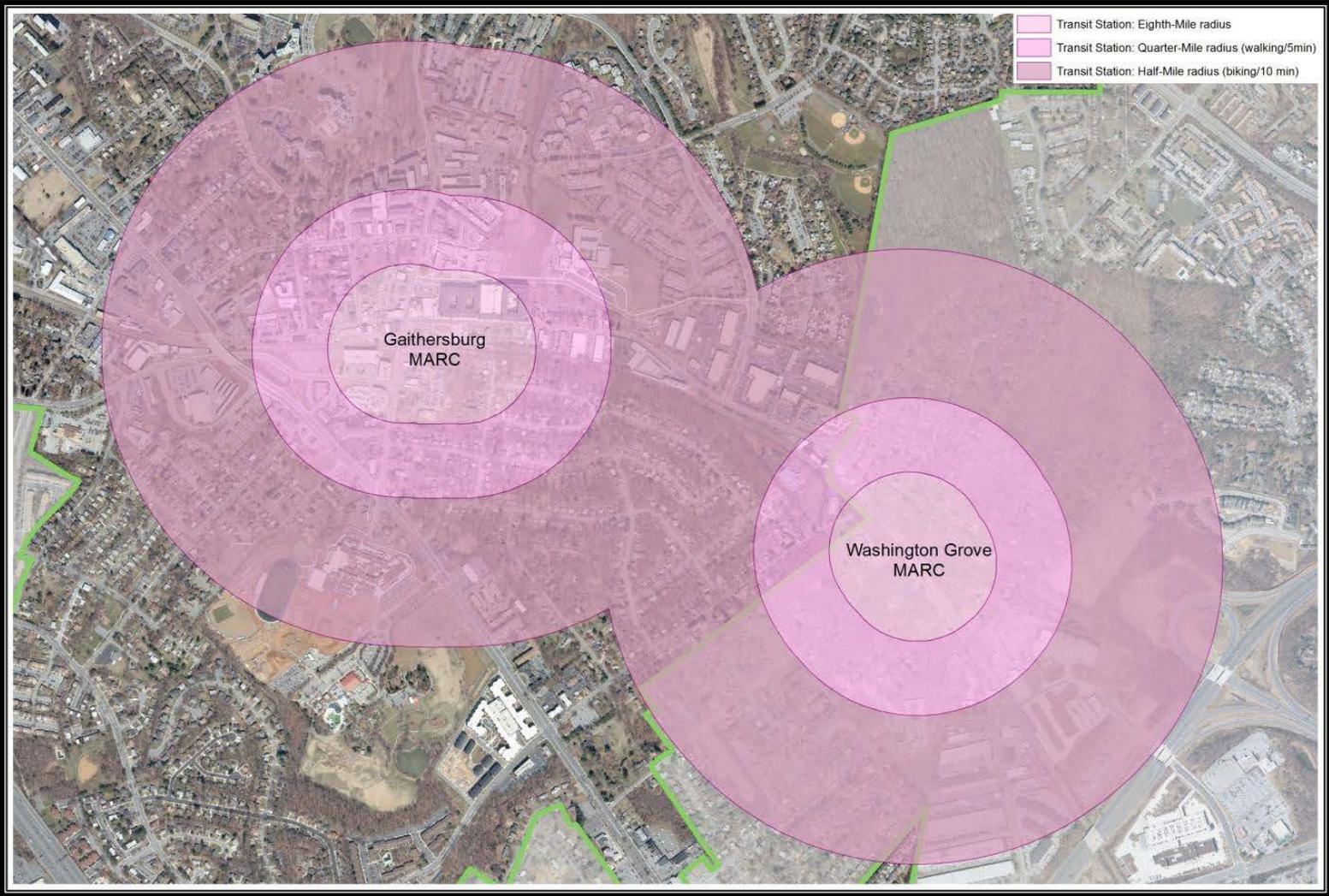
Transit Waiver Justifications

- FY 2016 Overall City Mission & Vision
“...neighborhoods...served by diverse transportation options...”
- 2009 Master Plan, State Vision 4 “...Continue to foster transit-friendly communities...”
- 2009 Master Plan State, Vision 6 “...Promote alternatives to single-occupant vehicle trips...”

