

MAYOR AND COUNCIL OF THE CITY OF GAITHERSBURG

STATEMENT IN SUPPORT OF ANNEXATION PETITION

The Eugene B Casey Foundation (collectively, the "Petitioner" or the "Foundation"), the owner of the property identified as Parcel 940 on Tax Map FS63 and located to the south of the intersection of Frederick Road (MD 355) and O'Neill Drive and to the north of the I-370 right-of-way in Gaithersburg, Maryland (as delineated in the attached exhibits, the "Property"), submits this Statement in Support of the Petition for Annexation (the "Petition"), to annex the Property into the corporate boundaries of the City of Gaithersburg (the "City"). The Property consists of approximately 5.24 acres and is identified as Parcel Identification Number 09-00768787 and has a premises address of "S Frederick Ave" without a specific numerical address. This Petition proposes to reclassify the Property from Montgomery County's CRT-0.75, C-0.25, R-0.75 H-80 Zone to the City's Corridor Development ("CD") Zone to facilitate the development of a mixed-income housing project through multiple phases.

I. INTRODUCTION AND BACKGROUND INFORMATION

The Casey family has owned the Property and adjacent Rosedale Apartments that are located within the City's corporate boundaries since 1937. The Betty Brown Casey Trust transferred the Property and Rosedale Apartments to the Foundation in June of 2023. The Rosedale Apartments are located across two (2) parcels that consist of approximately 9.36 acres and are addressed as 2 O'Neill Drive ("Parcel B") and 3 Nancy Place ("Parcel C").¹ The Rosedale Apartments include 192 garden-style multi-family dwelling units that were constructed in 1972 across Parcel B and Parcel C. Parcel B is currently zoned R-18 (Medium density planned residential) and Parcel C is currently zoned R-20 (Medium density residential).

While there are no regulated affordable housing controls in place at the Rosedale Apartments, the multi-family units function as naturally occurring affordable housing (also known as market rate affordable housing²) due to the Foundation's philanthropic mission. The Foundation's mission is to contribute to causes where funds are greatly needed and would make a difference by prioritizing the Metropolitan Washington DC, Maryland and Virginia areas. The Foundation is charged with paying particular attention to programs in Health and Education as well as Community resources which assist people who are in need. As explained in greater detail below, the Foundation is charged with continuing to provide a high-quality of life for the existing residents at Rosedale Apartments while voluntarily maintaining affordable rents. Current tenants served are families and individuals that generally earn between 40 to 60% Area

¹ The Rosedale Apartments consists of Parcels B and C of the Rosedale Subdivision, recorded in the Land Records of Montgomery County, Maryland (the "Land Records") at Plat No. 9659 on August 7, 1970.

² The recently approved Housing Element defines Market Rate Affordable Housing as "Housing that is naturally lower-priced due to its age, location, and/or physical characteristics." See page 9.

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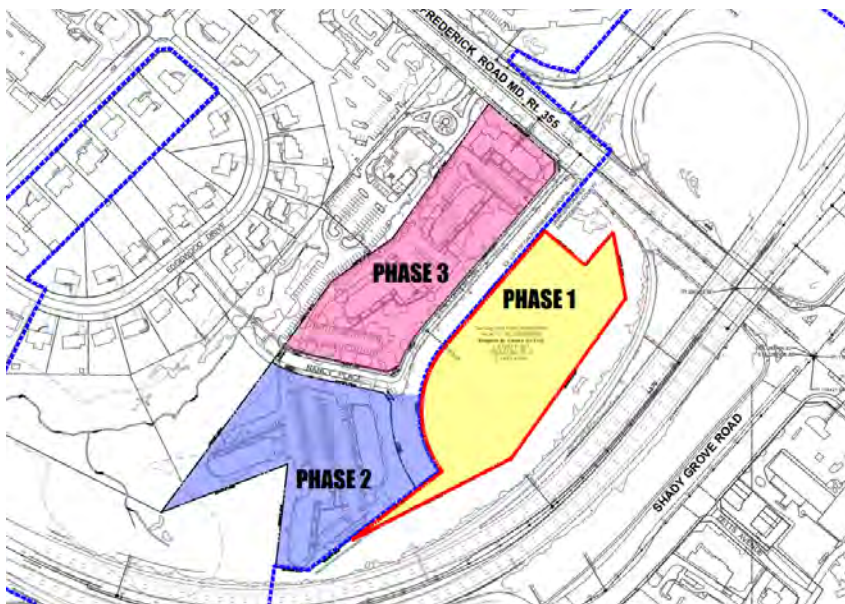
Median Income (“AMI”). In this respect, the Rosedale Apartments have functioned as a successful affordable rental community for many years, but the age and condition of these units necessitate substantial upgrades to support the needs of its residents. In addition to substantially upgrading these apartment units, the Foundation desires to include upgraded recreational amenities and green area to enhance the quality of life of these City residents.

