



Committee: Directly to Council
Staff: Livhu Ndou, Legislative Attorney
Purpose: Final action – vote expected
Keywords: #Gaithersburg, #Annexation, #WalnutHill

AGENDA ITEM #8C
September 26, 2023
Action

SUBJECT

City of Gaithersburg Annexation Request (ANX-9510-2023)
16531 South Frederick Avenue (Walnut Hill Shopping Center), 8939 North Westland Drive, and 8941 North Westland Drive

INVITED ATTENDEES

Artie Harris, Chair, Planning Board
Carrie Sanders, Chief, Mid-County Planning, Planning Department
Matthew Folden, Supervisor, Mid-County Planning, Planning Department
Nkosi Yearwood, Planner III, Mid-County Planning, Planning Department

COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

Reject or expressly approve the City of Gaithersburg’s annexation petition.

DESCRIPTION/ISSUE

The City of Gaithersburg is proposing to annex approximately 9 acres of land from Montgomery County into the City.

SUMMARY OF KEY DISCUSSION POINTS

- This annexation is made up of 3 properties, in an area known as the Walnut Hill Shopping Center.
- The current zoning is CRT-2.25 C-1.5 R-0.75 H-45 (Commercial Residential Town). The petitioner requests the City of Gaithersburg’s General Commercial (C-2) and Corridor Development (CD) zones. Both the current zoning and proposed zoning allow for a mix of retail, commercial, and residential uses.
- The proposed zones have similar land uses to the existing Commercial Residential Town (CRT) zone and the proposed densities are not substantially higher.
- The properties are within the City of Gaithersburg’s Maximum Expansion Limits (MEL).

This report contains:

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MEMORANDUM

September 21, 2023

TO: County Council

FROM: Livhu Ndou, Legislative Attorney

SUBJECT: City of Gaithersburg Annexation, ANX-9510-2023,
16531 South Frederick Avenue, 8939 North Westland Drive, 8941 North
Westland Drive

PURPOSE: Action

Invited Attendees

- Artie Harris, Chair, Planning Board
- Carrie Sanders, Chief, Mid-County Planning, Planning Department
- Matthew Folden, Supervisor, Mid-County Planning, Planning Department
- Nkosi Yearwood, Planner III, Mid-County Planning, Planning Department

Background

The City of Gaithersburg is proposing to annex approximately 9.0 acres of land from Montgomery County into the City. The Mayor and City Council of Gaithersburg held a public hearing on this annexation on September 5, 2023.¹ The Gaithersburg Mayor and City Council are scheduled to adopt the Annexation Plan at their meeting on October 16, 2023.

Annexation Standards

An annexation allows the legislative body of a municipality to enlarge its boundaries. Annexation can only be done to land that is contiguous and adjoining the existing boundaries of the municipality. Annexations may be initiated by the legislative body of a municipality or by petition. If initiated by petition, the annexation must be signed by 25% of registered voters who

¹ The testimony was largely in support of revitalization of the Walnut Hill Shopping Center. An existing business owner testified asking for tax abatements to make up for increased taxes from the City due to the increase in property value. Residents testified in support, noting the redevelopment will alleviate safety concerns and provide walkable shopping, a grocery store, and other services. There was hesitancy around the addition of a gas station, but residents noted the developers had explained the need for a gas station for economic reasons. Testimony expressed satisfaction with the public outreach efforts made by the developers. Lastly, residents asked for consideration of traffic safety measures.

are residents in the area to be annexed and the owners of at least 25% of the assessed valuation of the real property in the area to be annexed.

Under State law, if the parcel is within the maximum expansion area and is for the same zoning—use and density—the District Council has no authority to prevent annexation. If the proposed zoning is different, the District Council can “veto” the annexation, which would delay the new zoning for five years.

(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.

(c) Notwithstanding § 4-204 of the Land Use Article and if the county expressly approves, the municipality may place the annexed land in a zoning classification that allows a land use or density different from the land use or density specified in the zoning classification of the county or agency with planning and zoning jurisdiction over the land prior to its annexation applicable at the time of the annexation.

Md. Code, Local Gov’t § 4-416.

Property Information

The properties proposed for annexation are known as the Walnut Hill Shopping Center. There are 3 properties proposed for annexation:

- Block A, Parcel B, “Walnut Hill Section One”, recorded in the Land Records of Montgomery County at Plat 4267 in the northeast quadrant of the intersection of MD Route 355 and South Westland Drive. This property is 8.28 acres (or 360,477 square feet). The address is 16531 South Frederick Avenue, Gaithersburg, MD.
- Block G, “Parcel B, Walnut Hill”, recorded in the Land Records of Montgomery County at Plat 24052 in the northeast quadrant of MD Route 355 and North Westland Drive. This property is 20,886 square feet. The address is 8939 North Westland Drive, Gaithersburg, MD.
- Block G, “Parcel A-2, Walnut Hill”, recorded in the Land Records of Montgomery County at Plat 8290 in the northeast quadrant of Md Route 355 and North Westland Drive. This property is 10,784 square feet. The address is 8941 North Westland Drive, Gaithersburg, MD.

The petitioners wish to annex all 3 properties, including the South Westland Drive and North Westland Drive Rights-of-Way. The properties are contiguous and adjoining the existing boundaries of the City of Gaithersburg. The annexation property is within the boundaries of Gaithersburg’s maximum expansion limits, as shown in the Growth Element of the City’s 2003 Master Plan.

The Walnut Hill Shopping Center was built in 1967 and is made up of approximately 94,827 square feet of commercial development and surface parking. The petitioners indicated that the properties are oriented towards the City of Gaithersburg. The owners propose establishing a new retail pad in the southwest corner of the shopping center to accommodate a retail convenience store with 12 gas fueling stations; new pedestrian connections leading from MD 355 and elimination of the center driveway along South Westland Drive; and new landscaping, lighting, and building improvements.² The property owners note that the potential for residential development has not been foreclosed, but that it would not occur for at least 15 to 20 years.

The frontage of the shopping center, about 20 feet, is located within the City of Gaithersburg and is zoned R-A, a low-density residential zone. The current zoning of the County portion of the property is CRT-2.25 C-1.5 R-0.75 H-45 (Commercial Residential Town). The Walnut Hill residential subdivision, which is in Montgomery County, is east of the shopping center and is zoned R-200 and R-90.

