
MEMORANDUM TO: Mayor and City Council
Planning Commission

FROM: Laura Mehfoud, Long Range Planner

DATE: December 30, 2021

SUBJECT: Consolidated Preliminary Background Report:
Applications Z-8911-2021(rezoning) and SP-8910-2021 (concept plan)
18501 North Frederick Avenue

APPLICANT

KIMCO Realty
1954 Greenspring Drive
Timonium, MD 21903

OWNER

McCormick Realty Limited Partnership
1954 Greenspring Drive
Timonium, MD 21903

TAX MAP REFERENCE:

Tax Sheet: FT 33

LEGAL REFERENCE:

Plat: 17371
Parcel A, Hechinger Property

TAX ACCOUNT NUMBER:

16-09-02835786

REQUEST

The Applicant, KIMCO Realty, has submitted Amendment to Zoning Map application Z-8911-2021, to rezone a 382,078 square foot (8.77 acre) parcel from the C-2 (General Commercial) zone to the CD (Corridor Development) zone, along with the associated Concept Site Plan SP-8910-2021, in accordance with § 24-160G.6(a) "Application for CD Zone and concept plan approval" of the City Code. In support of these requests, the Applicant has included a Request and Justification Statement entitled "Statement in Support of Joint Zoning Map Amendment and Concept Plan Applications."¹

The subject property (the "Property" or "Site") is located at 18501 North Frederick Avenue.



Location

¹ Exhibit #Z02/#C02

GENERAL INFORMATION

LOCATION:

The Property is a triangular shape bounded by Travis Avenue to the north, North Frederick Avenue to the south, and The Point at Watkins Mill subdivision to the east. Spectrum at Watkins Mill is located directly across North Frederick Avenue, and the PEPCO transmission lines are located across Travis Avenue.

ADEQUATE PUBLIC FACILITIES ORDINANCE (APFO):

Water and Sewer Services and Public Utilities

The Property is currently developed with both public water and public sewer service and has WSSC categories of S-1 and W-1; thus, the Property satisfies the requirements of the water and sewer standards of the APFO, § 24-247.

Fire and Emergency Services

The Site is currently within the ten-minute response areas of three Montgomery County Fire and Rescue stations: Station 8 (Gaithersburg), Station 29 (Germantown), and Station 34 (Germantown/Milestone). Thus, the Property satisfies the requirements of the fire and emergency services standards of the APFO, § 24-248.

Schools

The Site is located in the Watkins Mill Cluster and is served by Watkins Mill Elementary, Montgomery Village Middle, and Watkins Mill High. The school capacity standard of the APFO does not apply to rezoning and concept plans, such as this application. Staff notes, however, no schools serving the subject property are in moratorium according to the school capacity standard of the APFO.

Traffic Impacts

The City's Traffic Impact Study regulations do not require the submission of a Traffic Impact Study at the time of Concept Plan. The Applicant will submit a Traffic Impact Statement at the time of preliminary site plan. The Applicant has, however, included a preliminary traffic operations and site access study from Wells and Associates to address vehicular access and movements along Travis Avenue.²

² Exhibit #C15

EXISTING LAND USE/PHYSICAL CHARACTERISTICS:

The Property totals 8.77 acres and is fully developed with a retail shopping center and two commercial pad sites along with surface parking and landscaping. The Property contains no forested area, wetlands or streams, and there are no non-native invasive species identified. There are three specimen trees identified on site, all in “good” condition. A Natural Resources Inventory/Forest Stand Delineation (NRI/FSD) reflecting current conditions was approved February 25, 2021.³

NEIGHBORHOOD LAND USE AND ZONING:



The Property is zoned C-2 and is developed with a retail shopping center. Properties to the south across North Frederick Avenue are zoned MXD (Mixed Used Development) and developed with multi-family residential above ground floor commercial. Properties to the east are zoned R-18 (Medium Density Planned Residential) and developed with multi-family residential. Properties to the north across Travis Avenue are zoned C-2 (General Commercial) and are undeveloped. Those undeveloped properties back up to the PEPCO power transmission lines and the Colonial Pipeline right of way.

³ Exhibit #C03

ZONING AND SITE PLAN HISTORY:

Annexation:

The Property was annexed into the City of Gaithersburg by the Mayor and City Council in 1968, by resolution R-18-68. Resolution R-19-68 established R-A (Low Density Residential) zoning for the Property, as it was originally intended for a school site. The Property was rezoned to C-2 in 1975 with resolution R-56-75.