To further the Foundation’s mission, it is critical that it be able to substantially upgrade and/or replace the improvements at Rosedale Apartments without displacing any tenants in these market rate affordable units. Therefore, the Petitioner has strategically determined that it can accommodate both of these goals through a comprehensive and phased redevelopment of the Property and Rosedale Apartments such that existing residents can be relocated to new units developed on the Property while it completes substantial upgrades and/or replacement of the aging units at the Rosedale Apartments. In order to achieve this strategic, mixed-income redevelopment in a timely and market-responsive manner, it is critical that the Property and Rosedale Apartments be the subject of one uniform development review process before a single jurisdiction. As a result, the Petitioner is seeking to annex the Property into the City to further the Foundation’s mission and achieve several important County and City objectives.

II. DESCRIPTION OF THE PROPERTY AND SURROUNDING AREA

Property and Surrounding Area

The Property is located to the north of I-370, west of Frederick Road (MD 355) and south of O’Neill Drive. In addition to the Rosedale Apartments, the Casey Community Center and Rosemont single-family residential community are located to the north, the Property is strategically located in proximity to both the corporate limits of the City and City of Rockville, and is adjacent to a mix of residential, commercial and industrial uses. The Property proposed to be annexed into the City is shaded in yellow below, and the existing Rosedale Apartments (already located in the City) are shaded in blue and red in the graphic below.



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Existing Zoning & Montgomery County Master Plan

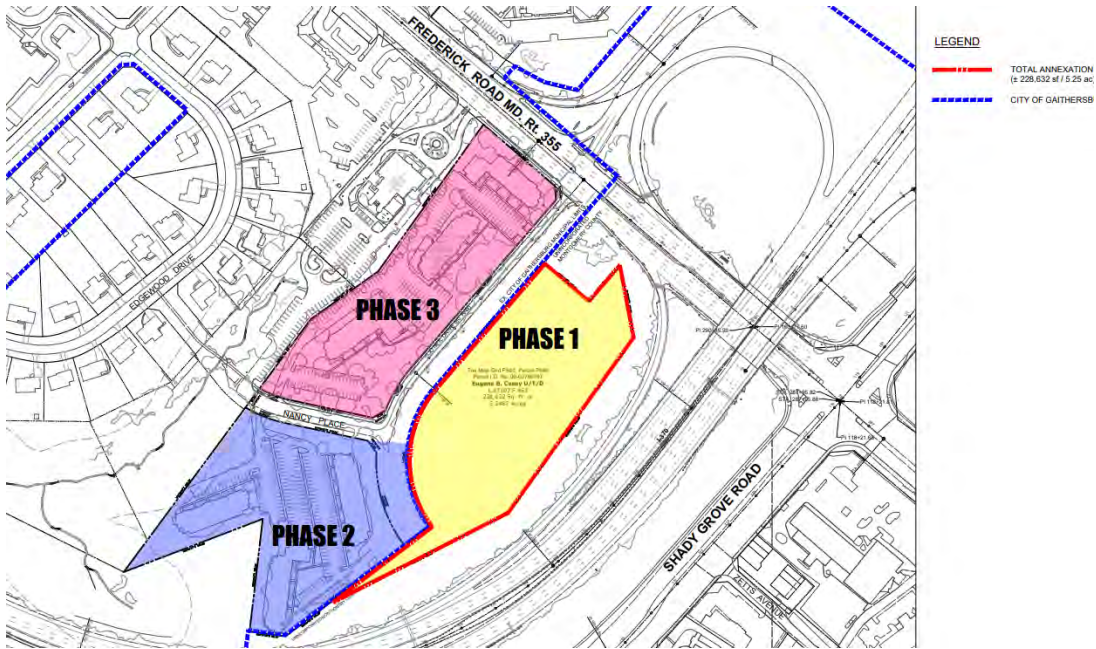
The Property is currently classified in the "Commercial Residential Town" CRT-0.75, C-0.25, R-0.75 H-80 Zone. In accordance with Section 59-3.1.6 of the Montgomery County Zoning Ordinance, the CRT zone permits multi-family dwelling units, various commercial uses (including retail, restaurant, office, and day care uses), and ancillary surface parking as of right. The Property was rezoned to its current CRT Zone in accordance with the 2021 approved and adopted Shady Grove Minor Master Plan Amendment (the "Shady Grove Plan"). The Shady Grove Plan notes that the Property "is adjacent to the city limits of Gaithersburg and is within the City's maximum expansion limits." *See* Shady Grove Plan, p. 58. The Shady Grove Plan specifically recommends "primarily residential development on this property since it complements the existing residential community to the north and the recommendation for mixed-use development to the south." *See* Shady Grove Plan, p. 58. The Shady Grove Plan also contains the following design recommendations for the Property:

- Promote the Sector Plan's recommended public benefits, including the maximum percentage of MPDUs, dwelling unit mix, and enhancement of the natural environment; and
- Efforts should be made to retain portions of the existing forest/wooded area adjacent to the I-370 ramp that will help mitigate noise from adjacent roads and meet the Plan area's environmental goals.

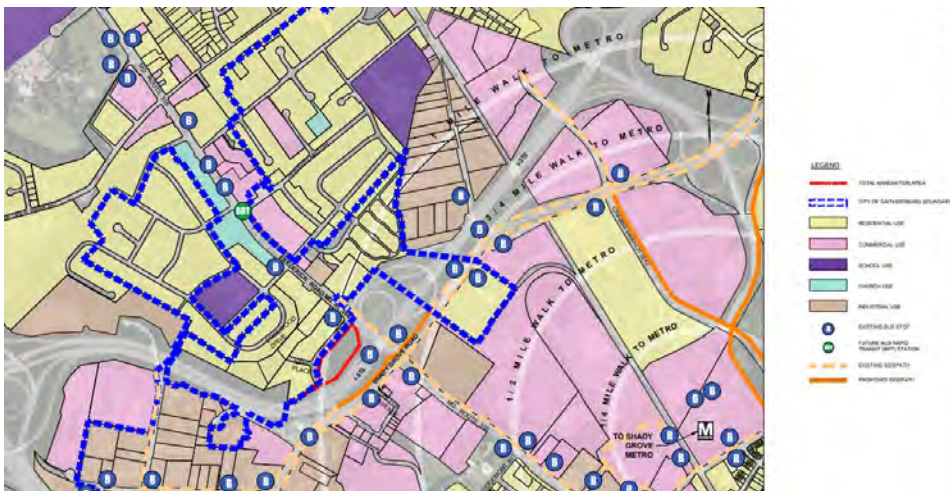
As described in greater detail below, the Foundation's redevelopment plan for the Property will further the Shady Grove Plan recommendations and also be consistent with City's Land Use (2009) and Housing (September 18, 2023, adopted) elements.

III. PROPOSED DEVELOPMENT

As illustrated on the phasing exhibit below, the Petitioner proposes to annex the Property into the City to facilitate a phased redevelopment of the Property and adjacent Rosedale Apartments with up to 472 multi-family dwellings (up to 280 net-new units) and a potential neighborhood scaled institutional/commercial use (the "Project"). In compliance with §4-416(b) of the Local Government Article, the maximum density requested as part of the CD Zone is consistent with the existing CRT zoning in the County. As illustrated on the annexation plan, the proposed density in the CD Zone is substantially similar to that allowed under the current CRT Zone. The Property subject to this Petition would be redeveloped as part of the first phase of development (shaded in yellow below), and redevelopment of the Rosedale Apartments (already located in the City) would allow for substantial rehabilitation and/or replacement of the existing 192 units as part of Phase II (shaded in blue below) and III (shaded in red below). Annexation of the Property is the first step to facilitate the Project and will be followed by a rezoning application for the Rosedale Apartments and Schematic Development Plan application for the Property and Rosedale Apartments under the CD Zone. Final site plan applications for the various phases will follow Schematic Development Plan.



