



## Maryland DEPARTMENT OF PLANNING

December 27, 2023

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

Dear Mayor Ashman:

Thank you for providing the Maryland Department of Planning (MDP) with information pertaining to the Casey Property annexation. Planning has reviewed your submission and offers the following comments for consideration.

As you are aware, §4-416(b) of the Local Government Article specifies that the new zoning for the annexed land cannot be substantially different from the existing county zoning, without the express consent of the Montgomery County Council. It is MDP's view that the City's "CD zone" allow for many of the same uses as the county's "CRT zone"; however, the density/intensity comparison between the county and municipal zoning is unclear and that the county and city should meet to make the determination whether the municipal zoning is inconsistent with the county. If the county determines the proposed zoning is substantially different and/or substantially higher density (more than 50%), MDP recommends that the city seek a waiver from Montgomery County prior to annexation, if it wants to allow development of the annexed land within the next five years for land uses substantially different than those authorized uses in accordance with applicable county zoning, as provided in §4-416 of the Local Government Article. Please see MDP's attached Annexation Review for further details of our analysis.

The property proposed for annexation is currently located in a county-certified Priority Funding Area (PFA). Based on MDP's review of the annexation, the subject property will remain designated as a PFA upon annexation. Upon the effective date of Resolution X-9683-2023, and once MDP has received official notification of the annexation from the Department of Legislative Services, MDP will confirm that no changes have occurred since our initial review and will affirm the Municipal PFA eligibility of the property. If Gaithersburg does not want the annexation parcel to be considered for designation as a Municipal PFA, then the city should notify MDP prior to the effective date of the annexation.

Enclosed you will find important information concerning post annexation notification and participation in the Census Bureau's Boundary and Annexation Survey. The City of Gaithersburg should follow the appropriate procedures so that the annexed property is legally established as part of the incorporated municipality. To expedite MDP's updating of the PFA status, please send Susan Llareus a copy of the

notification transmitted to the Department of Legislative Services.

If you desire further assistance please contact regional planner, Susan Llareus at (410) 767-6087 or susan.llareus@maryland.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "Charles W. Boyd".

Charles W. Boyd, AICP  
Assistant Secretary of Planning Services

cc: John Schlichting, Director, City of Gaithersburg Planning & Code Administration  
Jason Sartori, Montgomery County Planning Director  
Joe Griffiths, Manager Local Assistance and Training  
Susan Llareus, Planner Supervisor and Regional Planner for Maryland Capital Region

Attachments: Maryland Department of Planning Annexation Review  
Municipal Reporting Responsibilities Following Annexation  
Municipal Charter or Annexation Resolution Reposition Form

# Annexation Review Casey Property

<b>Municipality</b>	Gaithersburg
<b>Name of Annexation</b>	Casey Property
<b>Resolution Number</b>	X-9683-2023
<b>Size of Parcels</b>	5.25 Acres
<b>Is the property contiguous in accordance with Section 4-401?</b>	No
<b>Public Hearing Date</b>	
<b>Current County Zoning</b>	
<b>Existing Density</b>	

## **Purpose of the Current County Zoning District**

The annexation property is currently zoned CRT (Commercial Residential Town) 2.25, C 1.5, R .75, H-45 zone pursuant to the Montgomery County Zoning Ordinance. According to the zoning ordinance, the CRT zone in general permits a mix of residential and nonresidential uses at varying densities and heights. The zones promote economically, environmentally, and socially sustainable development patterns where people can live, work, recreate, and access services and amenities. The application of the CRT zone is appropriate where impacts can be mitigated by co-locating housing, jobs, and services. The intent of the CRT zone is to: 1. implement the recommendations of applicable master plans; 2. target opportunities for redevelopment of single-use commercial areas and surface parking lots with a mix of uses; 3. encourage development that integrates a combination of housing types, mobility options, commercial services, and public facilities and amenities, where parking is prohibited between the building and the street; 4. allow a flexible mix of uses, densities, and building heights appropriate to various settings to ensure compatible relationships with adjoining neighborhoods; 5. integrate an appropriate balance of employment and housing opportunities; and 6. standardize optional method development by establishing minimum requirements for the provision of public benefits that will support and accommodate density above the standard method limit. Additionally, the zoning ordinance notes the CRT zone is intended for small downtown, mixed-use, pedestrian-oriented centers and edges of larger, more intense downtowns. Retail tenant ground floor footprints are limited to preserve the town center scale.

