

PLANNING COMMISSION RECOMMENDATION

REPORT DATE: January 12, 2024

RESPONSIBLE STAFF: Laura Mehfoud,
Long Range Planner

RECOMMENDATION MEETING DATE

January 17, 2024

APPLICATION NUMBER

X-9683-2023

SUMMARY OF REQUEST

The Applicant, The Eugene B. Casey Foundation, has submitted Annexation Application X-9683-2024, requesting to annex 5.25 acres of land and establish CD zoning as shown on the associated annexation plan.

APPLICANT

The Eugene B. Casey Foundation

SUBJECT PROPERTY ADDRESS

Parcel P940 located on MD 355 between
O'Neill Drive and I-370 (unaddressed)

ZONE

County CRT to City CD

STAFF RECOMMENDATION

Staff recommends that the Planning Commission defer their recommendation for 14 days to receive public comments until 5:00 PM on Wednesday, January 31, 2024, and provide a formal recommendation on the annexation petition and annexation plan on Wednesday, February 7, 2024.

Approve

Approve With Conditions

Deny

Defer

Enclosures:

Preliminary Report

Exhibit 2- Petition for Annexation

Exhibit 3- Statement in Support of Annexation Petition

Exhibit 16- Revised Annexation Plan

Index of Memoranda and Exhibits

MEMORANDUM TO: Mayor and City Council
Planning Commission

FROM: Laura Mehfoud, Planner II and Michael Hackman, Planner I

DATE: January 12, 2024

SUBJECT: Preliminary Background Report and Master Plan Compliance Analysis:
Application X-9683-2023:

Request to annex 5.25 acres of the Eugene B. Casey Foundation Property into the City of Gaithersburg and rezone from the County's CRT-0.75, C-0.25, R-0.75 H-80 Zone to the City of Gaithersburg's CD Zone as shown on the associated Annexation Plan.

APPLICANT

The Eugene B Casey Foundation

OWNERS

The Eugene B Casey Foundation
16803 Crabbs Branch Way
Rockville, MD 20855

TAX MAP REFERENCE:

Map FS63, Parcel 940

TAX ACCOUNT NUMBERS:

ID# 09-00768787

REQUEST

The Applicant, The Eugene B. Casey Foundation, has submitted Annexation Petition X-9683-2023. The petition requests the annexation of approximately 5.25 acres of land, consisting of one (1) tax parcel (Site or Annexation Area). The Annexation Area is adjacent to and contiguous to the current City limits. The tax parcel (Property) is owned by The Eugene B. Casey Foundation and identified as parcel P940 on Tax Map FS63 (currently unaddressed). As part of the annexation request, the Applicant is requesting to rezone the Property from the County's Commercial Residential Town (CRT) Zone to the City of Gaithersburg's Corridor

Development (CD) Zone. An Annexation Plan has also been included in the Applicant's petition. The Annexation was introduced at the December 4, 2023, Mayor and City Council Meeting.