This area is within the 2010 Greater Seneca Science Corridor Master Plan, which contains no specific recommendations for these 3 properties. The Master Plan notes that “future annexations may occur and that annexing properties surrounded by municipalities would help create coherent boundaries.”³

The City of Gaithersburg Land Use Plan, adopted in December 2011, recommends a Commercial Office-Residential and Corridor Development designation for this property. The proposed zoning for these properties is C-2 (General Commercial Zone) and C-D (Corridor Development Zone). The maximum FAR for the C-2 zone is 1.5, which is the same maximum commercial development permitted by the County’s CRT zone. The City’s C-2 zone and the County’s CRT zone both include a broad range of retail establishments as well as some residential development. The City’s CD zone only uses building height to establish density, but given other development requirements such as setbacks, additional density past the 2.25 FAR allowed in the County would be difficult. The uses in the City’s CD zone are similar to those of the CRT zone.

There are adequate public facilities, including public water and sewer, electricity, and police and fire safety to accommodate the annexation. The 8 elementary schools, 2 middle schools, and high school in the area are within their program capacities for the current FY23-28 CIP. Gaithersburg High School is above capacity and will remain so in the long-term. The new Harriet Tubman Elementary School opened last year, and the new Crown High School is scheduled to open in 2027. There are no streams, wetlands, or forest on the subject site. The Master Plan recommends a strategy to further environmental sustainability, such as a “compact, walkable, and green community”, which this annexation supports. A BRT station is proposed at the South Westland Drive, and the property owners have agreed to dedicate additional land to accommodate the future BRT project.

² Testimony from the Gaithersburg public hearing noted the plan is for a Sheetz as well as an Aldi’s.

³ Of note, the Great Seneca Master Plan is currently under revision by the Montgomery County Planning Department.

The petitioners and the City of Gaithersburg have satisfied all application, notice, and hearing requirements under state law.

Planning Board Recommendation

The Planning Board reviewed this annexation petition on July 13, 2023, and unanimously recommended support of the proposed annexation.

Council Staff concurs with the Montgomery County Planning Board and the City of Gaithersburg Planning Department and recommends support of the proposed annexation. A draft resolution is included in this packet.

This packet contains:

Resolution	© 1-2
Notification of Annexation Request	© 3
Annexation Plan	© 4-16
Planning Board Report	© 17
Planning Staff Report	© 18-30

Resolution No.: _____
Introduced: September 26, 2023
Adopted: _____

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS A DISTRICT COUNCIL FOR THAT PORTION
OF THE MARYLAND-WASHINGTON REGIONAL DISTRICT
WITHIN MONTGOMERY COUNTY, MARYLAND**

By: District Council

SUBJECT: Approval of the City of Gaithersburg reclassification of 16531 South Frederick Avenue (Walnut Hill Shopping Center), 8939 North Westland Drive, and 8941 North Westland Drive from the CRT zone to the C-D and C-2 zones (ANX-9510-2023).

Background

1. The City of Gaithersburg is proposing to annex approximately 9.0 acres of land from Montgomery County into the City.
2. Three parcels of land are proposed for annexation:
 - a) Block A, Parcel B, “Walnut Hill Section One”, recorded in the Land Records of Montgomery County at Plat 4267 in the northeast quadrant of the intersection of MD Route 355 and South Westland Dive. This property is 8.28 acres (or 360,477 square feet). The address is 16531 South Frederick Avenue, Gaithersburg, MD.
 - b) Block G, “Parcel B, Walnut Hill”, recorded in the Land Records of Montgomery County at Plat 24052 in the northeast quadrant of MD Route 355 and North Westland Drive. This property is 20,886 square feet. The address is 8939 North Westland Drive, Gaithersburg, MD.
 - c) Block G, “Parcel A-2, Walnut Hill”, recorded in the Land Records of Montgomery County at Plat 8290 in the northeast quadrant of Md Route 355 and North Westland Drive. This property is 10,784 square feet. The address is 8941 North Westland Drive, Gaithersburg, MD.
3. The County’s existing CRT (Commercial Residential Town) zone allows for a mix of retail, commercial, and residential uses. Under the annexation proposal, the property would be reclassified to the City’s C-2 and C-D zones, which allow a mix of retail, commercial, and residential uses.
4. On July 13, 2023, the Montgomery County Planning Board reviewed ANX-9510-2023 and unanimously recommended support of the proposed annexation. The Planning Board

found that 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.

5. Article 23A, Section 9(c) of the Annotated Code of Maryland provides that no municipality annexing land may, for a period of five years following annexation, place that land in a zoning classification which permits a land use substantially different from the use for the land specified in the current and duly adopted master plan without express approval of the County Council.
6. On September 26, 2023, the County Council reviewed Annexation Petition No. 9510-2023 and found that the new zoning classification would not be substantially different from the use for the land specified in the current and duly adopted master plan. The Council supports the proposed reclassification of 16531 South Frederick Avenue (Walnut Hill Shopping Center), 8939 North Westland Drive, and 8941 North Westland Drive from the CRT zone to the C-D and C-2 zones.

Action

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland approves the following resolution:

District Council expressly approves the reclassification by the City of Gaithersburg of the area within Annexation No. 9510-2023 from Montgomery County's CRT-2.25 C-1.5 R-0.75 H-45 to the City of Gaithersburg's C-D and C-2 zones.

This is a correct copy of Council action.

Sara R. Tenenbaum
Clerk of the Council



May 16, 2023

The Honorable Evan Glass
Council President
Montgomery County Council
100 Maryland Ave
Rockville, Maryland 20850

Re: X-9510-2023 Walnut Hill Commercial Properties Annexation to the City of Gaithersburg

Dear Mr. Glass,

The City of Gaithersburg received a petition for annexation of approximately 9.63 acres of land from Montgomery County into the City on February 21, 2023. The area to be annexed, known as Walnut Hill Commercial Properties, is comprised of three parcels and two right of ways. The three parcels are located at 16531 South Frederick Avenue, 8939 North Westland Drive, and 8941 North Westland Drive. The right of ways include portions of the right of way of North Westland Drive and South Westland Drive.

This letter serves as official notification, as required by Subtitle 4 of Title 4 of The Local Government Article of the Maryland Code, that the Mayor and City Council of the City of Gaithersburg will tentatively hold the public hearing regarding the proposed annexation on September 5, 2023 following the date that any determination as to “substantial conformance” by the Montgomery County Planning Board is issued and any actions by the Montgomery County Council, if necessary, are scheduled. The City Council’s record is currently open. Advertising for the public hearing will be in accordance with The Local Government Article of the Maryland Code.

Attached is a copy of the annexation petition, Applicant’s statement, and annexation plan. You may contact me with any questions you may have regarding the application at either 301-258-6330 or kirk.eby@gaitthersburgmd.gov.

