
MEMORANDUM TO: Mayor and City Council
Planning Commission

FROM: Kirk Eby, Planner III and Michael Hackman, Planner I

DATE: June 28, 2023

SUBJECT: Preliminary Background Report and Master Plan Compliance Analysis:
Application X-9510-2023:

Request to annex approximately 9.5 acres of the Walnut Hill Commercial Area, consisting of a portion of the North Westland Drive right of way, a portion of the abandoned MD 355 right of way, the Walnut Hill Propco property located at 16531 South Frederick Avenue, the King Fisher Associates property located at 8939 North Westland Drive, and the Lalita & Joginder property located at 8941 North Westland Drive in Gaithersburg, Maryland into the City of Gaithersburg and rezone four (4) tax parcels from the County's CRT-2.25 C-1.5 R-0.75 H 45 Zone to the City of Gaithersburg's C-2 and CD Zones as shown on the associated annexation plan.

APPLICANT

Granite Partners

OWNERS

Walnut Hill Propco, LLC, King Fisher Associates, LLC, and Lalita & Joginder, LLC
16531 South Frederick Ave, 8939 North Westland Drive, and 8941 North Westland Drive
Gaithersburg MD 20877

TAX MAP REFERENCE:

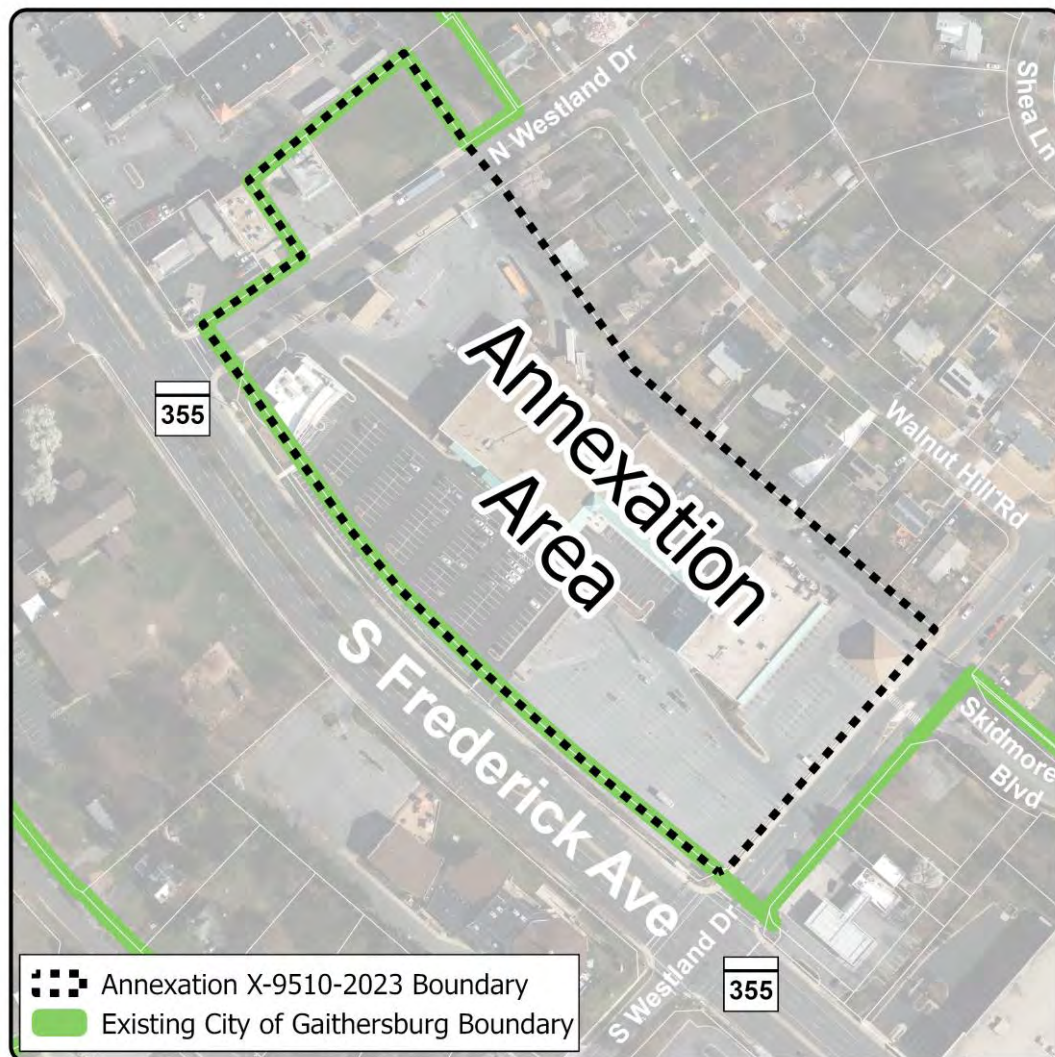
Tax Sheet: FS63

TAX ACCOUNT NUMBERS:

Parcel B, Block A – ID# 09-00794560 (16531 South Frederick Avenue)
Parcel A-2, Block G –ID# 09-00794695 (8941 North Westland Drive)
Parcel B, Block G – ID# 09-03664857 (8939 North Westland Drive)
a portion of Abandoned MD 355 ROW – ID# 09-00794571 (no address)

REQUEST

The Applicant, Granite Partners, has submitted Annexation Petition X-9510-2023.¹ The petition requests the annexation of approximately 9.5± acres of land, consisting of four (4) tax parcels and a portion of the North Westland Drive right of way (Site or Annexation Area). The Annexation Area is adjacent to and contiguous to the current City limits. Collectively the four tax parcels (Property) are owned by Walnut Hill Propco, LLC at 16531 South Frederick Avenue; King Fisher Associates at 8939 North Westland Drive; and Lalita & Joginder, LLC at 8941 North Westland Drive. As part of the annexation request, the Applicant is requesting a rezoning of the tax parcels from the County's Commercial Residential Town (CRT) Zone to the City of Gaithersburg's General Commercial (C-2) and Corridor Development (CD) Zones. An annexation plan² has also been included in the Applicant's petition. The Annexation was introduced at the May 15, 2023 Mayor and City Council Meeting.³



Location

¹ Exhibit #01 (Application) and Exhibit #21 (Revised Petition)

