

July 25, 2023

The Honorable Jud Ashman, Mayor
City of Gaithersburg
31 South Summit Avenue
Gaithersburg, Maryland 20877

SUBJECT: City of Gaithersburg Annexation, ANX-9510-2023, Walnut Hill Shopping Center
8939 North Westland Drive and 8941 North Westland Drive

Dear Mayor Ashman:

At its regular meeting of the Montgomery County Planning Board, on July 13, 2023, the Board reviewed the City of Gaithersburg annexation petition ANX-9510-2023. The petition included the Walnut Hill Shopping Center, located at 16531 South Frederick Avenue (MD 355), and two properties located at 8939 North Westland Drive and 8941 North Westland Drive.

Annexation of the Shopping Center property will reclassify the property from the County's Commercial Residential Town (CRT) zone to the City's General Commercial (C-2) zone and the properties on North Westland Drive will be reclassified to the City's Corridor Development (CD) zone from the CRT zone.

After the Planning staff's presentation and the Planning Board's discussion with the property representative, the Board voted unanimously to support the proposed annexation and to transmit the following comments:

- The proposed annexation is consistent with the Annotated Code of Maryland municipal annexation provisions.
- The annexation petition is in substantial conformance with uses authorized in the county's Commercial Residential Town (CRT) zone and the recommendations in the 2010 *Great Seneca Science Corridor Master Plan*.
- The proposed densities in the City of Gaithersburg's General Commercial (C-2) and Corridor Development (CD) zones are not substantially higher than the current zone, and the properties are within the City of Gaithersburg's Maximum Expansion Limits.

Thank you for the opportunity to provide the Planning Board's comments on this annexation petition.

Sincerely,


Artie Harris

Chair

Attachment: Annexation Staff Report

AH:ny:ha

City of Gaithersburg Annexation Petition No. ANX-9510-2023

Walnut Hill Shopping Center

Description

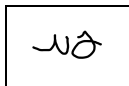
An annexation petition from the City of Gaithersburg for three properties, including the Walnut Hill Shopping Center, located at 16531 South Frederick Avenue (MD 355), 8939 North Westland Drive and 8941 North Westland Drive.

No. ANX-9510-2023
Completed: 06-30-2023

MCPB
Item No.
7-13-2023

Montgomery County
Planning Board
2425 Reddie Drive
Floor 14
Wheaton, MD 20902

Planning Staff



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LOCATION/ADDRESS

16531 South Frederick Avenue, 8939 North Westland Drive and 8941 North Westland Drive

MASTER PLAN

2010 Great Seneca Science Corridor Master Plan

ZONE

CRT 2.25 C-1.5 R-0.75 H-45

PROPERTY SIZE

9.0 acres

APPLICANT

City of Gaithersburg

ACCEPTANCE DATE

May 16, 2023

REVIEW BASIS

Maryland Code



Summary:

- Staff recommends the approval of the annexation petition and the transmittal of comments to the City of Gaithersburg.
- A shopping center, retail use and a vacant property are included in the annexation petition.
- The property is within the maximum expansion limits of the City of Gaithersburg.

SUMMARY

Staff recommends approval of the annexation petition and the transmittal of comments to the City of Gaithersburg Mayor and Council and Montgomery County Council. The three properties proposed for annexation are within the City of Gaithersburg's Maximum Expansion Limits (MEL), and the petition proposes the General Commercial (C-2) zone and Corridor Development (CD) zone for the properties. The proposed zones have similar land uses to the existing Commercial Residential Town (CRT) zone and the proposed densities are not substantially higher. The 2010 *Great Seneca Science Corridor Master Plan* acknowledges the potential annexation of the Walnut Hill Shopping Center and other properties.

BACKGROUND AND LOCATION

Three properties are associated with the proposed annexation, including the Walnut Hill Shopping Center, located at 16531 South Frederick Avenue (MD 355). This 8.2-acre shopping center property is also between South Westland Drive and North Westland Drive. Two smaller properties, including a vacant property at 8939 North Westland Drive and a commercial use at 8941 North Westland Drive, are additional properties included in the annexation petition (Figure 1).

