
MEMORANDUM TO: Mayor and City Council

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

DATE: August 18, 2023

SUBJECT: Staff Analysis and Fiscal Impact Report:
Application X-9510-2023:

Request to annex approximately 9.25 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:

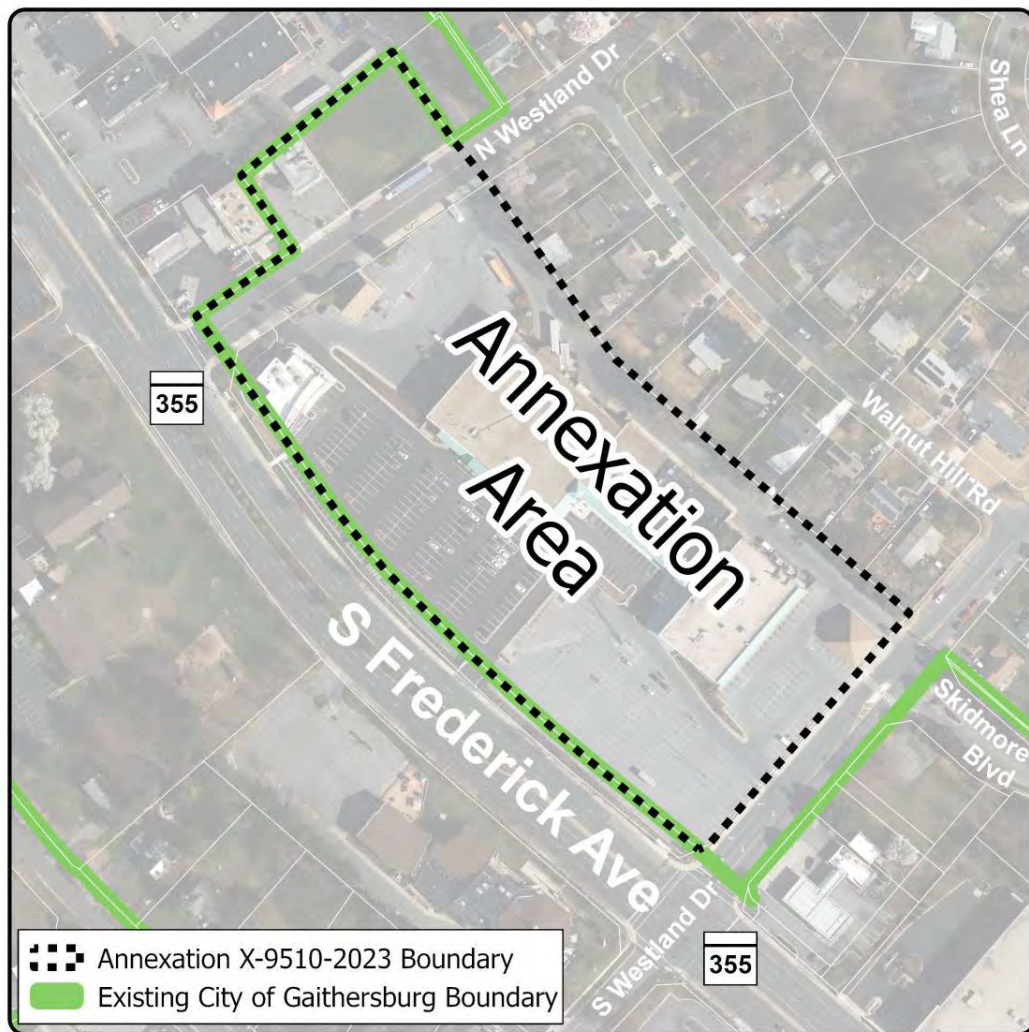
Tax Sheet: FS63

TAX ACCOUNT NUMBER:

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. The petition requests the annexation of approximately 9.25± 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 plan has also been included in the Applicant's petition. The Annexation was introduced at the May 15, 2023 Mayor and City Council Meeting.



Location

PETITION AND ANNEXATION PLAN X-9510-2023

Annexation Plan X-9510-2023 Review

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. The Applicant filed a revised Annexation Plan¹ 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:

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.

Pursuant to Local Government Article of the Maryland Annotated Code, Subtitle 4-400, Subsection 4-416(b) states (emphasis added):

“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”

The Montgomery County Planning Board reviewed the proposed annexation on July 13, 2023, and voted 5-0 to adopt the Staff recommendation for approval and directed County planning staff to prepare a transmittal letter to provide comments to the City of Gaithersburg, City Council, and Montgomery County Council. On July 25, 2023 the County Planning Board

¹ Exhibit #23, Revised Annexation Plan

voted unanimously to support the proposed annexation and transmit the following comments:²

- 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.