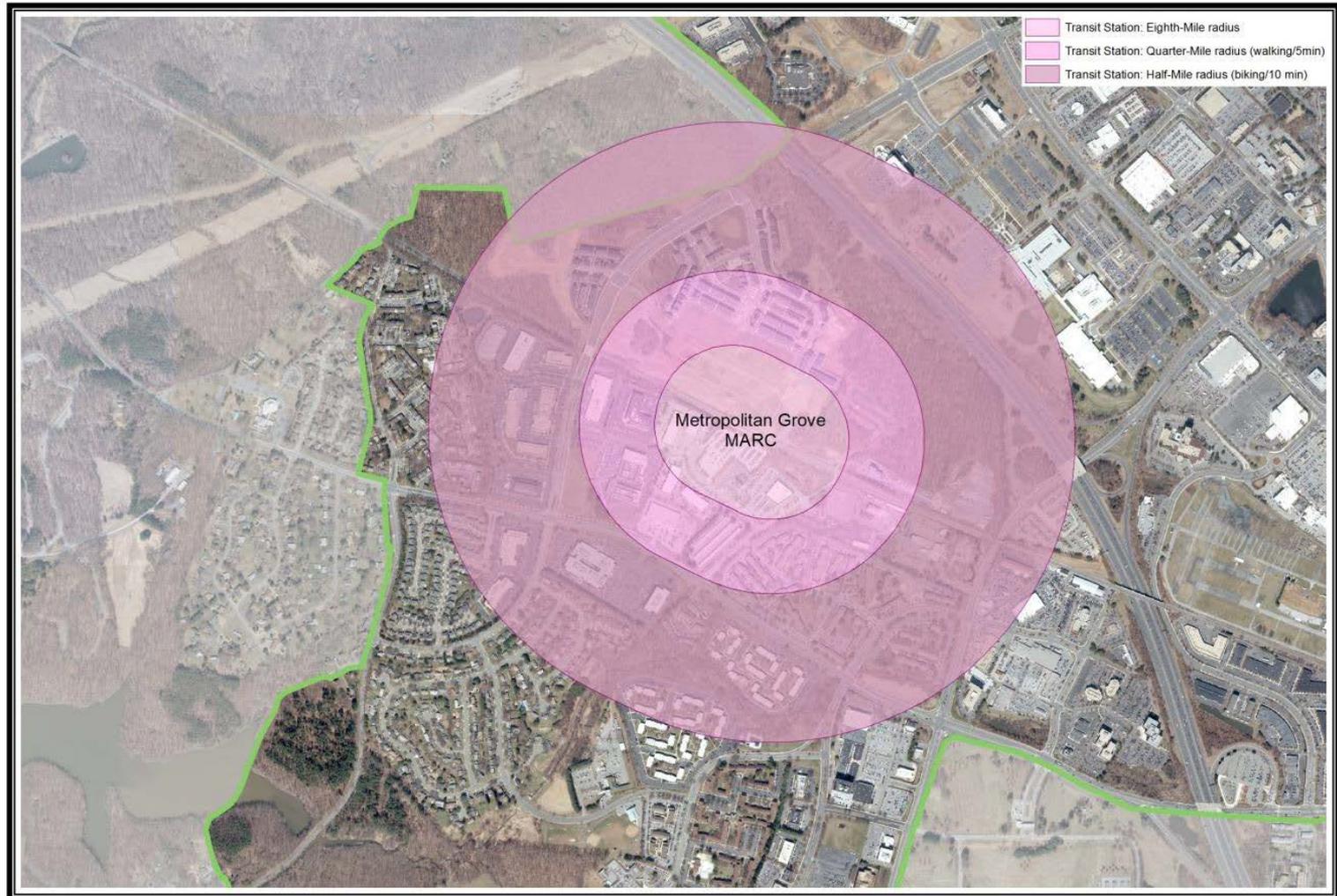
Transit Waiver Options

- Include the waiver as presented
- Do not include this waiver
- Limit the waiver to those transit projects fully funded for construction or existing only
- Limit the waiver to $1/8$ of a mile
- Expand the waiver to $1/2$ of a mile

