

**Justification Statement in Support of  
CD Rezoning and Schematic Development Plan Application  
*RZ/SDP Z-10030-2025***

**I. INTRODUCTION**

The Eugene B Casey Foundation (collectively, the "Applicant" or the "Foundation"), the owner of the property identified as Parcel 940 on Tax Map FS63 ("Parcel 940") and the adjacent two (2) parcels that are improved with the Rosedale Apartments that are addressed as 2 O'Neill Drive ("Parcel B") and 3 Nancy Place ("Parcel C") (collectively, the "Property"), submits this justification statement in support of the requested zoning map amendment and schematic development plan application (defined below). The Property totals approximately 14.6 acres and is located to the south and west of the intersection of Frederick Road (MD 355) and O'Neill Drive and to the north of Interstate I-370 in the City of Gaithersburg, Maryland (the "City"). Parcel 940 was annexed into the City and concurrently zoned Corridor Development ("CD")<sup>1</sup> on May 20, 2024, pursuant to Resolution No. R-27-24 (the "Annexation"). Parcel B is currently zoned R-18 (Medium density planned residential), and Parcel C is currently zoned R-20 (Medium density residential).

Pursuant to Section 24-4.4(H) of the City's Zoning Ordinance (the "Zoning Ordinance"), the Applicant proposes to rezone through a Local Zoning Map Amendment ("LMA") approximately 9.36 acres of land, Parcels B and C, from the R-18 and R-20 Zone to the CD Zone so that the entire Property is uniformly zoned CD that will allow for a mixed-income redevelopment that furthers the City's Land Use and Housing Elements. In addition to rezoning Parcels B and C to the CD Zone, the Applicant is submitting a Schematic Development Plan (the "SDP") for the comprehensive development and redevelopment of the Property through two (2) phases (collectively, the "Application").

More specifically, the existing Rosedale Apartments on Parcel B and Parcel C include 192 market rate affordable garden-style multi-family dwelling units that were constructed in 1972 and are in need of substantial upgrades to support the needs of the Foundation's residents, which upgrades do not make economic sense and thus replacement is a better option. The SDP will allow for a phased redevelopment that both replaces the aging and outdated Rosedale Apartments and that provides new development on Parcel 940, allowing existing residents to be moved to the new apartment dwellings in Phase I (as further defined below) without displacing any existing tenants. In total, the Application proposes the development of up to 429 multi-family units (237 net-new units) in two (2) phases with a mix of 1-bedroom, 2-bedroom, and 3-bedroom units (the "Project").

As described in greater detail below, the Project will be developed, owned and operated by the Foundation through a charitable IRS Section 501-C-3 mixed-income housing entity controlled by the Foundation that will restrict 75% of the units to occupancy by qualified low-

