

From: [Barr, Stuart R.](#)
To: [John Schlichting](#)
Cc: [Martin Matsen](#); [Rob Robinson](#); [Barr, Stuart R.](#)
Subject: RE: Johnson Annexation Email to Community
Date: Saturday, October 31, 2015 4:01:42 PM
Attachments: [image001.png](#)

John – thanks for the follow up, appreciate it. Obviously, our intent was not to explode the City in-boxes, but we needed to engage the community and start that dialogue. I know we are getting together Tuesday, but a couple of quick questions:

- 1/ Can you please send me the approved change to the City APF/school test?
- 2/ My understanding is that residential units in the City would pay the County school impact tax per dwelling unit – do they also pay the County transportation impact tax?

Thanks, Stuart

--

Stuart R. Barr - Attorney
Lerch, Early & Brewer, Chtd. *ideas that work*
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Tel: (301) 961-6095 Fax: (301) 347-1771 - srbarr@lerchearly.com
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From: John Schlichting [<mailto:JSchlichting@gaithersburgmd.gov>]
Sent: Friday, October 30, 2015 4:42 PM
To: Barr, Stuart R.
Cc: Martin Matsen; Rob Robinson
Subject: Johnson Annexation Email to Community

Stuart,

Our email boxes have been exploding with concerns about the Johnson annexation today so the Mayor & Council and the City Manager asked us to put together an email explaining the process and where we are in it. The email follows with the attached timeline.

Have a great weekend,
John

On August 17, 2015, the Mayor and City Council of Gaithersburg voted to introduce an Ordinance to annex approximately 23.45 acres of land in the northwest quadrant of the intersection of Darnestown and Quince Orchard Roads known as the Johnson Property. This action was taken at

the request of the property owner. A video of the Mayor and Council's discussion and a package of materials can be found under Ordinances / Resolutions / Regulations at this link:

<http://sirepub.gaithersburgmd.gov/sirepub/mtgviewer.aspx?meetid=2356&doctype=AGENDA>

This was the beginning of a lengthy public process which will include many more opportunities for public comment. Attached is a timeline of the process with estimated timeframes. While initiated by the City, the process involves Montgomery County staff and both the County Planning Board and Council. The next step is the County Planning Board's discussion and recommendation which will take place at the Maryland-National Capital Park and Planning Commission at 8787 Georgia Avenue in Silver Spring on Thursday, November 12th from 10:30AM to 3:00PM. The agenda and materials for this meeting are not yet online, but will be posted at this link:

http://www.montgomeryplanningboard.org/meetings_archive/

A Project Page for the Johnson annexation is being prepared and will be available on the City's website next week. It is important to note that this proposed annexation is one of two that are running almost concurrently at the same intersection. The owners of Potomac Valley Shopping Center are also seeking annexation for the portion of the shopping center not currently in the city in the southeast quadrant. The Mayor and City Council introduced that Ordinance on September 8th.

Both of these properties are within the maximum expansion limit of the City of Gaithersburg, as depicted in the Growth Element of the City's 2003 Master Plan, adopted 2009.

Please don't hesitate to call or email me, Planning Division Chief Martin Matsen (mmatsen@gaitersburgmd.gov), or Long Range Planning Manager Rob Robinson (rrobinson@gaitersburgmd.gov) with questions.



John Schlichting | Director, Planning and Code Administration

City of Gaithersburg | 31 S Summit Avenue | Gaithersburg, MD 20877

P (301) 258.6330 | C (240) 421-0812 | JSchlichting@GaithersburgMD.gov

From: Rob Robinson
To: "[Katie Rapp](#)"
Cc: "COUNCILMEMBER.KATZ@MONTGOMERYCOUNTYMD.GOV"; [Martin Matsen](#); "COUNCILMEMBER.RICE@MONTGOMERYCOUNTYMD.GOV"
Subject: RE: Questions re Johnson property
Date: Tuesday, November 03, 2015 1:29:00 PM
Attachments: [Ex 19 Phasing Exhibit.pdf](#)

Hi Ms. Rapp,
Answers in Red below.