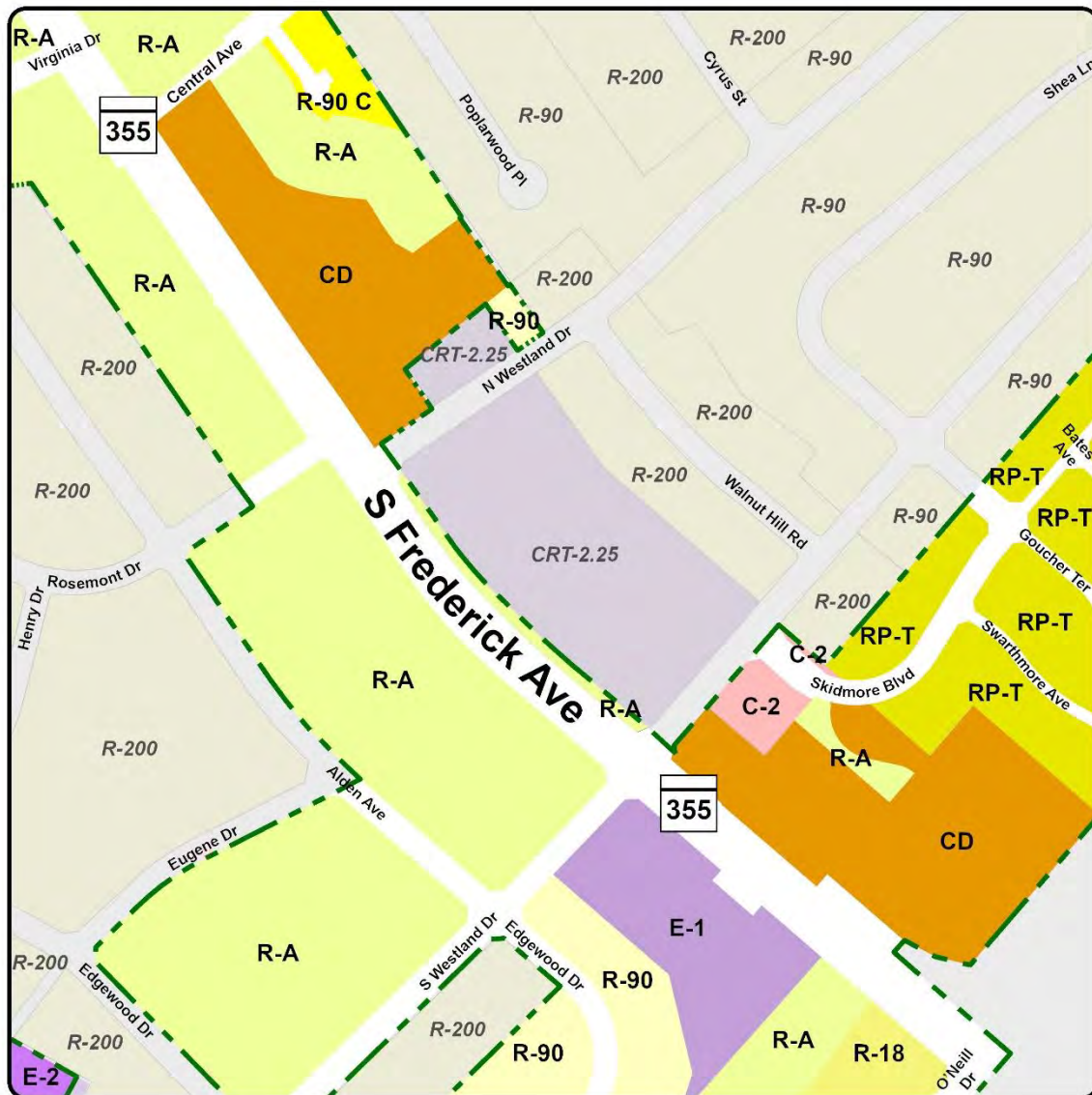
² Exhibit #23 (Revised Annexation Plan)

³ Exhibit #52

GENERAL INFORMATION

LOCATION:

The Site is located along South Frederick Avenue (MD 355), between North Westland Drive and South Westland Drive. The Property is comprised of four tax parcels, with Parcel B, Block A (8.28 acres) containing an existing shopping center with pad sites on a 360,477 square foot parcel; a portion of the abandoned MD 355 right of way (0.003 acres) not included in Annexation X-099 and containing 128 square feet; Parcel A-2, Block G (0.25 acres) containing a 2,200 square foot restaurant on a 10,784 square foot parcel; and Parcel B, Block G (0.48 acres) being a 20,886 square foot vacant parcel. In addition, a 28,018 square foot (0.64 acres) portion of the North Westland Drive right of way is included in the Annexation Area.



Existing County and City Zoning

SURROUNDING LAND USES AND ZONING:

The Site is surrounded by a mix of commercial and residential uses. Properties to the northwest of the Site are located in the City, zoned CD, and consist of two commercial buildings. The property to the northeast of the Site is located within the City and zoned R-90, and consists of a one-way driveway providing access from one of the commercial properties to the northwest. Properties to the southwest of the Site, across MD 355, are located within the City, zoned R-A, and consist of two religious buildings and their associated uses. The property to the south of the Site, across MD 355 and South Westland Drive, is located within the City, zoned CD, and improved with an office building. The properties to the southeast of the Site are located in the City, zoned CD and C-2, and consist of a gas station and two vacant parcels, respectively. The properties to the east of the Site are located in Montgomery County, are zoned R-60, and consist of ten single family detached houses separated from the shopping center with a fence.

EXISTING LAND PHYSICAL CHARACTERISTICS AND NATURAL RESOURCES INVENTORY/FOREST STAND DELINEATION:⁴

The Site does not contain any floodplains, wetlands, steep slopes, or highly erodible, unsuitable, or unsafe soils. There have been no rare, threatened, or endangered species observed, identified or known to occur on or near the Site. No structures on the Site are identified in either the Montgomery County Locational Atlas or designated in the County Master Plan for Historic Preservation.

MASTER PLAN HISTORY:

Montgomery County Master Plan

The Site is located within the Quince Orchard District of the 2010 Great Seneca Science Corridor Master Plan (GSSC).⁵ The GSSC Master Plan's recommendations are to:

“Improve stormwater management, reduce impervious surface, increase street tree planting, and incorporate other low impact development and green building techniques if the Walnut Hill Shopping Center redevelops.”