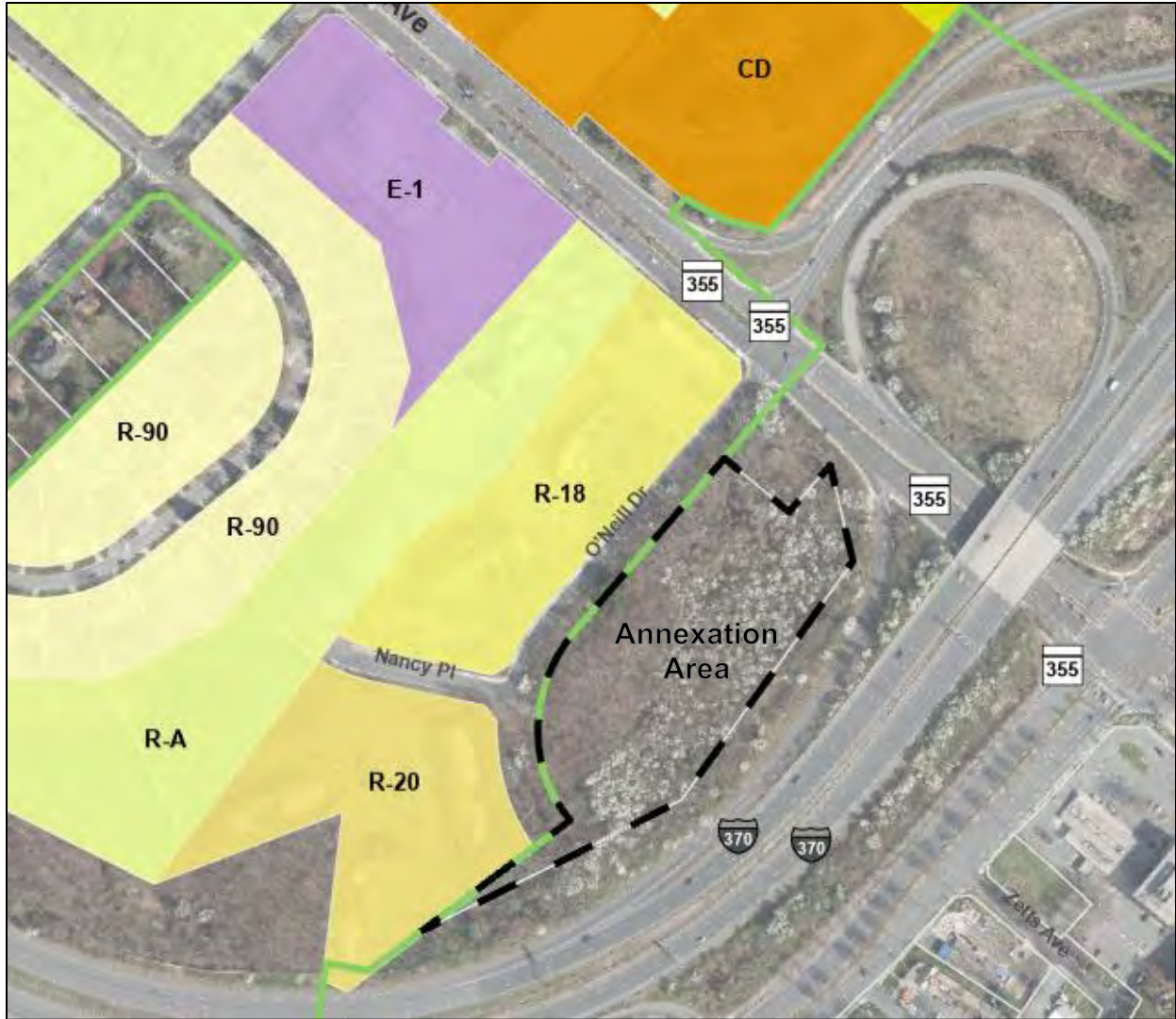


Location

GENERAL INFORMATION

LOCATION:

The Site is located in the southeast quadrant of the intersection of O'Neill Drive and South Frederick Avenue, between O'Neill Drive and Interstate 370 (I-370). The Site is comprised of one 5.25 acre parcel, P940, and is currently undeveloped.

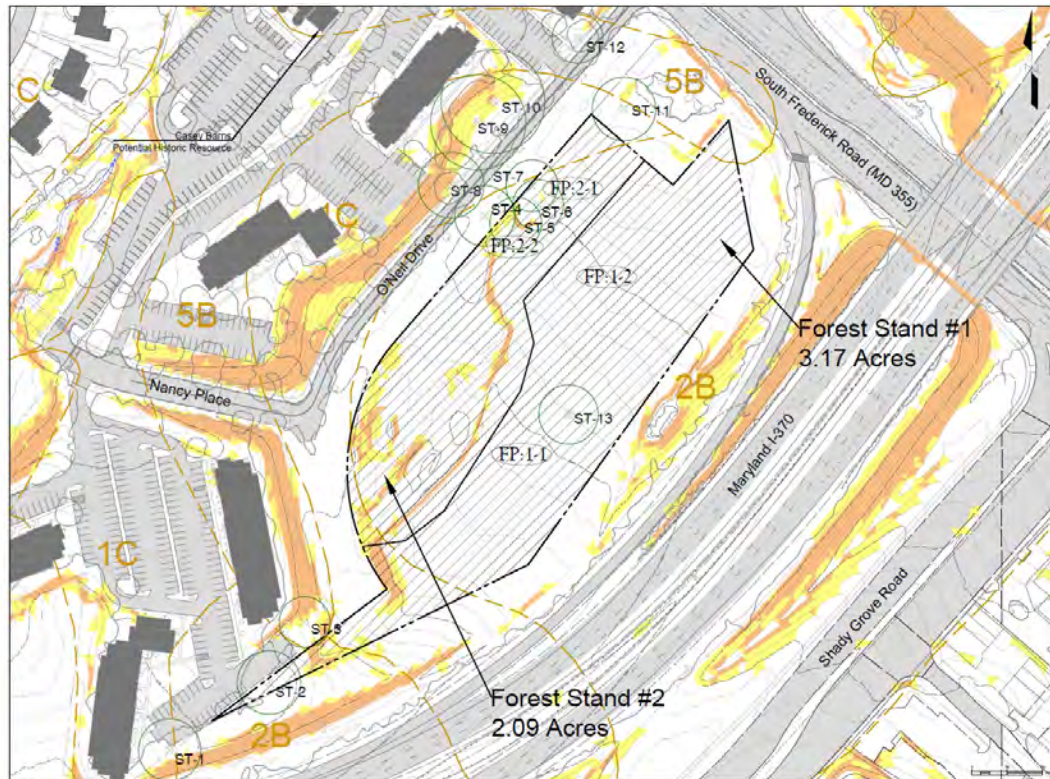


Existing City Zoning

SURROUNDING LAND USES AND ZONING:

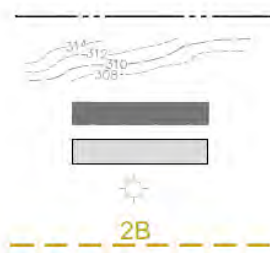
The Site is surrounded by mostly residential uses, with I-370 located to the east and southeast. The Rosedale Apartments are located to the south and west of the Site and zoned R-20 and R-18. Hillside Senior Living is located to the northwest of the Site, across MD 355, and is zoned CD. The I-370 and MD 355 interchange is located directly across MD 355 to the northeast of the Site.

