

Resolution No.: 20-429  
Introduced: February 27, 2024  
Adopted: March 5, 2024

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

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Lead Sponsor: County Council

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**SUBJECT:** Approval of the City of Gaithersburg reclassification of the “Casey Property” located west of South Frederick Avenue (MD 355), north of I-370, and south of O’Neill Drive from the CRT zone to the CD zone (ANX-9683-2023)

**Background**

1. The City of Gaithersburg is proposing to annex approximately 5.25 acres of land from Montgomery County into the City.
2. The property is identified as Parcel 940 on Tax Map FS63 and has a premises address of “S Frederick Ave” without a specific numerical address. It is located west of South Frederick Avenue (MD 355), north of I-370, and south of O’Neill Drive.
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 CD zone, which allows a range of non-residential and residential uses, including multi-unit living.
4. On January 25, 2024, the Montgomery County Planning Board reviewed ANX-9683-2023 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 2021 Shady Grove Sector Plan recommendations; the proposed densities in the City of Gaithersburg’s Corridor Development (CD) zone are not substantially higher than the current zone; and the property is within the City of Gaithersburg’s Maximum Expansion Limits (MEL).
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 March 5, 2024, the County Council reviewed Annexation Petition No. 9683-2023 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 the “Casey Property” located west of South Frederick Avenue (MD 355), north of I-370, and south of O’Neill Drive from the CRT zone to the CD zone.

**Action**

The County Council for Montgomery County, Maryland, approves the following resolution:

The County Council expressly approves the reclassification by the City of Gaithersburg of the area within Annexation No. 9683-2023 from Montgomery County’s CRT 0.75 C-0.25 R-0.75 H-80 to the City of Gaithersburg’s CD zone.

This is a correct copy of Council action.



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Sara R. Tenenbaum  
Clerk of the Council

**MAYOR AND COUNCIL OF THE CITY OF GAITHERSBURG**

**PETITION FOR ANNEXATION**

**September 11, 2023**

The Eugene B. Casey Foundation (collectively, the "Petitioner" or the "Foundation") is the owner of the property identified as Parcel 940 on Tax Map FS63, located to the south of the intersection of S. Frederick Avenue (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"). The Foundation is petitioning the Mayor and Council of the City of Gaithersburg (the "Mayor and Council"), pursuant to Sections 4-401 *et. seq.*, Local Government Article of the Annotated Code of Maryland (the "Maryland Code"), to annex the Property into the corporate boundaries of the City of Gaithersburg (the "City") (the "Annexation Petition"). Concurrent with the annexation, and pursuant to Section 24-9 of the Code of the City of Gaithersburg, Maryland ("City Code"), the Petitioner is also requesting that the City Council rezone the Property to the City's CD Zone simultaneous with the approval by the Council of the annexation resolution.

In support of this Petition, the Petitioner state as follows:

1. In accordance with the legal description and boundary survey prepared by Rodgers Consulting, Incorporated dated August 4, 2023 (attached hereto as Exhibit "A" and Exhibit "B"), the Property that is the subject of this Annexation Petition consists of 5.2487 acres. The Property consists of part of a subdivision parcel and right-of-way as platted in the Land Records of Montgomery County, Maryland (the "Land Records") and is more particularly described in Exhibit "A". According to the Maryland State Department of Assessments and Taxation (SDAT) records, the Property is identified as Parcel Identification Number 09-00768787 and has a premises address of "S Frederick Ave," without a specific numerical address.
2. The Property is owned solely and entirely by the Foundation. The deeds evidencing ownership of the Property are recorded among the Land Records at Book 67107 in Page 463.
3. The Property is contiguous to and adjoining the existing corporate boundaries of the City.
4. Annexation of the Property will not create any unincorporated area which is bounded on all sides by real property presently within the corporate limits of the City, real property proposed to be within the corporate limits of the City as a result of the proposed annexation, or any combination of the above.
5. The Property is within the maximum expansion limit ("MEL") of the City, as depicted in the Land Use Element of the City's 2009 Master Plan (the "City's Master Plan"), adopted December of 2011. *See* the City's Master Plan, p. 62.