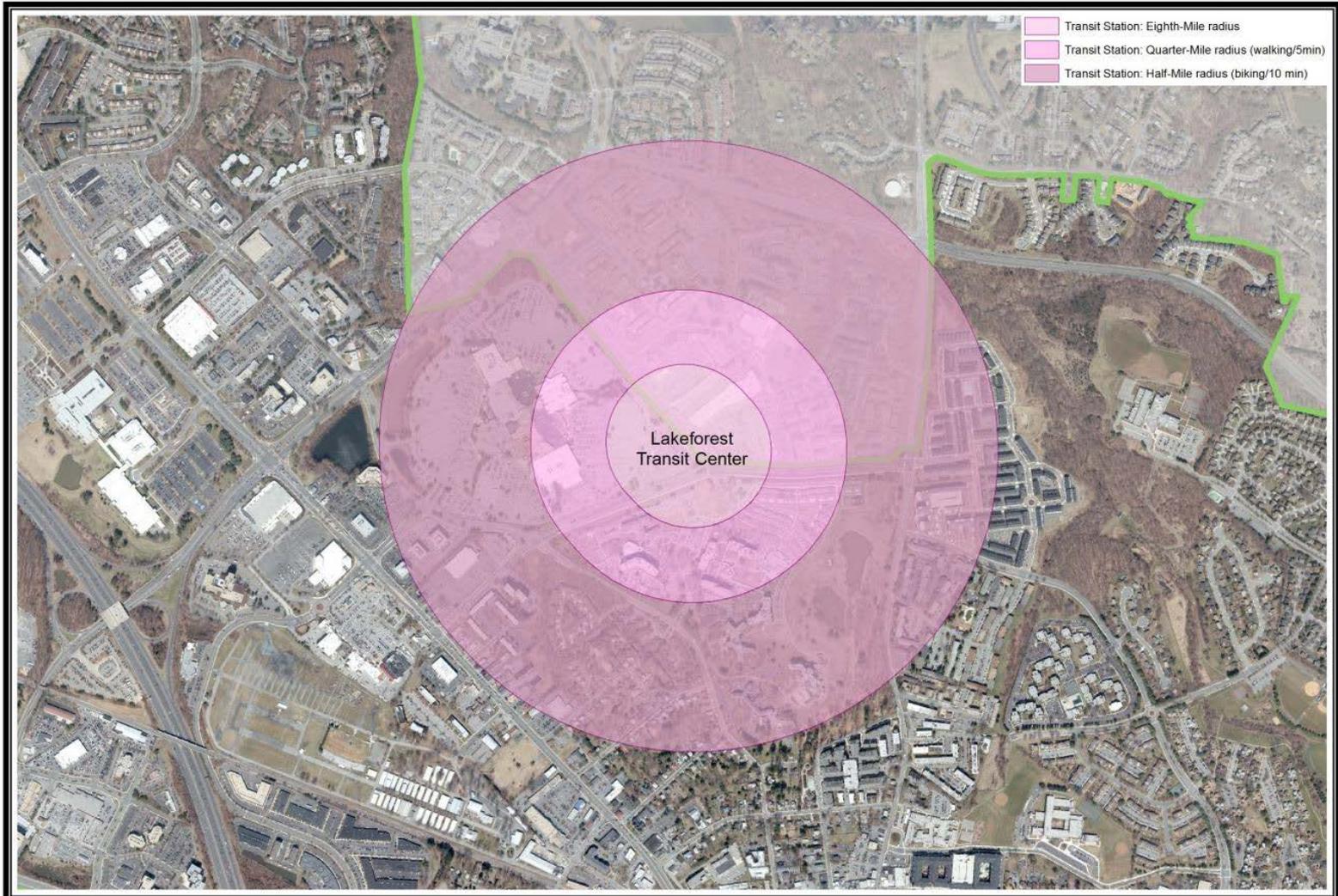
Gaithersburg and Washington Grove MARC Stations