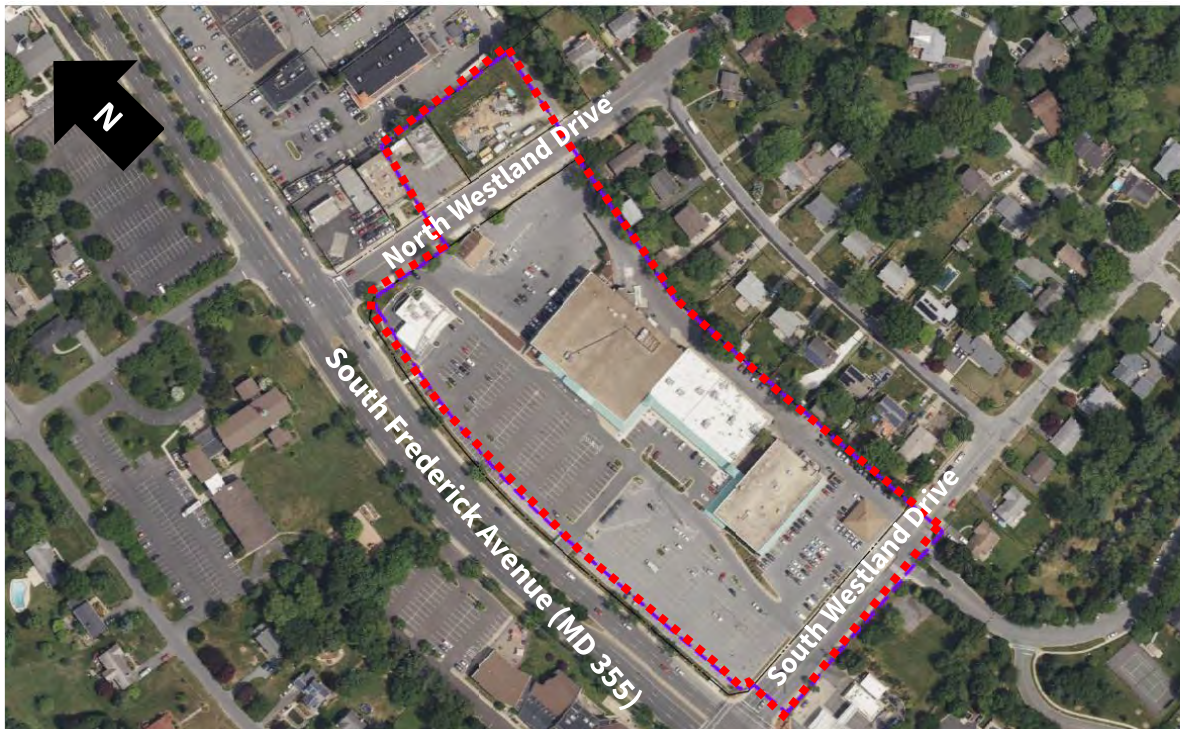


Figure 1: Proposed Annexation Area

Built in 1967, the Walnut Hill Center is a traditional suburban shopping center with approximately 94,827 square feet of commercial development and surface parking. Both the shopping center and the smaller commercial properties are in the Commercial Residential Town (CRT) 2.25 C-1.5 R-0.75 H-45 zone (Figure 2). Most of the shopping center’s MD 355 frontage for a depth of 20 feet is within the city limits and is in the low-density residential (R-A) zone. The Walnut Hill residential subdivision, which is in the county, is east of the shopping center and is in the R-200 and R-90 zones. Properties to the immediate north, south, and west of the proposed annexation are in the Gaithersburg city limits.

