

RESOLUTION NO. R-56-23

RESOLUTION AUTHORIZING THE ANNEXATION TO THE CITY OF GAITHERSBURG OF APPROXIMATELY 402,829 SQUARE FEET (9.25 ACRES) OF LAND LOCATED ADJACENT TO THE PRESENT CORPORATE LIMITS AND TO ESTABLISH C-2 AND CD ZONING FOR SAID LAND, KNOWN AS THE WALNUT HILL COMMERCIAL PROPERTIES, LOCATED AT 16531 SOUTH FREDERICK AVENUE, 8939 NORTH WESTLAND DRIVE, AND 8941 NORTH WESTLAND DRIVE, AND INCLUDING A PORTION OF THE RIGHT OF WAY OF NORTH WESTLAND DRIVE AND A PORTION OF THE ABANDONED MARYLAND 355 RIGHT OF WAY

ANNEXATION X-9510-2023

WHEREAS, the Mayor and City Council have received a petition requesting the enlargement of the corporate boundaries of the City of Gaithersburg so as to include the Walnut Hill Commercial Properties, also known as Parcel B Block A, Parcels A-2 and B Block G, a portion of the North Westland Drive right of way, and a portion of the abandoned Maryland 355 right of way, all of which are currently not within the corporate limits of the City of Gaithersburg and whose boundaries are described in more detail hereafter; and

WHEREAS, the signatures of the said petition for annexation have been verified and it has been ascertained that the persons signing said petition are owners of not less than twenty-five percent (25%) of the assessed valuation of the real property located in the area to be annexed, and constitute not less than twenty-five percent (25%) of the persons who reside in the area to be annexed, and who are registered as voters in County elections in the precincts in which the territory to be annexed is located; and

WHEREAS, the properties are within the defined maximum expansion limits of the City of Gaithersburg and identified in the City's adopted Municipal Growth Element; and

WHEREAS, the properties are contiguous to and adjoining the existing corporate boundaries of the City of Gaithersburg and do not create an unincorporated area that is bounded on all sides by the real property presently in the boundaries of the City, real property proposed to be in the boundaries of the City of Gaithersburg as a result of the proposed annexation; or any combination thereof; and

WHEREAS, under the annexation petition, the properties would be rezoned from Montgomery County's CRT-2.25 C-1.5 R-0.75 H-45 ("Commercial Residential Town") Zone to the City of Gaithersburg's C-2 (General Commercial) Zone and CD (Corridor Development) Zone; and

WHEREAS, the Mayor and City Council introduced the resolution requesting approval of the petition to annex the property into the City of Gaithersburg on May 15, 2023; and

WHEREAS, the Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission (M-NCPPC) on July 13, 2023 voted unanimously to support the proposed annexation and transmit their comments to the County Council, including that the proposed land uses, densities, and proposed C-2 and CD zoning are not substantially different from those authorized under the current County zoning and the proposed density is not more than 150% of the density that could be allowed for the entire property under current County zoning; and

WHEREAS, the City of Gaithersburg Planning Commission reviewed the X-9510-2023 annexation petition during their July 19, 2023 meeting and found:

- 1) The proposed X-9510-2023 annexation and associated plan are in compliance with the City's Master Plan and Strategic Plan; and
- 2) The proposed zoning of C-2 (General Commercial) and CD (Corridor Development) for annexation X-9510-2023 is appropriate; and
- 3) The proposed X-9510-2023 annexation and associated plan can be served by both existing and future public facilities; and

WHEREAS, the Mayor and City Council following the proper notification for the public hearing by publication not fewer than two (2) times, at not less than weekly intervals, in *The Washington Post*, a newspaper of general circulation in the City of Gaithersburg and posting of the property, conducted a public hearing on the X-9510-2023 petition on September 5, 2023 and held the record open for additional written testimony until September 29, 2023; and

WHEREAS, the Mayor and City Council reviewed an Annexation Plan submitted by the applicant, identified as Exhibit 23 and the Staff Analysis and Fiscal Impact Report, identified as Exhibit 94; and

WHEREAS, the Mayor and City Council conducted the X-9510-2023 policy discussion on October 16, 2023 and upon review of the record, testimony, recommendations, and findings;

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and City Council that the corporate boundaries of the City of Gaithersburg be, and they hereby are, enlarged by including therein the following area:

DESCRIPTION OF PROPERTY

Metes and Bounds Description

Parcel B, Block A

Being all of Parcel B, Block A, Section One Walnut Hill, recorded as Plat No. 4267 among the Land Records of Montgomery County, Maryland, identified as tax account number 16-09-00794560 and addressed as 16531 South Frederick Avenue, and being more particularly described in the datum of W.S.S.C. as follows:

Beginning for the same at the southwesterly point of Lot 1, Block A, recorded as Plat No. 4267, said point lying on the northern right of way line of South Westland Drive and also being the southeast point of Parcel B, Block A, recorded as Plat No. 4267, said point being marked by a found rebar marker; thence along the northern right of way line of said South Westland Drive:

- 1.) South 40° 50' 43" West, 390.00 feet to a point on the northern right of way line of South Westland Drive; thence leaving said right of way line of South Westland Drive and turning northeast the following five (5) courses and distances
- 2.) 31.41 feet along the arc of a non-tangent curve to the right having a radius of 20.00 feet, a central angle of 89° 58' 58", and a chord bearing and distance of South 85° 50' 43" West, 28.28 feet to a point; thence
- 3.) North 49° 09' 17" West, 356.90 feet to a point; thence
- 4.) 366.94 feet along the arc of a tangent curve to the right having a radius of 1,418.16 feet, a central angle of 14° 49' 30", and a chord bearing and distance of North 41° 44' 32" West, 365.92 feet to a point; thence
- 5.) North 34° 19' 47" West, 127.99 feet to a point; thence
- 6.) 31.41 feet along the arc of a non-tangent curve to the right having a radius of 20.00 feet, a central angle of 89° 58' 58", and a chord bearing and distance of North 10° 40' 13" East, 28.28 feet to a point on the southerly right of way line of North Westland Drive, variable width right-of-way (Plat Book 54, Plat Number 4267); thence along the southerly right of way line of North Westland Drive
- 7.) North 55° 40' 13" East, 390.00 feet to a rebar point found, said point lying on the southerly right of way line of North Westland Drive and being the northwest corner of Lot 10, Block A, recorded as Plat No. 4267, and also being the northeast corner of Parcel B, Block A, recorded as Plat No. 4267; thence leaving said right of way of North Westland Drive the following two (2) courses and distances

- 8.) South 34° 19' 47" East, 279.12 feet to a point, said point located near the middle of the southwesterly line of Lot 7, Block A, recorded as Plat No. 4267; thence
- 9.) South 49° 09' 17" East 508.08 feet to the point of beginning, containing 342,991 square feet or 7.87399 acres of land, as shown on a survey prepared by Jerod S. Foor of Bohler Engineering on June 15, 2023.

Parcel A-2, Block G

Being all of Parcel A-2, Block G, Section One, Walnut Hill, recorded as Plat No. 8290 among the Land Records of Montgomery County, Maryland, identified as tax account number 16-09-00794695 and addressed as 8941 North Westland Drive, and being more particularly described in the datum of W.S.S.C. as follows:

Beginning for the same at a point marking the southerly common corner of Parcel A-2, Block G, Walnut Hill, recorded as Plat No. 8290 and Parcel B, Block G, Section One Walnut Hill, recorded as Plat No. 24052, said point also located on the northerly right of way line of North Westland Drive; thence leaving said common line of Parcel A-2 and Parcel B, and running with said northerly right of way line of North Westland Drive

- 1.) South 55° 40' 13" West, 90.00 feet to a point marking the common corner of Parcel A-2, Block G, Walnut Hill, recorded as Plat No. 8290 and Lot 1, Walnut Hill Limited Partnership Addition to Walnut Hill, recorded as Plat No. 11382; thence leaving said northerly right of way line of North Westland Drive and running with the common line of said Parcel A-2 and Lot One the following two (2) courses and distances
- 2.) North 34° 19' 47" West, 116.17 feet to a point on the common line of Parcel A-2, Block G, Walnut Hill and Lot One, Walnut Hill Limited Partnership Addition to Walnut Hill; thence
- 3.) North 51° 01' 53" East 90.29 feet to a point on the common line of Parcel A-2 and Parcel B, Block G, recorded as Plat No. 24052; thence leaving the common line of Parcel A-2 and Lot One, Walnut Hill Limited Partnership Addition to Walnut Hill and running with the common line of said Parcel A-2 and Parcel B, Block G
- 4.) South 34° 19' 47" East 123.47 feet to the point of beginning, containing 10,784 square feet or 0.24757 acres of land, as shown on a survey prepared by Jerod S. Foor of Bohler Engineering on June 15, 2023.