The City of Gaithersburg Planning Commission is required to review the proposed annexation and plan and provide a recommendation to the Mayor and City Council at least 15 days prior to the required Mayor and City Council public hearing. The Planning Commission reviewed the X-9510-2023 Annexation petition and plan during their July 19, 2023 meeting and made their recommendation to the Mayor and City Council. This followed a presentation on the petition received during their July 5 meeting and an eight day period to receive public comment. The recommendation addresses the following:

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

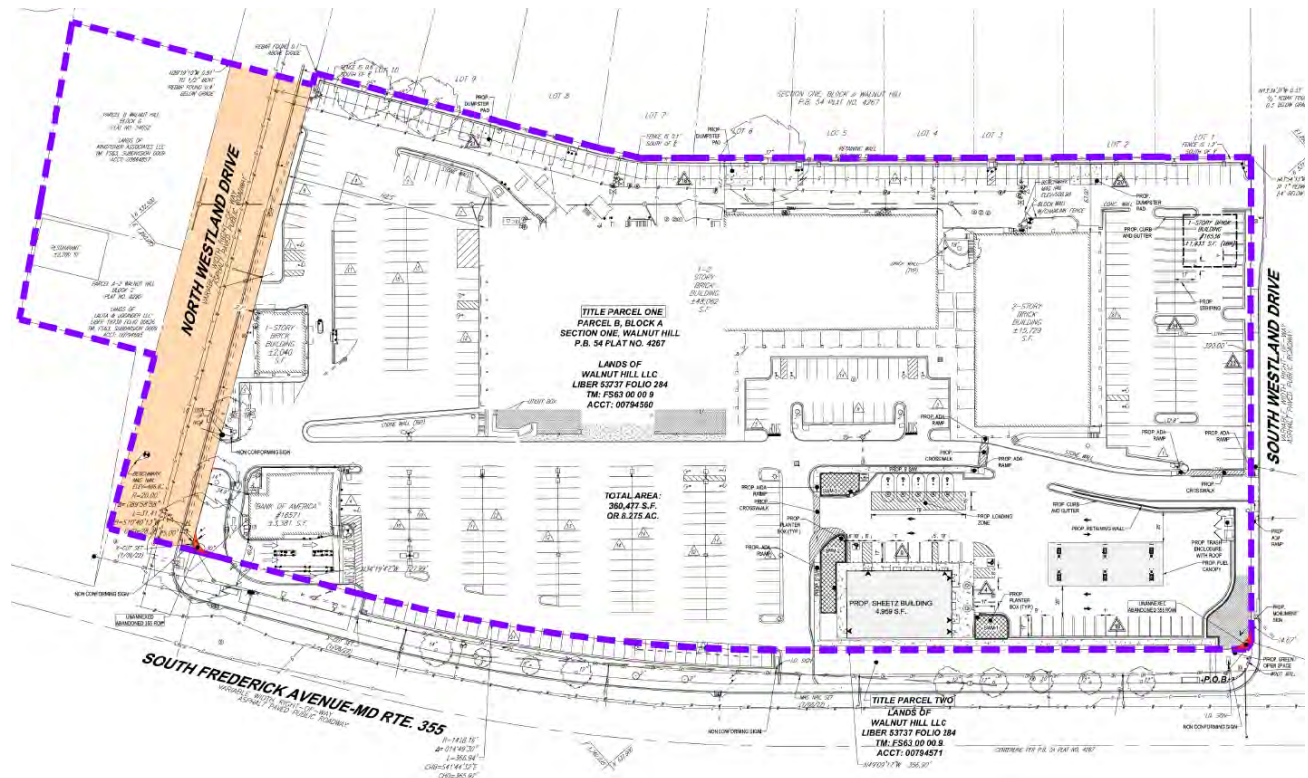
The Commission made three separate motions and transmitted the following findings³ to the Council:

- 1) The proposed reclassification to the City's C-2 (General Commercial) Zone and CD (Corridor Development) Zone in the X-9510-2023 Annexation Petition is appropriate based upon the findings presented in the Preliminary Background Report and Master Plan Compliance Staff Analysis;
- 2) The proposed X-9510-2023 Annexation Petition and associated plan are in compliance with the City's Master Plan and Strategic Plan, based upon the findings presented in the Preliminary Background Report and Master Plan Compliance Staff Analysis; and
- 3) The proposed X-9510-2023 Annexation Petition and associated plan can be served by both existing and future public facilities based upon the findings presented in the Preliminary Background Report and Master Plan Compliance Staff Analysis.