Rob

Rob Robinson III, AICP CEP
FCA Qualified Professional
Long Range Planning Manager
City of Gaithersburg
301-258-6330 Ext. 2122

The opinions expressed in this message are not necessarily those of the City of Gaithersburg Staff, Mayor or Council.

From: Katie Rapp [mailto:wookyluvr2002@yahoo.com]
Sent: Wednesday, October 28, 2015 11:06 PM
To: Rob Robinson
Cc: Munish Mehra; COUNCILMEMBER.KATZ@MONTGOMERYCOUNTYMD.GOV; COUNCILMEMBER.RICE@MONTGOMERYCOUNTYMD.GOV
Subject: Questions re Johnson property

Hi Mr. Robinson,

Councilmember Katz's office recommended I contact you with questions.

1. If the whole 23 acres is annexed and rezoned MXD is there any requirement that it be developed in phases the way the Johnson's presented it to us Tues evening? That is, is there a requirement that the western 14 acres always be residential? Or would he have the option of doing commercial on the whole 23 acres (mixed with residential)?

The proposed plan, if annexed is a binding Sketch Plan- there would be no option to expand commercial uses beyond what is shown.

2. When MXD property is redeveloped, is there any requirement to inform adjoining property owners and HOAs?

MXD zoned properties have multiple development plan stages. As part of each stage- neighbors within 200' are notified of any meetings or public hearings.

3. Because this would be city property and the surrounding residents are in the

county and not Gburg constituents, there is quite a lot of concern about what we perceive will be a lack of interest on the city's part to care about our input. I don't expect you to respond to that, but it's an issue that's creating a great deal of dis-ease about the annexation. We'll have this little sliver of city in our midst and no say about it and no representatives on our side.

4. Community members are hugely concerned about the impact of high density housing like this on the schools and roads which are both saturated. The Johnson's response was pretty much that those issues don't enter into their plans for annexation and aren't dealt with until much later in the development process. There is a great deal of community concern about the impact of this type of development on the quality of life for the whole Quince Orchard area and especially directly surrounding the high school with it.

The City's Adequate Public Facilities (APFO) Tests are implemented at Schematic Development Plan when preliminary subdivision occurs and final development densities and types are established and not at Annexation/Sketch.

5. On that topic, I saw in the Gburg master plan the interest in annexing and rezoning all the corners surrounding QOHS and the word "gateway" is used for this area. Why? I understand gateway for Rio/Crown since they're near 270 and a lot of people enter the city there. I don't understand it on the western edge, with low density rural development in Darnestown and the ag reserve beyond. Why plan to create a built up "gateway" at QO/28?

6. Are roads really not considered in the plan? The Johnsons said since these are state routes it's not dealt with by the city and as far as they know SHA hasn't been involved yet. Is this a city planning issue to get SHA involved? And how wide could they make 28? The bottleneck at Riffle Ford is so ridiculous now. I live in Willow Ridge and we simply can't use the Copen Meadow exit for left turns at morning or evening rush. The area needs better infrastructure to accommodate current traffic. How can you plan for and approve higher density development when the infrastructure isn't there?

State Agencies such as SHA and other agency stakeholders are notified and solicited for comment at the Schematic Development Plan Stage- this is when actual preliminary subdivision and 80% engineering are completed. Please be aware that annexation/sketch plans are "bubble" plans that provide a basic development framework and limits and are not used for traffic impacts and mitigation or establishing student generation impacts.

7. Back to the Johnson property, if the land is annexed/rezoned, is there a timing requirement for redevelopment of the current commercial properties? That is, could they leave the Safeway as it is for 20 years before they decide to do anything? Or do they submit plans with the rezoning request and have a timeline for implementing them? What's the max commercial development on the whole 23 acres?