## **Permitted Use in the Current County Zoning District**

Permitted uses include residential (single-unit, two-unit, townhouse, and multi-family living), residential care facility, charitable, philanthropic, or cultural institutions, day care facilities, private educational institutions, private playgrounds/outdoor areas, private clubs, religious assembly, restaurant establishments, hotel and motel lodging, medical and dental facilities - including laboratories, office space - including research and development, structured parking, conference center, health clubs and facilities, retail/service establishments up to 50,000 SF, accessory commercial uses and live/work units, artisan manufacturing and production, railroad tracks, below ground pipeline and distribution lines, and accessory structures.

## **Proposed Municipal Zoning**

### **Purpose of the Proposed Municipal Zoning District**

The property is proposed to be placed in the CD Zone, Corridor Development. According to the City of Gaithersburg Zoning Ordinance, the purpose of the CD zone is to:

- "(a) Encourage a form of development, consistent with the goals and provisions of the respective master plans for the city that will achieve the physical characteristics necessary to enhance the economic vitality, planned visual character and quality of life within an identified transportation corridor in the city.
- (b) Create a more attractive and cohesive development pattern and to enhance the city's sense of place through the creation of individual character associated with the corridor in the applicable corridor master plan.
- (c) Encourage development and redevelopment and renovation of declining or underutilized properties along the corridor.
- (d) Encourage the use of consistent, compatible and attractive architecture, streetscape and visual themes.
- (e) Create a streamlined process for zoning and plan approvals.
- (f) Provide an appropriate scale of development and mix of retail, service, employment and residential uses as recommended in the applicable corridor plan."

**Permitted Use in the Proposed Municipal Zoning District**

The CD zones allow for many of the same uses as the county's CRT zone. The zoning in the CD zone is extremely flexible in that it allows most uses except for a few prohibited such as automobile repair shops, pawn shops, self-service storage facilities, and industrial uses such as production/manufacturing/assembly/processing and the storage or usage of heavy trucks and equipment.

**Are the permitted uses in the proposed municipal zoning similar to those in the county zoning? Yes**

The CD zones allow for many of the same uses as the county's CRT zone. The zoning in the CD zone is extremely flexible in that it allows most uses except for a few prohibited such as automobile repair shops, pawn shops, self-service storage facilities, and industrial uses such as production/manufacturing/assembly/processing and the storage or usage of heavy trucks and equipment.

**Is the permitted density in the proposed municipal zoning similar to density permitted in the county zoning? Both**

Yes and no. It is the MDP's view that the the density/intensity comparison between the county and municipal zoning is unclear and that the county and city should meet to make the determination of whether the municipal zoning is inconsistent with the county.

**County waiver recommended? Yes**

If the county determines the proposed zoning is substantially different and/or substantially higher density, MDP recommends that Gaithersburg seek a waiver from Montgomery County prior to annexation.

**Issues of State interest:**

N/A

**Is the property in a Designated Growth Area? Yes**

Parcel P940 - Tax Map FS6 - is 5.25 acres and is located within the City's Maximum Expansion Limits, is contiguous to the municipality, and will not create an enclave upon annexation. The 2009 Land Use Master Plan (2011) discusses the property as a future annexation of mixed commercial, office, and residential uses on pages 62 and 63.

**Is the property eligible to become a Priority Funding Area? Yes**

The annexation property is currently located in a county certified Priority Funding Area (PFA).

**Maryland Department of Planning Reviewer:**

**Date Submitted:** 12/5/2023



## **MUNICIPAL REPORTING RESPONSIBILITIES FOLLOWING ANNEXATION**

### **State Municipal Reporting Responsibilities**

There are state law municipal reporting responsibilities requiring the municipality to promptly submit certain information after an annexation is approved:

1. The Local Government Article, section § 4-414, Annotated Code of Maryland, requires that municipalities send a copy of the annexation resolution with the new boundaries to the Maryland Department of Legislative Services if an annexation is approved. Please copy the Maryland Department of Planning so that we are aware of the approved annexation boundaries.