Master Plan and Zoning:

The subject property was included in study area 1 in the 1997 Neighborhood Six Land Use Plan. The 1997 Plan reconfirmed the commercial land use designation for the Property from the 1986 land use plan. The 2001 Frederick Avenue Corridor Land Use Plan reconfirmed the land use designation from the 1997 Plan. The 2001 Plan also generally encouraged rezoning properties along the corridor to the newly adopted CD Zone.

The Property is included as a map designation in the 2009 Master Plan Land Use Element.⁴ The Master Plan notes that the Property includes an “older shopping center” with ample surface parking and is “appropriate for redevelopment in the future” given its location along the Frederick Avenue corridor. The Master Plan recommends a mixed use land use designation; including commercial, office, and a smaller residential component; and rezoning to CD or MXD.

Site Plan History:

Site plan S-811 was approved in 1988, which allowed the development of a shopping center and bank pad site with a drive through. Site plan S-811(A) was approved in 1991, which included an additional bank drive through along with some landscaping changes. A second pad site, currently a Bruster’s, was approved in 2005 with AFP-05-008. Minor elevation changes to the current Floor and Décor and parking lot changes were approved with AFP-7121-2015, and additional elevation changes to the shopping center were approved with AFP-8957-2021.

REQUIRED ACTIONS

Zoning Map Amendment Z-8911-2021

As stated, the Applicant is requesting a zoning map amendment to change the Property’s existing General Commercial (C-2) Zone to the Corridor Development (CD) Zone. The CD Zone is identified by §24-10A of the City Code as a floating zone. According to §24-10A(2) of the City Code:

(2) The approval of and placement of floating zones may only occur upon a finding by the city council that the application therefore:

⁴ Exhibit #Z05

(a) Complies with the purposes and intent of the zone as stated in the zoning ordinance; and

(b) As applied will be compatible and harmonious with existing and planned land uses in the surrounding area.

Section 24-160G.7(a) states that the City Council may approve the CD zoning when they find the following:

- (1) The application meets or accomplishes the purposes, objectives, and minimum standards and requirements of the zone; and*
- (2) The application is in accord with recommendations in the applicable master plan for the area and is consistent with any special conditions or requirements contained in said master plan; and*
- (3) The application and schematic development plan will be internally mid [sic] externally compatible and harmonious with existing and planned land uses in the CD zoned areas and adjacent areas.*

As noted in the Applicant's Statement, the 2009 Master Plan Land Use Element recommends rezoning the Property to CD, satisfying § 160G.7(a)(2) above.⁵ The Applicant's Statement further notes that the proposed rezoning and redevelopment will satisfy the additional findings of § 160G.7(a)(1) and (3).⁶

Concept Site Plan Z-8910-2021

Section 24-160G.6 outlines requirements for rezoning to CD and requires applicants to submit either a concept plan or schematic development plan application separate from the rezoning application. The Applicant has elected to file a concept site plan application along with the rezoning. Both the rezoning and concept plan applications are subject to a joint public hearing, followed by Planning Commission recommendation. The City Council may then either:

- a. Approve or deny the CD zone and concept plan. If approved, no schematic development plan shall be required and the applicant may proceed to site development plan approval with the City Planning Commission; or
- b. Approve the CD zone but require the applicant to file a schematic development plan for approval by City Council.

Staff notes, multi-phase projects that require more engineering detail to determine feasibility typically warrant a schematic development plan, and staff would recommend applicants proceed straight to schematic development plan instead of starting with the concept plan. Less technically complex projects are more appropriate for a concept plan followed by site development plan approval with the City Planning Commission.

City Code section 24-160G.7(b) outlines findings required for approval of a concept plan in the CD zone. The findings are as follows:

⁵ Exhibit #Z02/#C02, pg.14-15

⁶ Exhibit #Z02/#C02, pg. 6-18

1. *The plan is substantially in accord with architectural, signage, lighting, streetscape, parking and other regulations, requirements and guidelines adopted by the city council for the applicable corridor area.*
2. *The plan meets or accomplishes the purposes, objectives and minimum standards and requirements of the zone; and*
3. *The plan is in accord with the area master plan and any accompanying special condition or requirements contained in said master plan for the area under consideration; and*
4. *The plan will be internally and externally compatible and harmonious with existing and planned land uses in the CD zoned area and adjacent areas; and*
5. *The existing or planned public facilities are adequate to service the proposed development contained in the plan; and*
6. *The development staging or phasing program if any, is adequate in relation to the provision of public facilities and private amenities to service the proposed development; and*
7. *The plan, if approved, would be in the public interest.*
8. *The existing buildings with historic significance are considered for preservation and retention pursuant to the city's historic preservation ordinance.*