⁴ Exhibit #11 and Exhibit #12

⁵ Exhibit #27

ZONING:

Existing Montgomery County Zoning

The Property is zoned Commercial Residential Town (CRT)-2.25 C-1.5 R-0.75 H-45⁶ in the County. The County CRT zoning,⁷ which is considered a floating zone rather than a Euclidean zone, allows a maximum density of a 2.25 floor-to-area ratio (“FAR”), of which the maximum commercial density is a 1.5 FAR and the maximum residential density is a 0.75 FAR. In order to maximize the allowable 2.25 FAR density in the County, a mixed use development that includes both residential and commercial uses would be required, although a development exclusively residential or exclusively commercial up to the designated densities is allowed in the CRT Zone. The maximum height allowed is 45 feet. The County’s CRT Zone (as well as the similar CR and CRN zones) allows a variety of residential and nonresidential uses, either singly or in combination. The maximum allowed density in the County for each tax parcel is shown on the Annexation Plan.⁸

PETITION AND ANNEXATION PLAN X-9510-2023

The Local Government Article of the Maryland State Code, the Land Use Article of the Maryland State Code, and Chapter 24 (Zoning) of the City of Gaithersburg Code outline the process and requirements for a proposed annexation. The Land Use Article of the Maryland State Code and Chapter 24 of the City Code define the role of the Planning Commission during the annexation process, which is to make a recommendation to the City Council on the following items:

- Is the proposed zoning appropriate; and
- Does the annexation plan comply with the City’s Master Plan and goals; and
- Can the annexation plan be served by public facilities?

The Planning Commission is required to review the proposed annexation and plan and, pursuant to § 24-9, provide a recommendation to the Mayor and City Council at least 15 days prior to the required Mayor and City Council public hearing. The public hearing before the Mayor and City Council is scheduled for September 5, 2023.

Annexation Plan X-9510-2023

The Applicant originally filed the petition for Annexation of the Property into the City of Gaithersburg on May 1, 2023, including a draft annexation plan.⁹ The Applicant filed a revised Annexation Plan¹⁰ on June 16, 2023, which establishes the following proposed City zoning and associated density limits for each tax parcel and right of way included in the Annexation Area:

⁶ Exhibit #26 (County Zoning Map)

⁷ Exhibit #38

⁸ Exhibit #23

⁹ Exhibit #5

¹⁰ Exhibit #23

PROPOSED GAITHERSBURG ZONING CHART					
	16531 S FREDERICK AVE.	8939 N WESTLAND DR.	8941 N WESTLAND DR.	UNANNEXED ABANDONED 355 ROW	NORTH WESTLAND DRIVE ROW
ZONING	C-2	CD	CD	C-2	
TRACT AREA	342,993 SF	20,886 SF	10,784 SF	148 SF	28,005 SF
DENSITY	C-2, 514,490 SF (1.5)	C - 46,993 SF (2.25) R - 23,496 SF (1.125) CR - 70,490 SF (3.375)	C - 24,264 SF (2.25) R - 12,132 SF (1.125) CR - 36,396 SF (3.375)	C-2, 222 SF (1.5)	
DEVELOPMENT TYPE/USE	COMMERCIAL	COMMERCIAL/ RESIDENTIAL	COMMERCIAL/ RESIDENTIAL	COMMERCIAL	
PROPOSED GROSS FLOOR AREA (GFA)	97,853 SF**	0 SF	2,200 SF	0 SF	
CHANGE IN BUILDING AREA (SF)	3,026 SF	0 SF	0 SF	0 SF	

*DEVELOPMENT AND AREA (SF) INCLUDES THE TO BE DEMOLISHED FREESTANDING 1,933 SQ. FT. DRY CLEANERS BUILDING ON SITE.

**DEVELOPMENT AND AREA (SF) EXCLUDES THE TO BE DEMOLISHED DRY CLEANERS BUILDING ON SITE AND INCLUDES THE PROPOSED SHEETZ TO BE BUILT ON SITE.

Proposed City Zoning, As Shown on the Revised Annexation Plan¹¹

The Applicant intends to continue the use of the Shopping Center at 16531 South Frederick Avenue as a commercial center but proposes a number of revisions to promote the viability of this use.¹² The Applicant is requesting the City’s C-2 zoning for the property, which allows the current mixed commercial use to continue. The C-2 Zone also provides a simpler and shorter review process for the proposed improvements than the CD Zone, and expediting the improvements is key to the successful revitalization of the shopping center. The proposed changes to the shopping center include the following:

- Establishment of a 57,851 square foot retail pad lease area in the southwest corner of the Shopping Center to accommodate a 4,959 square foot retail convenience store building with an accessory fueling station use to include 12 fueling positions (Sheetz).
- Demolition of the 1,933 sq. ft. one story vacant brick building in the southeast corner of the site (former dry cleaners).
- A net increase of 3,026 sq. ft. of building area, bringing the total building area of the shopping center to 97,853 sq. ft., or a floor-to-area ratio (FAR) of 0.285, well below the maximum 1.5 FAR allowed by the City’s C-2 Zone.
- Renovation of the existing 48,062 sq. ft. in-line structure to accommodate a grocery store (Aldi) and modernize the exterior.
- Renovation of the existing 15,729 sq. ft. in-line structure to modernize the exterior.
- Improvements to the breezeway connecting the two in-line structures.
- Establishment of pedestrian connections leading from South Frederick Avenue, North Westland Drive, and South Westland Drive to and through the Shopping Center.
- Elimination of the center driveway entrance along South Westland Drive to improve traffic flow and reduce conflict points.