EXISTING LAND PHYSICAL CHARACTERISTICS AND NATURAL RESOURCES INVENTORY/FOREST STAND DELINEATION:



Legend

- Site Boundary
- Existing Contours
- Existing Building
- Existing Roads
- Existing Light Pole
- Soil Lines and Text



Intermittent/Perennial Stream

Existing Canopy Edge

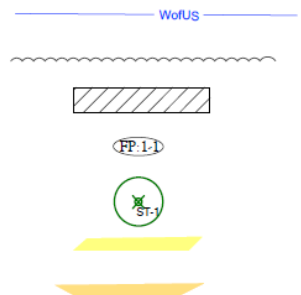
Forest Stand

Forest Sample Point

Specimen Tree & Critical Root Zone

15-25% Slope

Slopes Greater than 25%



Approved Natural Resources Inventory

The Site is an undeveloped wooded area. There are two forest stands onsite; one with poor vegetative structure and dominated by bradford pear, pin oak, and flowering dogwood; and one with fair vegetative structure and dominated by red maple, red oak, black oak, and tulip poplar. Both stands are in moderate health, but include non-native and invasive plant species. There are five specimen trees onsite and eight within 100 feet of the Site, all in poor or fair condition. The Site does not contain any structures, floodplains, wetlands, stream buffers, or highly erodible soils. There have been no rare, threatened, or endangered species

observed or known to occur on the Site. A natural resources inventory (NRI-9609-2023)¹ was approved on July 26, 2023.

MASTER PLAN HISTORY:

Montgomery County Master Plan

The Site is located within the 2021 Shady Grove Minor Master Plan Amendment (SG). The SG Master Plan recommends “primarily residential development” for the Property and “retain[ing] 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” (page 58).²

City of Gaithersburg Master Plan

The Site was included as part of Map Designation 22 in the City of Gaithersburg 2009 Master Plan Land Use Element, along with the adjacent Rosedale Apartments. The 2009 Land Use Element notes that the Site is within the City’s maximum expansion limits and could be annexed and recommends CD zoning and a commercial-office-residential land use designation should the Property be annexed. The 2009 Land Use Element also recommends a balanced mix of commercial/office and residential uses for the greater map designation area, with commercial uses focused along South Frederick Avenue and I-370.³

The 2018 Master Plan Housing Element, adopted in 2023, addresses the need for low-income and affordable housing in the City while also laying out general housing policies and goals for the future. The Element includes goals to preserve existing affordable homes and create opportunities for new housing for residents of all income levels. Recommendations applicable to this Property include creating new housing opportunities on underutilized sites near transportation corridors and addressing housing needs in Equity Emphasis Areas.^{4,5}

ZONING:

Existing Montgomery County Zoning

The Property is zoned CRT-0.75, C-0.25, R-0.75 H-80 in the County. The County CRT (Commercial Residential Town) Zone is a floating zone. For this Property, the zoning permits a maximum density of 0.75 floor-to-area ratio (“FAR”), with a maximum commercial density of 0.25 FAR and a maximum residential density of 0.75 FAR. The maximum height allowed is 80 feet. The County’s CRT Zone (as well as the similar CR and CRN zones) allows a

¹ Exhibit 12

² Exhibit 13

³ Exhibit 14

⁴ The subject Property is located in an equity emphasis area, as defined by the Metropolitan Washington Council of Governments. Equity emphasis areas have high concentrations of low-income individuals and/or traditionally disadvantaged racial and ethnic population groups.

⁵ Exhibit 18

variety of residential and nonresidential uses, either singly or in combination. The maximum allowed density in the County for the Site is shown on the Annexation Plan.⁶

PETITION AND ANNEXATION PLAN X-9683-2023

The Local Government Article of the Maryland State Code, the Land Use Article of the Maryland State Code, and Chapter 24 (Zoning) of the City of Gaithersburg Code outline the process and requirements for a proposed annexation. The Land Use Article of the Maryland State Code and Chapter 24 of the City Code define the role of the Planning Commission during the annexation process, which is to make a recommendation to the City Council on the following items:

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

The Planning Commission is required to review the proposed annexation and plan and, pursuant to § 24-9, provide a recommendation to the Mayor and City Council at least 15 days prior to the required Mayor and City Council public hearing. The public hearing before the Mayor and City Council is scheduled for April 1, 2024.