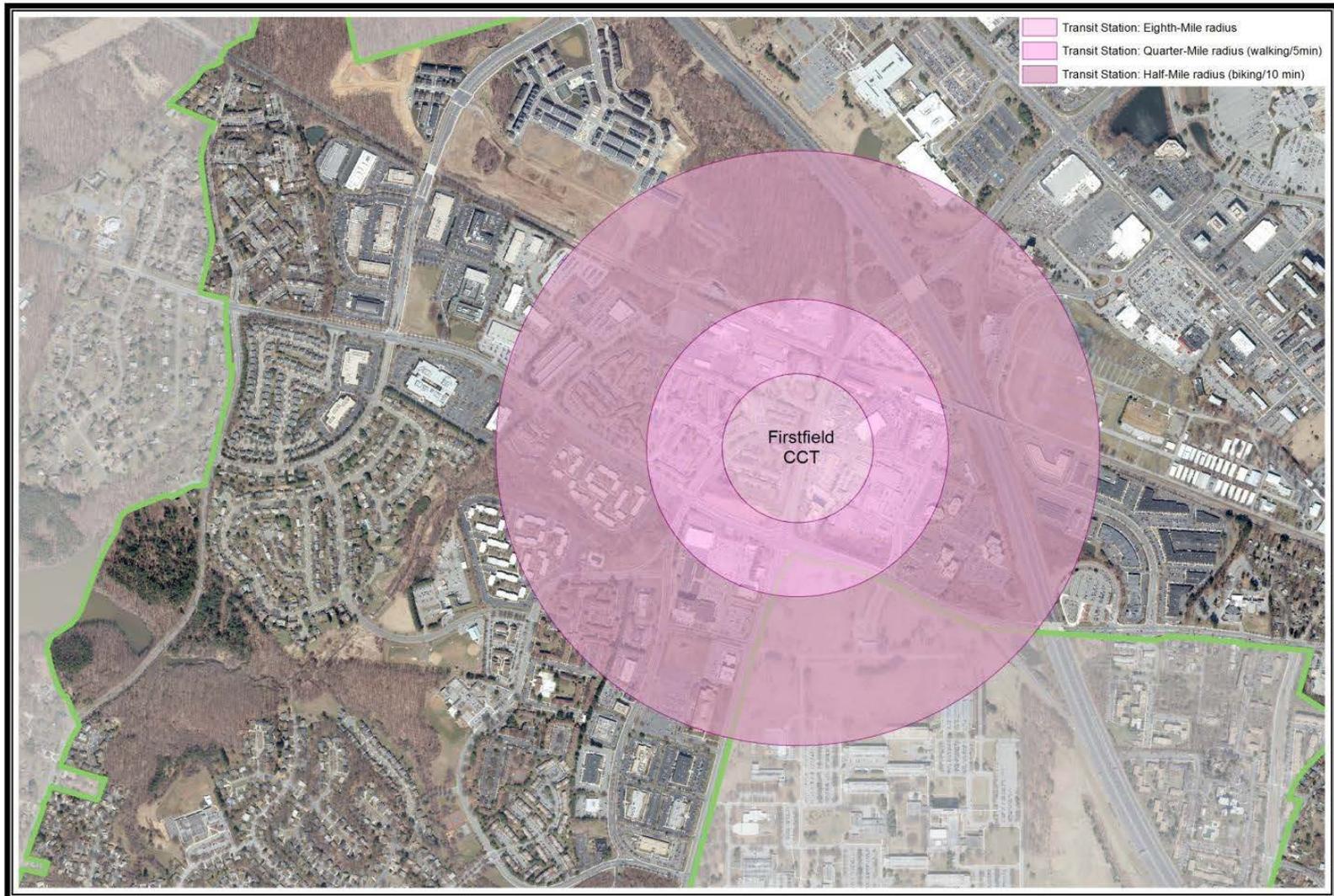
Metropolitan Grove MARC Station



Lakeforest Transit Center



Proposed Firstfield CCT Station



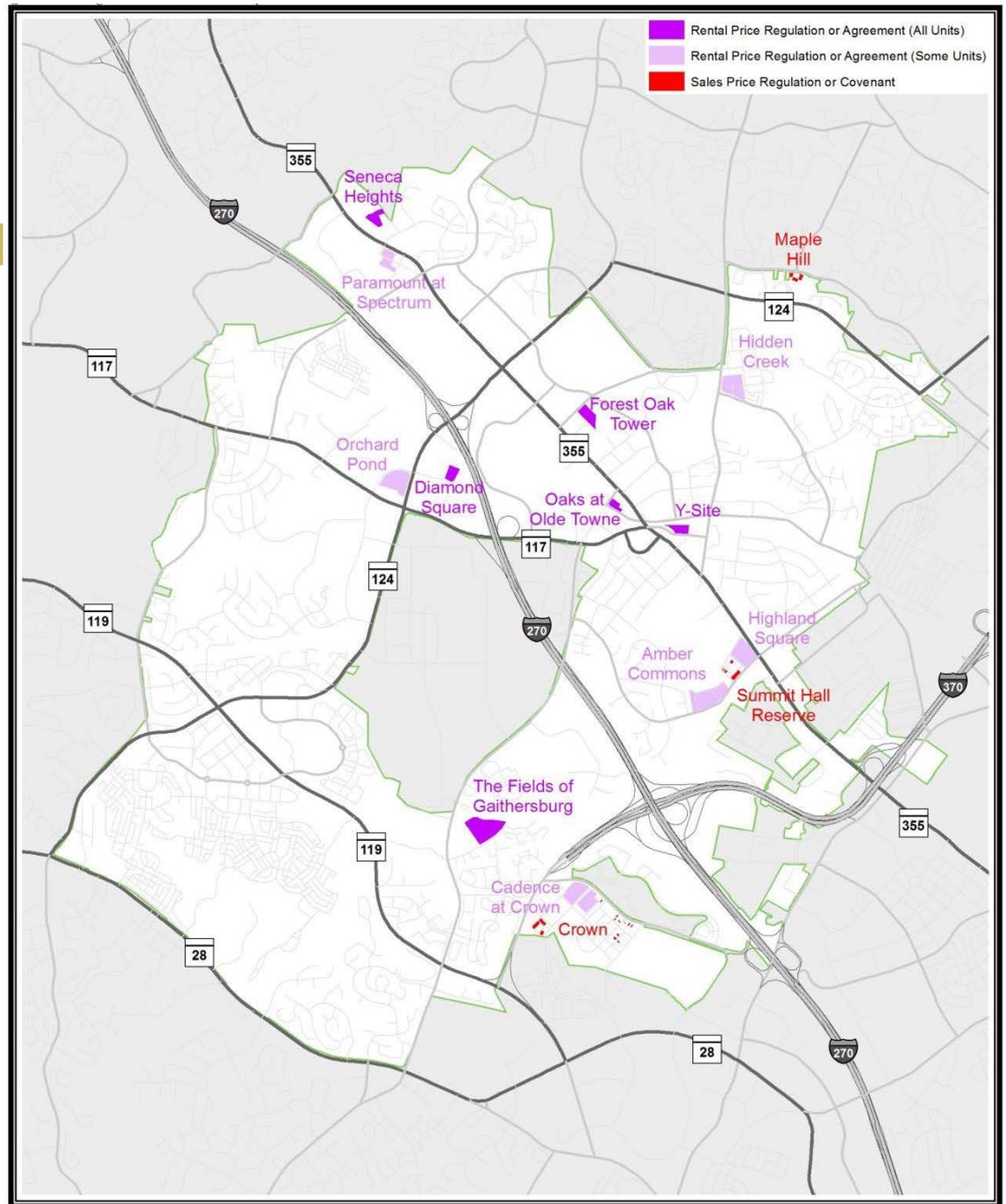
Affordable Housing Waiver Intent

- The intent of this waiver is to consider those projects that propose a greater specific public benefit facet (Affordable Housing) than required by code (double).