² Exhibit #64

³ Exhibit #61, CPC

Annexation Plan X-9510-2023



The annexation plan,⁴ as described, proposes an expansion of the existing commercial shopping center and includes two adjoining properties with no proposed development changes. The two adjacent properties and the North Westland Drive right of way are included in the annexation petition to prevent an enclave from being formed. The proposed annexation plan is based upon sound and contextual planning principles and will be an asset for the city once it is complete.

The plan includes and reflects the following binding elements for each of the three parcels:

DENSITY NOTES:

THE FUTURE DENSITY OF 16531 S FREDERICK AVENUE (THE SHOPPING CENTER) SHALL NOT EXCEED THE CURRENTLY ALLOWED CITY C-2 ZONING DENSITY OF 1.5 FAR (514,490 SF).

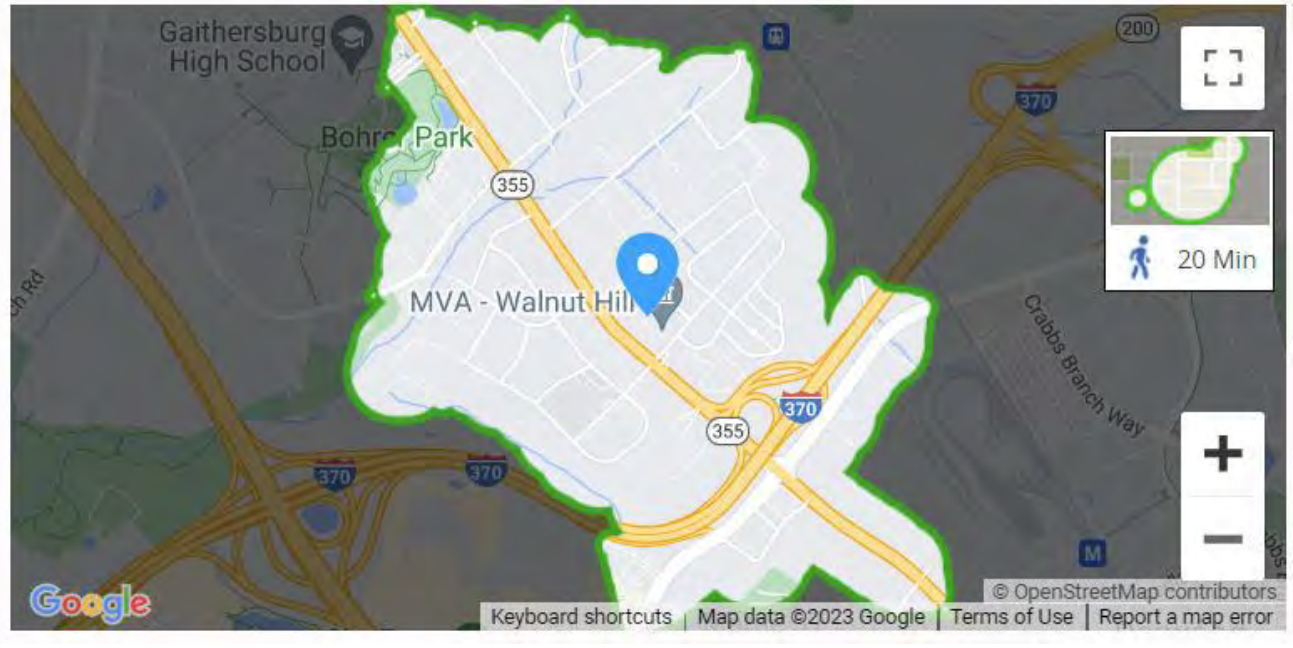
THE FUTURE DENSITY ON THE 8941 NORTH WESTLAND DRIVE PARCEL SHALL NOT EXCEED 1.5 TIMES THE AMOUNT OF THE DENSITY CURRENTLY PERMITTED BY THE EXISTING CRT-2.25, C-1.5, R-0.75 ZONING, OR AN OVERALL MIXED COMMERCIAL AND RESIDENTIAL DENSITY OF 3.375 FAR (36,396 SF), WITH A MAXIMUM COMMERCIAL DENSITY OF 2.25 FAR (24,264 SF) AND A MAXIMUM RESIDENTIAL DENSITY OF 1.125 FAR (12,132 SF).