The Applicant's Statement includes a discussion of how each of the above findings are met.⁷

SP-8910-2021 CONCEPT PLAN PROPOSAL:

As required by § 24-160G.6(a), the Applicant has submitted a concept plan application, SP-8910-2021, with the zoning map amendment application.⁸ The concept plan proposes two multi-family residential buildings with up to 48,000 square feet of ground floor commercial and office uses. Allowable non-residential uses include:

NON-RESIDENTIAL POTENTIAL USES

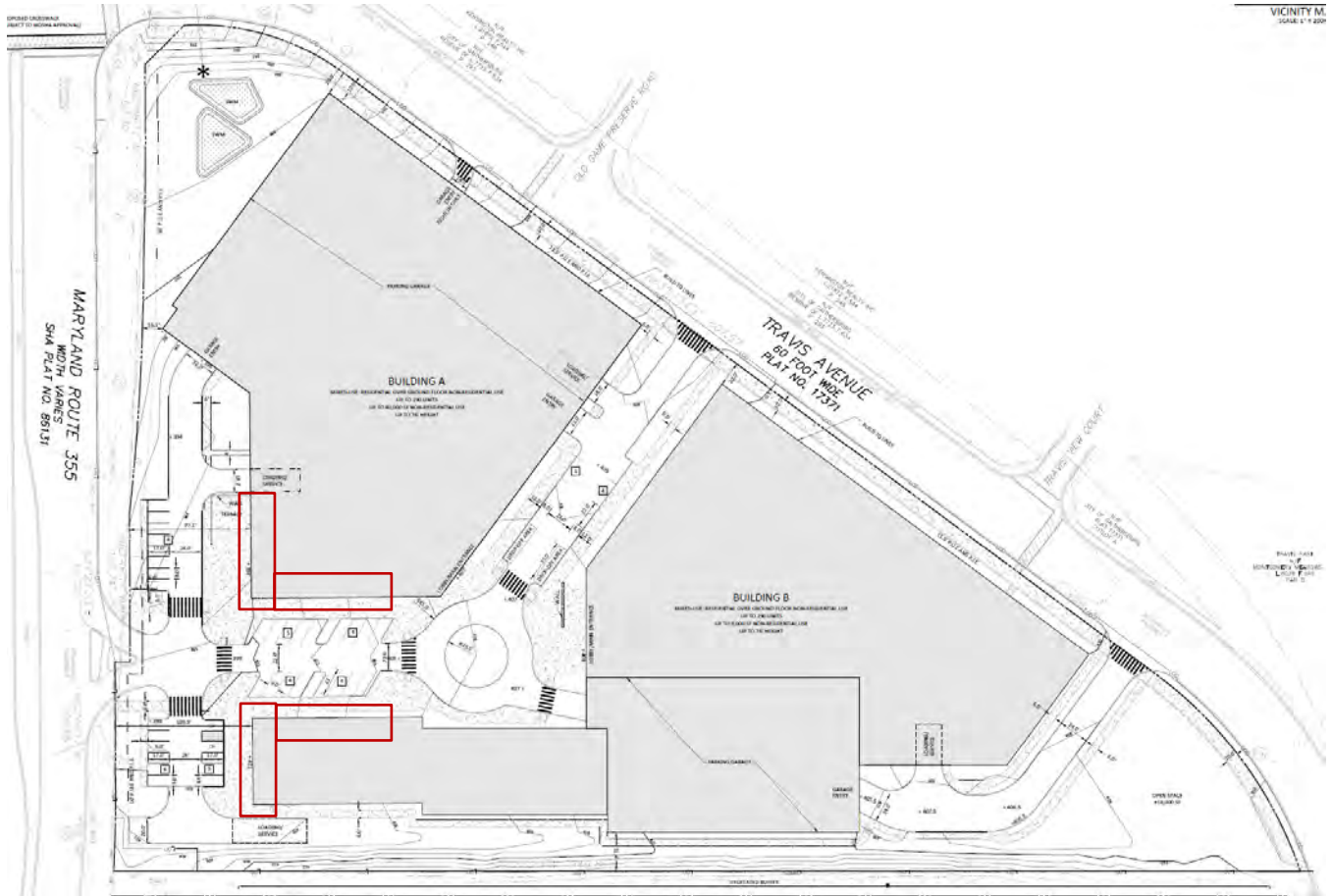
Integrated light manufacturing
 Retail stores and businesses
 Banks
 Office
 Restaurants
 Personal service businesses (i.e. beauty parlors, barbershops, dry-cleaning)
 Animal hospitals, animal boarding places and pet shops
 Child and/or Adult Day Care Center
 Educational institutions, private
 Private clubs, lodges, fitness centers and amusement and recreational facilities
 Repair and business services
 Research, experimental or testing laboratories