There is no specific timetable for the phased development.

8. It sounded like the concept plan was all that was required for the annexation/rezoning. How much is allowed to change from the concept plan to what

is eventually built? And how are nearby homeowners and HOAs involved if it is annexed? Are there requirements for informing us of plans and do we have the right to comment at hearings (again an issue for us since we aren't city residents and we doubt that anyone would listen).

All subsequent development plans submitted must comply with the annexation/sketch plan. Again, each subsequent development plan process includes mailed notification to all property owners within 200' of the application. Anyone may testify on an application.

9. What is the maximum number of residential units that can be built on the whole property? What is the maximum height? Can they be rental units? Is there a cap on the percentage of rentals?

Attached is the proposed phasing exhibit which defines all of your questions.

Thanks for helping us understand a little better what this annexation would mean for our surrounding community. I'm sure I will have more questions and I appreciate your time.

Katie Rapp
Willow Ridge Civic Assn



City of Gaithersburg

31 South Summit Avenue
Gaithersburg, Maryland 20877

Mayor and City Council Regular Session Minutes City Hall - Council Chambers Monday, August 17, 2015

I. CALL TO ORDER

Mayor and City Council regular session was called to order at 7:30 p.m. with Mayor Ashman presiding. Council Members present: Drzyzgula, Harris, Marraffa, Sesma and Spiegel. Staff present: City Manager Tomasello, Deputy City Manager Enslinger, City Attorney Board, Economic and Business Development Director Lonergan, Planning and Code Administration Director Schlichting, Finance and Administration Director Walker, Procurement Manager Rhodes, Long Range Planning Manager Robinson, Parks, Recreation and Culture Director Potter, and Municipal Clerk Stokes.

II. PLEDGE OF ALLEGIANCE

The Pledge was led by Wes Rhodes, Procurement Manager, City of Gaithersburg.

III. REFLECTION

Mayor Ashman called for a moment of silence.

IV. APPROVAL OF MINUTES

A. Special Session held July 13, 2015

Motion was made by Cathy Drzyzgula, seconded by Ryan Spiegel, that minutes from the Special Session held July 13, 2015, be approved.

Vote: 4-0-1 Abstained: Marraffa

B. Regular Session held July 20, 2015

Motion was made by Michael Sesma, seconded by Neil Harris, that minutes from the Regular Session held July 20, 2015, be approved.

Vote: 4-0-1 Abstained: Marraffa

C. Regular Session held August 3, 2015

Motion was made by Henry F. Marraffa, seconded by Cathy Drzyzgula, that minutes from the Regular Session held August 3, 2015, be approved.

funds and investments. She stated that the City's cash balance stems from operating cash flow kept on hand and funds collected for pending projects before completion.

This resolution authorized the City Manager to award a contract for non-discretionary investment advisory services for the investment of City funds to PFM Asset Management, One Keystone Plaza, Suite 300, North Front & Market Streets, Harrisburg, Pennsylvania 17101, based on assets under management fees of 0.10% for the first \$25 million invested, 0.08% for the next \$25 million invested, 0.07% for the next \$50 million invested and 0.06% for amounts over \$100 million. The contract amount would not exceed Fifty-Three Thousand Dollars (\$53,000) for the first year; said funds to be expended from the Operating Budget.

Motion was made by Neil Harris, seconded by Henry F. Marraffa, that a Resolution of the Mayor and City Council Authorizing the City Manager to Award a Contract for Non-Discretionary Investment Advisory Services for the Investment of City Funds (Resolution No. R-62-15), be approved.