THE FUTURE DENSITY ON THE 8939 NORTH WESTLAND DRIVE PARCEL SHALL NOT EXCEED 1.5 TIMES THE AMOUNT OF THE DENSITY CURRENTLY PERMITTED BY THE EXISTING CRT-2.25, C-1.5, R-0.75 ZONING, OR AN OVERALL MIXED COMMERCIAL AND RESIDENTIAL DENSITY OF 3.375 FAR (70,490 SF), WITH A MAXIMUM COMMERCIAL DENSITY OF 2.25 FAR (46,993 SF) AND A MAXIMUM RESIDENTIAL DENSITY OF 1.125 FAR (23,496 SF).

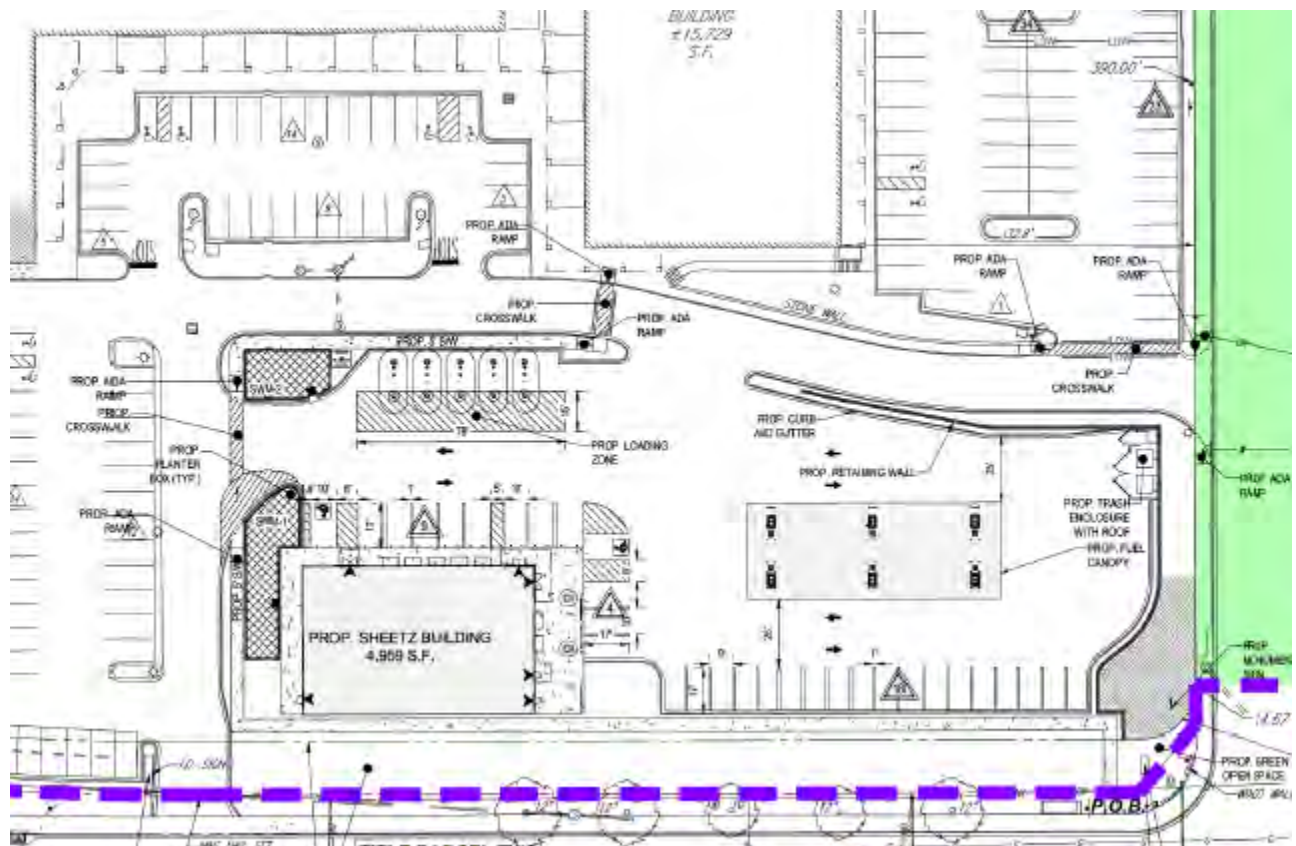
⁴ Exhibit #23, Revised Annexation Plan

Access to the site is provided along North Westland Drive, South Westland Drive, and South Frederick Avenue, with all three streets allowing vehicular, pedestrian, and bicycle access. Transit access is provided along South Frederick Avenue with the existing Ride On bus routes 55 and 101 and the proposed bus rapid transit (BRT) route.