6. The Property, though currently undeveloped, is currently classified in the "Commercial Residential Town" CRT-0.75, C-0.25, R-0.75 H-80 Zone in Montgomery County. The existing zoning classifications are consistent with the County's current and duly adopted Shady Grove Minor Master Plan Amendment. The Petitioner requests that as part of the City Council's approval of a resolution for annexation of the Property, the Property be classified by the City Council in the City's CD Zone ("Corridor Development"), consistent with the recommendations from the City's Master Plan. The CD zoning classification in the City will permit a land use substantially similar to uses and densities permitted in Montgomery County's CRT-0.75, C-0.25, R-0.75 H-80 Zone, thereby allowing development of the Property in the City pursuant to the CD Zone without requiring approval by the Montgomery County Council pursuant to Section 4-416 of the Local Government Article of the Maryland Code.
7. Petitioner is the owner of more than 25% of the assessed valuation of the Property, and there are no persons residing within the area of the Property who are registered voters in the precinct within which the Property is located. No additional consents to this Annexation Petition are required pursuant to Sections 4-401, *et seq.*, Local Government Article of the Maryland Code.
8. In support of this Petition for Annexation, the Petitioner submits the attached Statement of Support ("SOS") and the attachments described therein.

The Petitioner respectfully requests that the Mayor and Council of the City of Gaithersburg initiate all steps necessary for final enactment of a Resolution annexing the Property into the corporate boundaries of the City of Gaithersburg.

[SIGNATURE PAGES FOLLOW]

Witness:

[Handwritten Signature]

**EUGENE B CASEY FOUNDATION**

By: [Handwritten Signature]

Name: Donna W Sheehan

Title: Trustee

STATE OF MARYLAND

\*

\*

To wit:

COUNTY OF MONTGOMERY

\*

I HEREBY CERTIFY THAT on this 13<sup>th</sup> day of September, 2023, before the undersigned, a Notary Public of the State and County aforesaid, personally appeared Donna Sheehan who acknowledged himself/herself to be the Trustee of the **Eugene B Casey Foundation** and that he/she, as such officer, being authorized so to do, executed the foregoing Petition for Annexation for the purposes therein contained.

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

(SEAL)



[Handwritten Signature]  
Notary Public

MY COMMISSION EXPIRES:

January 28, 2025

Witness:

EUGENE B CASEY FOUNDATION

Sandra A. Filsinger

By: Mirna L Lopez

Name: Mirna L Lopez

Title: Trustee

STATE OF MARYLAND \*

\* To wit:

COUNTY OF MONTGOMERY \*

I HEREBY CERTIFY THAT on this 13<sup>th</sup> day of September, 2023 before the undersigned, a Notary Public of the State and County aforesaid, personally appeared Mirna Lopez who acknowledged himself/herself to be the Trustee of the Eugene B Casey Foundation and that he/she, as such officer, being authorized so to do, executed the foregoing Petition for Annexation for the purposes therein contained.

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

(SEAL)



[Signature]  
Notary Public

MY COMMISSION EXPIRES:

January 28, 2025

Witness:

Sharon K. Thaine Sulima

EUGENE B CASEY FOUNDATION

By: Brendan V Sullivan Jr

Name: Brendan V Sullivan, Jr.

Title: Trustee



STATE OF MARYLAND \*

To wit:

COUNTY OF MONTGOMERY \*

I HEREBY CERTIFY THAT on this 10<sup>th</sup> day of September, 2023, before the undersigned, a Notary Public of the State and County aforesaid, personally appeared Brendan V. Sullivan Jr. who acknowledged himself/herself to be the Trustee of the Eugene B Casey Foundation and that he/she, as such officer, being authorized so to do, executed the foregoing Petition for Annexation for the purposes therein contained.