Vote: 5-0

- B. [**X-7067-2015 - Introduction of a Resolution Authorizing the Annexation to the City of Gaithersburg of Approximately 23.45 Acres of Land Located Adjacent to the Present Corporate Limits and to Establish MXD Zoning for Said Land, Known as the Johnson Properties, Located Northwest of the Intersection of Quince Orchard Road and Darnestown Road at 12201, 12251, 12301, and 12311 Darnestown Road**](#)

Long Range Planning Manager Robinson introduced the above resolution authorizing the annexation to the City of Gaithersburg of approximately 23.45 acres of land adjacent to the present corporate limits and to establish MXD zoning for said land, known as the Johnson Properties. The properties are located northwest of the intersection of Quince Orchard Road and Darnestown Road at 12201, 12251, 12301, and 12311.

Lerch Early & Brewer filed an application on the behalf of Johnson Family Enterprises, LLC and Three Amigos Real Estate, LLC, petitioning the City to annex the above mentioned land from Montgomery County into the City. The area of annexation consists of four platted parcels and right-of-way, more particularly described as: (1) Parcels C and D, in the subdivision known as "QUINCE ORCHARD, Parcel C & D, JOHNSONS FLOWER CENTER," (2) Parcel B, in the subdivision known as "QUINCE ORCHARD, Parcel 'B', a resubdivision of Parcel 'A', JOHNSON FLOWER CENTER," (3) Parcel E in Block B, in the subdivision known as "WILLOW RIDGE," and (4) a portion of Quince Orchard Road right-of-way per State Highway Administration Plat Nos. 54097 and 54385. The annexation petition requests annexation of the property and rezoning from Montgomery County's R-200 and NR-0.75, H-45 ("Neighborhood Retail") to the City of Gaithersburg's MXD Zone. The property is located within the City's Maximum Expansion Limits as identified within the Municipal Growth Element of the 2003 Master Plan.

Mr. Robinson explained that an introduction of the annexation resolution will commence the annexation process, including forwarding the petition to Montgomery County Planning for review by the Planning Board for determination if the development would be substantially different than the use authorized under county zoning at the time of the annexation. For five years following an annexation, development density of newly annexed property may not be greater than 50% higher than would have been permitted under county zoning at the time of annexation. The Montgomery County Council may waive this requirement. Staff was directed to proceed with a proposed public hearing date following the

determination by the County as to if a waiver is required and/or granted.

Motion was made by Ryan Spiegel, seconded by Henry Marraffa, that X-7067-2015: Resolution Authorizing the Annexation to the City of Gaithersburg of Approximately 23.45 Acres of Land Located Adjacent to the Present Corporate Limits and to Establish MXD Zoning for Said Land, Known as the Johnson Properties, Located Northwest of the Intersection of Quince Orchard Road and Darnestown Road at 12201, 12251, 12301, and 12311 Darnestown Road, be introduced.

Vote: 5-0

C. [Resolution to Negotiate an Annexation Agreement for the Johnson Property \(X-7067-2015\)](#)

City Attorney Board presented said resolution authorizing the City Manager to negotiate an Annexation Agreement with the owners of the Johnson Property to be submitted for approval by the City Council with the Annexation Resolution. The owners of the property known as Parcel Numbers 06-02952493, 06-02952482, 06-0039571 and 06-03411400 located at 12201, 12251, 12301 and 12311 Darnestown Road, Montgomery County, Maryland, containing approximately 23.45 acres of land (the "Johnson Property") have filed a Petition for Annexation seeking annexation into the City of Gaithersburg. It was determined that an Annexation Agreement between the City of Gaithersburg and the owners of the Johnson Property should be entered into setting forth the terms and conditions of the annexation should the City approve the annexation of the Johnson Property. A memorandum from City Attorney Board was provided to the Mayor and City Council outlining the petitioner's requests. In response to concerns expressed, the City Attorney Board clarified that it is normal practices for owners to not pay City property tax on the commercial portions of the property for a period of 10 years unless redevelopment according to the Sketch Plan occurs. She mentioned that Finance staff was asked to conduct an impact analysis of the property tax deferral. Concerns was also expressed with the property being exempted from the APFO Schools Test and the applicants request to meet the affordable housing requirements but be exclusive for multifamily and townhouse units only.