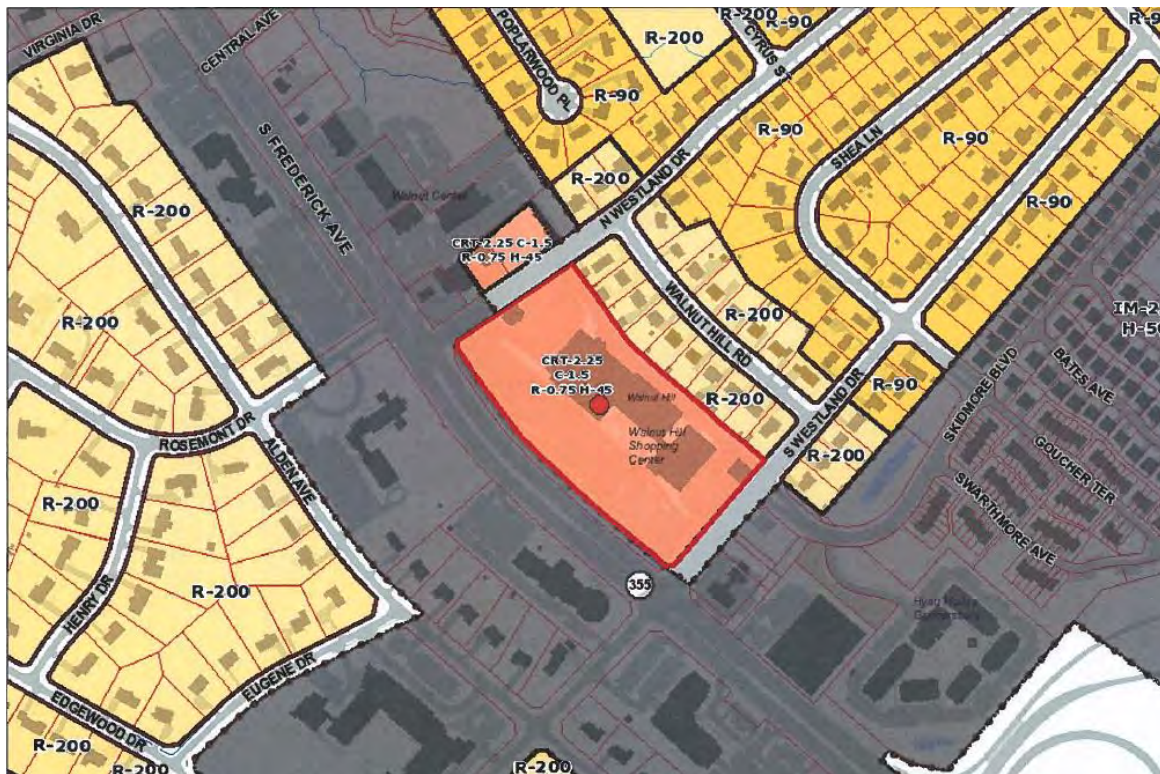


Figure 2: Existing zoning for the Walnut Hill Shopping Center and properties at 8939 North Westland Drive and 8941 North Westland Drive

ANNEXATION PROPOSAL

Walnut Hill Propco, LLC, King Fisher Associates, LLC and Lalita & Joginder, LLC seek annexation of the Walnut Hill Shopping Center and the properties located at 8939 North Westland Drive and 8941 North Westland Drive into the City of Gaithersburg from Montgomery County. In addition, two right-of-way segments of North Westland Drive and South Westland Drive that front these properties are also included in the annexation petition.

The annexation petition proposes to use the city's General Commercial (C-2) zone for the shopping center and the Corridor Development (CD) zone for the smaller properties. The petitioners indicate that the commercial properties are oriented towards the City of Gaithersburg, and as a small municipality, Gaithersburg is more responsive and efficient than the county. Further, the proposed annex properties are in Gaithersburg's Maximum Expansion Limits (MEL), and it would complete a gap between the city and county (Figure 3). The annexation petition does not anticipate significant redevelopment in the near-term.



Figure 3: City of Gaithersburg Municipal Growth (2009) - A Master Plan Element - Maximum Expansion Limits

Redevelopment is not anticipated in the near-term for properties included in the annexation petition. However, the shopping center owners will implement a variety of near-term changes, including the following changes:

- Establishment of a new retail pad in the southwest corner of the shopping center to accommodate a retail convenience store with 12 gas fueling stations.
- Creation of new pedestrian connections leading from MD 355 and elimination of the center driveway along South Westland Drive.
- New landscaping, lighting, and building improvements.