Sincerely,

J. Kirk Eby, Planner III
Planning and Code Administration

City of Gaithersburg • 31 South Summit Avenue, Gaithersburg, Maryland 20877-2038
301-258-6300 • FAX 301-948-6149 • cityhall@gaitthersburgmd.gov • www.gaitthersburgmd.gov

MAYOR
Jud Ashman

COUNCIL MEMBERS
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Lisa Henderson
Jim McNulty
Ryan Spiegel
Robert T. Wu

CITY MANAGER
Tanisha R. Briley

BEFORE
THE MAYOR AND CITY COUNCIL OF THE CITY OF GAITHERSBURG
PETITION OF WALNUT HILL PROPCO, LLC and KING FISHER ASSOCIATES, LLC
FOR ANNEXATION

Walnut Hill Propco, LLC, a Maryland limited liability company and King Fisher Associates, LLC a Maryland limited liability company, (“Petitioners”) pursuant to Section 4-401 *et. seq.*, Local Government Article of the Maryland Annotated Code (2013), hereby petition the Mayor and City Council of the City of Gaithersburg, Maryland to annex into the corporate limits of the City of Gaithersburg (the “City”) that certain property described below and reflected on the Annexation Plan attached hereto and made a part hereof as Exhibit A. In support of this Petition, the Petitioners represent to the Mayor and the City Council as follows:

1. Walnut Hill Propco, LLC is the fee simple owner of the subject property know as Block A, Parcel B, “Walnut Hill Section One” subdivision recorded in the Land Records of Montgomery County, Maryland at Plat 4267 situated in the northeast quadrant of the intersection of MD Route 355 and South Westland Drive, consisting of 360,477 square feet or 8.28 acres with a property address of 16531 South Frederick Avenue, Gaithersburg, Maryland, and more particularly described on the boundary survey and metes and bounds attached hereto and made a part hereof as Exhibit A-1 (the “16531 South Frederick Avenue Property”). The tax account number of the Property is 09-00794560.

2. King Fisher Associates is the fee simple owner of the subject property known as Block G, “Parcel B, Walnut Hill” subdivision recorded in the Land Records of Montgomery County, Maryland at Plat No. 24052 situated in the northeast quadrant of MD Route 355 and North Westland Drive, consisting of 20,886 square feet with a property address of 8939 North Westland Drive, Gaithersburg, Maryland, and more particularly described on Exhibit A-1 (the “8939 North Westland Drive Property”). The tax account number of the 8939 North Westland Drive Property is 09-03664857.

3. Lalita & Joginder, LLC is the fee simple owner of the subject property known as Block G, “Parcel A-2, Walnut Hill” subdivision recorded in the Land Records of Montgomery County, Maryland at Plat No. 8290 situated in the northeast quadrant of MD Route 355 and North Westland Drive, consisting of 10,784 square feet with a property address of 8941 North Westland Drive, Gaithersburg, Maryland, and more particularly described on Exhibit A-1 (the “8941 North Westland Drive Property”). The tax account number of the 8941 North Westland Drive Property is 09-00794695.

4. The South Westland Drive right-of-way along the frontage of the South Frederick Avenue Property consisting of ___ square feet and the North Westland Drive right-of-way along the frontage of the 8939 North Westland Drive Property and the 8941 North Westland Drive Property consisting of ___ square feet and more particularly described on Exhibit A-1 (the “South Westland Drive and North Westland Drive Rights-of-Way”) are currently located outside the corporate boundaries of the City of Gaithersburg.

5. Petitioners seek the annexation of the 16531 South Frederick Avenue Property, the 8939 North Westland Drive Property, the 8941 North Westland Drive Property and the South Westland Drive and North Westland Drive Rights-of-Way (collectively, the “Annexation Property”).

6. The frontage of the 16531 South Frederick Avenue Property for a depth of 20 feet is currently located within the City of Gaithersburg and is unzoned.

7. The Annexation Property is contiguous and adjoining the existing boundaries of the corporate limits of the City of Gaithersburg on the north, south and west, and in the case of the 8939 North Westland Drive Property, to the east.

8. The Annexation Property lies within the boundaries of the City’s designated Maximum Expansion Limits (“MEL”) as depicted in the Growth Element of the City’s 2003 Master Plan, adopted April 6, 2009 and therefore, included in and consistent with the Growth Element’s analysis regarding the future adequacy of public facilities, including schools, libraries, police, fire and rescue, water and sewer, stormwater management and recreation. The applicable portions of the Growth Element of the City’s 2003 Master Plan are attached hereto as Exhibit B.

9. The proposed annexation will not result in an unincorporated area bounded on all sides by (1) real property presently within the corporate limits of the City of Gaithersburg; (2) real property proposed to be within the corporate limits of the City of Gaithersburg as a result of the proposed annexation; or (3) any combination of real property described in items (1) or (2).

10. The Annexation Property is currently classified in the CRT 2.25, C 1.5, R .75, H-45 commercial zone pursuant to the Montgomery County (“County”) Zoning Ordinance and official Zoning Map, a copy of which is attached hereto and incorporated as Exhibit C.

11. The Annexation Property is subject to the Approved and Adopted 2010 Greater Seneca Science Corridor Master Plan (the “Master Plan”). While the Master Plan recognizes the retail and commercial use of the 16531 South Frederick Avenue Property, there are no specific recommendations for said Property. The Master Plan contains no specific recommendations with respect to the 8939 North Westland Drive Property and the 8941 North Westland Drive Property. The applicable portions of the County’s Master Plan are attached hereto and incorporated herein as Exhibit D.

12. The City of Gaithersburg Land Use Plan, adopted in the December 20, 2011 Master Plan Element of the City’s Master Plan (Exhibit E) recommends a Commercial Office-Residential land use designation and CD zoning for the Annexation Property.

13. Given Walnut Hill Propco, LLC’s intent to continue the current use of the 16531 South Frederick Avenue Property for commercial retail uses only, the zoning classification for the Property proposed by this Petition is the C-2, General Commercial Zone, which is consistent with

the recommendation for the 16531 South Frederick Avenue Property set forth in the City Master Plan.

14. Given King Fisher Associates' intent to develop the 8939 North Westland Drive Property for either residential use or commercial retail uses, the zoning classification for the 8939 North Westland Drive Property proposed by this Petition is the C-D, Corridor Development Zone, which is consistent with the recommendation for the Property set forth in the City Master Plan.

15. Given Lalita & Joginder, LLC's intent to continue the current use of the 8941 North Westland Drive Property or redevelop the 8941 North Westland Drive Property for either residential use or commercial retail uses, the zoning classification for the 8941 North Westland Drive Property proposed by this Petition is the C-D, Corridor Development Zone, which is consistent with the recommendation for the Property set forth in the City Master Plan.

16. The C-2 and C-D zoning classifications proposed for the Annexation Property upon annexation do not permit development of the annexed land with uses that would be substantially different from or densities that are substantially higher than what may be granted under the existing CRT Zone by the Montgomery County Zoning Ordinance.