Motion was made by Henry F. Marraffa, seconded by Michael Sesma, that X-7067-2015 a Resolution of the Mayor and City Council Authorizing the City Manager to Negotiate an Annexation Agreement for the Johnson Property (Resolution No. R-63-15), be approved.

Vote: 5-0

D. [Introduction of an Ordinance to Amend Chapter 2 of the City Code, Entitled "Administration," Article II, Entitled "Municipal-County Relations", Section 2-6 Thereof, Entitled "Exemption from Montgomery County Legislation and Regulations Within the City" so as to Include the Provisions of Section 24-11B Entitled "Bodywork Establishments" of Chapter 24 of the Montgomery County Code Entitled "Health and Sanitation" as Being Applicable and Enforceable Within the City Limits](#)

City Attorney Board presented the proposed ordinance to amend Chapter 2 of the City Code for introduction. On April 14, 2015, the Montgomery County Council approved Bill No. 9-15 which adds language to Chapter 24, Health and Sanitation, Section 24-11B, addressing bodywork establishments. The Bill provides a definition of bodywork, outlines the requirements for such establishments to obtain a license to operate in Montgomery County, authorizes the Department of Health and Human Services to issue a bodywork licenses, authorizes the Police Department to enforce the law, and regulates the

From: [John Schlichting](#)
To: [Klebs, Elmer](#); "Michael.bello@montgomeryplanning.org"
Cc: [Klebs, Oksana](#); [Rob Robinson](#)
Subject: RE: Concerns regarding proposed Johnson Property annexation
Date: Wednesday, November 04, 2015 3:50:13 PM
Attachments: [Johnson AnnexTimeline.pdf](#)
[image001.png](#)

Dear Mr. Klebs,

Attached please find the requested timeline for the proposed Johnson property annexation. Since we produced the attached document, we have set two of the dates. The Planning Commission will be considering their recommendation to the Mayor and Council at their regular meeting at 7:30PM on December 2, 2015, and the Mayor and Council will be holding their Public Hearing at 7:30PM on February 2, 2016. Both meetings will be in the Council Chambers here at Gaithersburg City Hall. Also, the Project Page for the Johnson Annexation is now online at the City's website here:

<http://www.gaithersburgmd.gov/government/city-projects/johnson-annexation-x-7067-2015>

I hope this is responsive to your request.

 **John Schlichting** | Director, Planning and Code Administration
City of Gaithersburg | 31 S Summit Avenue | Gaithersburg, MD 20877
P (301) 258.6330 | C (240) 421-0812 | JSchlichting@GaithersburgMD.gov

From: Klebs, Elmer [<mailto:ekle@loc.gov>]
Sent: Tuesday, November 03, 2015 3:11 PM
To: John Schlichting; 'Michael.bello@montgomeryplanning.org'
Cc: Klebs, Oksana
Subject: Concerns regarding proposed Johnson Property annexation

Dear Mr. Schlichting and Mr. Bello,

As an area resident, I was recently alerted to the proposed annexation of the Johnson Property (at the corner of Darnestown Road and Quince Orchard Road) to the City of Gaithersburg, and look forward to future opportunities to offer public comment on the proposal before final action is taken.

Mr. Schlichting, as you offered in a posting on the NextDoor DuFief website, please send me "a timeline of the process with estimated timeframes."

Mr. Bello, my neighbors and I are concerned about the proposed density of the property, if annexed and developed as planned, and would like our views to be heard.

Mayor and City Council
X-7067-2015
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Thank you!

Elmer Klebs
11812 Silent Valley Lane
North Potomac, MD 20878

Carly Woolheater
12157 McDonald Chapel Dr.
Gaithersburg, MD 20878
November 4, 2015

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

Dear City of Gaithersburg Planning Board:

My name is Carly Woolheater. My husband, my young daughter and I recently purchased a home in beautiful Orchard Hills, just outside of the Gaithersburg city limits. We have longed to live in a single family home with a nice yard, quiet streets and general tranquility for years. We saved, made sacrifices and worked hard so we could afford a home in this quiet suburban setting to raise our children.