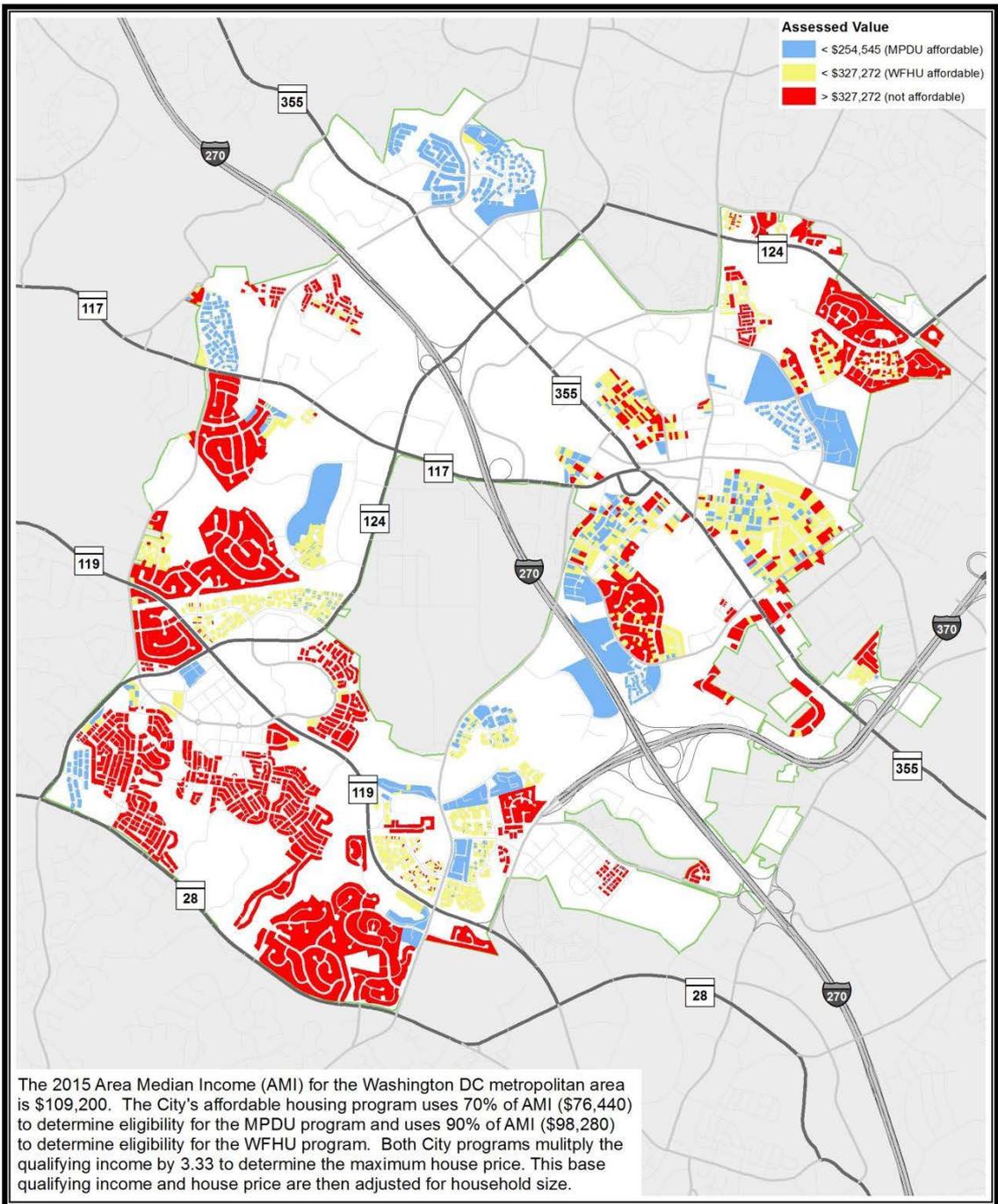
Affordable Housing Waiver Justifications

- FY 2016 Strategic Plan Action Item, Housing “Prepare a list of areas...where the City would like to focus its affordable housing”
- FY 2016 Key Strategy, Housing “Encourage and support homeownership in the City”
- FY2016 Strategic Plan, Housing “Encourage a diversity of home prices in new developments”
- FY 2016 Strategic Plan, Housing “Increase the stock of affordable units throughout the City”

Properties Subject to Price Restrictions



Assessed Values of Residential



Affordable Housing Waiver Options



- Include the waiver as presented
- Do not include this waiver
- Define the mix of Workforce/MPDU's above the mandatory 15%
- Identify geographical areas for application of the waiver

Public Benefit Waiver Intent

- The intent of this waiver is to consider developer proffers as identified benefits for the City of Gaithersburg.