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

(SEAL)

Dorothy M. Williams  
Notary Public

MY COMMISSION EXPIRES:

11/1/2028

DOROTHY M. WILLIAMS  
NOTARY PUBLIC DISTRICT OF COLUMBIA  
My Commission Expires January 1, 2028

August 4, 2023

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Parcel ID: 09-00768787

## Schedule A

Description of Property to be Annexed into  
the City of Gaithersburg, Maryland,  
Gaithersburg 9<sup>th</sup> Election District  
Montgomery County, Maryland

Being the parcel of land acquired by Mirna Lizzette Lopez, Donna Wollin Sheehan and Brendan V. Sullivan, Jr, their successors and/or assigns, as trustees of the Eugene B. Casey Foundation U/T/D, from Mirna Lizzette Lopez, Trustee of the Betty Brown Casey Trust U/T/A, by a deed dated June 7, 2023, and recorded among the Land Records of Montgomery County, Maryland in Liber 67107 at folio 463, also being a part of the 191.17 acres of land acquired by Eugene B. Casey, from Mary E. Clements Offutt, by a deed dated May 15, 1937, and recorded among the aforesaid Land Records in Liber 668 at folio 209, and being more particularly described as follows:

Beginning for the same at a point on the southerly or South 53° 00' 00" West, 522.28 foot line of a plat of subdivision entitled "Parcels "B" & "C", Rosedale", and recorded among the aforesaid Land Records as Plat No. 9659, distant 305.08 feet from the easterly end thereof; thence running reversely with part of said southerly line and binding reversely on part of the 19<sup>th</sup> line of Annexation X-099, per Resolution No. R-8-69, as found among the City of Gaithersburg, Maryland, records, the following course and distance:

1. North 52° 56' 06" East, 305.08 feet to a point of non-tangent curvature at the southerly end of the easterly curved dedication line of O'Neill Drive (80' wide public R/W), as shown on the aforesaid plat recorded as Plat No. 9659; thence running reversely with said easterly curved dedication line, and binding reversely on the 18<sup>th</sup> line of the aforesaid Annexation X-099, the following course and distance:

August 4, 2023

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2. 380.48 feet along the arc of a curve deflecting to the right, having a radius of 280.00 feet (chord: North 01° 51' 42" East, 351.88 feet) to a point of tangency; thence running reversely with part of the southeasterly dedication line of O'Neill Dive (80' wide public R/W), as shown on the aforesaid plat recorded as Plat No. 9659, also being the southeasterly existing right of way line of O'Neill Drive, as shown on State Roads Commission Plat No. 48473, and binding reversely on part of the 17th line of the aforesaid Annexation X-099, the following course and distance:
  
3. North 40° 47' 26" East, 424.99 feet to westerly end of the southerly line of South Frederick Avenue (MD355) (a variable width public right of way), labeled Station 158+83.15, Offset 524.46' left from the baseline of right of way for Sam Eig Highway (I370), as shown on the aforesaid State Roads Commission Plat No. 48473; thence running with the right of way line of South Frederick Avenue (MD355), the following three (3) courses and distances:
  
4. South 49° 11' 43" East, 153.34 feet to a point; thence
  
5. North 40° 48' 24" East, 120.99 feet to a point; thence
  
6. South 10° 47' 37" East, 186.61 feet to the northerly end of the westerly line of Sam Eig Highway (I370) (a variable width public right of way), labeled Station 158+70, Offset 225' left from the baseline of right of way for Sam Eig Highway (I370), as shown on the aforesaid State Roads Commission Plat No. 48473; thence running with said westerly line of Sam Eig Highway (I370), as shown on State Roads Commission Plats No. 48472 & 48773, the following course and distance:
  
7. South 35° 35' 50" West, 549.08 feet to the easterly end of the northerly line of Sam Eig Highway (I370) (a variable width public right of way), labeled C.S. Station 152+82.31, Offset 175' left from the baseline of right of way for Sam Eig Highway (I370), as shown on the aforesaid State Roads Commission Plat No. 48472; thence running with said northerly line, the following course and distance:
  
8. South 63° 42' 04" West, 494.14 feet to the Point of Beginning; containing 228,632 square feet or 5.2487 acres of land more or less.