17. Petitioners own more than 25% of the assessed valuation of the Annexation Property and there are no persons residing within the area of the Annexation Property who are registered voters in the precinct within which the Annexation Property is location. No additional consents to this Annexation Petition are required under Sections 4-401, et seq., Local Government Article of the Maryland Annotated Code.

18. Petitioners reserve the right to withdraw this Petition without liability to the City (except for costs of public notice advertising), if the conditions of the annexation as specified in the Annexation Agreement and as set forth in the Annexation Resolution are substantially different and/or are materially changed to Petitioners' detriment as determined by the Petitioners in its sole and absolute discretion. Petitioners may elect to withdraw this Annexation Petition and terminate the Annexation Agreement at any time prior to the effective date of the Annexation Resolution.

19. The follow exhibits are submitted in support of this Petition and incorporated herein:

- Exhibit A – Annexation Plan
- Exhibit A-1– Boundary Survey and Metes and Bounds Description
- Exhibit B – Growth Element of City Master Plan
- Exhibit C – Montgomery County Zoning Map
- Exhibit D – Applicable County Master Plan Sections
- Exhibit E – Land Use Element of City Master Plan
- Exhibit F – List of Owners
- Exhibit G – Vicinity Map
- Exhibit H – Adjacent Property Owners

- Exhibit I – Approved Natural Resource Inventory and Forest Stand Delineation for 16531 South Frederick Avenue and Approved NRI/FSD for 8939 and 8941 North Westland Drive
- Exhibit J – Statement in Support of Annexation
- Exhibit K – Overall Site Plan for 16531 South Frederick Avenue
- Exhibit L – Traffic Impact Statement
- Exhibit M – Concept Stormwater Management Plan
- Exhibit N – Draft Annexation Agreement

[Signature Pages to Follow]

Walnut Hill Propco, LLC respectfully requests that the Mayor and Council of the City of Gaithersburg initiate the process required by law for enactment of a resolution annexing the Property into the Corporate boundaries of the City of Gaithersburg.

WALNUT HILL PROPCO, LLC, a Maryland Limited Liability Company

By: [Signature]

Name: JASON KLUG

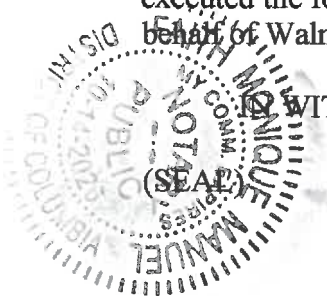
Its: Authorized Person

Date: May 1, 2023

STATE OF Washington)
) ss:
COUNTY OF District of Columbia)

I HEREBY CERTIFY that on the 1 day of May, 2023, before me, the subscriber, a Notary Public in and for the aforesaid jurisdiction, personally appeared Jason Klug, the Authorized Person of Walnut Hill Propco, LLC, a Maryland Limited Liability Company, who acknowledged himself/herself to me, and that he/she executed the foregoing instrument for the purposes therein contained by signing his/her name on behalf of Walnut Hill Propco, LLC.

WITNESS WHEREOF, I hereunto set my hand and official seal.



[Signature]
Notary Public

My commission expires: 10-14-2026

Statement in Support of Annexation
Walnut Hill Shopping Center and 8939 and 8941 North Westland Drive
April 28, 2023

I. Introduction and Background

Walnut Hill Propco, LLC, the owner of the Walnut Hill Shopping Center located at 16531 North Frederick Road and King Fisher Associates, LLC, the owner of 8939 North Westland Drive (both related affiliates of Standard Properties) seek the annexation of their respective properties and the property located at 8941 North Westland Drive from Montgomery County into the City of Gaithersburg. The Annexation is sought through Walnut Hill Propco’s joint venture partner, Granite Partners (the “Applicant”).

Granite Partners initially approached the City to explore the annexation of the Walnut Hill Shopping Center. Several factors drove Granite Partner’s desire to pursue the annexation. The Shopping Center is located within Gaithersburg’s Maximum Expansion Limits and all of the surrounding commercial properties are located within Gaithersburg. More importantly, the function and operation of the Shopping Center are more oriented toward Gaithersburg. As a small city, Gaithersburg is responsive and efficient in ways that are difficult for a larger municipality, such as Montgomery County. From a land use perspective, the Shopping Center is the “missing tooth” in terms of providing a logical municipal boundary. We are aware that the City has previously pursued the annexation of the Shopping Center into the City.

In order to upgrade the Shopping Center, the Applicant’s primary objective has been to secure a grocery store anchor tenant. For a number of reasons, including the competition in the market place and the location, condition and size of the Shopping Center, this has proved to be a challenge. After months of effort, the Applicant has successfully leveraged the development of the retail pad site in the southwest corner of the Shopping Center, such that they are able to make important improvements to the Shopping Center which allowed them to secure lease with Lidl, a nationally known grocer for the site. The combination of the new retail pad, the façade, landscaping and lighting improvements and the establishment of the grocery store will significantly raise the profile and competitive market position of the Shopping Center and provide an overall benefit to the neighborhood.

Upon broaching the annexation of the Shopping Center with City officials, the officials suggested that Standard Properties’ site at 8939 North Westland Drive also be included in the annexation effort. Subsequently, the officials urged the Applicant to also include the adjacent parcel – 8941 North Westland Drive. At the City’s direction, the Applicant has included the 8941 North Westland Drive site as part of the annexation petition, although the Applicant has had no discussion with the owners of 8941 North Westland Drive about the proposed annexation. In addition, the South Westland Drive and North Westland Drive rights-of-way along the frontage of the Shopping Center not currently located within the Gaithersburg City limits are also included in the annexation petition.

II. Description of Property and Surrounding Area

A. Property Description

The proposed property to be annexed comprises three parcels, as follows:

- Block A, Parcel B, “Walnut Hill Section One” subdivision recorded in the Land Records of Montgomery County, Maryland at Plat 4267 situated in the northeast quadrant of the intersection of MD Route 355 and South Westland Drive, consisting of 360,477 square feet or 8.28 acres with a property address of 16531 South Frederick Avenue, Gaithersburg, Maryland.
- Block G, “Parcel B, Walnut Hill” subdivision recorded in the Land Records of Montgomery County, Maryland at Plat No. 24052 situated in the northeast quadrant of MD Route 355 and North Westland Drive, consisting of 20,886 square feet with a property address of 8939 North Westland Drive, Gaithersburg, Maryland.
- Block G, “Parcel A-2, Walnut Hill” subdivision recorded in the Land Records of Montgomery County, Maryland at Plat No. 8290 situated in the northeast quadrant of MD Route 355 and North Westland Drive, consisting of 10,784 square feet with a property address of 8941 North Westland Drive, Gaithersburg, Maryland.
- The South Westland Drive right-of-way consisting of square feet and the North Westland Drive right-of-way consisting of square feet located along the frontages of the 16531 South Frederick Avenue property.

