

RESOLUTION NO. R-31-16

RESOLUTION OF THE MAYOR AND CITY COUNCIL AUTHORIZING THE ANNEXATION TO THE CITY OF GAITHERSBURG OF APPROXIMATELY 7.7614 ACRES OF LAND LOCATED ADJACENT TO THE PRESENT CORPORATE LIMITS AND TO ESTABLISH MXD (MIXED USE DEVELOPMENT) ZONING FOR SAID LAND, KNOWN AS POTOMAC VALLEY SHOPPING CENTER, LOCATED AT SOUTHEAST QUADRANT OF QUINCE ORCHARD ROAD (MD RTE 124) AND DARNESTOWN ROAD (MD RTE 28), GAITHERSBURG, MARYLAND, AND ADJACENT ROAD RIGHTS-OF-WAY

ANNEXATION X-7089-2015

WHEREAS, the Mayor and City Council of Gaithersburg have received a petition requesting the enlargement of the corporate boundaries of the City of Gaithersburg so as to include the above-noted parcel; and

WHEREAS, the signatures of said petition for annexation have been verified and it has been ascertained that the persons signing said petition are owners of not less than twenty-five percent (25%) of the assessed valuation of the real property located in the area to be annexed, and constitute not less than twenty-five percent (25%) of the persons who reside in the area to be annexed, and who are registered as voters in County elections in the precincts in which the territory to be annexed is located; and

WHEREAS, the properties, known as Potomac Valley Shopping Center South include the following address numbers:
12114, 12116, 12118, 12120, 12126, 12130, 12132, 12136, 12140, 12146, 12150, 12154, 12158, 12162, 12166, 12168 Darnestown Road; and

WHEREAS, the properties are within the defined maximum expansion limits of the City of Gaithersburg, as established in the Municipal Growth Element of the 2003 Master Plan of the City of Gaithersburg, adopted on April 6, 2009; and

WHEREAS, the properties are contiguous and adjoining to the existing corporate boundaries of the City of Gaithersburg and do not create an unincorporated area that is bounded on all sides by the real property presently in the boundaries of the City, real property proposed to be in the boundaries of the City of Gaithersburg as a result of the proposed annexation, or any combination thereof; and

WHEREAS, the Potomac Valley Shopping Center property is recommended for Commercial-Office land use designation and the MXD (Mixed Use Development) Zone in the Land Use Element of the 2009 Master Plan of the City of Gaithersburg, adopted December 19, 2011; and

WHEREAS, under the annexation petition, the properties would be rezoned from Montgomery County's NR (Neighborhood Retail) Zone to the City of Gaithersburg's MXD (Mixed Use Density Residential) Zone; and

WHEREAS, the Mayor and City Council introduced the resolution to petition the City to annex the subject property on September 9, 2015; and

WHEREAS, the Planning Commission, after holding a public discussion at their October 7, 2015, Meeting and allowing for written testimony until October 15, 2015, reviewed the application at their October 21, 2015, Meeting and recommended approval of the proposed annexation of property and rezoning the property to the City's MXD Zone; and

WHEREAS, the Montgomery County Planning Board of the Maryland–National Capital Park and Planning Commission, on November 12, 2015, unanimously voted to recommend “*the County Council need not review the Petition under Section 4-416 of the [Local Government Article] Annotated Code of Maryland as the land uses and densities proposed under the Petition are not substantially different from those allowed in the existing Neighborhood Retail Zone*”; and

WHEREAS, the Mayor and City Council, following the proper notification for the public hearing by publication not fewer than two (2) times, at not less than weekly intervals, in *The Washington Post*, a newspaper of general circulation in the City of Gaithersburg and posting of the property, conducted a public hearing on November 16, 2015, on the subject annexation and held the record open for additional written testimony until December 16, 2015; and

WHEREAS, the Mayor and City Council reviewed an Annexation Plan submitted by the applicant, identified as Exhibit 3 and a recommended Annexation Plan included in the Staff Analysis & Annexation Plan Memorandum, dated October 8, 2015, identified as Exhibit 27; and

WHEREAS, the Montgomery County Council, sitting as the District Council for that portion of the Maryland - Washington Regional District in Montgomery County, Maryland, on December 1, 2015, approved a resolution acknowledging the authority of the City of Gaithersburg to approve Annexation No. X-7089 [2015] and rezone the property to the City's Mixed Use Development (MXD) Zone, and

WHEREAS, the Mayor and City Council, at the request of the applicant, reopened the record of X-7089-2015 on March 7, 2016, in order to allow the applicant to finalize the annexation and petition with all property owner and to submit amended exhibits showing a revised area of annexation; and

WHEREAS, the staff of both the Montgomery County Council and the Montgomery County Planning Board of the Maryland-National Capital Parking and

Planning Commission has confirmed that the revision of the area would not change the review and recommendations of the annexation; and