The multi-family buildings will be up to 6 stories tall and contain up to 580 units total, 290 per building. The development will be served by one primary street that connects North Frederick Avenue to Travis Avenue, with a traffic circle midway. The commercial uses will be concentrated along the portion of the development fronting North Frederick Avenue and the primary street up to the traffic circle (areas generally outlined in red below). Most parking will be provided in parking garages with a few "teaser" spaces in front of the commercial uses. Garage access will

⁷ Exhibit #Z02/#C02, pg. 18-20

⁸ Exhibit #C11

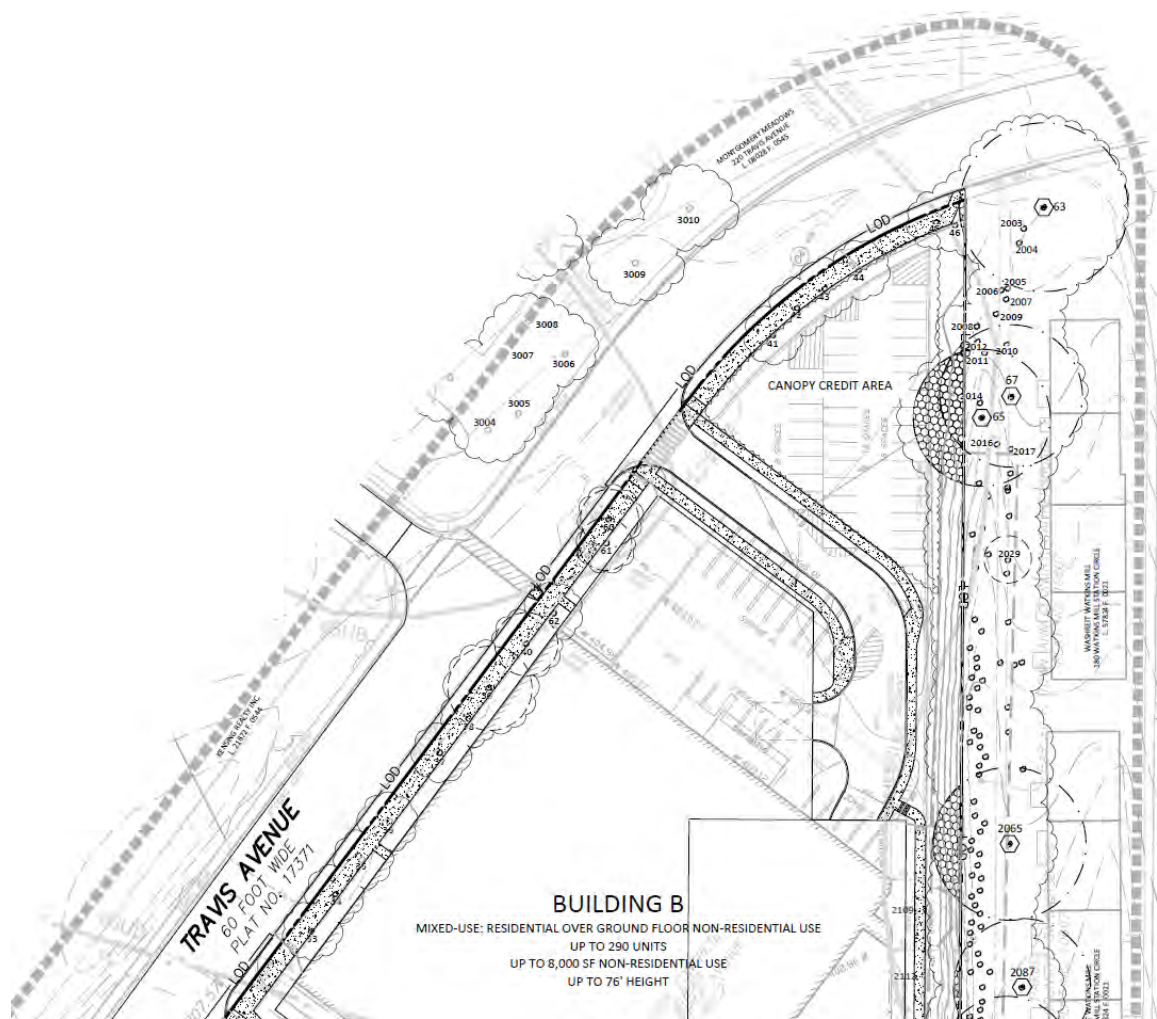
be provided off of the primary street, with additional access off of Travis Avenue. Ample sidewalk and plaza space will serve the ground floor commercial uses, and an additional 18,000 square feet of open space is provided in the northern corner of the Property along Travis Avenue. While the concept site plan only shows build-to lines, the Applicant's Request and Justification Statement describes proposed courtyards for each building that will provide additional open and amenity space.