The copy of the annexation resolution, along with the Municipal Charter Or Annexation Resolution Reposition Form (below), with the new boundaries shall be sent within 10 days after the resolution takes effect to:

State Department of Legislative Services  
Legislative Division  
90 State Circle  
Annapolis, Maryland 21401

2. State law requires that upon annexation approval, the chief executive and administrative officer of a municipality that has annexed property forward the annexation resolution and map with the new boundary to the local municipal clerk, Clerk of the Court in the county or counties in which the municipal corporation is located and, for those municipalities in Montgomery and Prince George's County, to the Maryland-National Capital Park and Planning Commission.

## **Census Bureau Boundary and Annexation Survey**

To ensure that persons residing on annexed land are counted as part of the municipal population, the U.S. Census Bureau periodically mails to all municipal corporations a Boundary and Annexation Survey (BAS).

Following an annexation, no immediate action is required. The Census Bureau will notify the person who has been identified by the municipality as the contact person by mail and/or e-mail. Municipalities may submit boundary corrections or changes through the Bureau's free Partnership software. In the past, the U.S. Census Bureau mailed out the BAS survey on a varying schedule based on the population size of the incorporated town. The Mayor or other municipal officials must complete the BAS, update the maps and certify that the boundary shown reflects the legal corporate limits as of January 1 of the survey year. Boundary information must be returned to the Census Bureau by March 1<sup>st</sup> of the survey year to be properly recorded for the Census Bureau's annual population estimates and American Community Survey products.

The purpose of the Survey is to obtain the most accurate boundary information, including boundary changes due to annexations, detachments, mergers, or other reasons. These boundary changes are incorporated into the Census Bureau's files and used for tabulating Census data. The BAS information is used to provide an appropriate record for reporting the results of the decennial and economic censuses, and annual surveys such as the Population Estimates Program and the American Community Survey.

Maryland Department of Planning can assist municipalities in updating their boundary information. Questions regarding the Census Bureau's Boundary and Annexation Survey or assistance in submitting the BAS may be referred to Alfred Sundara at the Maryland Department of Planning at 410-767-4002 or [alfred.sundara@maryland.gov](mailto:alfred.sundara@maryland.gov).

Additional information about the Census Bureau's BAS program is available at the following link <https://www.census.gov/programs-surveys/bas.html>

## MUNICIPAL CHARTER OR ANNEXATION RESOLUTION REPOSITION FORM

Section 4-109 of the Local Government Article of the Annotated Code of Maryland requires municipal officials to deposit certain municipal documents with the Department of Legislative Services. Please use this registration form for each resolution that alters the charter or the boundaries of your municipal corporation. Complete a separate form for each resolution, and mail the entire text of the resolution, along with this form to:

Georgeanne Carter, Legislative Counsel  
Municipal Resolution Reposition  
Department of Legislative Services  
90 State Circle  
Annapolis, MD 21401-1991

_____	_____
Municipal Corporation	County(ies)
_____	
Name and Title of Official Submitting this Resolution	
_____	_____
Address	Phone
_____	_____
_____	Date of Submitting this Resolution*
_____	_____
Resolution Number	Date Enacted by Legislative Body
_____	_____
	Effective Date**

1) *For an annexation resolution*, state the charter section (e.g., boundary description section, appendix) that is amended \_\_\_\_\_ OR state the charter section (e.g., general powers section) pursuant to which the property is annexed \_\_\_\_\_. (*Enclose a copy of the metes and bounds description of the complete boundaries of your municipal corporation that includes the newly annexed property, including the number of acres and the point of beginning coordinates for the newly annexed property.*)

*For a charter resolution*, state whether the entire charter is repealed and a new charter is adopted \_\_\_\_\_ OR state the specific section(s) that is added, repealed, renumbered, or repealed and reenacted with amendments \_\_\_\_\_.

2) Number of votes cast by the legislative body for \_\_\_\_\_ and against \_\_\_\_\_ this resolution.

3) Will this resolution be petitioned to referendum? \_\_\_\_\_

If "yes", date of the referendum election (if known) \_\_\_\_\_.

\* *A resolution should be submitted to the Department of Legislative Services 10 days after the effective date of the resolution (§ 4-109(b) of the Local Government Article). Generally, provided that a resolution is not petitioned to referendum, the effective date for a charter resolution is 50 days after enactment (§ 4-304(c) of the Local Government Article), and for an annexation resolution is no earlier than 45 days after enactment (§ 4-407 of the Local Government Article).*