Parcel B, Block G

Being all of Parcel B, Block G, Section One Walnut Hill, recorded as Plat No. 24052 among the Land Records of Montgomery County, Maryland, identified as tax account number 16-09-03664857 and addressed as 8939 North Westland Drive, and being more particularly described as follows:

Beginning for the same at a point marking the southerly common corner of said Parcel B, Block G, Section One Walnut Hill, recorded as Plat No. 24052 and Lot 1, Block G, Walnut Hill, recorded as Plat No. 4267, said point also located on the northerly line of North Westland Drive; thence leaving said common line of Parcel B and Lot 1, and running with said northerly line of North Westland Drive

- 1.) South 55° 40' 13" West, 160.66 feet to a point marking the common corner of Parcel B, Block G and Parcel A-2, Block G, Walnut Hill, recorded as Plat No. 8290; thence leaving said northerly line of North Westland Drive and running with the common line of said Parcel B and Parcel A-2 the following course and distance
- 2.) North 34° 19' 47" West, 123.47 feet to a point on the common line of Lot One, Walnut Hill Limited Partnership Addition to Walnut Hill, recorded as Plat No. 11382; thence running with the said common line of Lot One
- 3.) North 51° 01' 53" East, 161.19 feet to a point on the common line of Lot 1, Block G, Walnut Hill, recorded as Plat No. 4267; thence running with the said common line of Lot 1
- 4.) South 34° 19' 47" East, 136.51 feet to the point of beginning, containing 20,886 square feet or 0.47948 acres of land, as shown on a survey prepared by Jerod S. Foor of Bohler Engineering on June 15, 2023.

Part of the North Westland Drive Right of Way

Being a portion of the North Westland Drive Right of Way, recorded as Plat No. 4267 among the Land Records of Montgomery County, Maryland, and being more particularly described as follows:

Beginning for the same at a point marking the common corner of Parcel B, Block G, Section One Walnut Hill, recorded on Plat No. 24052 and Lot 1, Block G, Section One Walnut Hill, recorded as Plat No. 4267, said point also being located on the northern right of way line of North Westland Drive; thence leaving the northern right of way line of North Westland Drive and crossing said right of way

- 1.) South 42° 28' 33" East 70.71 feet to a point on the southern right of way line of North Westland Drive, said point also being the common corner of Parcel B, Block A and Lot 10, Block A, Section One Walnut Hill, recorded as Plat No 4267; thence along said southern right of way line of North Westland Drive
- 2.) South 55° 40' 13" West 405.00 feet to a common point on the southern right of way line of North Westland Drive and the abandoned Maryland 355 right of way recorded in Liber 183 at Folio 35 as Equity Case 31265, said point marked by an X-cut recently set; thence continuing along the common line between the southern right of way line of North Westland Drive and the abandoned Maryland 355 right of way line

- 3.) South 10° 40' 13" West 7.07 feet to a point on the existing City of Gaithersburg corporate line established by Resolution R-08-69 (Annexation X-099); thence leaving said common line between the southern right of way line of North Westland Drive and the abandoned Maryland 355 right of way recorded in Liber 183 at Folio 35 as Equity Case 31265
- 4.) North 34° 19' 47" West 75.00 feet along the existing City of Gaithersburg corporate line established by Resolution R-08-69 to a point on the northern right of way line of North Westland Drive; thence continuing along the existing City of Gaithersburg corporate line and northern right of way line of North Westland Drive
- 5.) North 55° 40' 13" East 399.98 feet to the point of beginning, containing approximately 28,365 square feet or 0.651 acres of land.

Part of the Abandoned Maryland 355 Right of Way

Being a portion of the Abandoned Maryland 355 Right of Way, recorded in Liber 183 at Folio 35 as Equity Case 31265 among the Circuit Court Records of Montgomery County and also included in a deed recorded in Book 65758 at Page 81 among the Land Records of Montgomery County, Maryland, identified as tax account number 16-09-00794571, and being more particularly described in two parts as follows:

Part 1:

Beginning at the intersection of the eastern right of way line of South Frederick Avenue / Maryland Route 355 (variable width right of way) and the southern right of way line of North Westland Drive (variable width right of way) (Plat Book 54, Plat Number 4267); thence with said southern right of way line

- 1.) North 55° 40' 13" East 15.00 feet to a point; thence departing said southern right of way line and with the division line between Parcel B, Block A, Section One, Walnut Hill (Plat Book 54, Plat Number 4267), on the north and lands of Walnut Hill Propco, LLC (Book 65758 Book 81) on the south
- 2.) 31.41 feet along the arc of a non-tangent curve to the left having a radius of 20.00 feet, a central angle of 89° 58' 58", and a chord bearing and distance of South 10° 40' 13" East 28.28 feet to a point; thence departing said division line and with a line through said lands of Walnut Hill Propco, LLC
- 3.) North 34° 19' 47" West 15.00 feet to a point on the eastern right of way line of said South Frederick Avenue / Maryland Route 355; thence continuing with said eastern right of way line
- 4.) North 10° 40' 13" East 7.07 feet to the point of beginning, containing approximately 73 square feet or 0.002 acres of land, as shown on a survey prepared by Jerod S. Foor of Bohler Engineering on June 15, 2023.