CITY OF GAITHERSBURG MAYOR AND COUNCIL

The City of Gaithersburg Council introduced an Annexation Resolution for the proposed annexation area on May 15, 2023, and the public hearing on the resolution is tentatively scheduled for September 5, 2023. The Mayor and Council are scheduled to adopt the Annexation Plan at their meeting on October 16, 2023. The City of Gaithersburg planning staff supports the proposed annexation.

GREAT SENECA SCIENCE CORRIDOR MASTER PLAN

The proposed annexation is in the 2010 *Great Seneca Science Corridor Master Plan* area. The Master Plan recognizes that “future annexations may occur and that annexing properties surrounded by municipalities would help create coherent boundaries” (p.13). The Master Plan states that in 2009, Gaithersburg established a new Maximum Expansion Limit (MEL), and it strongly “opposes annexation of any portion of the Life Sciences Center, which is not an enclave” (p.14). The Walnut Hill Shopping Center and the adjacent properties are not associated with the Life Sciences Center. The proposed annexation will create a “well-defined and logical” boundary between the city and the county (p.14).

The Master Plan notes that the Walnut Hill residential area (Figure 4) is one of five “enclaves that are completely or nearly completely surrounded by the City of Gaithersburg are all within the city’s Maximum Expansion Limits (MEL) and could be considered for annexation” (p.66). The Great Seneca Master Plan is currently under revision by the Montgomery County Planning Department.

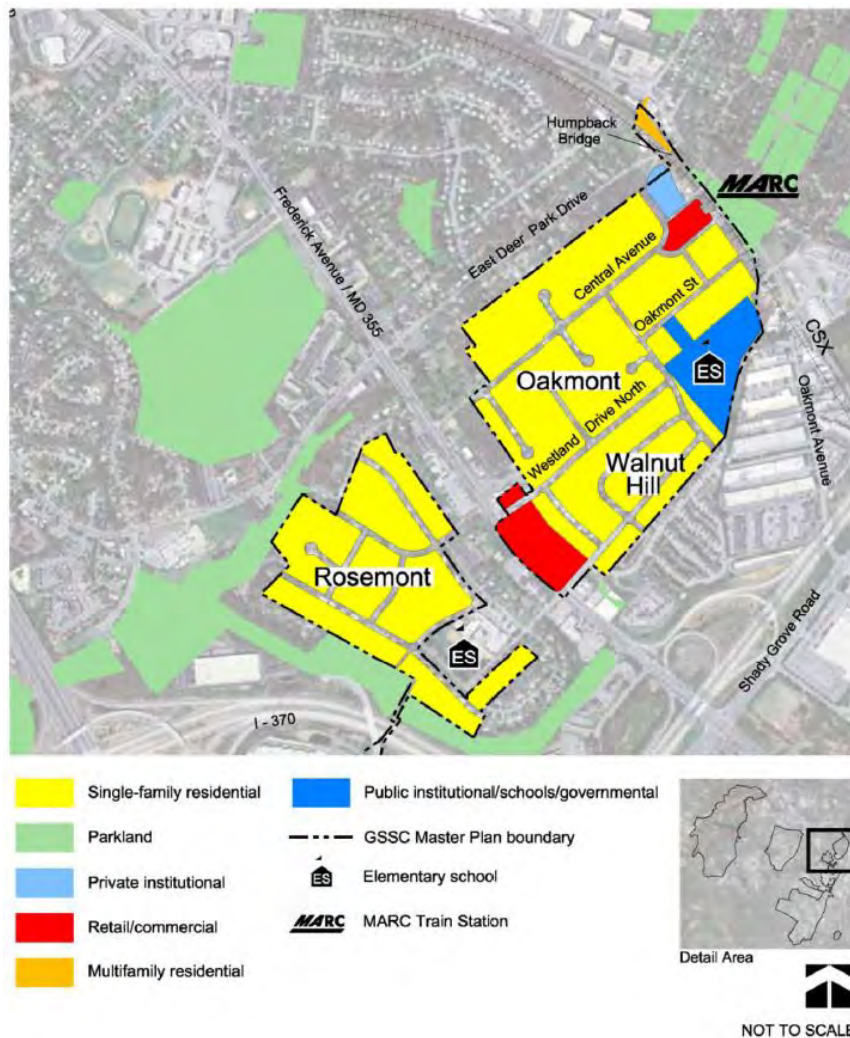


Figure 4: Existing land uses in the Rosemont, Oakmont and Walnut Hill areas.