August 4, 2023

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This description was prepared by Rodgers Consulting, Inc., and is in the Maryland Coordinate System [NAD83(2011), SPCS zone 1900(MD), U.S. Survey Feet], based on static GPS observations post-processed by the National Geodetic Survey's Online Positioning User Service (OPUS). Controlling points include RCI traverse station 9012. The average combined (scale x elevation) factor for the site is 0.99994001.

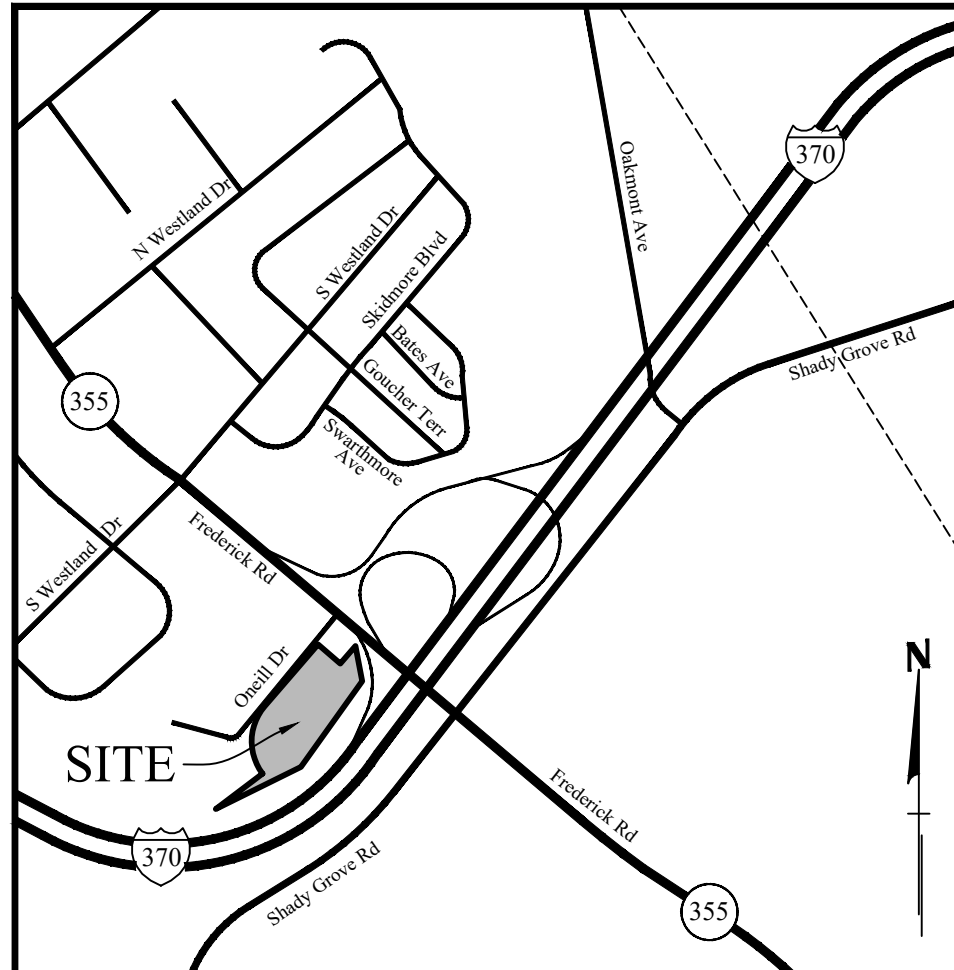
9012 North 530,633.168 East 1,261,609.655

The undersigned, being a licensed surveyor, personally prepared or was in responsible charge of the preparation and the survey work reflected in this metes and bounds description, in compliance with the requirements set forth in "COMAR" Title 09, Subtitle 13, Chapter 06, Regulation .12.