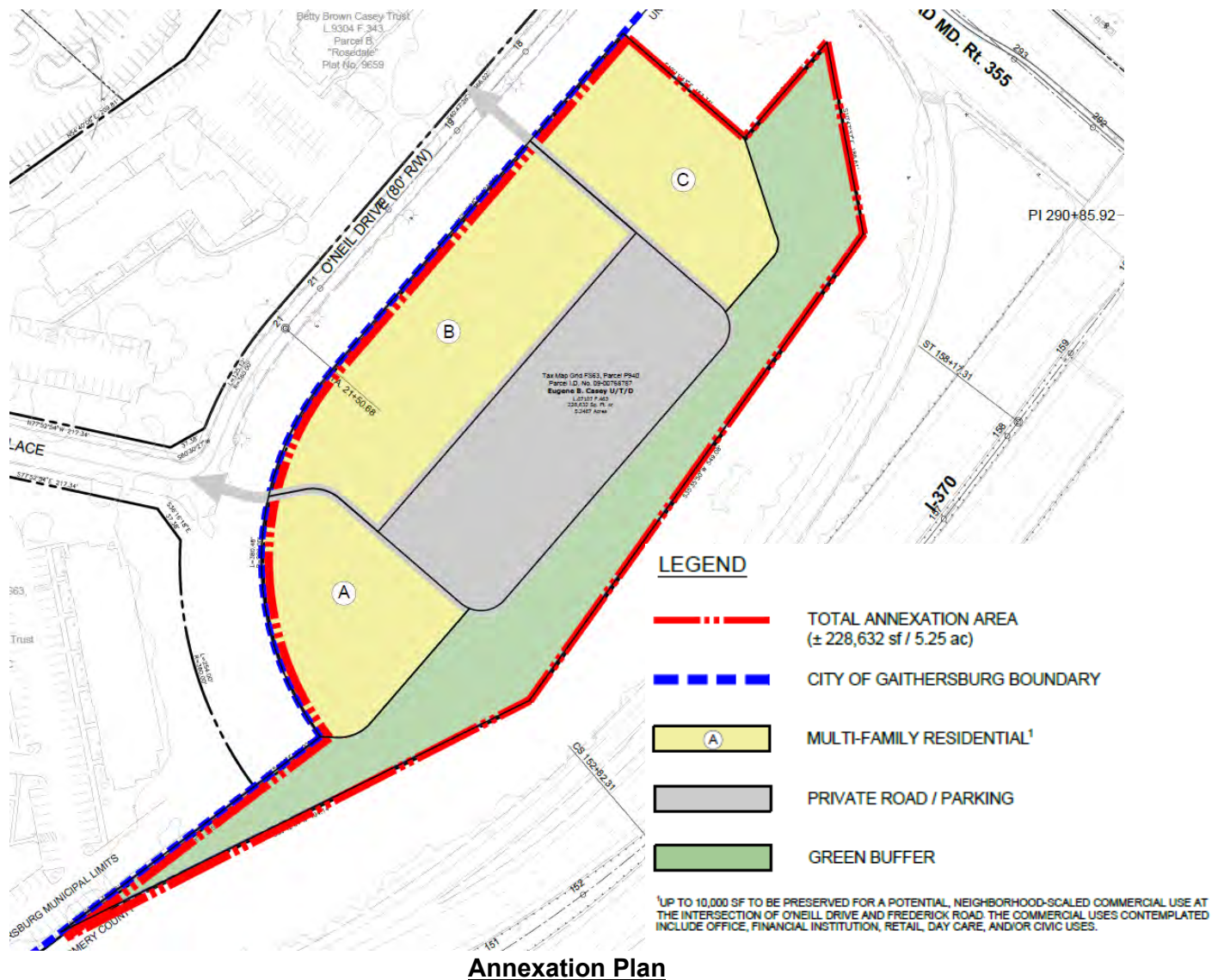
Annexation Plan X-9683-2023

The Applicant filed the Petition for Annexation of the Property into the City of Gaithersburg⁷ on October 30, 2023 and submitted the Annexation Plan⁸ shown below.

⁶ Exhibit 16

⁷ Exhibit 2

⁸ Exhibit 16



Annexation Plan

The Annexation Plan reflects future residential uses for the Property. The Applicant also owns the adjacent Rosedale Apartments, which currently serve as “market-rate affordable” or “naturally-occurring affordable” housing. As noted in the Applicant’s Statement in Support of Annexation⁹, these units are in need of substantial improvements. The Applicant is requesting to annex the subject Property into the City in order to facilitate a phased redevelopment¹⁰ of the existing apartments, constructing new units on the subject Property for the current residents, and then updating or replacing the existing Rosedale Apartments while also adding a small commercial component. This phased redevelopment of the subject Property and existing Rosedale Apartments enables the Applicant to improve the existing units and provide upgraded recreational amenities without displacing current residents. The continued provision of and addition of new “market-rate affordable” or “naturally-occurring affordable” housing aligns with the Applicant’s philanthropic mission.

⁹ Exhibit 3

¹⁰ See Phasing Plan, Exhibit 6

Subsequent to the annexation, the Applicant plans to submit a schematic development plan and zoning map amendment application to CD for the R-20 and R-18 properties (the existing apartments) to accommodate these changes.