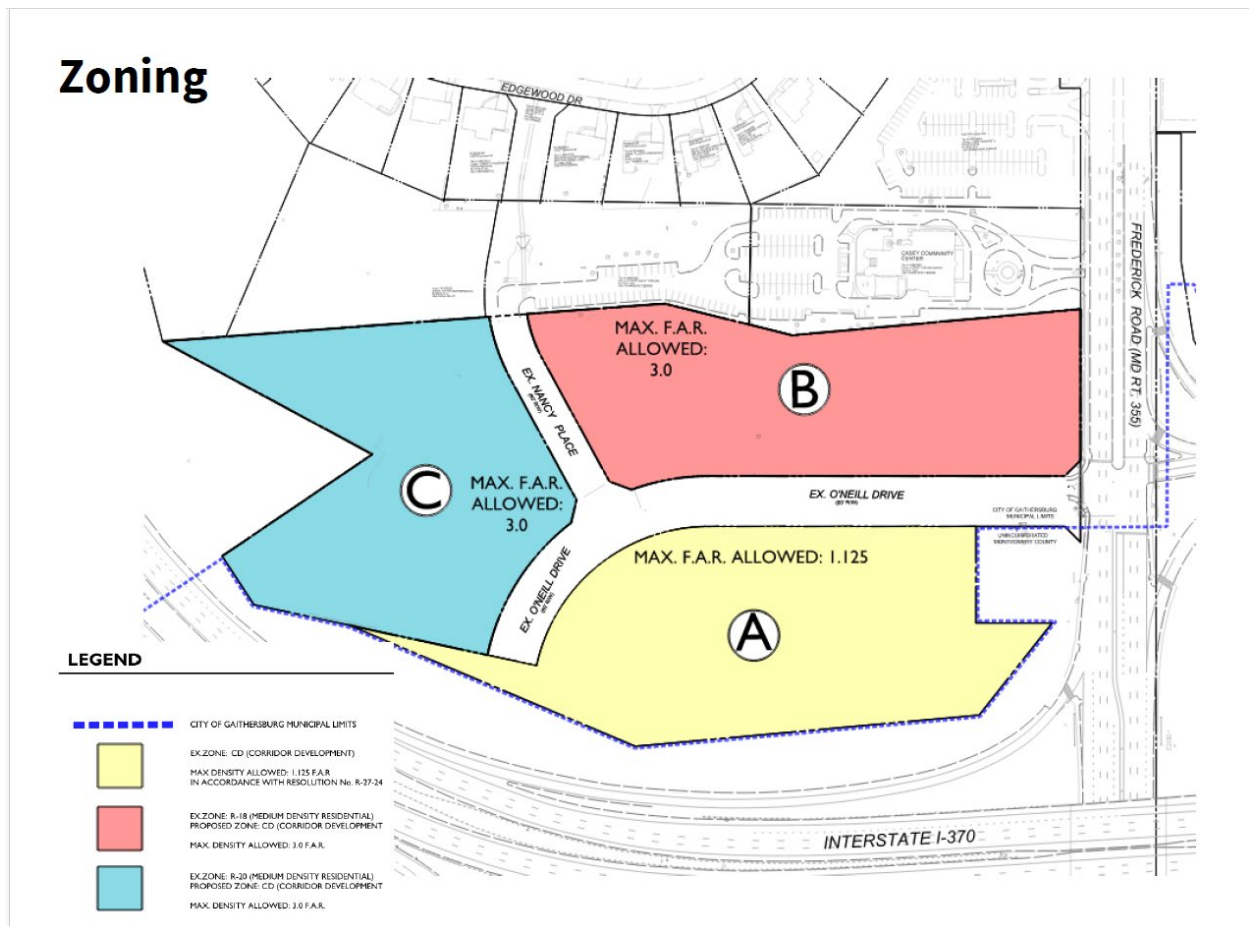
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<sup>1</sup> Prior to annexation into the City, Parcel 940 was zoned CRT-0.75, C-0.25, R-0.75 H-80 Zone under the Montgomery County Zoning Ordinance.

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 that, at the discretion of the Foundation may allow residents who have incomes in excess of the above-referenced income limits to also permit opportunities for upward mobility within the Project. To accomplish the Foundation’s commitment to relocating existing residents to new rent-restricted units in order to avoid any tenant displacement relating to this Project, Phase I will need to accommodate 100% of the existing units comprising the Rosedale Apartments at affordable rents. In subsequent phases, the Foundation intends to distribute the mix of market-rate and rent-restricted across each of the phases in a proportional manner to the extent feasible.

## II. PROPERTY DESCRIPTION, HISTORY, SURROUNDING CONTEXT, AND THE CHARITABLE FOUNDATION

The Property is located to the north of I-370, west of Frederick Road (MD 355) and north and south of existing O’Neill Drive. The Casey Community Center and Rosemont single-family residential community are located to the north of the Property, adjacent to a mix of residential, commercial and industrial uses in both the City of Gaithersburg and the City of Rockville (to the south). Parcel 940, annexed into the City in 2024, is shaded in yellow below (A) and the existing Rosedale Apartments are shaded in blue and red (B and C) in the graphic below:



Access to the Property is provided by O’Neill Drive, at the currently signalized intersection of O’Neill Drive and MD 355. Transit access is provided along the Property’s frontage on MD 355 through Ride On bus routes 55 and 59 (including a stop at the intersection of O’Neill Drive and MD 355, and the proposed MD 355 bus rapid transit (BRT) route is planned in the future to have a stop near South Westland Drive. The Property is located in close proximity to a number of residentially supportive uses within a one-mile walkshed, including (among many others) retail and service uses as well as a grocer at the Walnut Hill Shopping Center on the other side of MD 355 from the Property, religious uses with preschools, the Casey Community Center (previously dedicated by the Foundation to the City), and Rosemont Elementary School.