License Expiration Date: 12-18-2024

n:\md-montgomery-city of gaithersburg\rosedale casey property\documents\surveying\descriptions\annexation area description.docx



Vicinity Map: 1" = 1000'

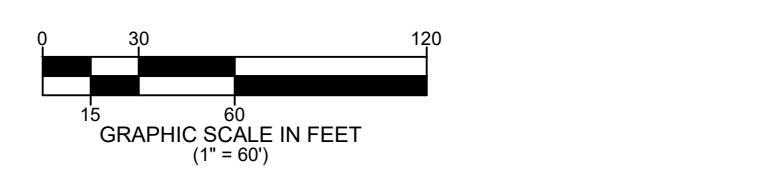
- Notes:**
- This survey is in the Maryland Coordinate System (NAD 83/2011, SPCS Zone 1900(MD), U.S. Survey Feet), based on static GPS observations post-processed by the National Geodetic Survey's Online Positioning User Service (OPUS). Controlling points are RCI traverse station 9012. The average combined (scale x elevation) factor for the site is 0.99994001. 9012: North 530,633.168 East 1,261,609.655
  - Adjoining property information is from Maryland Department of Assessment and Taxation records.
  - Physical features shown herein are based on mapping produced using photogrammetric methods by McKenzie Snyder, Inc., located in Purcellville, VA, MSI Project # 23-070, with a date of photography being May 18, 2023, with the exception of the fence shown along the easterly lines of the subject property, which was located by field run survey by Rodgers Consulting, Inc. in the process of conducting this boundary survey.
  - This survey was prepared without the benefit of a title report.

**SYMBOL LEGEND**

	WATER VALVE
	FIRE HYDRANT
	STORM DRAIN MANHOLE
	STORM DRAIN CURB INLET
	SIGN
	LIGHT POLE
	UTILITY POLE
	BOLLARD / POST
	BUILDING OUTLINE
	ASPHALT ROADWAY
	CONCRETE BRIDGE DECK
	CHAIN LINK FENCE

**Curve Table**

Curve	Radius	Length	Tangent	Chord	Bearing	Delta
1	280.00'	380.48'	226.16'	351.88'	N01°51'42"E	77°51'27"