¹¹ Exhibit #23

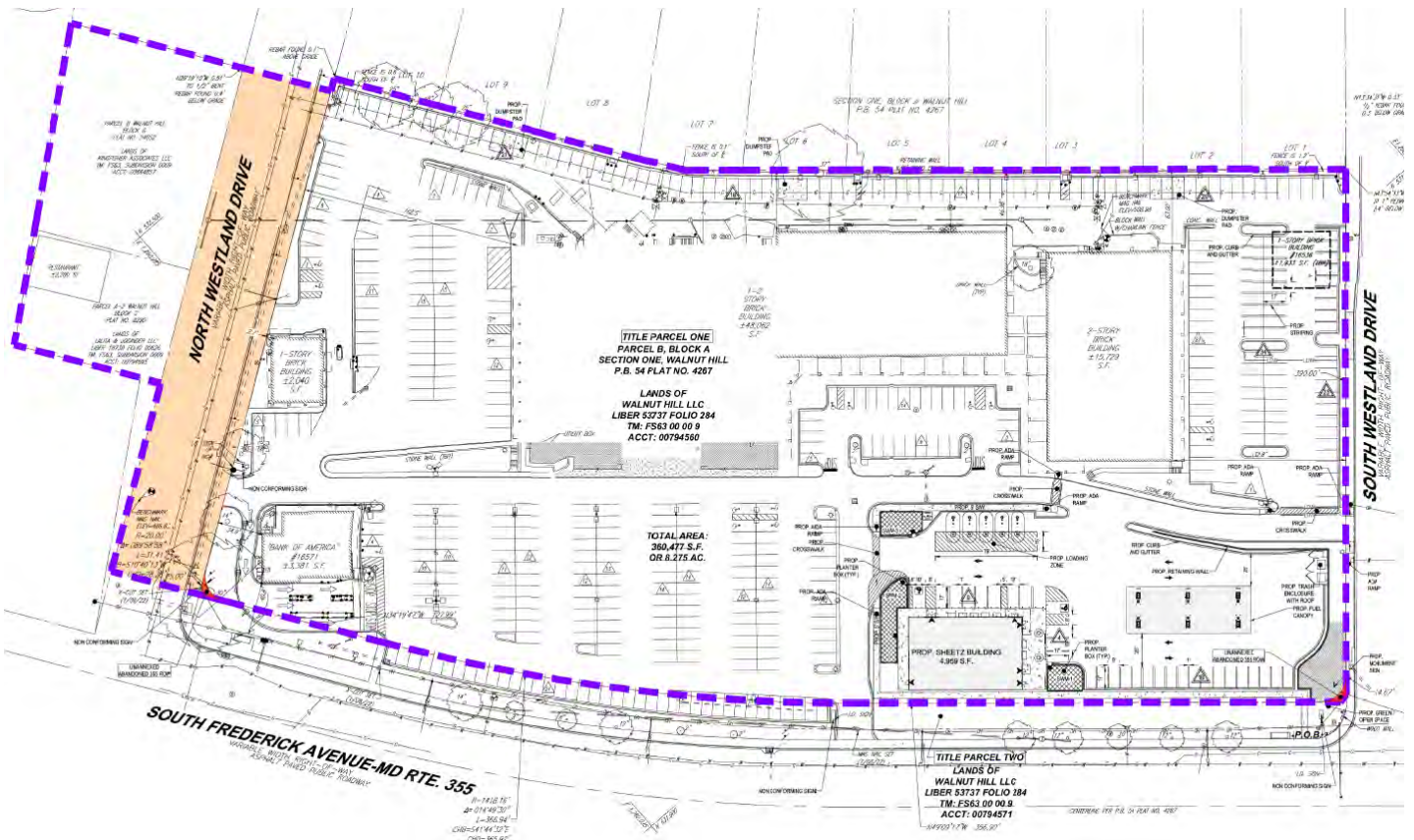
¹² Exhibit #22 (Revised Applicant Statement)

- Dedication of right of way along South Frederick Avenue (variable width of between 1 foot and 19 feet) to accommodate the future MD 355 Bus Rapid Transit (BRT) Line.¹³
- Various landscaping, lighting, and site improvements.

Subsequent to the annexation, the Applicant plans to pursue the Planning Commission’s approval of a Preliminary/Final Site Plan to accommodate these changes.

With respect to the vacant 8939 North Westland Drive parcel, the opportunity for future residential, commercial, or mixed use development should be preserved, as this provides the maximum flexibility to respond to market demand.

With respect to the 8941 North Westland Drive parcel, the Applicant understands based on discussions with City officials that it is the owner’s intent to continue the current commercial use of the site (restaurant). The opportunity for future redevelopment of the property should be preserved, and allowing residential, commercial, or mixed uses provides the maximum flexibility to respond to market demand.



Revised Annexation Plan¹⁴

Limitation on Zoning Action for 5 Years Following an Annexation

Pursuant to the Local Government Article of the Maryland State Code, Section 4-416(b):

¹³ Exhibit #46
¹⁴ Exhibit #23

“Without the express approval of the ... county council of the county in which the municipality is located, for 5 years after an annexation by a municipality, the municipality may not allow development of the annexed land for land uses substantially different than the authorized use, or at a substantially higher density, not exceeding 50%, than could be granted for the proposed development, in accordance with the zoning classification of the county applicable at the time of the annexation” (emphasis added)

Existing and Proposed Zoning

As shown in the charts below, the Revised Annexation Plan¹⁵ establishes the following proposed City zoning and associated density limits for each property included in the Annexation Area, which are in conformance with the land use and density requirements of Section 4-416(b) of the Local Government Article of the Maryland State Code.

EXISTING M-NCPPC ZONING CHART					
	16531 S FREDERICK AVE.	8939 N WESTLAND DR.	8941 N WESTLAND DR.	UNANNEXED ABANDONED 355 ROW	NORTH WESTLAND DRIVE ROW
ZONING	CRT-2.25 C-1.5 R-0.75 H-45				
TRACT AREA	342,993 SF	20,886 SF	10,784 SF	148 SF	28,018 SF
DENSITY	C-514,490 SF (1.5) R-257,245 SF (0.75) CR-771,734 SF (2.25)	C-31,329 SF (1.5) R-15,664 SF (0.75) CR-46,993 SF (2.25)	C-16,176 SF (1.5) R-8,088 SF (0.75) CR-24,264 SF (2.25)	C-222 SF (1.5) R-111 SF (0.75) CR-333 SF (2.25)	
DEVELOPMENT TYPE/USE	COMMERCIAL	VACANT	COMMERCIAL	COMMERCIAL	
EXISTING GROSS FLOOR AREA (GFA)	94,827 SF*	0 SF	2,200 SF	0 SF	

PROPOSED GAITHERSBURG ZONING CHART					
	16531 S FREDERICK AVE.	8939 N WESTLAND DR.	8941 N WESTLAND DR.	UNANNEXED ABANDONED 355 ROW	NORTH WESTLAND DRIVE ROW
ZONING	C-2	CD	CD	C-2	
TRACT AREA	342,993 SF	20,886 SF	10,784 SF	148 SF	28,005 SF
DENSITY	C-2, 514,490 SF (1.5)	C - 46,993 SF (2.25) R - 23,496 SF (1.125) CR - 70,490 SF (3.375)	C - 24,264 SF (2.25) R - 12,132 SF (1.125) CR - 36,396 SF (3.375)	C-2, 222 SF (1.5)	
DEVELOPMENT TYPE/USE	COMMERCIAL	COMMERCIAL/ RESIDENTIAL	COMMERCIAL/ RESIDENTIAL	COMMERCIAL	
PROPOSED GROSS FLOOR AREA (GFA)	97,853 SF**	0 SF	2,200 SF	0 SF	
CHANGE IN BUILDING AREA (SF)	3,026 SF	0 SF	0 SF	0 SF	

*DEVELOPMENT AND AREA (SF) INCLUDES THE TO BE DEMOLISHED FREESTANDING 1,933 SQ. FT. DRY CLEANERS BUILDING ON SITE.

**DEVELOPMENT AND AREA (SF) EXCLUDES THE TO BE DEMOLISHED DRY CLEANERS BUILDING ON SITE AND INCLUDES THE PROPOSED SHEETZ TO BE BUILT ON SITE.