The Annotated Code of Maryland establishes the rules and procedures for municipal annexations. Section 4-401 of the Code, titled “Power to enlarge municipal boundaries by annexation,” states that:

Land to which power applies

- (b) The power of annexation applies only to land that:
 - (1) is contiguous and adjoining to the existing boundaries of the municipality; and
 - (2) does not create an unincorporated area that is bounded on all sides by:
 - (i) real property presently in the boundaries of the municipality;
 - (ii) real property proposed to be in the boundaries of the municipality as a result of the proposed annexation; or
 - (iii) any combination of real property described in item (i) or (ii) of this item.

The proposed annexation request adheres to these requirements since the Walnut Hill property and the two other properties are adjoining to the existing City of Gaithersburg boundary. The proposed annexation would not create an unincorporated area bounded on all sides by real property within the municipality’s boundaries, and the properties are not within another municipality. Further, the proposed annexation properties are within Gaithersburg’s MEL and it is consistent with the city’s municipal growth element (Figure 3).

Section 4-406 of the Maryland Code, titled “Public notice and hearing on resolution,” states in part:

- (a) After an annexation resolution is introduced, the chief executive and administrative officer of the municipality shall publish notice in accordance with the requirements of this section that:
 - (1) briefly and accurately describes the proposed annexation and the applicable conditions and circumstances; and
 - (2) specifies the date, time, and place that the legislative body sets for the public hearing on the proposed annexation.

Section 4-406 also provides specific noticing requirements for commercial property owners. It states the following:

- (b) After an annexation resolution is introduced, the chief executive or the administrative officer of the municipality shall notify commercial property owners in the area to be annexed of:
 - (1) all personal property taxes and fees imposed by the municipality; and
 - (2) the date, time, and place that the legislative body sets for the public hearing on the proposed annexation.

The City of Gaithersburg has notified the commercial property owners and these property owners are supportive of the annexation petition.

Notice to County and Planning Agencies

(d) Immediately after the first publication of the public notice, the municipality shall provide a copy of the public notice to:

- (1) the governing body of the county in which the municipality is located; and
- (2) any regional or State planning agency with jurisdiction in the county.

The May 16, 2023, submission from the City of Gaithersburg serves as the public notice to the Montgomery County Planning Department, which Section 4-406 of the Maryland Code requires. Gaithersburg's Mayor and Council introduced an Annexation Plan on May 15, 2023, and set the tentative public hearing on the Annexation Resolution for September 5, 2023.

Different Land Use and Density

The Annotated Code, planning and zoning authority (Section 4-416), places some limits on changes in land use and zoning when a property is annexed from the County into a municipality. It states the following:

- (b) Without the express approval of the county commissioners or 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.

The proposed annexation will place the Walnut Hill Shopping Center into the city's General Commercial (C-2) zone and the two smaller properties on North Westland Drive into the Corridor Development (CD) zone. The maximum Floor Area Ratio (FAR) for the city's C-2 zone is 1.5, which is the same maximum commercial development permitted in the county's CRT zone.

The commercial uses in the county's CRT zone and the city's C-2 zone are similar, including a broad range of retail establishments. Residential development, including townhouses and multi-unit living, is permitted in the CRT zone, while residential development is allowed as a special exception and permitted as "an accessory to a commercial use" in the C-2 zone (Gaithersburg Zoning Ordinance, Sec. 24-118.1). Since the city's C-2 zone is limited to 1.5 FAR and the uses are similar to the CRT zone; therefore, the proposed annexation for the shopping center property is not substantially different than otherwise permitted.