Concept Site Plan, Exhibit #C11

The Applicant submitted a Preliminary Forest Conservation Plan, showing a requirement of 1.32 acres of afforestation.⁹ The Applicant proposes to meet this through canopy coverage, primarily located in the northern corner of the Property which is proposed to be converted from parking lot to usable open space. The Applicant will apply for a tree variance during preliminary/final site plan.

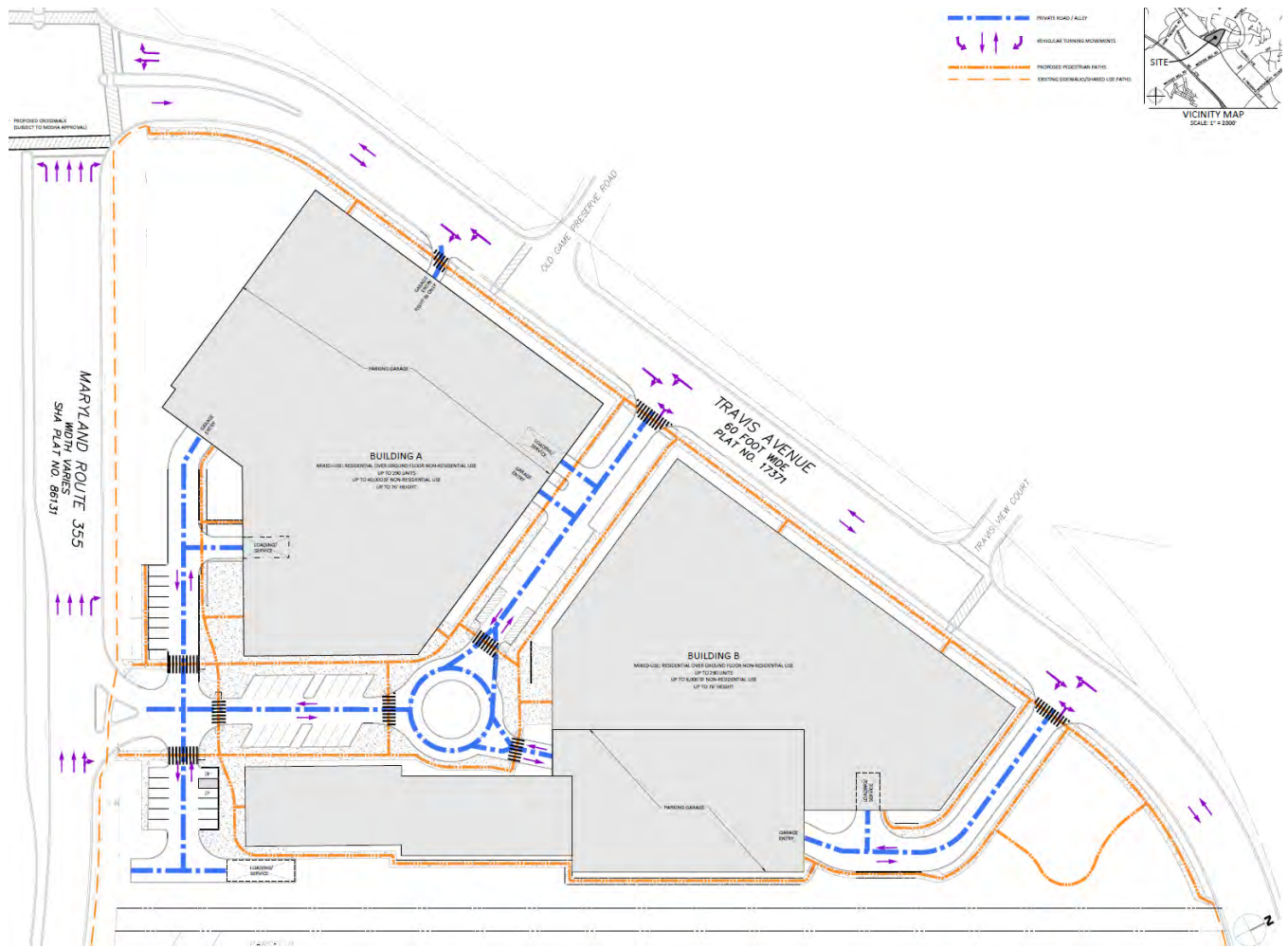
⁹ Exhibit #C14



Preliminary Forest Conservation Plan, Exhibit #C14

The Applicant also provided a circulation plan illustrating access points and circulation through the Site.¹⁰ The below excerpt shows the Site bisected by one primary street, with a traffic circle midway. The primary street has right-in/right-out access from North Frederick Avenue and full access from Travis Avenue. The garage for Building A has a right-in entry from Travis Avenue, with two additional entry/exit points interior to the Site. The garage for Building B has entry/exit access from Travis Avenue and interior to the Site off of the traffic circle. The primary street also provides access to parking in front of the commercial spaces along North Frederick Avenue. Pedestrian connections are provided throughout the Site, with connections to the existing sidewalk along North Frederick Avenue and a new, larger sidewalk replacing the existing one along Travis Avenue.

¹⁰ Exhibit #C12



Circulation Plan, Exhibit #C12

As noted in the previous section of this report, the Applicant has included a Request and Justification Statement that outlines the purpose of the current request, including how it satisfies the required findings of § 24-160G.7(a) and § 24-160G.7(b).¹¹ Some key points of the Justification Statement are:

- “The proposed redevelopment will create a mixed-use center at the northern end of the Frederick Avenue corridor at the intersection with Travis Avenue serving as a highly visible gateway into Gaithersburg. Mid-rise mixed-use buildings will have frontage on the corridor, complementing the scale and spirit of the existing mixed-use neighborhood across Frederick Avenue. Ground level commercial, office and retail uses including outdoor seating, plaza and green space will activate the streetscape along the corridor.” (pg. 1)
- The proposed mix of uses adapts to the market and better positions the Property for long-term viability. The future use of the Property needs to be evaluated due to:
 - Changing consumer demands and rise of e-commerce
 - Strong housing demand and projected future population growth

¹¹ Exhibit #Z02/#C02

- Desire for more walkable communities
- Changing office dynamics resulting from the pandemic