Public Benefit Waiver Justifications

- FY 2016 Strategic Plan, Economic Development
“Explore the use of alternative funding methods to enhance infrastructure throughout the City”
- 2009 Master Plan, State Vision 12 “...Ensure that all planning and development considers...economic, social and civic needs”
- 2009 Master Plan, Environmental Element “...Continue to consider equity in the development...”

Public Benefit Waiver Options

- ❑ Include the waiver as presented
- ❑ Do not include this waiver
- ❑ Identify minimum contribution amounts (Acreage or dollar amount)
- ❑ Limit waiver to certain public benefits
- ❑ Identify eligible projects through the annual CIP or Strategic Plan

Staff Guidance

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- Establish a Moratorium Limit (150%, 140%, 130%, 120%)
- Agreement on charging a Fee
- Include waivers provision and agreement on individual waivers;
 - #1 (Annexations) – keep, remove, modify?
 - #2 (Special Study Areas) – keep, remove, modify?
 - #3 (Transit) – keep, remove, modify?
 - #4 (Affordable Housing) – keep, remove, modify?
 - #5 (Public Benefit) – keep, remove, modify?

Next Steps

- Planning Commission record is scheduled to close at 5PM on Monday, August 24, 2015
- Planning Commission recommendation scheduled for September 2, 2015
- Mayor and City Council record is scheduled to close at 5PM on Friday, September 11, 2015
- Mayor and City Council Policy Discussion and Final Action scheduled for September 21, 2015

From: [Doris Stokes](#)
To: [John Schlichting](#); [Rob Robinson](#); [Martin Matsen](#); [Kirk Eby](#)
Cc: [Michelle Coupe](#)
Subject: FW: APFO remarks
Date: Tuesday, August 11, 2015 10:53:48 AM

FYI

From: Jud Ashman - External
Sent: Tuesday, August 11, 2015 10:48 AM
To: Doris Stokes; Michael Sesma
Subject: Fwd: APFO remarks

Hi Doris,

Below are the comments Mike sent me to be included in last night's discussion. I've copied Mike on this message so he is aware that you are going to add them to the record.

Yours,
- Jud

----- Forwarded message -----

From: **Michael Sesma** <MSesma@gaithersburgmd.gov>
Date: Mon, Aug 10, 2015 at 7:10 PM
Subject: APFO remarks
To: Jud Ashman <JAshman@gaithersburgmd.gov>, Jud Ashman - External <jud.ashman@gmail.com>

First, I want to thank staff for the thorough job on the background and justification for the recommendations on the proposed changes to the APFO. I wish I could be there to participate in person. I write the remarks without any insight to what my colleagues have to say and I'm sure there would be spirited discussion if I was there.

With that preface, I believe there are many elements here that should be addressed when the public is around to pay attention. That's never in August. Some might suggest that the timing of all this was meant to keep the topic under the radar. Especially with so many issues being considered during this work session.

I believe there are many residents, property owners and families who may be having a hard time grasping why the city council would be considering ways to ignore the impact that school overcrowding and increased traffic resulting from new residential development will place on families and on the general quality of life in the name of development and redevelopment. After all, the city has such great reputation for planning to maintain the quality of life in the city. We have as much an obligation to current resident as we have to those who want to live in Gaithersburg to enjoy that we have already built.

I'm responding to recommendations in the staff report. We have a moratorium on new residential development that my colleagues feel has resulted in more harm than benefit. It seems the rationale is that we can develop our way out of school crowding in part with the institution of a new Facilities fee. After we set out the threshold a

few years ago, and based our schools test on individual schools rather than clusters, in alignment with Rockville, and the county actually adjusted their moratorium threshold to move closer to the two cities. We need to remind ourselves that the increases in enrollment in schools that Gaithersburg children attend has not been due to residential development in or out of the city. The county still uses a cluster wide capacity test. We know that our former Mayor is working to have the county move towards a school based test. Should we give the county a chance to see the light? On the other hand why would we suggest a test that surpasses the threshold that the county already uses? I would reluctantly support a 130% school capacity threshold for imposing a moratorium on residential development for a schools based test. I will vigorously oppose any effort to exceed the county's capacity test, whether it is school or cluster based.

I would support the new Gaithersburg Schools Facility Payment fee as long as we are assured that such fees will be used to address capacity and facilities issues in schools that Gaithersburg children attend. It should also be based on the Individual school test rather than a cluster capacity test.

I am not convinced that a waiver for annexations is necessary. I believe every aspect of an annexation must be subject to negotiation. There should be no default entitlement to waivers.

I would support limiting the waiver provision to those areas identified as a priority for redevelopment. We should revisit those areas that have been defined for targeted or growth & revitalization or for future growth under Plan Maryland.