The city's *Frederick Avenue Corridor Land Use Plan* (2001) divides Frederick Avenue (MD 355) into three segments:

- Southern Resident District is between South Summit Avenue to I-370.
- Fairgrounds Commercial District is between South Summit Avenue to Quince Orchard Road.
- Northern Employment District is between Quince Orchard Road and Game Preserve Road.

The two properties proposed for annexation along North Westland Drive are adjacent to the city's Southern Residential district where building heights are permitted up to "three (3) stories and not to exceed thirty-five feet" (Section 24-160G.4. of the city's Zoning Ordinance). The City Council may waive the building height limit and increase it up to four stories or 48 feet. The heights allowed in this portion of the corridor are similar to the CRT zone.

A broad range of commercial, office and residential uses are allowed in the CD zone, which is similar to the CRT zone. The CD zone only utilizes building heights as a density measure, while the CRT zone uses both building heights and FAR.

The 2.25 FAR for the two properties on North Westland Drive could be increased, per the provisions of the Annotated Code (Section 4-416). However, development requirements, such as setbacks, the city's CD zone standards, and the Frederick Avenue Plan requirements will make additional density challenging to achieve. The two properties on North Westland Drive are relatively small, 10,784 square feet and 20,886 square feet in size. Therefore, achieving more residential or non-residential development beyond 2.25 FAR on these properties, individually or collectively, will be challenging to implement.

PUBLIC SCHOOLS

The properties proposed for annexation are in the Montgomery County Public Schools (MCPS) Gaithersburg Cluster. This cluster has eight elementary schools, two middle schools, and a high school. All elementary schools are within their program capacities for the current six-year CIP, FY23-28. Similarly, both middle schools are within their program capacities for the six-year CIP and into the future. Gaithersburg High School is currently above its program capacity and it will remain above its capacity in the long-term. The new high school capacities will be established when the new Crown High School is opened in 2027. Last year, the new Harriett Tubman Elementary School was opened in Gaithersburg. Future redevelopment of any properties proposed for annexation would be subject to the city's Adequate Public Facilities Ordinance (APFO).

ENVIRONMENT

The 2010 Great Seneca Science Corridor Master Plan recommends a broad strategy to further environmental sustainability. It states that the “compact, walkable, and green community envisioned for the plan area integrates many aspects of sustainability. It accommodates new residents and businesses while reducing land consumption and vehicle miles traveled, thereby reducing the carbon footprint from new development in the County” (p.26). An update of the 2010 Great Seneca Plan is currently being developed by the Planning Department, and revised environmental recommendations will be included in that document. There are no streams, wetlands or forest on the subject site.

TRANSPORTATION

The properties proposed for annexation front onto South Frederick Avenue (MD 355), North Westland Drive and South Westland Drive. The Maryland Department of Transportation State Highway Administration (MDOT SHA) owns and maintains approximately 3.84 miles of MD 355 within Gaithersburg’s city limits. Montgomery County’s Ride On Routes 55, 59 and 101 provide public transit services along MD 355.

The city’s 2009 *Master Plan Transportation Element* identifies the properties associated with this annexation as within the Southern Residential District of MD 355, which “extends from Summit Avenue to the southern city limit” (p.23). The 2009 Master Plan also states that in the long-term, the city should “work with the neighboring jurisdictions in studying the feasibility of a bus rapid transit (BRT) line on MD 355, further widening the multimodal network and creating a regional alternative to the Single Occupancy Vehicle (SOV)” (p.23). The recommended right-of-way for this portion of MD 355 is 120 feet with additional right-of-way for bus rapid transit (BRT). A BRT station is proposed at the South Westland Drive.

The Montgomery County Department of Transportation (MCDOT) is conducting a bus rapid transit (BRT) study, MD 355 Central, which is between Montgomery College in Rockville and Montgomery College in Germantown (Figure 5). The final design is anticipated by FY25, and construction by FY28. The property owner has agreed to dedicate additional land to accommodate the future BRT project (Figure 6).