- Building A is envisioned as a building with a raised courtyard providing amenity space and structured parking below. Building B is envisioned to have at-grade landscaped courtyards between multiple wings facing Travis Avenue and will wrap around structured parking. The landscaped courtyards will break up the building mass, helping to transition from denser commercial development along North Frederick Avenue to more suburban residential further north.
- A variety of open spaces will be provided, including the at-grade open courtyard spaces of Building B, raised courtyard of Building A, and ample sidewalk and plaza space. Additionally, the parking lot in the northern corner of the Property will be converted to usable open space.
- The proposed street alignment “creates two well-proportioned and dimensioned development blocks that provides adequate open space, structured parking and offers a rational sequence of phased construction. The proposed development takes advantage of existing site topography and general locations of existing curb cuts.” (pg. 5)
 - The Applicant provided a preliminary traffic operations and site access study to assess access points along Travis Avenue. Per the Applicant’s Statement, “the study concludes that the proposed site access points would operate at acceptable levels for peak traffic periods. It also concludes that the spacing of the intersections and resultant queuing are expected to operate at acceptable levels of service.” (pg. 13)¹²
- “The redevelopment of this aging shopping center into a mixed-use neighborhood will add to the vitality and attractiveness of the northern end of the Frederick Avenue Corridor. The redevelopment adds green space and public areas on what is currently a vast surface parking lot. The addition of mixed-use residential will provide a critical mass of pedestrians to support the businesses proposed in this development as well as the established business along the Corridor and particularly across Frederick Avenue. The addition of residential uses also will support the City’s expected population growth and need for additional housing, particularly affordable housing. The site design will be inviting for pedestrians and provide additional connectivity between Travis Avenue and Frederick Avenue.” (pg. 20)

Height Waiver:

As noted in the Statement of Justification, the Applicant is requesting a height waiver to allow up to 76 feet in height. Per § 24-160G.4(a), buildings in the Northern Employment District can be up to 6 stories in height and cannot exceed 65 feet by right. Per § 24-160G.5 (a), City Council may grant a waiver to allow buildings in the Northern Employment District to be up to 8 stories, or 90 feet in height. Neither proposed building will exceed 6 stories, but due to the topography

¹² See Site Access Study, Exhibit #C15

of the site, Building A will measure up to 76 feet in height from the lowest elevation point. Therefore, the Applicant is requesting a waiver from the 65 foot height limit.