(collectively “the Property”).

The 20 foot wide residual South Frederick Avenue right-of-way along the frontage of the Shopping Center is located within the Gaithersburg city limits and is zoned R-A. This R-A zoning will remain unchanged.

B. Surrounding Land Uses

The land uses and zoning surrounding the Shopping Center are as follows:

North – 623 South Frederick Road located at the corner of South Frederick Road and North Westland Drive, improved with two commercial buildings zoned C-D, located within Gaithersburg. To the east of 623 South Frederick Road is 617 North Frederick Road improved with three commercial buildings, zoned C-D and located within Gaithersburg. The 617 North Frederick Road site is “T” shaped with frontage on North Westland Drive and North Frederick Road. To the east of 617 North Frederick Avenue

are the two other sites that are the subject of the Annexation Petition, 8939 and 8941 North Westland Drive.

South – 16425 Frederick Road located at the corner of South Frederick Avenue and South Westland Drive improved with a gas station located on two parcels zoned C-D. To the east of the gas station are two vacant parcels owned by affiliates of Standard Properties zoned C-2, both located within Gaithersburg.

East – A single family residential neighborhood zoned R-60 located within Montgomery County. An eight foot (approximately) high fence is located along the Shopping Center’s eastern property line and separates the Shopping Center from ten single family residences.

West – On the west side of South Frederick Avenue are two churches, located in the R-A zone located within Gaithersburg.

The land uses and zoning surrounding 8939 and 8941 North Westland Drive are as follows:

North – 617 North Frederick Road (identified above).

South – Walnut Hill Shopping Center, one of the parcels subject to the Annexation Petition.

East – 8929 North Westland Drive, vacant, zoned R-90 and located within Gaithersburg.

West – 617 South Frederick Road (identified above).

C. Existing Zoning

The Property is zoned Commercial Residential Town - CRT – 2.25, C 1.5, R 0.75, H 45. The zoning permits a maximum density of 2.25 floor area ratio (“FAR”) of which the maximum commercial density is 1.5 FAR and the maximum residential density is .75 FAR. In order to maximize the allowable density, a mixed use development would be required, although a development exclusively residential or exclusively commercial up to the designated densities is permitted in the zone. The maximum height allowed is 45 feet. The CRT Zone (as well as the CR and CRN zones) permits a mix of residential and nonresidential uses.

Prior to Montgomery County’s comprehensive rezoning in 2014, the Property was zoned C-2, general commercial. In an effort to accommodate potential future mixed-use redevelopment, the majority of shopping centers and commercially zoned properties in the County were rezoned to one of the CR zones – CR, CRT or CRN. The County recognized that many of these shopping centers would continue for quite some time to function exclusively as commercial

centers, but did not want to preclude the opportunity for potentially introducing a residential component in the future.

III. Master Plans

A. County Master Plan

The Property is located within the June 2010 Approved and Adopted Great Seneca Science Corridor Master Plan (the “Master Plan”) area. In terms of the subject annexation, one of the most important components of the Master Plan is the recognition that annexations into the City of Gaithersburg may occur and “that annexing properties surrounded by municipalities would help create coherent boundaries.” The Master Plan continues that boundaries between the County and the municipalities should be logical and well-defined, following roads and certain natural features. The Master Plan strongly opposes annexation of any portion of the Life Sciences Center, of which the Property is not a part (pages 13 and 14). The Master Plan specifically provides that Walnut Hill, as one of the Master Plan’s five enclaves, could be considered for annexation (page 66). Importantly, the South Frederick Road corridor, from the 370 interchange north to the northern boundary of Gaithersburg is located within Gaithersburg, except for the Walnut Hill Shopping Center. This certainly makes the annexation of the Property a logical action in order to create the coherent boundaries called for in the Master Plan.

The Master Plan identifies the Property’s existing zoning and land uses as retail and commercial and there are no specific future recommendations for the Property. However, it is important to emphasize that subsequent to the 2010 Master Plan, the Property was rezoned to the CRT zone, with a zoning designation permitting the residential development of the Property.¹

In support of the potential redevelopment of 8939 North Westland Drive with housing uses, the Master Plan calls for a range of housing to help achieve the County’s housing goals. The addition of residential units on this conveniently located parcel is in keeping with locating housing in proximity to existing or future planned infrastructure (i.e. the bus rapid transit to be constructed along South Frederick Road).

B. City Land Use Plan

The City of Gaithersburg’s 2009 Land Use Plan, Master Plan element identifies the Property as within the City’s Maximum Expansion Limits and notes that it could be annexed without creating an enclave. The Land Use Plan notes that if annexed, the Shopping Center should be incorporated into the Frederick Avenue Corridor Plan and subject to its design elements. The Land Use Plan further provides that the land use designation should be commercial-office-residential and recommends C-D zoning. Given the intended continuation of the commercial use (with no residential uses contemplated) for the Shopping Center, C-2 zoning is proposed for the

¹ Based on the existing zoning of CRT 2.25, C 1.5, R 0.75, the maximum density of 2.25 FAR may only be maximized if the Property were developed with both commercial and residential development, thereby suggesting that the County would be supportive of residential development on the 8939 North Westland Drive parcel.

Shopping Center, while C-D zoning is proposed for the 8939 and 8941 North Westland Drive parcels.

The 2001 Special Study Area Frederick Avenue Corridor Land Use Plan, Master Plan Element recognizes the continued commercial use of the Shopping Center and recommends C-D zoning with a commercial-office-residential land use designation. The Special Study Area Plan recommends “infill retail liner buildings along the street edge of South Frederick Avenue, within the existing parking lot” and recommends a range of 20,000 to 30,000 square feet of additional retail space. There are no recommendations for the 8939 and 8941 North Westland Drive parcels.

IV. Proposed Development and Proposed Zoning

The Applicant intends to continue the use of the Shopping Center as a retail center but proposes a number of revisions to promote the viability of this use. These changes include the following:

- Establishment of a 57,851 square foot retail pad in the southwest corner of the Shopping Center to accommodate a 4,959 square foot retail convenience store with an accessory use to include 12 fueling positions.
- Establishment of pedestrian connections leading from South Frederick Avenue through the Shopping Center
- Renovation of the existing in-line structure to accommodate a grocery store
- Elimination of the center driveway along South Westland Drive
- Demolition of the one story vacant brick building in the southeast corner of the site
- Dedication of the Shopping Center frontage (variable width of between 13 and 19 feet) to accommodate the future BRT.
- Various landscaping, lighting and elevation 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.