Limitation on Zoning Action for 5 Years Following an Annexation

Pursuant to the Local Government Article of the Maryland State Code, Section 4-416(b): “Without the express approval of the ... county council of the county in which the municipality is located, for 5 years after an annexation by a municipality, the municipality may not allow development of the annexed land for land uses substantially different than the authorized use, or at a substantially higher density, not exceeding 50%, than could be granted for the proposed development, in accordance with the zoning classification of the county applicable at the time of the annexation” (emphasis added).

Existing and Proposed Zoning

The Petition and Annexation Plan propose CD (Corridor Development) zoning for the Property. As shown in the charts below, the Annexation Plan establishes the following proposed City zoning and associated density limits for the Property, which are in conformance with the land use and density requirements of Section 4-416(b) of the Local Government Article of the Maryland State Code.

Montgomery County Zoning Chart	
Parcel	P.940
Zoning	Commercial Residential Town CRT-0.75, C-0.25, R-0.75, H-80
Tract Area	228,632 sf / 5.25 ac
Density	C = 57,158 sf (0.25) R = 171,474 sf (0.75) CR = 171,474 sf (0.75)
² Development Type/Use	Residential up to 171,474 sf Commercial up to 57,158 sf
Total	171,474 sf
Existing Gross Floor Area (FAR)	0 sf
Proposed Gross Floor Area (FAR)	171,474 sf

²Combined total commercial and residential density cannot exceed 171,474 sf

City of Gaithersburg Zoning Chart	
Parcel	Parcel 940
Zoning	CD
Tract Area	228,632 sf / 5.25 ac
*Density	C = 1.5 x 0.25 = 0.375 FAR (C = 0.375 x 228,632 sf = 85,737 sf) R = 1.5 x 0.75 = 1.125 FAR (R = 1.125 x 228,632 sf = 257,211 sf) CR = 1.5 x 0.75 = 1.125 FAR (CR = 1.125 x 228,632 sf = 257,211 sf)
³ Development Type/Use	Residential up to 257,211 sf Commercial up to 85,737 sf
Total	257,211 sf
Existing Gross Floor Area (FAR)	0 sf
Proposed Gross Floor Area (FAR)	257,211 sf

³Combined total commercial and residential density cannot exceed 257,211 sf

Existing County and Proposed City Zoning, As Shown on the Annexation Plan

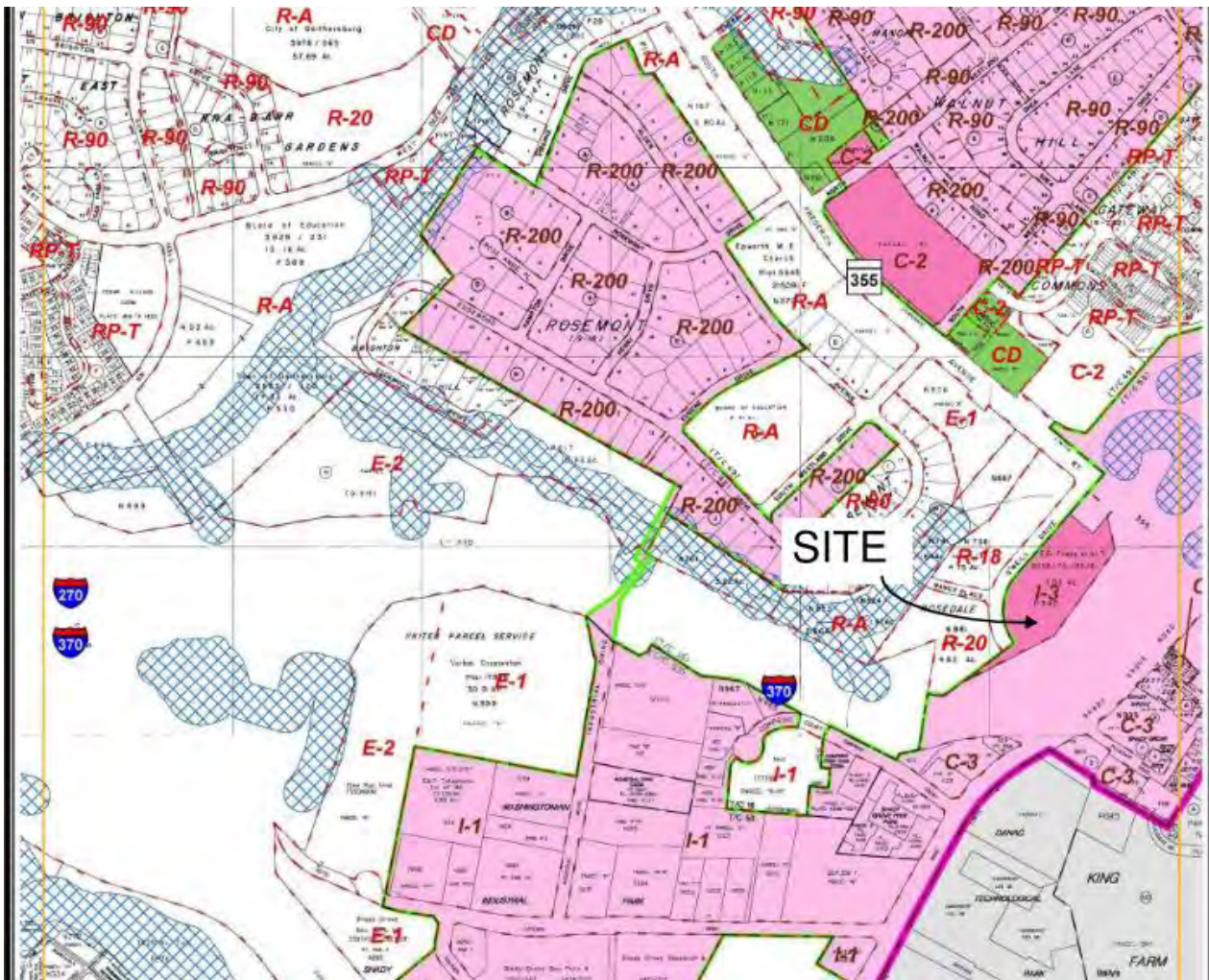
The Property is proposed to be placed in the City’s CD Zone with a maximum density based on a 50% increase above the density allowed under the current County CRT zoning: up to a 1.125 FAR overall (257,211 square feet), with up to a 0.375 FAR for a commercial use (85,737 square feet), and up to a 1.125 FAR for a residential use (257,211).