For property in proximity to existing or proposed transit system I support limitation of the waiver to those projects that are funded for construction or existing. I would limit the waiver to a half mile, if the walking distance was based on the actual, and practical walking distance, rather than the radius. There are several proximity maps in which the radius and actual walking distances for the majority of "commuters" are likely to be disparate, e.g., Washington Grove/MARC, Lake Forestm Metropolitan/MARC/RTV. These locations would have circuitous, rather than direct pedestrian access

For Projects proposing 30% or greater affordable dwellings I do not support the inclusion of the waiver without knowing the mix of MPDU/WFHU above the mandatory level and unless the project was in proximity to existing or proposed transit systems.

In considering profers of land or funding of infrastructure for waivers of the APFO requirement I would only support such for certain and specific public benefits, which would include the impact on quality of life as well as the impact on capital and operating expenses of the city.

Thanks, Jud

Michael A Sesma
Council Member, City of Gaithersburg, MD

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Jud Ashman
Mayor, Gaithersburg, Maryland
Founder and Chair, Gaithersburg Book Festival
www.gaithersburgbookfestival.org
@judashman

From: [Rob Robinson](#)
To: [Rob Robinson](#)
Subject: FW: CTAM-7036-2015 APFO Schools 08-11-15.doc
Date: Tuesday, August 11, 2015 10:51:24 AM
Attachments: [CTAM-7036-2015 APFO Schools 08-11-15REV.doc](#)
[image001.png](#)

From: Frank Johnson
Sent: Tuesday, August 11, 2015 10:37 AM
To: Martin Matsen; Rob Robinson; John Schlichting
Subject: RE: CTAM-7036-2015 APFO Schools 08-11-15.doc

Yes, this looks good; I do suggest one change as to the fee to be established.

We do need to specify that the fee will be the County fee, i.e., the amount set by the County, as that is what is permitted by State law and by the Federal District Court case reviewing a similar arrangement between Annapolis and Anne Arundel County. Even as I understand the regs/resolution will specify this, we need to be sure the enabling ordinance has us covered on this key issue. The attached has that clarification, and otherwise these requirements (using the County standards, requiring the revenue to be used to address the impact from the development producing the revenue, and having the 15-year return payment) look good and I would agree reflect last night's discussion.

If any other question, let me know!

Thanks
Frank



Frank M. Johnson, Assistant City Attorney | Dept. of Legal Services
City of Gaithersburg | 31 S. Summit Avenue | Gaithersburg, MD 20877
P (301) 258.6310 x. 2284 | F (301) 948.6149

Joint Hearing - MCC & PC
CTAM-7036-2015

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City of Gaithersburg

31 South Summit Avenue
Gaithersburg, Maryland 20877

DRAFT

Mayor and City Council / Planning Commission
Joint Work Session Minutes
City Hall - Council Chambers
Monday, August 10, 2015

I. CALL TO ORDER

A joint work session of the Mayor and City Council was called to order at 7:30 p.m., Mayor Ashman presiding. Council Members present: Drzyzgula, Harris, Marraffa, and Spiegel. Council Absent: Sesma. Planning Commission Present: Bauer, Hopkins, and Kaufman. Staff present: City Manager Tomasello, Deputy City Manager Enslinger, City Attorney Board, Director of Planning and Code Administration Schlichting, Planning Division Chief Matsen, Long Range Planning Manager Robinson, GIS Planner Eby, and Assistant City Attorney Johnson.

II. DISCUSSION TOPICS

A. CTAM-7036-2015: Adequate Public Facilities Ordinance Revisions (APFO)

Director Schlichting began the work session with a presentation that focused on the three facets of the proposed CTAM-7036-2015 amendment to the School requirements under the City's APFO:

- The moratorium limits- 120%, 130%, 140%, or 150%
- A Proposed Facilities Payment Fee
- Proposed Waiver Provisions.

Following the presentation and comments from one speaker from the public, the Council and Commission began a discussion further addressing specifics and implications of each facet of the ordinance being proposed. Staff provided additional explanation as to what regulations for the Facilities Payment Fee would include and how such a program would function. The Planning Commission requested that staff, for their recommendation meeting, provide an analysis for potential Fees received for both the Kentlands Commercial District Master Plan implementation and the Orchard Pond approved Sketch Plan. The Council requested that staff provide examples of when developers may exchange public benefits for relief from a zoning requirement. The Council then stated their individual positions on each of the three facets. The Council then provided staff with the following guidance as to what to include in the draft ordinance moving forward:

- A moratorium limit above 150%
- A Facilities Payment Fee will be included based upon individual schools at or above 105%
- To remove the Annexation waiver provision

- To remove the Transit Oriented Development waiver provision
- To amend the Special Study Area waiver provision to not identify specific Master Plans in the ordinance, but to refer to the Annual Strategic Plan for identified areas
- To amend the Affordable Housing waiver provision to establish a minimum of 15% moderately priced dwelling units and 15% workforce housing
- To retain the public/civic use benefit waiver provision.