Existing County and Proposed City Zoning, As Shown on the Revised Annexation Plan¹⁶

¹⁵ Exhibit #23

¹⁶ Exhibit #23

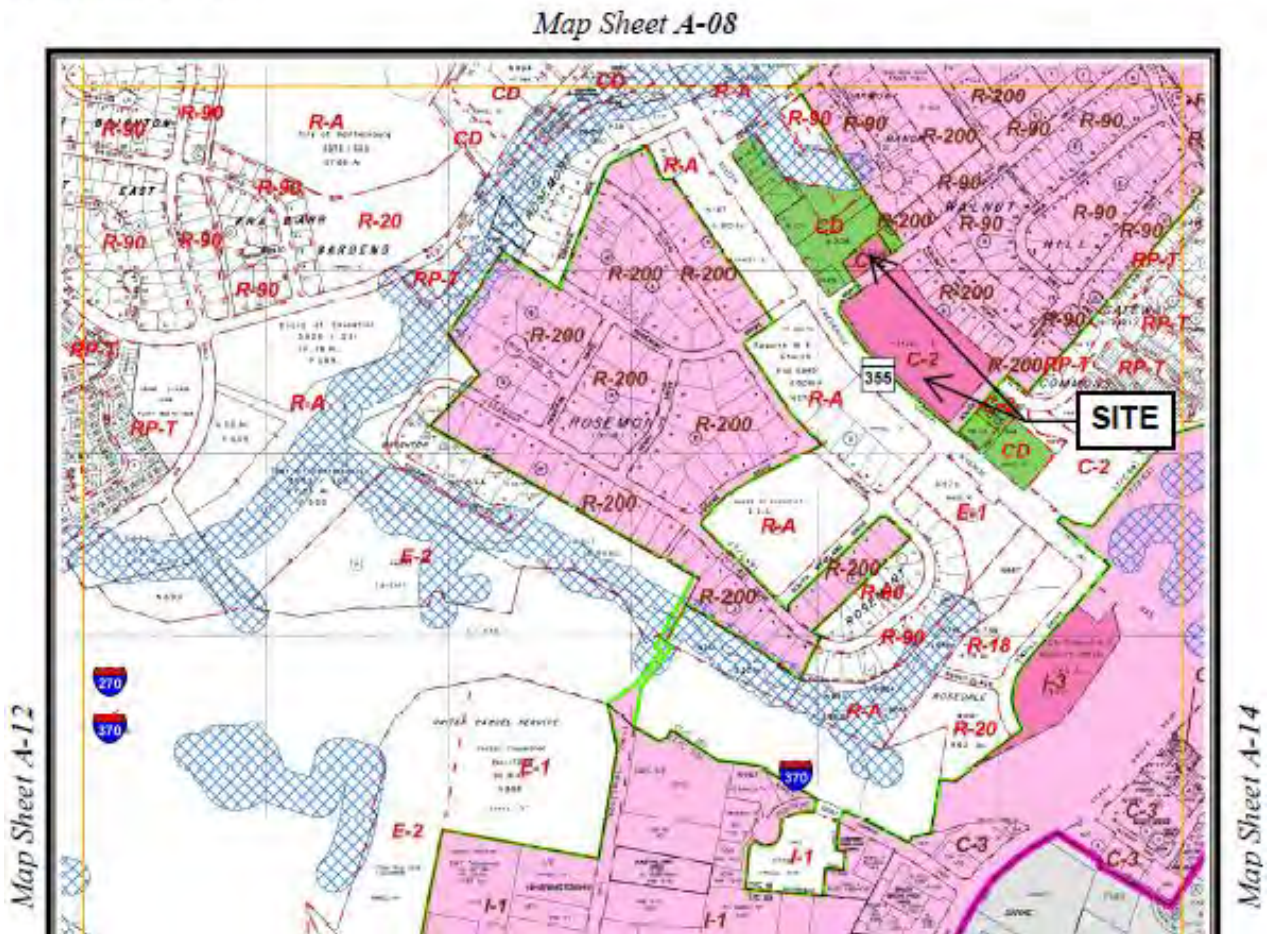
The shopping center parcel and the unannexed portion of the MD 355 right of way are proposed to be placed in the City's C-2 Zone with a maximum density of a 1.5 Floor-to-area ratio (FAR), which is the maximum density allowed under the City's C-2 Zone. The other two parcels at 8939 and 8941 North Westland Drive are proposed to be placed in the City's CD Zone with a maximum density based on a 50% increase above the density allowed under the current County CRT zoning: up to a 3.375 FAR for a mix of commercial and residential uses, up to a 2.25 FAR for a commercial-only use, and up to a 1.125 FAR for a residential-only use.

CITY OF GAITHERSBURG MASTER PLAN & STRATEGIC PLAN:

2003 Master Plan Municipal Growth Element¹⁷

The subject Site was identified within the City of Gaithersburg's 2003 Master Plan Municipal Growth Element (adopted 2009) to be included within the City's maximum expansion limits (MEL). The map excerpt below, taken from the Adopted Municipal Growth Element, shows the proposed Annexation Area:

Map Sheet A-13



¹⁷ Exhibit #42

2009 Master Plan Land Use Element¹⁸

The Property was included in the City of Gaithersburg's 2009 Master Plan Land Use Element (adopted 2011) as Map Designations 24 and 25. The Property is included in the 2001 Frederick Avenue Corridor Special Study Area Land Use Plan as part of the Southern Residential District, which "extends from Shady Grove Road on the south, to Summit Avenue on the north."¹⁹ The remainder of the 2001 Plan has been superseded by the 2009 Plan.

Map Designation 24 applies to the shopping center parcel at 16531 South Frederick Avenue and the abandoned MD 355 right of way and states:

"This 8.3-acre area contains a large one to two story retail building with a large surface parking lot. The residual Frederick Avenue right-of-way is located within the City limits, while Parcel B is located within the City's Maximum Expansion Limits, is contiguous with the City's current boundary, and could be annexed without creating an enclave. These properties are currently surrounded by a mix of single-family detached houses, religious institutions, and commercial uses.

The residual Frederick Avenue right-of-way does not currently have a zoning category assigned to it because at the time of annexation, this area was actual right-of-way. After the State abandoned this 20' wide portion of the Frederick Avenue right-of-way, the City did not assign a zoning category to this area²⁰. If annexed, this parcel should be incorporated into the Frederick Avenue Corridor Plan and subject to its design elements.