Annexing the Property into the City will facilitate a more cohesive and staged redevelopment of both the Property and Rosedale Apartments with mixed-income housing, modern stormwater management, upgraded recreational facilities, and an enhanced forest conservation buffer from I-370. Additionally, the Property is appropriate for additional residential density given the surrounding land uses and transportation facilities. As illustrated in the site vicinity exhibit below, the Property has proximity to a mix of retail, employment, and residential land uses. The Property is in close proximity to various civic uses and public facilities, including Rosemont Elementary School, Morris Park and Malcolm King Park. A future Bus Rapid Transit (BRT) station for MD 355 is planned immediately to the north of the Rosedale Apartments at S. Westland Drive and MD 355. The Property is also located in the vicinity of the Shady Grove Metro station, and a number of shared use/bicycle paths.



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Given the need to have orderly phasing for redevelopment of the Property and Rosedale Apartments in three (3) phases, it is imperative that the development be consolidated into a uniform zoning classification to facilitate density averaging, shared parking, and satisfaction of environmental requirements holistically. It is not economically feasible to redevelop the Property under an entirely separate planning and zoning scheme than that which applies to the Rosedale Apartments given the need for comprehensive staging and phasing.

Phase I (i.e., the Property subject to annexation petition)

Redevelopment of the Property as Phase I of this comprehensive redevelopment would include up to 257,766 square feet of gross floor area (“Phase I”). The Petitioner envisions development of various multi-family buildings, ancillary surface parking, and recreational amenities across the Property. While the Petitioner’s preliminary determination is that a neighborhood scaled commercial use would be more appropriate and market responsive as part of Phase III (defined below) which has frontage on MD 355, the Petitioner is preserving the flexibility for up to 10,000 square feet of commercial uses on the Property. The commercial uses contemplated include office, financial institution, retail, day care, and/or civic uses.

Phase II

Phase II is proposed to include redevelopment of the southwest portion of the Rosedale Apartments site (Parcel C) that is already located in the City with multi-family dwelling units (across various separate buildings), ancillary surface parking, and recreational amenities (“Phase II”). Redevelopment of this southern section of the Rosedale Apartments that has closest proximity to I-370 will result in substantial improvements to the quality of life of residents through upgraded units and re-location of units to allow for a greater buffer/setback from I-370 than presently exists.

Phase III

Phase III is proposed to include redevelopment of the northeast portion of the Rosedale Apartments (Parcel B) that is already located in the City and has frontage on Nancy Place, O’Neill Drive and Frederick Road. Phase III is proposed to include various multi-family dwelling units, a potential commercial use at the intersection of O’Neill Drive and Frederick Road at this gateway location, ancillary surface parking, and recreational amenities (“Phase III”). As described above with respect to Phase I, the commercial uses are contemplated to be neighborhood scaled and may include office, financial institution, retail, day care, and/or civic uses. If no commercial uses are added as part of Phase I, up to 25,000 square feet of commercial uses are proposed as part of Phase III. Similar to Phase II, this stage of redevelopment of the Rosedale Apartments will be facilitated by annexation of the Property. When the new multi-family units in Phases I and II are available for occupancy, the Petitioner can relocate tenants from the aging units on Phase III such that these buildings can be substantially rehabilitated and/or redeveloped with more modern dwelling units that are competitive with apartment communities in the vicinity. Phase III also presents an opportunity for the addition of

commercial or institutional uses that will complement the mixed-income housing at the Property and Rosedale Apartments and is in keeping with the Master Plan vision.

Affordable Housing

As described above, the vast majority of the multi-family dwelling units occupied at Rosedale Apartments function as naturally occurring affordable housing. The Foundation has voluntarily maintained rental rates that are affordable to tenants with incomes ranging from \$38,000 to \$52,000³ without any regulatory agreement requiring such an affordability covenant. Given the Foundation’s mission to upgrade the multi-family dwelling units with a continued emphasis on affordability for City residents, and the opportunity to provide upward mobility through some additional market-rate units at the Property, the Project will be operated by a charitable mixed-income housing organization, which will restrict 75% of the units to occupancy by qualified low- and moderate-income residents (50-60% AMI as defined by IRS Rev. Proc. 96-32). The remaining 25% of units will be provided as market-rate units for residents who have incomes in excess of the above-referenced income limits to ensure there are opportunities for upward mobility within the project. As noted above, the Rosedale Apartments already serve City residents within these income ranges and the phased redevelopment facilitated by the Petition will ensure that those residents are not displaced.