Using Walk Score, the current site has a score of 71 and is described as “very walkable”. The following illustrates the 20 minute (or one mile) walkshed using Walk Score:



Walnut Hill Shopping Center

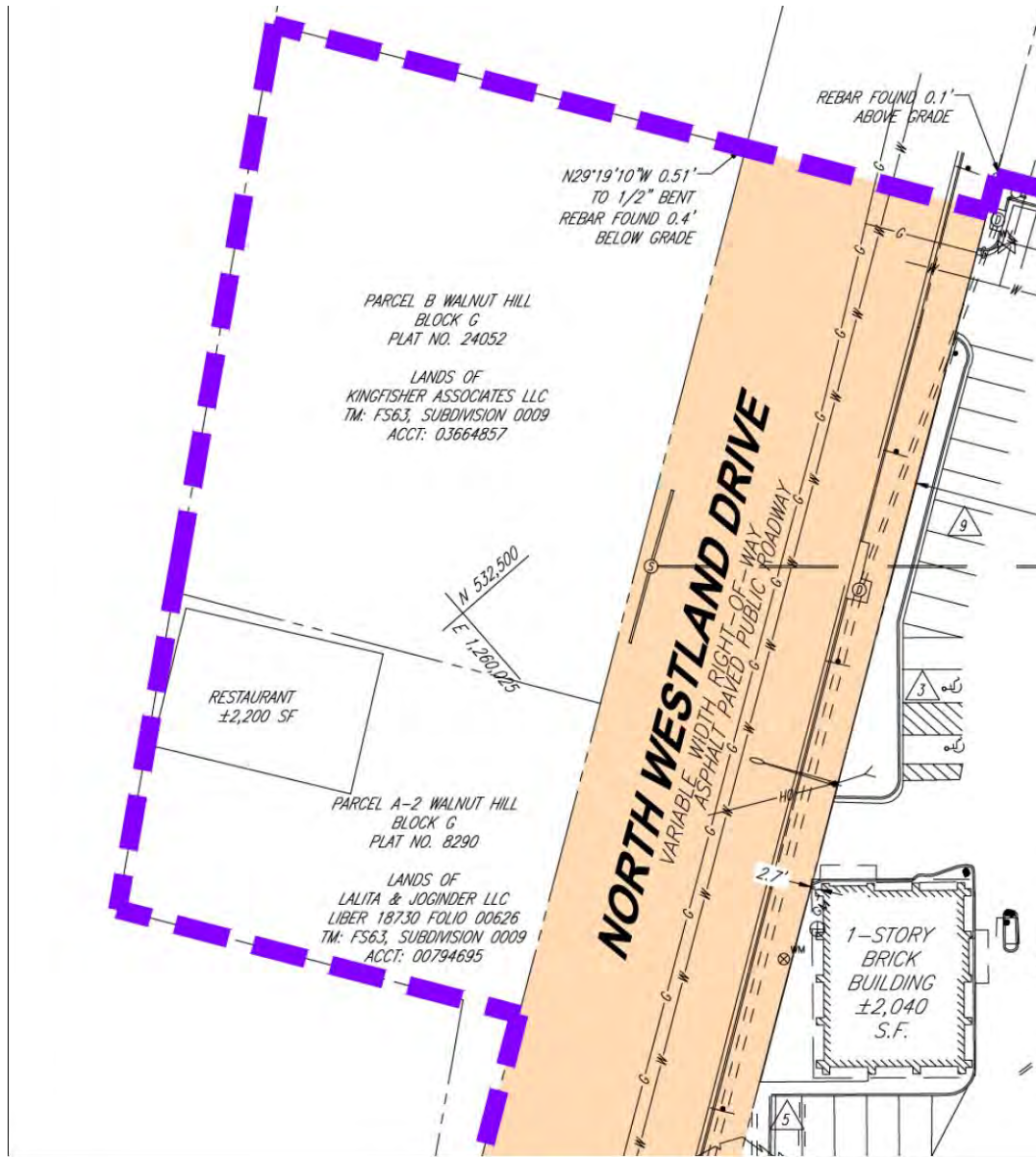


There is an existing commercial center, the Walnut Hill Shopping Center, located on Parcel B, Block A and the abandoned MD 355 right of way. A small portion of the abandoned MD 355 right of way is not currently within the City limits and that portion, along with Parcel B, are proposed to be zoned C-2 once annexed into the City. The proposed C-2 Zoning supports the continued operation of the shopping center for the foreseeable future.