Given the intent to continue the current use of the Shopping Center for commercial retail uses only, the Applicant proposes the C-2, General Commercial Zone for the Shopping Center, which is consistent with the recommendation of the Special Study Area Frederick Avenue Corridor Land Use Plan, Master Plan Element, to continue the retail use.

Based on the market position of the Shopping Center and the surrounding multi-family landscape, the Applicant does not anticipate that residential uses will be considered for the Shopping Center site for at least another 15 to 20 years. While the Applicant expects that future Gaithersburg Master Plan Amendments and any corresponding future rezoning will take this into account so as not to foreclose the potential residential development on the Shopping Center at some point in the future, any accommodation for residential uses on the Shopping Center at this time would be premature. Thus, the requested C-2 zoning for the Shopping Center is the appropriate zoning.

With respect to the 8939 North Westland Drive parcel, the current intent is to develop this site with residential townhouses or two-over-two residential units, but the opportunity for commercial or retail uses should be preserved. For this reason the C-D zoning is appropriate for this site.

With respect to the 8941 North Westland Drive parcel, the Applicant understands based on discussion with City officials that it is the owner's intent to continue the current commercial use of the site. Zoning the site C-D would preserve the opportunity to redevelop the site with residential uses and would also not preclude the continued commercial use.

V. Adequacy of Public Benefits

In terms of the public benefits, there are adequate public facilities, including public water and sewer, electricity, and police and fire safety to accommodate the annexation. With respect to the Shopping Center, the Applicant has conducted a Transportation Impact Statement ("TIS") and has concluded that there is adequate traffic capacity on the surrounding road network to accommodate the proposed development on this site. More specifically, the TIS concluded that all of the study intersections meet the City of Gaithersburg's and MDOT SHA's Guidelines of Critical Lane Volumes of less than 1,450 in all conditions.

VI. Civic Outreach

Since December of 2021, the Applicant has had extensive outreach with the surrounding and nearby interested civic associations including Gateway Commons, Walnut Hill, Rosemont Citizens Association and East Gaithersburg United, and shared with them the intended plans for the Shopping Center and the Applicant's progress. This outreach has included nine virtual or in-person meetings and numerous phone conversations. Walnut Hill, the civic association closest to the Shopping Center (which is located in the County) has expressed that their primary interest is the securing of a grocery store for the Shopping Center. Additional comments expressed by Walnut Hill and other civic associations to which the Applicant has responded included a desire for improved outdoor gathering space and an overall upgrade to the look and feel of the Shopping Center so that it would be considered an asset to the neighborhood. The leadership of Walnut Hill has verbally expressed their support for the Applicant's plans.

VII. Conclusion

The Applicant is excited to pursue the annexation of the Property into Gaithersburg and believes the time is right to do so. From a land use and zoning perspective, the annexation will remedy what is currently an illogical municipal boundary. The proposed improvements to the Shopping Center provide the opportunity to upgrade an underutilized, depreciated retail center and convert it to an up-to-date, attractive gateway retail center for the City of Gaithersburg that provides a real benefit to both the surrounding community and the City as a whole.

The Applicant looks forward to working with the City in this pursuit.



LEGEND:

- TOTAL ANNEXATION AREA (±436,991 SF, 10.03 AC)
- SOUTH WESTLAND DRIVE RIGHT-OF-WAY ANNEXATION AREA (±27,298 SF, 0.63 AC)
- NORTH WESTLAND DRIVE RIGHT-OF-WAY ANNEXATION AREA (±17,551 SF, 0.40 AC)

EXISTING M-NCPPC ZONING CHART

	16531 S FREDERICK AVE.	8939 N WESTLAND DR.	8941 N WESTLAND DR.
ZONING	CRT-2.25 C-1.5 R-0.75 H-45		
TRACT AREA	360,477 SF	20,886 SF	10,784 SF
DENSITY	C-540,715 SF (1.5) R-270,357 SF (0.75) CR-811,073 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)
DEVELOPMENT TYPE/USE	COMMERCIAL	VACANT	COMMERCIAL
GROSS FLOOR AREA (GFA)	94,827 SF*	0 SF	2,200 SF

PROPOSED GAITHERSBURG ZONING CHART

	16531 S FREDERICK AVE.	8939 N WESTLAND DR.	8941 N WESTLAND DR.
ZONING	C-2	CD	CD
TRACT AREA	360,477 SF	20,886 SF	10,784 SF
DENSITY	C-1,216,609 SF (3.375)	70,490 SF (3.375)	36,396 SF (3.375)
DEVELOPMENT TYPE/USE	COMMERCIAL	COMMERCIAL/RESIDENTIAL	COMMERCIAL/RESIDENTIAL
GROSS FLOOR AREA (GFA)	97,853 SF**	0 SF	2,200 SF**
CHANGE IN BUILDING AREA (SF)	3,026 SF	0 SF	0 SF

*DEVELOPMENT AND AREA (SF) INCLUDES THE TO BE DEMOLISHED DRY CLEANERS ON SITE.