Figure 5: MD 355 BRT Central Route with proposed station locations

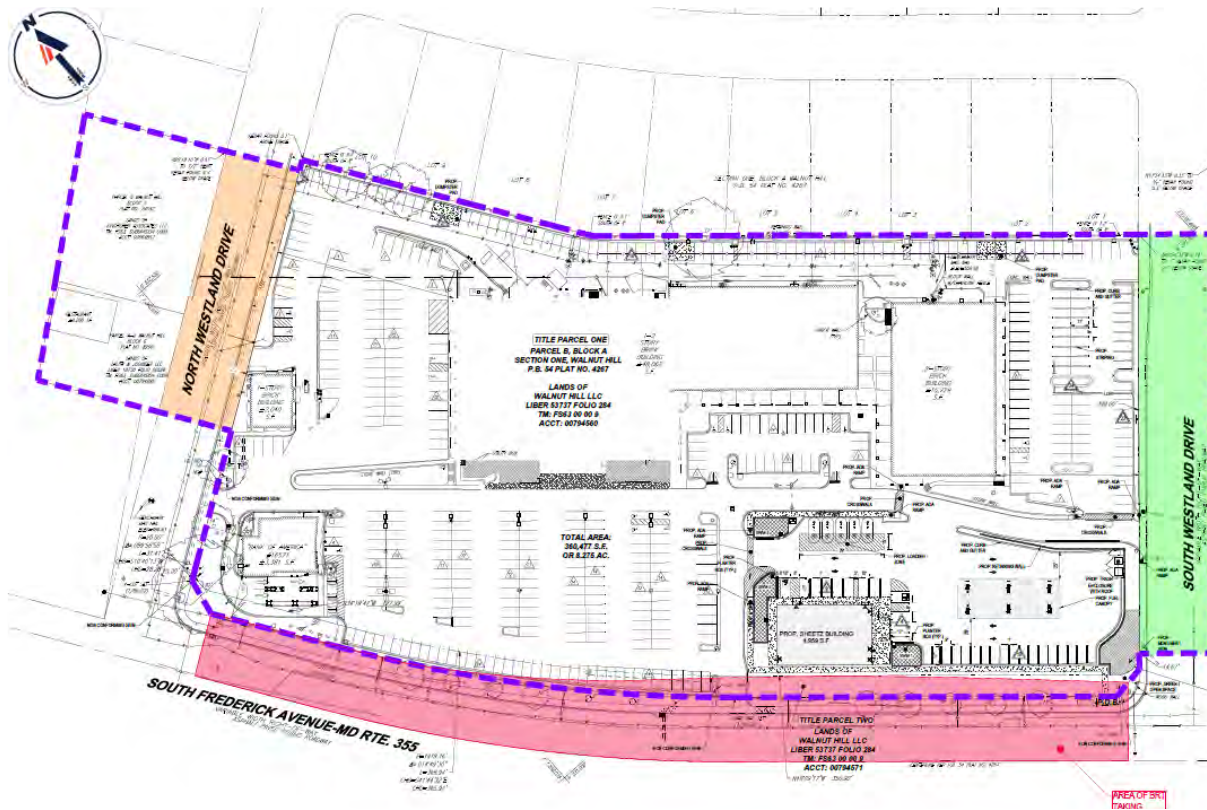


Figure 6: Additional property dedication (shown in pink) for MD 355 BRT

COMMUNITY COMMENTS

As of the date of this memorandum, planning staff has received no correspondence on the proposed annexation. The Shady Grove Sector Plan Advisory Committee received notification on this proposal.

CONCLUSION

The proposed annexation is consistent with the Annotated Code of Maryland municipal annexation provisions. The annexation petition is in substantial conformance with uses authorized in the county's CRT zone and the recommendations in the 2010 *Great Seneca Science Corridor Master Plan*. The proposed densities in the C-2 and CD zones are not substantially higher than the current zone, and the properties are within the City of Gaithersburg's Maximum Expansion Limits. Planning staff recommends approval to transmit comments to the City of Gaithersburg and to the Montgomery County Council.