I recently attended a community meeting held by the Johnson family regarding their plans for their property located adjacent to our neighborhood. The first step in this plan is to request annexation to the City of Gaithersburg in order to change the zoning from Montgomery County's R-200 and NR-0.75, H-45 to the City of Gaithersburg's MXD.

Subsequent steps in their proposed plan include heavy development and redevelopment of the property. Including a proposed additional 180 residences in the form of single family, townhomes and multi-family homes. Further, the property owners propose redeveloping the existing neighborhood commercial property to include mixed use buildings, up to six stories tall with an additional 125 housing units.

I would like to respectfully request the City of Gaithersburg Planning Board consider denying the Johnson Annexation and / or rezoning to MXD (X-7067-2015) for the following reasons:

1. The proposal to annex circumvents the Montgomery County Master Plan¹ for the area for a "new local park [which] would provide two rectangular fields for active recreation.... [or] the parcel may be appropriate for residential use including single family detached and townhouse units" [pg. 61] and that the area "retain the existing residential and commercial zones and maintain the established character of these neighborhoods" [pg. 63].
2. The sketch plan proposed (attached) seeks to significantly change the housing density and overall character of the existing area and surrounding communities. The property owners stated that no actual determinations for sewer, water and school capacity had been made prior to submission of the sketch plan and a traffic impact study had not been conducted.
3. The Annotated Code of Maryland was amended in 1971 to preclude municipalities from offering zoning as an incentive to annexation; now the Johnson family is pursuing annexation into the city of

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http://www.montgomeryplanning.org/viewer.shtm#http://www.montgomeryplanning.org/community/gaithersburg/documents/GSSCAprovedandAdopted_web.pdf

Gaithersburg and rezoning to MXD, thus presenting the appearance that rezoning is occurring for the sole financial benefit of the Johnson family without regard to the impacts to the neighboring communities.

4. Annexing the Johnson Property creates an enclave nearly completely surrounded by Montgomery County, thus almost creating an "island" of City of Gaithersburg MXD within a largely Montgomery County R-200 zoned area.

As those most impacted by the development and redevelopment of this property, we urge the Planning Board to consider the impacts of this proposal to the neighboring communities. We are very concerned that allowing MXD zoning and significantly higher density housing will:

1. Worsen already congested major roadways (specifically Route 28) without plans to safely accommodate the increased traffic in the neighboring municipalities
2. Create cut-through traffic in the neighboring residential neighborhoods; which increases noise, pollution, safety issues and reduces overall quality of life
3. Significantly overload the already over capacity schools in the area (Quince Orchard school cluster is already forecasted to be at 108.3% utilization for the next 5 years)²
4. Potential negative impact to property values of single family homes in neighboring communities due to increased traffic and light / noise / air pollution
5. Change the character and culture of our neighborhood from a quiet, family-oriented suburban community to a bustling town center

In closing, while we have no direct objection to the Johnson's petition for annexation, we are very concerned about the request for rezoning and development plans. In fact, the Municipal Growth Element of the Master Plan states that the city seeks to have 25% single family detached, 25% single family attached and 50% multifamily. However, in 2008 the approved pipeline only contained 18.1% single family detached housing but 27% townhouse and 54% multi-family; indicating a need to increase single family detached development.

Thus, maintaining zoning that limits construction to primarily single family detached housing on the currently vacant Johnson Property keeps with the intent to: maintain the established character of the neighborhood, meet the City of Gaithersburg and Montgomery County's goals for future housing in the area and avoid significantly over-burdening the local infrastructure.

Thank you very much for your consideration.

Sincerely,

Carly Woolheater

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Sketch Plan for Annexation