The shopping center consists of approximately 94,827 square feet (SF) of uses divided up among five (5) buildings. Three of the existing buildings are one story in height: the Bank of America building, the vacant building (former bank) along North Westland Drive, and the vacant building (former dry cleaner) along South Westland Drive. Existing uses include a mix of restaurants, retail, personal service, office, and the Maryland Motor Vehicle Administration. The plan proposes to create a 57,851 square foot retail pad to accommodate a new 4,959 square foot Sheetz convenience store with an accessory use of 12 fueling stations. The plan also proposes to demolish the existing 1,933 square foot vacant building (former dry cleaner) along South Westland Drive, bringing the overall shopping center size to 97,853 square feet, a net increase of 3,026 square feet. The applicant is also proposing building façade, lighting, site, and landscaping improvements, which serve to retain existing tenants, reduce vacancy, and attract new tenants to the shopping center. New tenants include an Aldi to fill the vacant grocery store space and the aforementioned Sheetz.⁵

⁵ For additional information, refer to the Preliminary Background Report and Master Plan Compliance Staff Analysis, Exhibit #53.

North Westland Drive Properties



Parcel B, Block G (8939 North Westland Drive) is currently a vacant parcel of land. Parcel A-2, Block G (8941 North Westland Drive) is currently improved with a restaurant and associated parking lot. There are no plans for development on either of the North Westland Drive parcels included in the annexation petition area and both parcels are proposed to be zoned Corridor Development (CD) once annexed into the City. However, both parcels could include commercial, residential, or a mix of both commercial and residential in a future development or redevelopment proposal under the CD zone. The commercial density for both parcels is limited to a floor-to-area ratio (FAR) of 2.25 by the annexation plan, or a maximum of 16,176 sq. ft. on Parcel A-2 and 31,329 sq. ft. on Parcel B. The residential density for both parcels is limited to an FAR of 1.125 by the annexation plan, or a maximum of 12,132 sq. ft. on Parcel A-2 and 23,496 sq. ft. on Parcel B. For a development with a mix

of commercial and residential, the individual caps are added together, resulting in the maximum FAR of 3.375, or 36,396 sq. ft. on Parcel A-2 and 70,490 sq. ft. on Parcel B. In addition to the FAR limitations, both parcels must comply with other City Code requirements, such as stormwater management and forest conservation, which may make it challenging to achieve the full density allowed. Any future project would be fully reviewed and evaluated as part of a concept or schematic development plan, including whether any proposed residential component is in conformance with the City's Adequate Public Facilities Ordinance and Affordable Housing Ordinance.

Summary

The applicant has taken care to design a project that both reflects community feedback received during early and ongoing outreach efforts and provides a viable economic strategy for revitalizing and enhancing the existing Walnut Hill Shopping Center. The proposed changes to the shopping center include façade, site, and landscape improvements that respect the existing context of the surrounding residential, commercial, and institutional uses and improve existing pedestrian connections to those areas. The modest increase in building square footage does not alter the nature of the shopping center as one that serves as a neighborhood commercial center rather than a larger regional commercial center.

For additional information about the proposed development and the history of the site, please refer to the Preliminary Background Report and Master Plan Compliance Staff Analysis.⁶

PUBLIC FACILITIES AND FISCAL IMPACT ANALYSIS:

A summary of existing public facilities is provided below. A formal evaluation of the City's Adequate Public Facilities Ordinance (APFO), Article XV of Chapter 24, will be performed as part of a future schematic development plan or preliminary site plan application.

Water and Sewer Services and Public Utilities

The Property is currently developed with 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.

Fire and Emergency Services

The City's APFO, which will be evaluated as part of a future schematic development plan or preliminary site plan, 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 four Montgomery County Department of Fire and Rescue Services Stations: 3 (Rockville), 8 (Gaithersburg-Washington Grove), 28 (Gaithersburg-Washington Grove/Redland), and 32 (Travilah).