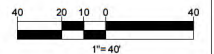
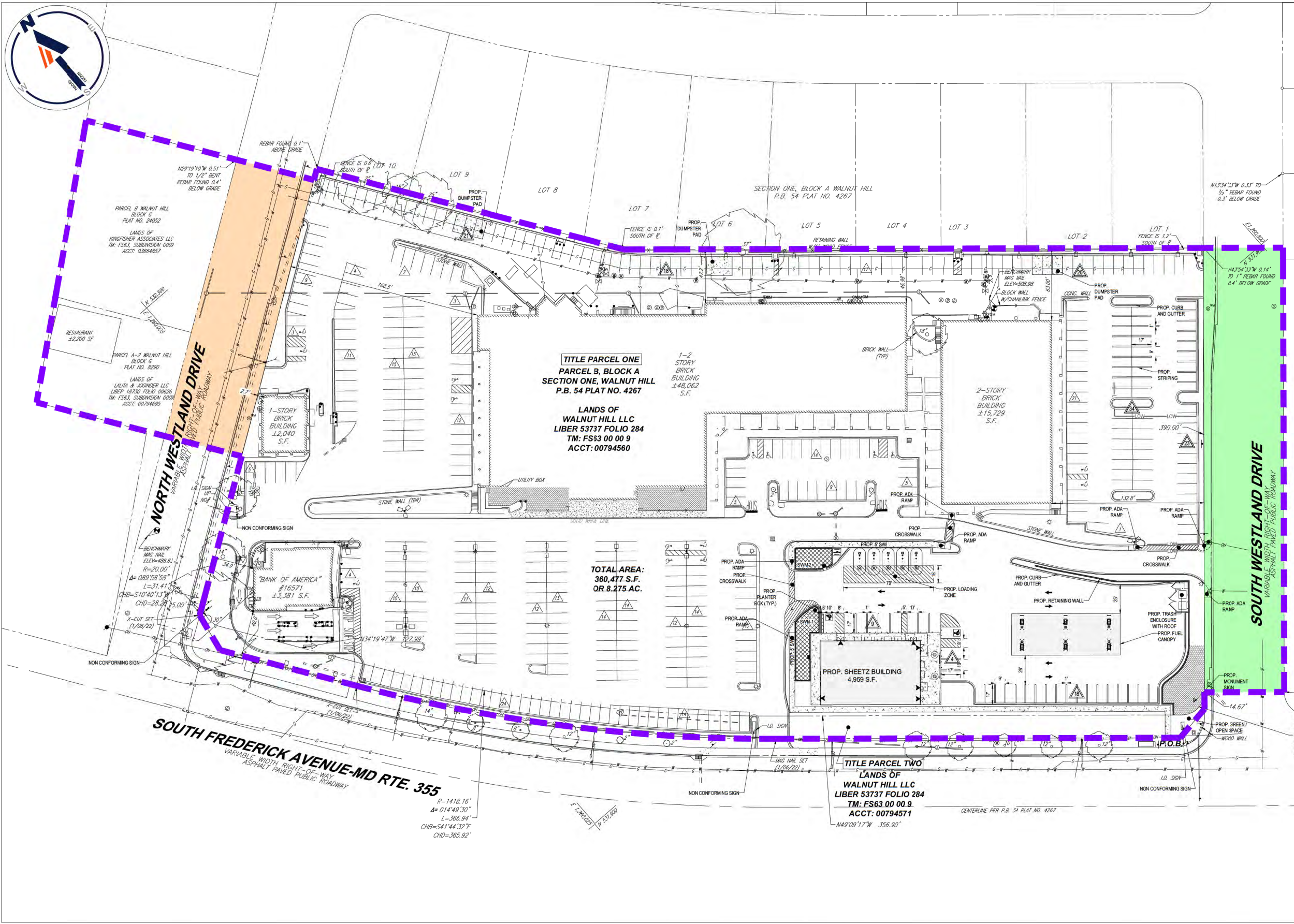
**DEVELOPMENT AND AREA (SF) EXCLUDES THE TO BE DEMOLISHED DRY CLEANERS ON SITE AND INCLUDES THE PROPOSED SHEETZ TO BE BUILT ON SITE.

DENSITY NOTES:

THE FUTURE DENSITY OF 16531 S FREDERICK AVENUE (THE SHOPPING CENTER) SHALL NOT EXCEED 1.5 TIMES THE CURRENTLY ALLOWED COMMERCIAL DENSITY OF 1.5 FAR (540,715 SF), OR 2.25 FAR (811,073 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 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 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).



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MD@BohlerEng.com

ANNEXATION PLAN

GRANITE PARTNERS WALNUT HILL

16529 S FREDERICK AVENUE, GAITHERSBURG, MD 20877

Montgomery County Planning Board

THE MARYLAND NATIONAL CAPITAL PARK AND PLANNING COMMISSION



2425 Reedie Drive
Floor 14
Wheaton, MD 20902



MontgomeryPlanningBoard.org

July 25, 2023

The Honorable Evan Glass, President

Montgomery County Council
100 Maryland Avenue
Rockville, Maryland 20850

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

Dear Council President Glass:

At the 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.

After the Planning staff's presentation and 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

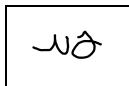
An annexation petition from the City of Gaithersburg for three properties, including the Walnut Hill Shopping Center, located at 16531 South Frederick Avenue (MD 355), 8939 North Westland Drive and 8941 North Westland Drive.

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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Matthew Folden, Supervisor, Midcounty Planning, Matthew.Folden@montgomeryplanning.org, (301) 495-4539



Carrie Sanders, Chief, Mid-County Planning, Carrie.Sanders@montgomeryplanning.org, 301-495-4653

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).

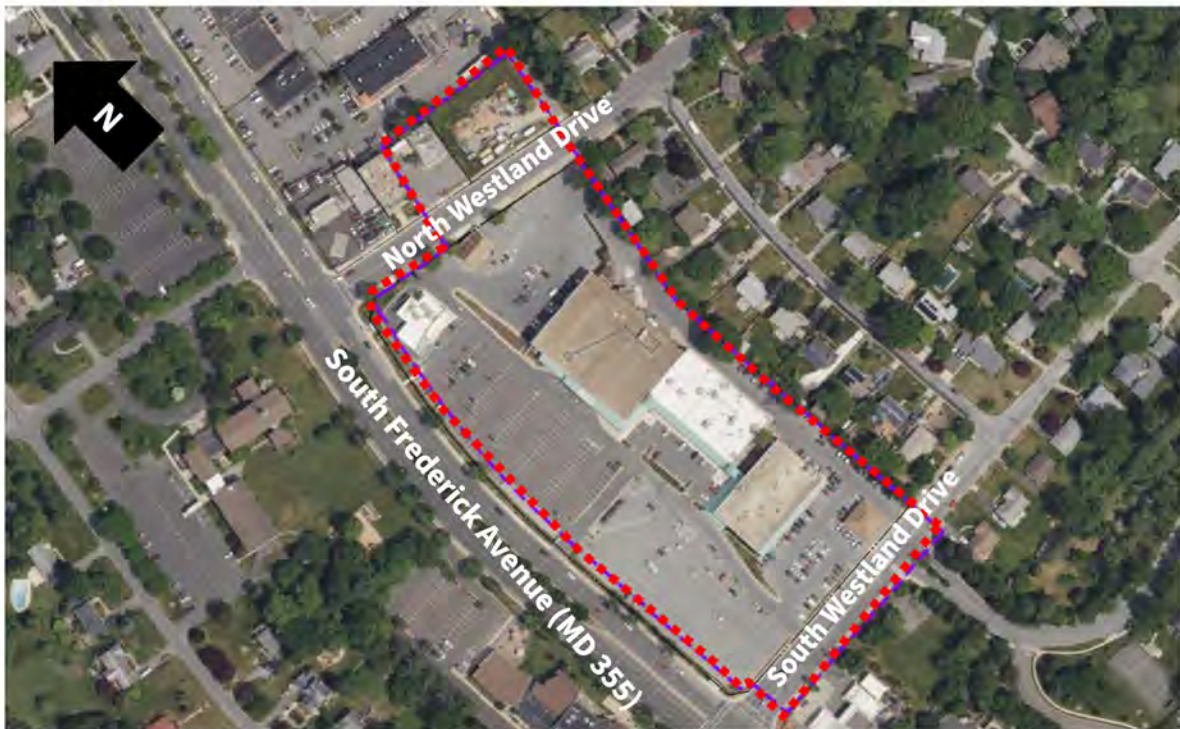


Figure 1: Proposed Annexation Area

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

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.