Land Use and Zoning Actions:

- *Adopt Commercial-Office-Residential land use designation for the residual Frederick Avenue right-of-way*
- *Adopt Commercial-Office-Residential land use designation for Parcel B, if annexed*
- *Recommend CD Zoning for Parcel B, if annexed"*

Map Designation 25 applies to the two parcels at 8939 and 8941 North Westland Drive and states:

"This 4.7-acre area contains several one to two story retail buildings with large surface parking lots. Parcel A-2 [8941 N Westland Dr] and part of Parcel A [now Parcel B/8939 N Westland Dr] Walnut Hill are within the City's Maximum Expansion Limits, are contiguous with the City's current boundary, and could be annexed without creating an enclave. These properties are currently surrounded by a mix of single-family detached houses, religious institutions, and commercial uses.

¹⁸ Exhibit #43

¹⁹ Exhibit #41, page 6 [page 9 of the PDF]

²⁰ Staff notes that upon further research, most of the abandoned MD 355 right of way was included in the area annexed by Annexation X-099 and assigned a zoning category of R-A. Thus, the recommendation from the 2009 Land Use Element only applies to the two small triangular portions of the abandoned MD 355 right of way that were not included in the area annexed by Annexation X-099. See Exhibits 47, 48, 49, and 51 for additional information.

This area's location along the Frederick Avenue corridor makes it appropriate for redevelopment in the future. As part of the Southern Residential District of the Frederick Avenue Corridor, a mixed use project with a balanced mix of commercial/office and residential would be appropriate. Consolidation of the smaller lots with the larger lots is encouraged. Any redevelopment proposal should consider and relate to the residential character of the surrounding area.

Land Use and Zoning Actions:

- *Adopt Commercial-Office-Residential land use designation for Part of Lot 1 Berlin's Addition, Lot 1 Block G Walnut Hills, and part of Lot 1 and Lot 3, Walnut Hill*
- *Adopt Commercial-Office-Residential land use designation for Parcel A-2 and part of Parcel A Walnut Hill, if annexed*
- *Zoning remains CD for Part of Lot 1 Berlin's Addition and part of Lot 1 and Lot 3 Walnut Hill*
- *Recommend zoning change from R-90 to CD for Lot 1 Block G Walnut Hills*
- *Recommend CD zoning for Parcel A-2 and part of Parcel A Walnut Hill, if annexed"*

City 2022 Strategic Plan²¹

The Annexation of the Walnut Hill Property and associated plan would be in accordance with the following adopted Outcome Areas and Strategies of the 2022 Strategic Plan:

Economic Development and Redevelopment

- Improve access and integration among employment nodes, residential areas, and amenities.
- Develop Gaithersburg as a regional employment center that attracts and supports an array of entrepreneurial and established businesses from a variety of industries.
- Implement strategies that encourage reinvestment in aging commercial and multi-family properties.

Viable Transportation Options

- Improve connectivity of people to services, activities, employment, and points of interest.

Fiscal Responsibility

- Pursue financially sustainable strategies to meet operational and community needs.

²¹ Exhibit #42

Summary of Staff Findings

Staff finds that the proposed X-9510-2023 annexation and associated plan:

- Is identified in the City's adopted 2003 Master Plan Municipal Growth Element and is appropriate to be annexed;
- Reflect the uses, zoning, and recommendations approved as Map Designations 24 and 25 in the 2009 Master Plan Land Use Element; and
- Comply with the 2022 City Strategic Plan because:
 - This annexation can help the other businesses currently located in the shopping center or future businesses be more successful with new investment.
 - It invests in an aging shopping center. The new shopping center will have an improved façade and will replace a vacant grocery anchor store (formerly Weis) with an active grocer (ALDI).
 - It helps the city remain financially sustainable with the new tax revenue from the shopping center.
 - With the addition of the MD 355 BRT line as well as having high walk score, this annexation will connect people with more jobs as well as points of interest such as the new ALDI and Sheetz stores.

CITY OF GAITHERSBURG PROPOSED ZONING:

Walnut Hill Shopping Center Parcel

As previously mentioned, the Applicant has requested that the Walnut Hill Propco property (16531 South Frederick Avenue) and the unannexed portion of the abandoned MD 355 right of way, if annexed into the City, be zoned General Commercial (C-2).²² The C-2 Zone allows the Applicant to continue operating the shopping center as a commercial use for the immediate future, and provides a simpler and shorter review process for the proposed improvements than the CD Zone process offers. Minimizing time and cost associated with the improvements are critical to attracting and retaining the grocer (Aldi) and convenience store (Sheetz) tenants, both of which will ensure the success and economic viability of the revitalized shopping center over the next 10-20 years. Assigning the C-2 Zone at the time of annexation does not preclude a future rezoning to the CD Zone as part of a future rezoning application or a comprehensive rezoning action by the City.

Pursuant to § 24-116, it is the purpose of the C-2 zone *“to include commercial uses serving the regional and local area, together with normal supplemental uses and other uses compatible with a cohesive and attractive shopping and office area.”*

FINDING:

The existing and proposed uses shown in the Annexation Plan for the shopping center parcel at 16531 South Frederick Avenue are in conformance with the purpose of the C-2 Zone. Further, the proposed renovations to the shopping center discussed in the

²² Exhibit #39

Applicant's Statement of Justification will improve the cohesiveness and attractiveness of the shopping center and surrounding area.

The following are the sections of the City Code that lay forth the requirements related to C-2 zoning.²³ After each subsection, findings are provided.

Sec. 24-117. – Uses permitted by right. [excerpt]

- (1) Retail stores and shops such as grocery stores, drugstores, variety stores and bakeries, provided that goods baked on the premises shall be sold only on the premises and at retail.*
- (2) Personal service businesses such as shoe repair shops, beauty parlors and barbershops, and laundries and dry cleaning establishments which are self-service or pick-up stations only.*
- (3) Banks, offices, restaurants (Class A and Class C), bars and similar services.*
- (4) Offices for professional or business purposes, including but not limited to medical, law, real estate, insurance and manufacturer's representatives' offices.*
- (5) Private clubs, lodges and fitness centers.*

* * *

- (13) Retail, service and general commercial uses similar to the foregoing.*
- (14) Accessory uses and structures in compliance with section 24-163 of this Code.*

* * *

FINDING:

The existing and proposed uses shown in the Annexation Plan for the shopping center parcel at 16531 South Frederick Avenue are allowed uses in the C-2 Zone.

Sec. 24-119 – Yard Requirements.

In the C-2 Zone, no yards are required; provided, that where a side yard in a C-2 district adjoins a residential zone, a side yard shall be provided in the C-2 Zone equal to the requirements of the adjoining residential zone.