⁶ Exhibit #53, Preliminary Background Report and Master Plan Compliance Staff Analysis

Schools

Although the proposed annexation plan does not include any residential development, such development could occur at some point in the future, most likely on the vacant Parcel B, Block G (8939 North Westland Drive). The annexation area is located within the Gaithersburg Cluster and is currently served by Washington Grove Elementary School, Gaithersburg Middle School, and Gaithersburg High School. These cluster and school assignments may change in the future, once the proposed high school at Crown is completed. Staff notes that Gaithersburg High School is currently subject to a Tier 1 Gaithersburg Utilization Premium Payment (GUPP) fee, based on the FY 2024 Adequate Public Facilities School Test. Below is a summary of the utilization for school year 2027-2028 (the FY 2024 APFO test year) of each school serving the annexation area. As previously mentioned, a formal evaluation of the City's APFO will be performed as part of a future schematic development plan or preliminary site plan application, and may differ from what is shown here.

School	Utilization (enrollment / capacity)
Washington Grove Elementary School	74.4%
Gaithersburg Middle School	87.3%
Gaithersburg High School	111.4%

Traffic Impacts

The City's Traffic Impact APFO, which will be evaluated as part of a future schematic development plan or preliminary site plan, states that applications for development approvals shall be subject to the adopted Gaithersburg Traffic Impact Study Standards regulations. The adopted regulations require a traffic impact study (TIS) for any new development or redevelopment that generates thirty (30) or more total weekday trips in the AM and/or PM peak hours. While the Traffic APFO is evaluated at Schematic Development Plan or Preliminary Site Plan application, the following chart submitted by the Applicant illustrates the increase in traffic generation based upon the City's and County's methodology at full build out:

Trip Generation Totals

		AM Peak			PM Peak		
		In	Out	Total	In	Out	Total
Convenience Store / Gas Station w/GFA from 4-5.5 ksf (VFP, ITE-945)	12 Fueling Positions	162	162	324	136	137	273
	<i>Pass-By Trips (76% AM, 75% PM)</i>	123	123	246	102	103	205
Total Primary (New) Trips:		39	39	78	34	34	68

An additional 78 vehicular trips into and out the project will occur in the AM peak. An additional 68 vehicular trips into and out the project will occur in the PM peak. A full TIS will be required as part of a future Schematic Development Plan or Preliminary Site Plan application.

The net addition of 3,026 square feet of commercial is subject to the County’s Transportation Impact Tax. Under the current County Subdivision Staging Policy the proposed commercial (retail) development, located within the Orange Policy area (\$19.70 per gross square foot) and within a desired growth and investment area (DGIA) (60% of the full tax amount), would generate the following in Transportation Impact Taxes:

<u>3,026 SF Retail</u>	<u>\$35,767.32</u>	(3,026 * 19.70 * 0.60)
Total	\$35,767.32	

Fiscal Impact Analysis

The City’s FY 22 Strategic Plan has as the following Objective:

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

Planning staff approached Economic Development staff to assist in conducting a fiscal impact analysis (FIA) on the proposed X-9510-2023 annexation plan in order to judge whether the petition may realistically fulfill the cited Objective. As with many projection analyses, the FIA is based upon numerous assumptions and data that may change from year to year. The FIA provides an educated realistic outcome based upon commonly utilized methodologies that can be used to guide policy. The estimated figures included in the FIA should not be taken as definitive and used for future budgeting. The complete analysis, including the assumptions, calculations, and data used by Economic Development is included in the record as Exhibit #62.

The following is the FIA summary that illustrates, based upon the analysis conducted, Annexation X-9510-2023 and its associated plan would not be a drain on City services and would result in a net increase in City revenue:

Estimated Real Property Tax Revenue: Walnut Hill Annexation

City Tax Rate:
0.262 per \$100 of assessed value

	District	Parcel ID	Assessed Value (July 2023)	Estimated City Taxes
Existing Conditions				
SHOPPING CENTER				
16531 South Frederick Ave	09	00794560	\$10,038,900	\$26,301.92
No address (abandoned ROW)	09	00794571	\$168,400	\$441.21
RESTAURANT				
8941 Westland Drive	09	00794695	\$738,700	\$1,935.39
LAND				
8939 Westland Drive	09	03664857	\$403,500	\$1,057.17
				\$29,736

		Estimated Assessed Value	Estimated City Taxes
Proposed Improvements			
SHOPPING CENTER			
Convenience Store		\$2,975,400	\$7,795.55

Estimated City Taxes, with convenience store:	\$37,531.24
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Estimated Business Property Tax Revenue: Walnut Hill Annexation