WHEREAS, the Mayor and City Council, at their April 18, 2016 meeting announced the closing of the record of the application on May 2, 2016.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the City of Gaithersburg, that the corporate boundaries of the City of Gaithersburg be, and they hereby are, enlarged by including therein the following area:

DESCRIPTION OF PROPERTY TO BE ANNEXED INTO
THE CITY OF GAITHERSBURG, MARYLAND,
DARNESTOWN (NO. 6) ELECTION DISTRICT
MONTGOMERY COUNTY, MARYLAND

Being the following eleven (11) pieces, parcels or strips of land:

- All of Parcel C as shown and described on a plat of subdivision entitled "QUINCE ORCHARD SHOPPING CENTER", recorded among the Land Records of Montgomery County, Maryland in Plat Book 87 at Plat 9255;
- That certain parcel of land abutting said Parcel C containing 3,733 square feet, which land was dedicated to public use in said Plat Book 87 at Plat 9255;
- The residual portion of Parcel D as shown and described on a plat of subdivision entitled "QUINCE ORCHARD SHOPPING CENTER", recorded among the said land records in Plat Book 100 at Plat 11291;
- A portion of that certain parcel of land abutting said Parcel D containing 11,194 square feet, which land was dedicated to public use in said Plat Book 100 at Plat 11291;
- That part of said Parcel D conveyed to the State Highway Administration of the Department of Transportation acting for and on behalf of the State of Maryland by Darnestown Valley – WHM Limited Partnership by deed dated January 30, 1996, recorded among said land records in Liber 13900 at folio 589;

- A portion of the land conveyed by Donald L. Snyder et al to the State of Maryland, to the use of the State Roads Commission of Maryland, by deed dated May 4, 1953, recorded among said land records in Liber 1834 at folio 343

- A portion of that certain 17,869 square feet parcel of land dedicated to public use on a plat entitled "PARCEL A, QUINCE ORCHARD SHOPPING CENTER", recorded among said land records in Plat Book 80 at Plat 8135
 - A portion of that certain parcel of land abutting Darnestown-Rockville Road dedicated to public use on a plat entitled "PARCEL B, QUINCE ORCHARD SHOPPING CENTER", recorded among said land records in Plat Book 84 at Plat 8719

- A portion of the land conveyed to the State Highway Administration of the Department of Transportation acting for and on behalf of the State of Maryland by The Board Of Education of Montgomery County, Maryland by deed dated May 19, 1992, recorded among said land records in Liber 14925 at folio 416

- A portion of that certain strip of land dedicated to public use on a plat entitled "QUINCE ORCHARD, PARCEL A, JOHNSONS FLOWER CENTER", recorded among said land records in Plat Book 72 at Plat 6952

- A portion of the land conveyed by Charles Herman Rabbit to the State Roads Commission of Maryland, acting for and on behalf of the State of Maryland, by deed dated May 7, 1954, recorded among said land records in Liber 1917 at folio 261, the perimeter of the above listed pieces, parcels or strips of land more particularly described by bearings and distances in the WSSC Meridian per said Plat 11291, as follows:

Beginning for the outline of the property to be annexed at the southeasterly corner of said Parcel D of Quince Orchard Shopping Center, and running thence with the line between said Parcel D and the land of Montgomery County, Maryland (L.13619 F.253)

- (1) North 71°30'07" West, 466.78 feet to a point on the easterly right of way line of Quince Orchard Road (MD Rte. 124) as shown and described on Maryland State Highway Administration Plat No. 54097 for the widening of said road; thence running across Quince Orchard Road
- (2) North 74° 14' 01" West, 117.33 feet to a point on the westerly right of way line of said road, said line now being the easterly line of Quince Orchard High School (L.6973 F.395), said point lying 65.00 feet left of Base Line of Right of Way Station No. 5+35 on said Plat No. 54097; thence running with the lines of said plat along the westerly right of way line of Quince Orchard Road
- (3) North 06° 18' 49" East, 65.38 feet to a point; thence
- (4) North 00° 10' 01" East, 97.36 feet to a point; thence
- (5) 110.95 feet along the arc of a curve deflecting to the right having a radius of 774.20 feet and a chord bearing and distance of North 04° 16' 21" East, 110.86 feet to a point; thence
- (6) North 04° 59' 06" West, 56.58 feet to a point; thence
- (7) North 00° 31' 50" West, 40.00 feet to a point; thence
- (8) North 26° 06' 50" West, 65.32 feet to a point; thence
- (9) North 13° 43' 44" East, 36.15 feet to a point on the southerly right of way line of Darnestown Road (MD Rte. 28), said point lying 28.85 feet right of Base Line of Right of Way Station No. 157+87 as shown on said Plat No. 54097; thence running across Darnestown Road
- (10) North 19° 16' 25" East, 106.10 feet to a point on the northerly right of way line of Darnestown Road, said point lying 76.78 feet left of Base Line of Right of Way Station No. 157+96.92 on said Plat 54097, said point being the southwesterly end of the right of way truncation for the northwesterly quadrant of the Darnestown Road / Quince Orchard Road intersection, said truncation also being the N 72°31'30" E, 103.21 feet line found on said Plat 6952; thence running with said truncation line
- (11) North 72° 24' 46" East, 102.99 feet to a point on the westerly right of way line of Quince Orchard Road, said point lying 72.32 feet left of Base Line of right of Way Station No. 11+12.94 on said Plat No.54097; thence crossing Quince Orchard Road
- (12) South 71° 53' 53" East, 133.22 feet to a point on the existing corporate line of the City of Gaithersburg, said point lying at the end of the third or N 15°45'10" W, 84.60 feet line described in City of Gaithersburg Resolution No. B-40-69, thence running in reverse direction with said third line
- (13) South 15° 50' 25" East, 84.60 feet to a point within the dedicated area for Darnestown Road; thence running within said dedication and over and along the second line of said resolution, reversed
- (14) 105.00 feet along the arc of a curve deflecting to the right having a radius of 2,351.83 feet and a chord bearing and distance of South 68° 45' 00" East, 105.00