CITY OF GAITHERSBURG MASTER PLAN & STRATEGIC PLAN:

2003 Master Plan Municipal Growth Element

The subject Site was identified within the City of Gaithersburg’s 2003 Master Plan Municipal Growth Element (adopted 2009) to be included within the City’s maximum expansion limits (MEL).¹¹ The map excerpt below, taken from the Adopted Municipal Growth Element, shows the proposed Annexation Area:

¹¹ Exhibit 7



2003 Municipal Growth Element Maximum Growth Limit, With Property Shown

2009 Master Plan Land Use Element

The Property was included in the City of Gaithersburg’s 2009 Master Plan Land Use Element (adopted 2011) as Map Designation 22.¹² The Property is included in the 2001 Frederick Avenue Corridor Special Study Area Land Use Plan as part of the Southern Residential District, which “extends from Shady Grove Road on the south, to Summit Avenue on the north.” The remainder of the 2001 Plan has been superseded by the 2009 Plan.

Map Designation 22 applies to the Property and states:

“This 17-acre area includes the Rosedale Apartments within the City limits and a vacant parcel (P940) owned by the Casey Trust. Parcel P940 is within the City’s Maximum Expansion Limits, is contiguous with the City’s current boundary, and could be annexed without creating an enclave. These properties are currently surrounded by a mix of single-family detached houses, religious institutions, and commercial uses, as well as a City facility and park.

¹² Exhibit 14

This area's location along the Frederick Avenue corridor, combined with the re-configured I-370 exit ramp and traffic light, affords future redevelopment possibilities. As part of the Southern Residential District of the Frederick Avenue Corridor, a mixed use project with a balanced mix of commercial/office and residential would be appropriate. Commercial uses and density should be focused along Frederick Avenue and Interstate 370. Any redevelopment proposal should consider this location's role as an important gateway into the City of Gaithersburg.

Land Use and Zoning Actions:

- *Adopt Commercial-Office-Residential land use designation for Parcel B and part of Parcel C Rosedale*
- *Adopt Commercial-Office-Residential land use designation for Parcel P940, if annexed*
- *Recommend CD Zoning for Parcel B and part of Parcel C Rosedale*
- *Recommend CD Zoning for Parcel P940, if annexed"*

2018 Master Plan Housing Element

The annexation and proposed Annexation Plan align with the following goals and recommendations in the Housing Element¹³, adopted in 2023:

Goals:

- Promote or create opportunities for a variety of housing types for current and future City residents of all income levels with costs that reflect the range of incomes.
- Preserve existing affordable homes (both market rate affordable and regulated affordable).

Recommendations:

- Study underutilized commercial sites, where appropriate, along transportation corridors such as MD 355 for potential residential conversions or infill redevelopments.
- Identify opportunities for owners to redevelop, acquire, and/or complete upgrades of aging, underutilized or functionally obsolete properties.
- Help priority populations and people living in equity emphasis/focus areas obtain an affordable home in Gaithersburg (rental or ownership).¹⁴

City 2022 Strategic Plan

The annexation of the Casey Property and associated plan would be in accordance with the following adopted Outcome Areas and Strategies of the 2022 Strategic Plan¹⁵:

¹³ Exhibit 18

¹⁴ The subject Property and adjacent Rosedale Apartments are located in an equity emphasis area, as defined by the Metropolitan Washington Council of Governments, meaning they have high concentrations of low-income individuals and/or traditionally disadvantaged racial and ethnic population groups.