City Tax Rate:	
0.53 per \$100 of assessed value	

	Size	Account	Assessed Value (Levy Year 2022)	Estimated City Taxes	
Stabilized Value (estimated)					
SHOPPING CENTER					
Strip Center	48,062 sq. ft.				
Bank	3,381 sq. ft.				
Convenience	4,959 sq. ft.				
2-story (MVA+)	15,729 sq. ft.				
1-story	2,040 sq. ft.				
Total	74,171 sq. ft.				
MD Dept of Transportation	6,000 sq. ft.			\$0.00	
Department of Liquor Control	4,621 sq. ft.			\$0.00	
Aldi - Grocer	21,000 sq. ft.		\$254,310	\$1,347.84	\$12.11 / sq. ft.
Fitness	18,000 sq. ft.			\$0.00	
Motor Car Tag & Title Service	1,800 sq. ft.			\$0.00	
Red Wing Shoes - Retail	2,367 sq. ft.			\$0.00	
Lavina Mexican - Restaurant	1,800 sq. ft.			\$0.00	
Honeybaked Ham - Specialty Food	3,014 sq. ft.			\$0.00	
Retail (Convenience)				\$0.00	
Walnut Hill Barber - Personal Services	1,500 sq. ft.			\$0.00	
H&R Block - Professional Services	1,287 sq. ft.			\$0.00	
				\$0.00	
RESTAURANT					
8941 Westland Drive			\$738,700	\$3,915.11	
LAND					
8939 Westland Drive			\$403,500	\$2,138.55	
				\$7,402	

ANNEXATION AGREEMENT

The X-9510-2023 petition will also have two associated annexation agreements, one for the Walnut Shopping Center parcel and the vacant parcel at 8939 North Westland Drive and a separate agreement for the 8941 North Westland drive parcel. Both annexation agreements are anticipated to be presented at Policy Discussion.

The broad terms discussed by the Applicant and the City for the shopping center and 8939 North Westland Drive parcels include:

- Assigning the City's C-2 (General Commercial) Zoning to Parcel B, Block A (the shopping center parcel) and assigning the City's CD (Corridor Development) Zoning to Parcel B, Block G (vacant parcel at 8939 North Westland Drive).
- Affirmation that the annexation plan serves as the concept plan for future development approvals.
- A list of the allowed uses on the shopping center parcel.
- An overall parking ratio requirement for the entire shopping center, including the proposed Sheetz store.
- A requirement to convert a minimum of 2% of the shopping center's parking spaces to electric vehicle (EV) charging spaces and to identify an additional 3% of the parking spaces for future conversion to EV charging spaces.
- A requirement to devote 10% of the surface parking area to landscaping and environmental site design.
- Clarification about stormwater management requirements and ongoing maintenance for the overall shopping center and the Sheetz site.
- Details about the proposed Sheetz store, accessory uses, parking lot, lease line, and associated site improvements.
- A commitment to dedicate additional right of way along MD 355 to support the proposed Bus Rapid Transit (BRT) infrastructure.
- A general timeline for improvements to the shopping center and the demolition of the vacant former dry cleaners building.
- Acknowledgment that future development plan applications are subject to the City's Zoning Ordinance, including the APFO, stormwater management, and forest conservation.
- A requirement to provide as-built drawings for the existing public improvements on the property, including lighting, stormwater management, streets, and sidewalks.
- A requirement to obtain City use and occupancy permits for all current tenants.
- A commitment to provide artwork on the property.

The broad terms discussed by the owner and the City for the 8941 North Westland Drive parcels include:

- An abatement of city real property taxes for a fixed number of years.
- Grandfathering of the existing restaurant use, signage, and site conditions.
- Participation in the City's Economic Toolbox grant program.

CONCLUSION:

Staff notes that the proposed X-9510-2023 Annexation Petition has been reviewed by the Maryland Department of Planning (MDP),⁷ the Montgomery County Planning Board,⁸ the Montgomery County Council, and the City Planning Commission.⁹ MDP has found the annexation to be in conformance with State law. The County Planning Board and County Council have approved the annexation and have not invoked the 5 year moratorium on future zoning changes. The City Planning Commission found that the annexation petition complies with the City's Master Plan and Strategic Plan, found that the zoning is appropriate, and found that public facilities are adequate to serve the annexation area. Staff supports the approval of Annexation Petition X-9510-2023 and is of the opinion that the annexation plan reflects sound planning principles. Staff recommends that the Mayor and City Council hold their record open until 5:00 p.m. on Friday, September 29, 2023, with anticipated Policy Discussion and Final Action conducted during their October 16, 2023 meeting.

⁷ Exhibit #20

⁸ Exhibit #64

⁹ Exhibit #61