Part 2:

Beginning at the intersection of the eastern right of way line of South Frederick Avenue / Maryland Route 355 (variable width right of way) and the northern right of way line of South Westland Drive (variable width right of way) (Plat Book 54, Plat Number 4267); thence with said northern right of way line

- 1.) South 80° 50' 43" East 6.96 feet to a point; thence departing said southern right of way line of South Westland Drive and with a line through the lands of Walnut Hill Propco, LLC (Book 65758 Book 81)
- 2.) North 49° 09' 17" West 15.52 feet to a point on the division line between Parcel B, Block A, Section One, Walnut Hill (Plat Book 54, Plat Number 4267), on the north and said lands of Walnut Hill Propco, LLC on the South; thence with said division line
- 3.) 31.41 feet along the arc of a non-tangent curve to the left having a radius of 20.00 feet, a central angle of 89° 58' 58", and a chord bearing and distance of North 85° 50' 43" East 28.28 feet, to a point on the northern right of way line of said South Westland Drive; thence with said northern right of way line
- 4.) South 40° 50' 43" West 14.67 feet to the point of beginning, containing approximately 74 square feet or 0.002 acres of land, as shown on a survey prepared by Jerod S. Foor of Bohler Engineering on June 15, 2023.

And together containing approximately 147 square feet or 0.004 acres of land.

BE IT FURTHER RESOLVED, by the Mayor and City Council, that this Resolution shall become effective forty-five (45) days following its adoption, unless a prompt petition for referendum thereon shall be filed as permitted by law, and provided further that the notice required by law shall be published not fewer than two (2) times, at not less than weekly intervals, in *The Washington Post*, a newspaper of general circulation in the City of Gaithersburg.

BE IT FURTHER RESOLVED, by the Mayor and City Council, that the 342,991 square foot property described above as Parcel B, Block A, Section One Walnut Hill, recorded as Plat No. 4267, being land annexed to the City, be and is hereby classified in the C-2 (General Commercial) Zone, upon the effective date of this Resolution.

BE IT FURTHER RESOLVED, by the Mayor and City Council, that the 147 square foot property described above as part of the Abandoned Maryland 355 Right of Way, recorded in Liber 183 at Folio 35 as Equity Case 31265 among the Circuit Court Records of Montgomery County, being land annexed to the City, be and is hereby classified in the C-2 (General Commercial) Zone, upon the effective date of this Resolution.

BE IT FURTHER RESOLVED, by the Mayor and City Council, that the 10,784 square foot property described above as Parcel A-2, Block G, Walnut Hill, recorded as Plat No. 8290, being land annexed to the City, be and is hereby classified in the CD (Corridor Development) Zone, upon the effective date of this Resolution.

BE IT FURTHER RESOLVED, by the Mayor and City Council, that the 20,886 square foot property described above as Parcel B, Block G, Section One Walnut Hill, recorded as Plat No. 24052, being land annexed to the City, be and is hereby classified in the CD (Corridor Development) Zone, upon the effective date of this Resolution.

BE IT FURTHER RESOLVED, by the Mayor and City Council, that all or a portion of this annexation shall be subject to the terms and conditions of an annexation agreement by and between one or more of the Property Owners and the City of Gaithersburg and any amendment which may be hereafter enacted thereto.

BE IT FURTHER RESOLVED, by the Mayor and City Council, that promptly after this Resolution shall become effective, the City Manager or designee shall send copies of said Resolution to the following:

<u>Number of Copies</u>	<u>Agency</u>
1	Department of Legislative Reference
1	Clerk of the Circuit for Montgomery County
1	Supervisor of Assessments for Montgomery County
1	Maryland-National Capital Park and Planning Commission (M-NCPPC)

BE IT FURTHER RESOLVED, by the Mayor and City Council, that the property described above and persons residing therein, if any, shall, after the effective date of this Resolution, be subject to all of the Charter laws, ordinances and resolutions of the City of Gaithersburg, Maryland.

ADOPTED by the City Council this 16th day of October, 2023.

DocuSigned by:

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 JUD ASHMAN, MAYOR and
 President of the Council

THIS IS TO CERTIFY, that the foregoing Resolution was adopted by the City Council, in public meeting assembled on the 16th day of October, 2023. The Annexation will become effective on the 30th day of November, 2023.

DocuSigned by:

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 Tanisha Briley, City Manager