Section 24-160G.5(b) allows the City Council to grant a height waiver when they find the following:

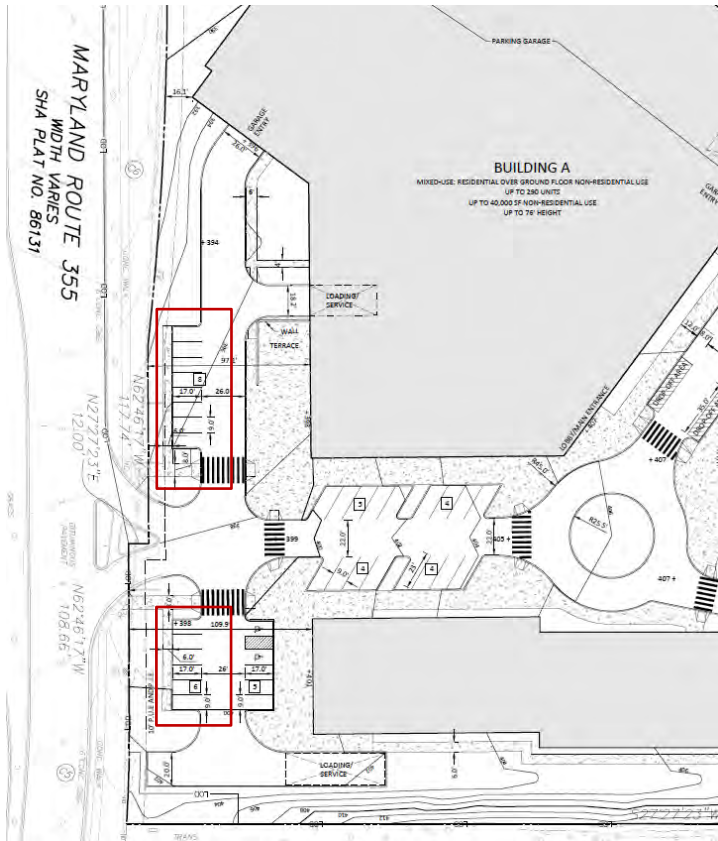
- (1) *The applicant will provide either on-site or off-site public amenities to further enhance the corridor development zone and the purposes of the CD zone; and*
- (2) *The additional height is necessary to implement the master plan and a specific land use plan for Gaithersburg or attract an appropriate and compatible type or caliber of user; and*
- (3) *The additional height will be compatible with existing and proposed adjacent land uses and would not detrimentally impact those uses or public facilities serving a specific corridor.*

As noted in the Applicant's Statement, all of the required findings are satisfied by (1) the provision of plazas and green and open space where none currently exist, as well as the provision of affordable housing units, (2) the need to account for the topography of the site and for sufficient floor to ceiling heights to accommodate modern commercial and residential uses, and (3) the proposed height being similar to existing development across North Fredrick Avenue.¹³

Parking:

As noted in the Applicant's Statement, the majority of parking will be provided in parking garages with a few surface "teaser" spaces serving the ground floor commercial uses. Per City Code § 24-260G.4.(e), all parking for CD zone properties must be setback 20 feet behind the front building line. The Applicant will request a parking waiver at the time of preliminary site plan, per City Code requirements, to allow these "teaser" spaces outlined in red below.

¹³ Exhibit #Z02/#C02, pg. 9-11



Conceptual Architecture:

The Applicant has included illustrative perspectives showing conceptual architecture.¹⁴ As these are conceptual elevations, there will be opportunity for further comment and refinement during the preliminary and final site plan application reviews. Per the Applicant’s Statement, the proposed development will include “consistent, compatible, and attractive architecture” and a pattern of massing and materials to “create visual interest” and “break down the scale of the buildings into smaller units.” Special attention will be given to storefronts to create a “welcoming and visually appealing pedestrian street.” (pg. 8)

¹⁴ Exhibit #C13



View A- Street View Looking East From Frederick Avenue



View B- Bird's Eye View Looking Northeast From Frederick Avenue



View C- Bird's Eye View Looking East From Frederick Avenue



View D- Street View Along Travis Avenue

SUMMARY:

The Applicant has submitted zoning map amendment application Z-8911-2021 and the associated concept plan SP-8910-2021 for consideration, including a height waiver request. The Applicant proposes to redevelop an aging retail center along the Frederick Avenue corridor into a vibrant mixed use development. The application has been submitted in accordance with § 24-160.G.6(a) of the City Code. A consolidated joint public hearing before the Mayor and City Council and the Planning Commission has been scheduled for January 18, 2022. Staff will continue to work with the Applicant on refining aspects and obligations of the plan following the public hearing and in response to comments received into the record.