REVISION	DATE

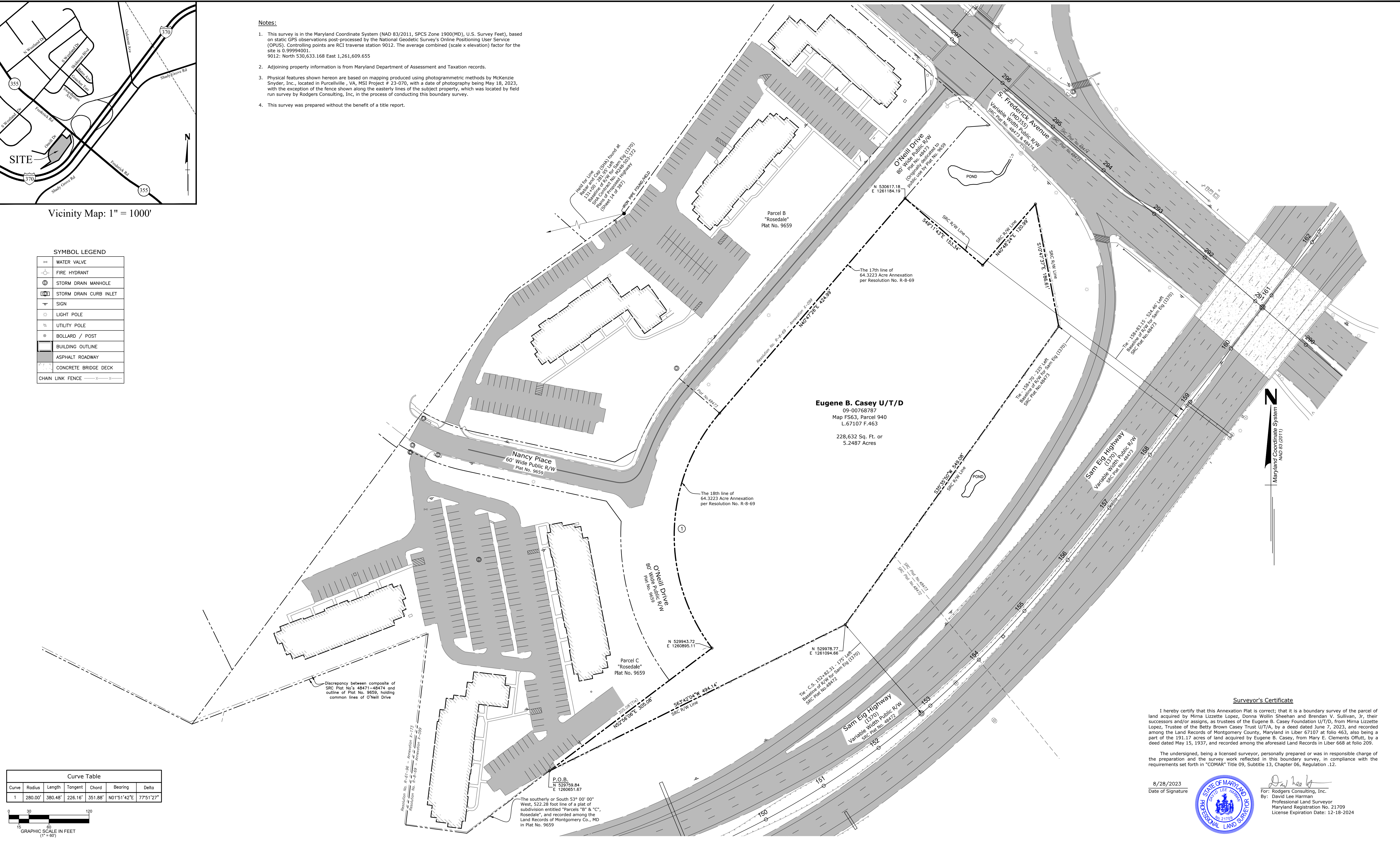
Prepared For:  
 Casey Management, Inc.  
 c/o Eugene B. Casey Foundation  
 16803 Crabbs Branch Way  
 Rockville, MD 20855  
 Attn: Andrew Horman, Executive Director

### Boundary Survey & Annexation Plat

**RODGERS CONSULTING**  
 19847 Century Boulevard, Suite 200, Germantown, Maryland 20874  
 Ph: 301.948.4700, Fx: 301.948.6256, www.rodgers.com

Property Acquired by  
**Eugene B. Casey U/T/D**  
 L.67107 F.463  
 Gaithersburg (9th) Election District, Montgomery County, Maryland

Scale:	1"=60'
Job No.	05.32E
Date:	Aug. 2023
Sheet No.	1 of 1



**Surveyor's Certificate**

I hereby certify that this Annexation Plat is correct; that it is a boundary survey of the parcel of land acquired by Mira Lizzette Lopez, Donna Wolfin Sheehan and Brendan V. Sullivan, Jr, their successors and/or assigns, as trustees of the Eugene B. Casey Foundation U/T/D, from Mira Lizzette Lopez, Trustee of the Betty Brown Casey Trust U/T/A, by a deed dated June 7, 2023, and recorded among the Land Records of Montgomery County, Maryland in Liber 67107 at folio 463, also being a part of the 191.17 acres of land acquired by Eugene B. Casey, from Mary E. Clements Offutt, by a deed dated May 15, 1937, and recorded among the aforesaid Land Records in Liber 668 at folio 209.

The undersigned, being a licensed surveyor, personally prepared or was in responsible charge of the preparation and the survey work reflected in this boundary survey, in compliance with the requirements set forth in "COMAR" Title 09, Subtitle 13, Chapter 06, Regulation .12.

8/28/2023  
 Date of Signature

For: Rodgers Consulting, Inc.  
 By: David Lee Harman  
 Professional Land Surveyor  
 Maryland Registration No. 21709  
 License Expiration Date: 12-18-2024