Section 24-251 of the City’s Zoning Ordinance states that the Affordable Housing “article shall not apply to any property that is subject to an annexation agreement that provides for an affordable housing component.” The Petitioner is committing to far exceed the City’s minimum requirement of 15% Moderately Priced Dwelling Units (“MPDUs”) by delivering 75% of the total dwelling units at rental rates affordable to tenants earning 60% AMI or less. The Petitioner intends to pursue an annexation agreement to include a term on affordable housing and other terms identified later on in this Statement in Support. It is also important to note that the Property would only be required to provide 12.5% MPDUs at 65% AMI if it were developed under the County’s CRT Zone, which is considerably less than the Petitioner’s proposed affordable housing component.

IV. COMPLIANCE WITH MASTER PLAN AND ZONING

A. Master Plan

The City’s Land Use Element (2009) identifies the Property (and Rosedale Apartments) as property number 22 and recommends that the Property be designated for Commercial-Office-Residential land uses and CD zoning, if annexed. The Land Use Element specifically calls out that this “area’s location along the Frederick Avenue corridor, combined with the re-configured I-370 and traffic light, affords future redevelopment possibilities.” *See* Master Plan, p. 62. The proposed development of the Property will further and conform to the recommendations of the City’s Master Plan, and as described below, will accomplish the goals and objectives of the

³ These are the minimum income ranges for current units (ranging from 1-bedroom to 3-bedroom units) at the Rosedale Apartments.

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City's CD Zone. More specifically, the Master Plan calls for a "mixed-use project with a balanced mix of commercial/office and residential," and notes that "commercial uses and density should be focused on Frederick Avenue and Interstate 370." (Master Plan, p. 62). Last, the Master Plan states that any "redevelopment proposal should consider the location's role as an important gateway into the City of Gaithersburg." (Master Plan, p. 62). The Petitioner's vision for the Property is consistent with the Master Plan as it would allow for additional density along MD 355 and I-370, with an opportunity for commercial uses fronting on MD 355.

In addition to being consistent with the City's Land Use Element, the proposed Project will also further the City's Housing Element by preserving "existing affordable homes (both market rate affordable and regulated affordable)." *See* approved Housing Element, p. 64. Given the Foundation's mission, annexation of the Property into the City to facilitate comprehensive upgrades to the Rosedale Apartments provides an opportunity for the City and Petitioner to work together to accomplish many priorities in the Housing Element. As noted above, the Petitioner plans to also provide for a portion of the units at market rates to facilitate opportunities for upward mobility for residents that exceed AMI levels designated for low- and moderate incomes. The Petitioner's decision to implement a mixed-income housing project at the Property and Rosedale Apartments will ensure that there is no displacement of tenants that desire to remain at this upgraded and expanded housing community.

Last, the Petition and Project will also further many of the goals established by the City's Strategic Plan (adopted in 2022). More specifically, the Petition will "implement strategies that encourage reinvestment in aging commercial and multi-family properties," "pursue strategies to provide a mix of housing options for a variety of income levels," and "improve access and integration among employment nodes, residential areas, and amenities." (Strategic Plan, p. 8).

B. CD Zone

Consistent with the Master Plan recommendations, the Petitioner is requesting that the Property be zoned CD, if annexed into the City. Annexation of the Property into the City with CD zoning will further the purposes of the CD Zone as follows:

- The annexation of the Property into the City with a CD zoning classification will further the goals and provisions of the Land Use and Housing Elements. More specifically, annexation will allow for necessary reinvestment in the Rosedale Apartments to upgrade these units, while also ensuring that there will be no displacement of existing tenants in market rate affordable housing through the creation of new units on the Property as part of Phase I of the Project.
- The Project also creates an opportunity to enhance the attractiveness of the Rosedale Apartments through substantial rehabilitation of aging units, and development of more modern urban design and environmental site design at this gateway location. The Petitioner's desire to reserve space for a community serving commercial or institutional use along Frederick Road and various recreational amenities and green space will

enhance the City's sense of place at this important location.

- As noted above, annexation of the Property into the City is critical to allowing for a streamlined process for zoning and plan approvals. It is not viable or desirable to pursue development approvals separately for the Property and Rosedale Apartments under two (2) different standards and through two (2) separate planning and zoning authorities. Phased development approvals from one jurisdiction are necessary to ensure that existing tenants at the Rosedale Apartments can be relocated to units developed as part of Phase I to eliminate displacement of any tenants in the existing Rosedale Apartments.

V. ADEQUACY OF PUBLIC FACILITIES

The Property is within the maximum expansion limit ("MEL") of the City of Gaithersburg, as depicted in the Land Use Element of the City's 2009 Master Plan, adopted December of 2011. *See* Master Plan, p. 62. As a result, the Property is within the Growth Element's analysis for future adequacy of public facilities.