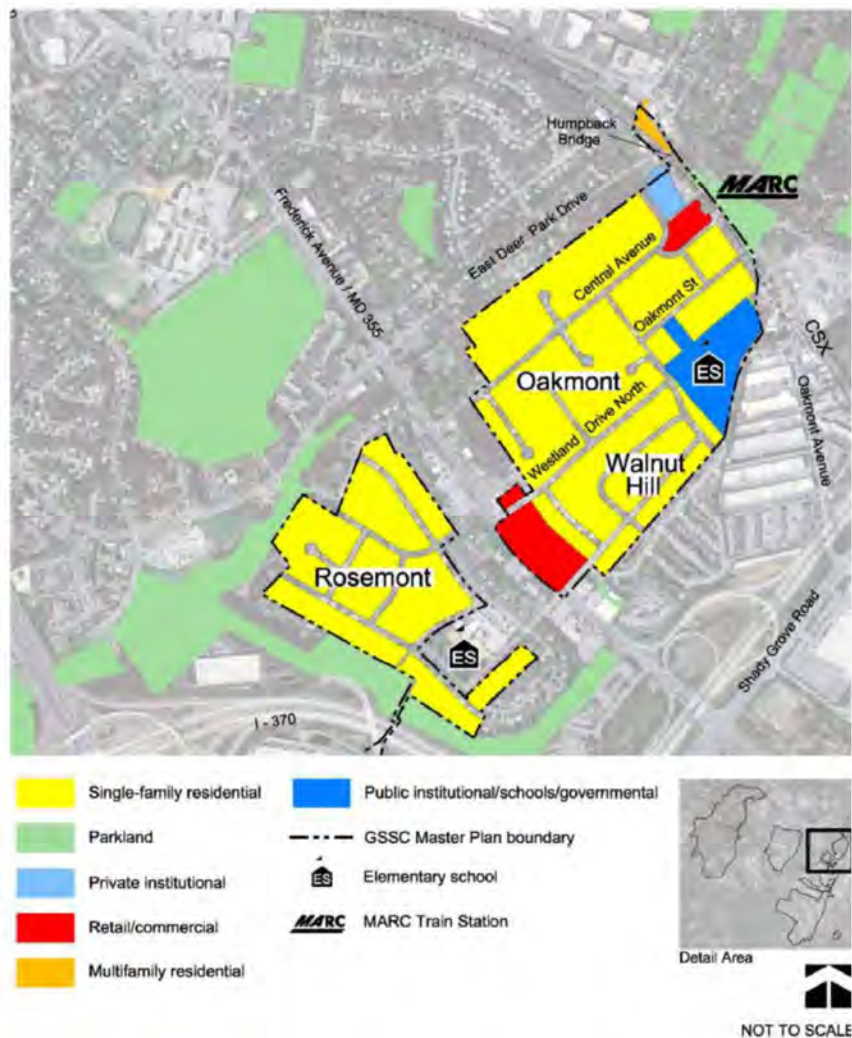


Figure 4: Existing land uses in the Rosemont, Oakmont and Walnut Hill areas.

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

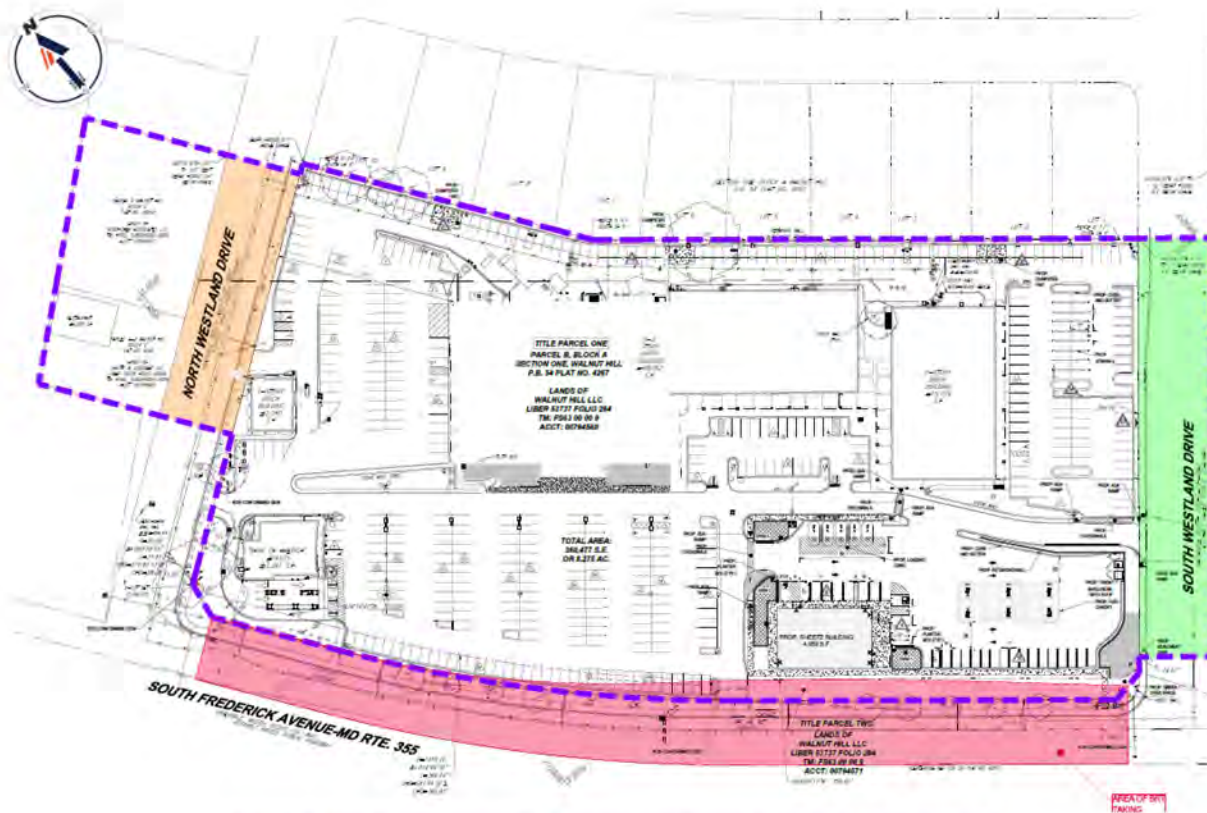


Figure 6: Additional property dedication (shown in pink) for MD 355 BRT

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.