feet to the end of the first line of said resolution; thence running in reverse direction with part of said first line

(15) South 67°28'27" East, 273.24 feet to a point lying 287.39 feet from the point of beginning of said resolution; thence leaving the lines of said resolution and crossing Darnestown Road

(16) South 22° 37' 00" West, 125.02 feet to a point on the southerly right of way line of Darnestown Road, said point lying 63.29 feet right of Base Line of Right of Way Station No. 164+28.58 on said Plat No. 54097, said point also lying on the N 22°37'00" E, 135.00 feet line of a plat of subdivision entitled "Parcel F, QUINCE ORCHARD SHOPPING CENTER", recorded among the Land Records of Montgomery County, Maryland in Plat Book 122 at Plat 14305; thence leaving Darnestown Road and running in reverse direction over and along said plat line between said Parcels D and F

(17) South 22°37'00" West, 130.80 feet to the southwesterly corner of said Parcel F; thence continuing between said parcels

(18) South 67° 23' 00" East, 75.00 feet to the southeasterly corner of said Parcel F; thence continuing between said parcels

(19) North 22°37'00" East, 135.00 feet to the northeasterly corner of said Parcel F, said corner lying on said southerly right of way line of Darnestown Road; thence running along said road with the outline of said Parcel D

(20) South 67°23'00" East, 31.00 feet to the northeasterly end of the S 18°29'50" W, 375.89 feet line of said Parcel D; thence running with said line

(21) South 18°29'50" West, 375.89 feet to the point of beginning, containing an area of 338,085 square feet or 7.7614 acres of land.

BE IT FURTHER RESOLVED, by the Mayor and City Council of the City of Gaithersburg that this Resolution shall become effective forty-five (45) days following its adoption, unless a petition for referendum thereon shall be filed as permitted by law.

BE IT FURTHER RESOLVED, by the Mayor and City Council of the City of Gaithersburg, that the Annexation Plan as recommended in the Staff Analysis & Annexation Plan Memorandum, dated October 8, 2015, identified as Exhibit 27, be and hereby is adopted.

BE IT FURTHER RESOLVED, by the Mayor and City Council of the City of Gaithersburg that the property described above being land annexed to the City, be and is hereby classified in the MXD (Mixed Use Development) Zone, upon the effective date of this Resolution.

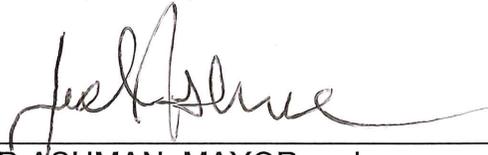
BE IT FURTHER RESOLVED, by the Mayor and City Council of the City of Gaithersburg, that this annexation shall be subject to the terms and conditions of an annexation agreement by and between the Property Owner and the City of Gaithersburg and any amendment which may be hereafter enacted.

BE IT FURTHER RESOLVED, by the Mayor and City Council of the City of Gaithersburg, that promptly after this Resolution shall become effective, the City Manager shall send copies of said Resolution to the following:

<u>Number of Copies</u>	<u>Agency</u>
1	Department of Legislative Reference
1	Clerk of the Circuit for Montgomery County
1	Supervisor of Assessments for Montgomery County
1	Maryland-National Capital Park and Planning Commission

BE IT FURTHER RESOLVED, by the Mayor and City Council of the City of Gaithersburg, that the property described above and persons residing therein, if any, shall, after the effective date of this Resolution, be subject to all of the Charter laws, ordinances and resolutions of the City of Gaithersburg, Maryland.

ADOPTED by the City Council this 16th day of May, 2016.



JUD ASHMAN, MAYOR and
President of the Council

THIS IS TO CERTIFY, that the foregoing Resolution was adopted by the City Council, in public meeting assembled on the 16th day of May, 2016.



Tony Tomasello, City Manager