Adequacy of Transportation Facilities: The existing public facilities, including roads, entrance drives, and sidewalks will be evaluated for adequacy at the time of Schematic Development Plan application. Bus service through Ride-On is available along the Property's Frederick Road frontage and provides for safe and efficient connections to the Shady Grove Metro Station. The nearby bus stops include a stop at the intersection of O'Neill Drive and MD 355, which provides service for Ride-on Routes 55 and 59. The Property will also be served by BRT along Frederick Road in the future. A signalized intersection at MD 355 and O'Neill Drive provides safe and efficient vehicular access to the Property. Additionally, a separated bike lane is proposed along east side of MD 355, which provides access to an existing separated bikeway on Shady Grove Road. A full traffic review will be completed at the time of Schematic Development Plan application.

Adequacy of School Capacity: The Property is served by Rosemont Elementary School, Forest Oak Middle School, and Gaithersburg High School. While the adequacy of schools will be evaluated at the time of Schematic Development Plan application, it is not anticipated that there will be any school capacity issues for the Project as no residential development moratoriums are currently in place according to the City's 2024 Schools Capacity Memo.

Water and Sewer Service: The Property is current served by Category W-1 and S-1 of the Washington Suburban Sanitary Commission's services; thus, the Application complies with the City's APFO test for water and sewer service as set forth in Section 24-247 of the Zoning Ordinance.

Fire and Emergency Service: In accordance with Section 24-248 of the City's Zoning Ordinance, Fire Station 32 (Travilah; 9615 Darnestown Road) and Fire Station 28 (Gaithersburg; 7272 Muncaster Mill) are both within a ten (10) minute full response time of the Property. Therefore, the Project satisfies the City's APFO requirements for fire and emergency services.

VI. PUBLIC OUTREACH

The Foundation held pre-submission community meetings with the residents of Rosedale Apartments on September 19th, and the surrounding neighborhood on September 21st. Both meetings were held at the Casey Community Center, and a brief summary of the meetings and feedback received are attached.

VII. REQUESTED ANNEXATION AGREEMENT TERMS

As explained above, the Applicant is requesting that the City exempt the Project from the City's Affordable Housing ordinance since it is providing for a defined affordable housing component, consistent with the IRS regulations governing charitable, mixed-income housing developments. Additionally, the Applicant is seeking the flexibility to exceed the 35 feet of building height permitted in the CD Zone Southern Residential District as part of the Project. While Section 24-160G.6 provides an option for waiver of the height limitation in residential districts to up to 4 stories or 48 feet, the Applicant is seeking approval for up to five (5) stories, or sixty (60) feet of height through this Petition. The Petitioner is requesting additional height to allow for more efficient units and amenities that can be accommodated through wood frame construction. Further, the additional height is necessary to accommodate new development on the Property and allow for re-location of the existing residents in a phased and orderly manner. This additional height is within the maximum height (80 feet) allowed by the County's CRT zoning for the Property. In summary, the Applicant is requesting the following terms as part of subsequent Annexation Agreement:

- **Affordable housing**: In accordance with Section 24-251 of the City's Zoning Ordinance, the Applicant's commitment to operate the Project through a charitable housing organization, which will restrict 75% of the units to occupancy by qualified low- and moderate-income residents (50-60% AMI as defined by IRS Rev. Proc. 96-32), exempts the Property from the City's Affordable Housing ordinance.
- **Building height**: The Property is permitted to redevelop with a building height of up to five (5) stories, or sixty (60) feet irrespective of the CD Zone development standards.

VIII. CONCLUSION

The Petitioner respectfully requests approval of this Petition. The Property is located within the MEL of the City as illustrated 2009 Land Use Element, and the proposed Project will further many of the City's Master Plan and Strategic Plan recommendations (Land Use and Housing Elements). The proposed mixed-income housing and ancillary commercial uses can only be delivered in an economically viable and efficient manner by eliminating the bifurcated jurisdictional controls for the Property and Rosedale Apartments. In this respect, approval of this Petition will allow for significant reinvestment in the aging Rosedale Apartments while

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ensuring that no existing tenants will be displaced as there will be relocation opportunities to the new units delivered as part of Phase I on the Property. This Petition satisfies all requirements under the State Land Use Article and will improve the public health, safety, and welfare of City residents.

Respectfully submitted,

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