From: [Beth Forbes](#)
To: [Deby S](#)
Cc: [Merikay](#); [Patrick Fitzgerald](#); [Laura Mehfoud](#)
Subject: RE: Z-8911-2021/SP-8910-2021 Travis Ave Rezoning
Date: Wednesday, February 16, 2022 8:21:42 AM
Attachments: image001.png

Deby,

An amendment to Chapter 8 of the City's code would be needed to change the current requirements.

Beth



Beth Forbes, P.E. | Stormwater Program Manager, [Dept. of Public Works](#)
[City of Gaithersburg](#) | 800 Rabbitt Road | Gaithersburg, MD 20878
P 240-805-1327 | M 202-577-8181 | Beth.Forbes@gaithersburgmd.gov

From: Deby S <dsarabia301@gmail.com>
Sent: Tuesday, February 15, 2022 6:09 PM
To: Laura Mehfoud <Laura.Mehfoud@gaithersburgmd.gov>
Cc: Beth Forbes <Beth.Forbes@gaithersburgmd.gov>; Merikay <merikays@verizon.net>; Patrick Fitzgerald <Patrick.Fitzgerald@gaithersburgmd.gov>
Subject: Re: Z-8911-2021/SP-8910-2021 Travis Ave Rezoning

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Thank you all for your quick response. But my question was, What would it involve to change redevelopments to 100% retention?

Has the possibility been discussed?

On Tue, Feb 15, 2022 at 10:10 AM Laura Mehfoud <Laura.Mehfoud@gaithersburgmd.gov> wrote:

Deby,

I received the following response to your question from Patrick Fitzgerald, the reviewer for the Stormwater Management Concept Plan. He confirmed that the approved plan meets the City and Maryland Department of the Environment (MDE) requirements for redevelopment.

The project is required to treat 1" of runoff for 50% of the existing impervious area (an overall decrease in imperviousness is anticipated) via Environmental Site Design (ESD) methodology. The applicant has accomplished that with the use of several micro-bioretenion areas, which is an at source, small scale practice. Once in place, these practices have anticipated positive impacts to downstream areas, especially as the site is almost completely untreated today. The applicant is always permitted and encouraged to provide treatment above and beyond the requirements, but it is not enforceable under current applicable codes.

You may reach out to Patrick with any further questions regarding stormwater for this project.

Laura

From: Deby S <dsarabia301@gmail.com>

Sent: Monday, February 14, 2022 10:18 AM

To: Laura Mehfoud <Laura.Mehfoud@gaithersburgmd.gov>

Cc: Beth Forbes <Beth.Forbes@gaithersburgmd.gov>; Merikay <merikays@verizon.net>

Subject: Re: Z-8911-2021/SP-8910-2021 Travis Ave Rezoning

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Thank you. My question is about stormwater. I understand that a redevelopment needs to retain only 50% of stormwater on site. The remainder goes into Seneca Creek mainstem only 1/2 mile away which is already severely eroding under 355. The site is not much more than a strip mall with a massive asphalt parking lot. Awesome opportunity to significantly improve stormwater management at the source. What would it involve to change this (and future redevelopments) to 100% retention to better protect our watersheds?

On Wed, Jan 12, 2022, 2:59 PM Laura Mehfoud <Laura.Mehfoud@gaithersburgmd.gov> wrote:

Good afternoon,

More information on this project can be found on the project page here:

<https://www.gaithersburgmd.gov/government/projects-in-the-city/travis-avenue>

Please let me know of any specific questions.

Laura

Laura Howell Mehfoud, AICP
Long Range Planner
City of Gaithersburg|Planning and Code Administration
31 S. Summit Avenue Gaithersburg, MD 20877
(240)805-1153

From: Deby S <dsarabia301@gmail.com>

Sent: Wednesday, January 12, 2022 12:25 PM

To: Planning External Mailing <Planning@gaithersburgmd.gov>

Cc: Seneca Creek Watershed Partners <senecacreekwp@gmail.com>

Subject: Z-8911-2021/SP-8910-2021 Travis Ave Rezoning

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Hello,

I would like more info on this proposal. Could you forward to the appropriate project manager?

Thank you.

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Deborah Sarabia, M. En.

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Deborah Sarabia, M. En.