¹⁵ Exhibit 19

Economic Development and Redevelopment

- Improve access and integration among employment nodes, residential areas, and amenities.
- 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.

Summary of Staff Findings

Staff finds that the proposed X-9683-2023 annexation and associated plan:

- Is identified in the City's adopted 2003 Master Plan Municipal Growth Element and is appropriate to be annexed;
- Reflects the uses, zoning, and recommendations approved as Map Designation 22 in the 2009 Master Plan Land Use Element;
- Furthers multiple goals and recommendations included in the 2018 Master Plan Housing Element by facilitating the preservation and rehabilitation of existing affordable housing and the addition of new affordable units; and
- Complies with the 2022 City Strategic Plan by facilitating a future redevelopment that will:
 - Increase the amount of affordable housing in Gaithersburg.
 - Bring new development and redevelopment to an aging corridor that has lacked investment. Annexation and rezoning of this parcel allow the other two parcels currently in the City to be part of a cohesive vision for the Casey Foundation that will contain new housing, redeveloped existing housing (Rosedale Apartments) without displacement, and new commercial development.
 - Connect residents with more jobs as well as points of interest, such as the redeveloped Walnut Hill Shopping Center, with the close proximity to the future MD 355 BRT.

CITY OF GAITHERSBURG PROPOSED ZONING:

As previously mentioned, the Applicant has requested that the Property, if annexed into the City, be zoned Corridor Development (CD).

Pursuant to § 24-160G.1., it is the purpose of the CD zone 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.*

FINDING:

The existing and potential future development shown on the Annexation Plan and discussed in the Statement in Support of Annexation for the Property meets the purposes of the CD Zone. The annexation will streamline and facilitate the redevelopment of an aging property and infill development of an underutilized site along the corridor. The envisioned cohesive redevelopment of both the subject Property and the adjacent parcels with modern new residential units, upgraded green amenity space, and a small new commercial component will create a more attractive development pattern and enhance the economic vitality of the corridor.

The following are the sections of the City Code that lay forth the requirements related to CD zoning.

Sec. 24-160G.3. – Minimum location requirements.

- (a) *No land shall be classified in the Corridor Development Zone unless the land is located within an area so designated on an approved and adopted land use master plan.*

FINDING:

The 2009 Master Plan Land Use Element, Map Designation 22, recommends CD zoning for this parcel, if it is annexed into the City of Gaithersburg.

- (b) *When undertaking new development or redevelopment in the CD Zone, all uses identified for specific areas or properties within the land use element of a corridor development master plan shall be applied in those areas specified, unless otherwise approved by the mayor and city council within the context of a schematic development plan or concept site plan.*

FINDING:

The 2009 Master Plan Land Use Element states that “a mixed use project with a balanced mix of commercial/office and residential would be appropriate.” As stated previously, the Applicant is requesting to annex the subject Property into the City in order to facilitate a phased redevelopment of the existing apartments, constructing new units on the subject Property for the current residents, and then updating or replacing the existing Rosedale

Apartments, while also adding a small commercial component. This annexation will facilitate fulfilling the 2009 recommendations.

Sec. 24-160G.4. – Development standards.

This section includes standards for things like building height, building design, setbacks, and parking.

FINDING:

The maximum building height permitted is three stories/35 feet, or four stories/48 feet with a waiver. As noted in the Statement in Support of Annexation, the Applicant intends to pursue an Annexation Agreement which would include terms to allow building height of up to five stories/60 feet. This is less than the 80 feet permitted under the current County zoning. The Annexation Plan shows approximate locations of the residential development and the parking area, indicating buildings would front the public street with parking in the rear in compliance with the building placement and parking standards in the Zone. The Annexation Plan also shows a green buffer between the new development and I-370, in compliance with both the County Master Plan recommendations and CD Zone buffer standards. Full compliance with development standards will be reviewed subsequent to the annexation at the schematic development plan stage when more detail is provided.

ADEQUATE PUBLIC FACILITIES:

Although annexation petitions are not subject to the City's Adequate Public Facilities Ordinance (APFO) (Article XV of Chapter 24 of the City Code), a component of the Planning Commission's recommendation to the City Council is to determine whether adequate public facilities exist to serve the proposed annexation area. Staff is providing the following information about public facilities to assist the Planning Commission in their recommendation and in anticipation of future site development applications that will be subject to the City's APFO.

APFO – Water and Sewer Services

The Property is currently developed with or adjacent to both public water and public sewer service and has Washington Suburban Sanitary Commission (WSSC) categories of S-1 and W-1. These category designations indicate that the Property is currently served by both public water and public sewer service and any development could utilize and expand those services.

APFO – Fire and Emergency Services

The City's APFO requires that any development project be served by at least two (2) fire stations with a ten (10) minute response time. The Property is within the ten (10) minute response area of Montgomery County Department of Fire and Rescue Services Stations 3 (Rockville), 8 (Gaithersburg-Washington Grove), 28 (Gaithersburg-Washington Grove/Redland), and 32 (Travilah).