FINDING:

The placement of the existing and proposed buildings shown on the Annexation Plan for the shopping center parcel at 16531 South Frederick Avenue satisfy the yard requirements of the C-2 Zone.

Sec. 24-120. – Height and FAR restrictions.

No structure or building in the C-2 Zone shall exceed a floor area ratio of 1.5; provided, however, no building or structure in this zone may exceed a total of ten (10) stories in height exclusive of mechanical or [other] equipment placed upon the rooftop except as hereafter permitted pursuant to the provisions of section 24-121 of this Code.

²³ Exhibit #34

FINDING:

The proposed maximum density of 1.5 FAR shown in the Annexation Plan for the shopping center parcel at 16531 South Frederick Avenue is in conformance with the maximum density allowed by the C-2 Zone.

North Westland Drive Parcels

As previously mentioned, the Applicant has requested that the King Fisher Associates property at 8939 North Westland Drive and the Lalita & Joginder property at 8941 North Westland Drive, if annexed into the City, be zoned Corridor Development (CD).²⁴

Pursuant to § 24-160G.1., it is the purpose of the CD zone to:

- (a) *Encourage a form of development, consistent with the goals and provisions of the respective master plans for the city that will achieve the physical characteristics necessary to enhance the economic vitality, planned visual character and quality of life within an identified transportation corridor in the city.*
- (b) *Create a more attractive and cohesive development pattern and to enhance the city's sense of place through the creation of individual character associated with the corridor in the applicable corridor master plan.*
- (c) *Encourage development and redevelopment and renovation of declining or underutilized properties along the corridor.*
- (d) *Encourage the use of consistent, compatible and attractive architecture, streetscape and visual themes.*
- (e) *Create a streamlined process for zoning and plan approvals.*
- (f) *Provide an appropriate scale of development and mix of retail, service, employment and residential uses as recommended in the applicable corridor plan.*

FINDING:

The existing and potential future development shown on the Annexation Plan and discussed in the Statement of Justification for the North Westland Drive parcels meet the purpose of the CD Zone.

The following are the sections of the City Code that lay forth the requirements related to CD zoning. After each subsection, findings are provided

Sec. 24-160G.3. – Minimum location requirements.

- (a) *No land shall be classified in the Corridor Development Zone unless the land is located within an area so designated on an approved and adopted land use master plan.*

²⁴ Exhibit #40

FINDING:

The 2009 Master Plan Land Use Element, Map Designation 25, recommends CD zoning for these two parcels, if they are annexed into the City of Gaithersburg.

(b) When undertaking new development or redevelopment in the CD Zone, all uses identified for specific areas or properties within the land use element of a corridor development master plan shall be applied in those areas specified, unless otherwise approved by the mayor and city council within the context of a schematic development plan or concept site plan.

FINDING:

These properties are located between South Summit Avenue and Shady Grove Road, within the Southern Residential District. The 2009 Master Plan Land Use Element recommends that “a balanced mix of commercial/office and residential [uses] would be appropriate.”

Sec. 24-160G.4. – Development standards.

Except as otherwise provided in the land use element or other element of the applicable corridor development area master plan as set forth in special regulations or requirement relating to design, construction building height, setbacks, parking, lighting, signage and streetscaping that may be adopted by resolution of the city council, the following standards shall apply:

(a) Height of buildings and structures. No building or structure in this zone shall exceed the following heights, exclusive of decorative elements, mechanical, communications or other equipment placed upon the roof.

(1) Any residential district identified in a corridor development area master plan three (3) stories and not to exceed thirty-five (35) feet in height.

FINDING:

The existing restaurant at 8941 North Westland Drive is a one story building and the parcel at 8939 North Westland Drive is currently vacant with no buildings on site. Both parcels are located in the Southern Residential District, and all new development is limited to three stories and 35 feet in height, pursuant to § 24-160G.4.(a)(1). There are no changes proposed to either parcel’s site layout, so the remaining development standards of § 24-160G.4. are not applicable.

ADEQUATE PUBLIC FACILITIES:

Although annexation petitions are not subject to the City’s Adequate Public Facilities Ordinance (APFO) (Article XV of Chapter 24 of the City Code), a component of the Planning Commission’s recommendation to the City Council is to determine whether adequate public

facilities exist to serve the proposed annexation area. Staff is providing the following information about public facilities to assist the Planning Commission in their recommendation and in anticipation of future site development applications that will be subject to the City's APFO.

APFO – Water and Sewer Services

The Property is currently developed with or adjacent to both public water and public sewer service and has Washington Suburban Sanitary Commission (WSSC) categories of S-1 and W-1. These category designations indicate that the property is currently served by both public water and public sewer service and any development could utilize and expand those services.

APFO – Fire and Emergency Services

The City's APFO requires that any development project be served by at least two (2) fire stations with a ten (10) minute response time. The Walnut Hill properties are within the ten (10) minute response areas of Montgomery County Department of Fire and Rescue Services Stations 3 (Rockville), 8 (Gaithersburg-Washington Grove), 28 (Gaithersburg-Washington Grove/Redland), and 32 (Travilah).

APFO – Public Schools

The proposed annexation plan does not propose any residential development, however, there could be residential development at some point in the future, most likely on the vacant Parcel B, Block G (8939 North Westland Drive). The Site is located in the Gaithersburg Cluster and is currently served by Washington Grove Elementary School, Gaithersburg Middle School, and Gaithersburg High School. Note that the cluster and school assignments may change in the future, once the proposed high school at Crown is completed.

APFO – Traffic Impacts

City Engineering Staff performed a preliminary review in October 2022 of a Traffic Impact Analysis²⁵ for a proposed Sheetz convenience store and gas station located within the Walnut Hill Shopping Center. The Sheetz project, which consists of a 4,959 square foot convenience store with an accessory 12 fueling positions, is proposed to displace a portion of the existing parking lot in the shopping center.

The Walnut Hill Shopping Center currently consists of 95,806 sq. ft. of building space, of which 49,490 sq. ft. (51.7%) was occupied with various retail uses as of October 2022. The shopping center is currently accessed through a right-in, right-out driveway off MD 355, along with several full turning movement driveways off North Westland Drive and South Westland Drive. The draft concept plan for Sheetz submitted with the Traffic Impact Analysis did not show any proposed changes to the site access points.