III. ADJOURNMENT

There being no further business to come before this session of the City Council, the meeting was duly adjourned at approximately 9:15 p.m.

Respectfully submitted,

John Schlichting, Planning and Code Administration Director
Martin Matsen, Planning Division Chief
Rob Robinson, Long Range Planning Manager
Kirk Eby, GIS Planner

SAUL CENTERS, INC.

7501 Wisconsin Avenue, Suite 1500E, Bethesda, Maryland 20814
(301) 986-6200

August 24, 2015

Planning Commission
City of Gaithersburg
31 South Summit Avenue
Gaithersburg, MD 20877

Subject: CTAM-7036-2015, Adequate Public Facilities Ordinance (“APFO”) Revisions

Dear Chairman Bauer and Commissioners:

Saul Centers, Inc., for itself and on behalf of the affiliated owners (collectively, “Saul”) of Kentlands Square located at 195 - 285 and 311 Kentlands Boulevard and Kentlands Place located at 60 – 82 Market Street (collectively, “Saul Properties”), submits this letter in connection with the above referenced draft APFO revisions.

Saul applauds the City’s effort in this CTAM to solve the problem arising from the interplay of the City’s APFO, the County’s APFO, and the County’s school facilities planning policies. Due to this interplay, the pace of development and economic growth in large parts of the City is now largely determined, in effect, by school facility planning decisions at the County level. Saul very much appreciates the City’s effort to revise the City’s APFO in order to address this anomaly and regain the initiative. At the same time, Saul would like to bring to the City’s attention a significant concern about one aspect of the current draft APFO revisions.

Saul’s interest in this CTAM arises primarily from the fact that Saul owns nearly half the acreage and existing commercial square footage in the Kentlands Boulevard Commercial District. Consistent with its corporate philosophy, Saul is invested in Kentlands for the long term. Saul is very actively involved in stakeholder efforts to advance the Corridor Cities Transit (CCT) from drawing board to reality. And Saul is very interested in pursuing every viable opportunity to redevelop the Saul Properties in accordance with the City’s long-term vision for mixed-use, urban-style development set forth in the Kentlands Boulevard Commercial District, Special Study Area Land Use Plan adopted in May 2008 (“Kentlands Commercial Plan”).

Today, the Kentlands Boulevard Commercial District is fully developed with one-story, suburban shopping centers. The conversion to viable mixed-use redevelopment will involve intricate processes, long-range planning, and costly efforts in the coming years. Unwinding existing tenancies and other agreements and demolishing existing improvements will require substantial commitments. Most importantly, mixed-use redevelopment will require clarity and predictability on the question of residential entitlements, because large residential components will be essential for viable redevelopment. In Saul’s case, it would be closing very successful properties in phases for redevelopment over time. But, to be viable, Saul’s redevelopment cannot occur piecemeal or by half-measures. When the time comes, Saul cannot initiate its

SAUL CENTERS, INC.

mixed-use redevelopment without clarity and predictability about the availability of the necessary residential entitlements to complete the conversion.

Specifically, with regard to the school test, Saul believes that the current draft APFO revision would not provide clarity and predictability on the question of residential entitlements in the Kentlands Boulevard Commercial District. As currently drafted, the threshold would be raised from 110% to 150% for projected school enrollment in the test year. Unfortunately, given the County's enrollment projections for Rachel Carson ES, this 150% threshold could entitle only an insignificant amount of new residential development. Furthermore, the draft waiver provision (for residential projects that would exceed this 150% threshold) does not spell out how an applicant could qualify for the waiver; thus, at any point in time, the waiver could be an entirely subjective and unpredictable determination by the City.

Saul suggests at least two approaches to address this concern. One, the City could further revise the draft APFO to remove the school capacity test (or to remove it just in specified areas, including the Kentlands Boulevard Commercial District). In this manner, the City's master planning efforts could not be stymied by school facility planning decisions at the County level. Saul submits that a school-based development moratorium may not be an appropriate master planning tool in the City. Indeed, the current County Council does not allow school capacity to create a moratorium on development and related economic growth. The City could adopt the same approach by removing the school capacity test from its APFO. Two, if the City believes that the 150% school capacity test and the waiver provision are generally necessary, the City could add language specifying that any project would be granted a waiver if it is substantially consistent with the Kentlands Commercial Plan's recommendations. That additional language could bring some predictability to the waiver provision. Aside from these two approaches, there may be other ways to address this concern. Saul certainly remains open to any viable approach, and looks forward to working with the City on its proposed APFO revisions.

Please feel free to contact the undersigned if you have any questions or need any additional information at this time. Thank you for your consideration.

Sincerely,



Brian T. Downie
Senior Vice President, Development

Cc: Hon. Jud Ashman, Mayor
Gaithersburg City Council
John Schlichting
Martin Matsen
Rob Robinson