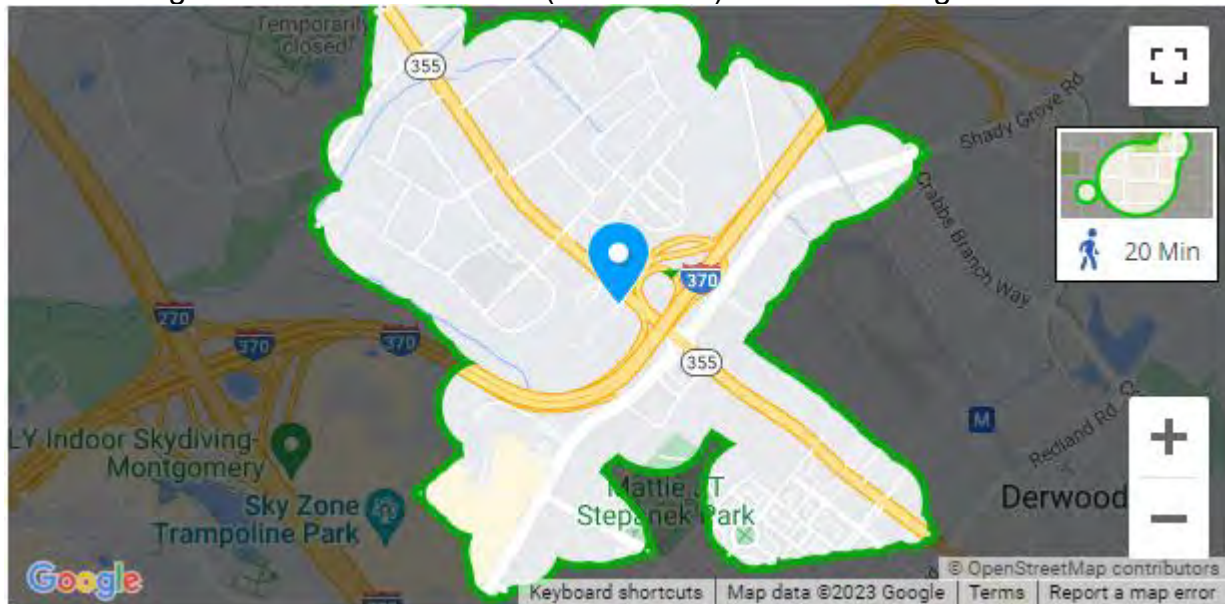
APFO – Public Schools

The Site is located in the Gaithersburg Cluster and is currently served by Rosemont Elementary School, Forest Oak Middle School, and Gaithersburg High School. No residential development moratoriums are currently in place according to the City’s 2024 Schools Capacity Memo.

APFO – Traffic Impacts

The existing public facilities, including roads, entrance drives, and sidewalks will be evaluated for adequacy at the time of schematic development plan application, but the Property is currently served by a public road and accessed by a signalized intersection. Bus service through Ride-On is available along the Property’s proximate MD 355 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 MD 355 in the future.

The following illustrates the 20-minute (or one mile) walkshed using Walk Score:¹⁶



The area has a Walk Score of 59, “Somewhat Walkable”, indicating that some errands can be accomplished on foot, and a Transit Score of 48, “Some Transit”, with a few nearby transportation options. The implementation of the MD 355 BRT will improve transit access for the Property.

Summary of Staff Findings for Adequate Public Facilities

Staff notes that the City of Gaithersburg, as an incorporated municipality, is a State-designated Priority Funding Area. As such, the City is recognized as having existing

¹⁶ <https://www.walkscore.com/score/16-oneill-dr-gaithersburg-md-20877>

infrastructure that would support future development and redevelopment and would meet the requirements of the City's APFO. Future infrastructure needs within the City's designated Growth Areas will be financed through a combination of public and private funds without undue burdens on City residents. The City of Gaithersburg will remain financially stable during future growth periods by coordinating with private developers, Montgomery County, and other agencies that fund public infrastructure. The City with its partners has adequate infrastructure for public facilities and financial security to support the annexation of the subject area proposed for annexation.

STAFF RECOMMENDATION:

Staff recommends that the Planning Commission defer their recommendation for 14 days to receive public comments until 5:00 PM on Wednesday, January 31, 2024, and provide a formal recommendation on the annexation petition and annexation plan on Wednesday, February 7, 2024, 61 days prior to the public hearing scheduled for the April 1, 2024 Mayor and City Council meeting.

Staff recommends that the Planning Commission recommend to the City Council that:

The proposed zoning of CD (Corridor Development) for Annexation X-9683-2023 is appropriate based upon the findings presented in the preliminary report; and

The proposed X-9683-2023 annexation and associated plan are in compliance with the City's Master Plan and 2022 Strategic Plan, based upon the findings presented in the preliminary report; and

The proposed X-9683-2023 annexation and associated plan can be served by both existing and future public facilities based upon the findings presented in the preliminary report.