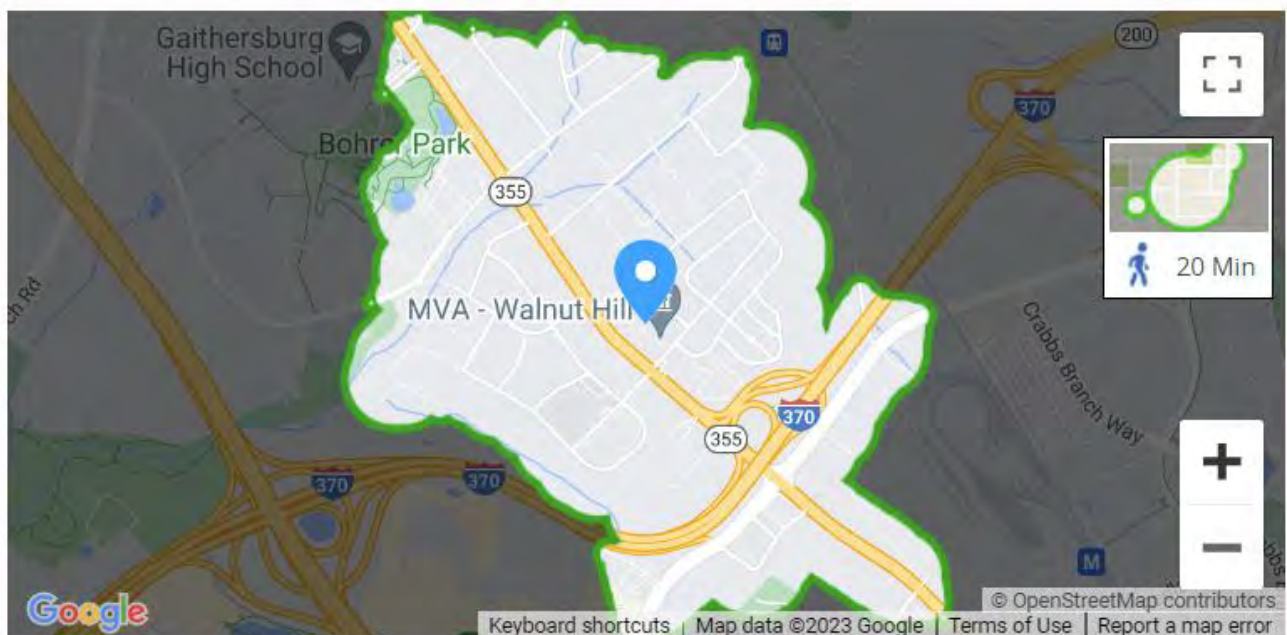
²⁵ Exhibit #31

City Staff's preliminary review of the Traffic Impact Analysis identified a number of items that will need to be addressed as part of a formal Traffic Impact Study (TIS), which is required in conjunction with the applicant's formal submittal of a preliminary site plan. These items include:

- a) The Traffic Impact Study will need to address the future conditions at project buildout under two conditions: with the MD 355 Bus Rapid Transit (BRT) project in place and without it. One significant change with the BRT is the MD 355 median closure at North Westland Drive. All distributions and analysis in the TIS will need to show both conditions. The BRT is an expected future condition, but there is no certainty that it will be installed, plus there may be an interim period when the Sheetz is open and the BRT has not yet been constructed.
- b) U-turns are currently prohibited on MD 355 at the intersection of East and West Deer Park Road, but U-turns will be allowed after the BRT is in place. The traffic distribution plan will need to be updated accordingly.
- c) The applicant will need to provide an internal trip distribution exhibit showing internal travel patterns with the Sheetz in place. The exhibit must show onsite peak hour volumes before and after the BRT, and it must include all site entry/exit locations.

The applicant's preliminary Traffic Impact Analysis determined that the surrounding impacted intersections would operate at an acceptable level of service, in accordance with the City's Traffic Impact Study Standards, at buildout of the Walnut Hill Shopping Center. The buildout conditions include Sheetz plus full occupancy of the existing vacant shopping center building space. This will need to be further evaluated and verified through submittal of a formal Traffic Impact Study at preliminary site plan application, as noted above.

The following illustrates the 20 minute (or one mile) walkshed using Walk Score:²⁶



²⁶ <https://www.walkscore.com/score/16531-s-frederick-ave-gaithersburg-md-20877#>; Overall Walk Score: 65 (Somewhat Walkable)

Other Facilities

Public Utilities:

The annexation plan shows existing electric, natural gas, telecommunications, storm drain, and other utilities adjacent to each of the tax parcels. Utility connections to and through the shopping center parcel are also shown. Any future development on any of the three tax parcels will be able to connect to and be serviced by these existing utilities.

Forest Conservation:

The annexation plan is subject to the forest conservation requirements of Chapter 22 of the City Code. Forest conservation, if applicable, will be met on-site and defined at a future Schematic Development, Preliminary, or Final Site Plan.

Stormwater Management:

Any future preliminary site plan must be designed to meet the State and City requirements for stormwater management in accordance with the current Maryland Department of the Environment ("MDE") Stormwater Management regulations and Chapter 8 of the City Code. Such plan must utilize the latest techniques for Environmental Site Design ("ESD") to the Maximum Extent Practicable in accordance with the Chapter 8, Article III of the City Code.

Police:

The City of Gaithersburg has its own Police Department and through a memorandum of understanding, the Montgomery County Police Department also serves the City of Gaithersburg. Following the annexation, the City of Gaithersburg Police Department will extend services to the Property.

Summary of Staff Findings for Adequate Public Facilities

Staff notes that the City of Gaithersburg, as an incorporated municipality, is a State-designated Priority Funding Area. As such, the City is recognized as having existing infrastructure that would support future development and redevelopment and would meet the requirements of the City's APFO. Future infrastructure needs within the City's designated Growth Areas will be financed through a combination of public and private funds without undue burdens on City residents. The City of Gaithersburg will remain financially stable during future growth periods by coordinating with private developers, Montgomery County, and other agencies that fund public infrastructure. The City with its partners has adequate infrastructure for public facilities and financial security to support the annexation of the subject area proposed for annexation.

STAFF RECOMMENDATION:

Staff recommends that the Planning Commission recommend to the City Council that:

The proposed zoning of C-2 (General Commercial) and CD (Corridor Development) for Annexation X-9510-2023 is appropriate based upon the findings presented in the preliminary report; and

The proposed X-9510-2023 annexation and associated plan are in compliance with the City's Master Plan and 2022 Strategic Plan, based upon the findings presented in the preliminary report; and

The proposed X-9510-2023 annexation and associated plan can be served by both existing and future public facilities based upon the findings presented in the preliminary report.

Further, Staff recommends that the Planning Commission defer their recommendation for 8 days to receive public comments until 5:00 PM on Thursday, July 13, 2023, and provide a formal recommendation on the annexation petition and annexation plan on Wednesday, July 19, 2023, 47 days prior to the public hearing scheduled for the September 5, Mayor and City Council meeting.