In connection with the City’s approval of the Annexation for Parcel 940, the Applicant identified the need for uniform planning and zoning across the entire Property to facilitate a phased redevelopment of the existing Rosedale Apartments, constructing new units on Parcel 940 for the current residents, and then updating or replacing the existing Rosedale Apartments. This phased redevelopment of the Property 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. 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. The Foundation is charged with continuing to provide a high-quality of life for the existing residents at Rosedale Apartments while voluntarily maintaining affordable rent. The existing units are nearing the end of their useful life, and as such and in order to further the Foundation’s mission to provide high-quality affordable housing and to ensure that no residents are displaced during construction, redevelopment of the Property, as illustrated in the SDP, is imperative in the very near future.

The Foundation’s redevelopment plan for the Property will further the City’s Land Use (2009) and Housing (September 18, 2023, adopted) Elements. The City’s Land Use Element identifies the Property 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 City’s CD Zone.

### **III. PROJECT DESCRIPTION AND VISION**

As illustrated in the Rezoning and SDP submitted, the Project is comprised of a phased redevelopment of the Property up to 429 multi-family dwellings (up to 237 net-new units), a central public open space, and an upgraded street grid through modifications to O’Neill Drive (the “Project”). The road modifications will also entail certain existing right-of-way being abandoned and new rights of way dedicated to best serve the new Project.

Central to the new design is an expansive green space that will provide an opportunity to cultivate community and relationships, with quieter pocket parks spread throughout the Property. The buildings are sited utilizing the existing topography, surrounding sites, and in a way that maintain a distance from I-370. The leasing office is incorporated into one of the buildings off of the green space. The design of the buildings includes a variety of housing types including open breezeway walk-up garden units and conditioned corridor elevator buildings, providing a wider range of housing options than presently exists at the Property with Rosedale Apartments. The general design will be timelessly anchored in traditional forms and materials. The forms of the buildings will include sloped roofs with overhangs protecting the exterior walls, residential-scale modulation with the use of balconies, building entries and general unit configuration to avoid large, block-like singular structures. Materials will be familiar masonry and siding. The siding will be fiber cement wood-look mainly in lap configuration with some areas of other techniques to reinforce hierarchy in building forms. Additional detail on the architecture is included in Chapter 3 of the Design Guidelines, which Guidelines are submitted with this Application and are discussed in greater detail in Section IV below.

In addition to the architectural character and design described above, the Applicant has organized the urban design of the Project around the following central themes:

- *Phasing*: Phasing of the redevelopment in a manner that would not displace the existing tenants during construction is imperative. This required that the initial phase of the Project construct sufficient units to allow for the substantial relocation of residents from the existing buildings located west of O’Neill Drive to three (3) new buildings proposed on the vacant parcel P940.
- *Access*: Maintaining the existing public street access through the Property and the requested abandonment of the portions of the O’Neill Drive and Nancy Place rights-of-way allows for the realignment of a new O’Neill Drive as a single public right-of-way with a direct connection to the adjacent Casey Community Center.
- *Layout*: Organizing the proposed buildings and parking in a manner that allows each building to front onto either a public roadway or open space in most instances. In order to respond to unique site constraints and ensure that the phasing of the Project allows no displacement of existing residents, there are several locations that require buildings to front on parking lots or private drive aisles. However, surface parking is substantially located at the rear of each building to maximize open space into a unifying linear element. Public streets will be lined with sidewalks, street trees, lighting and other streetscape elements that help connect residents to the urban fabric and that create a sense of place.
- *Enhanced open space*: Providing for community centric spaces that create community gathering spaces essential to fostering social interaction, mental restoration, and physical activity. There will be a mix of passive and active open space amenities to encourage residents to engage with each other and build a sense of community. The proposed Project will be linked to the surrounding community by a network of pedestrian sidewalks and by an 8-ft wide multi-purposed trail along O’Neill Drive.
- *Sustainability*: Incorporating sustainable design principles that reduce the impact on the environment. The design features eco-friendly materials and energy-efficient electric appliances. Materials will be sourced regionally when possible. Tree canopy coverage

will be provided in the parking areas to reduce the impact of heat island effect. Effective use of native plant materials will be applied to reduce water consumption for landscape irrigation and to minimize pesticide and fertilizer applications. Modern stormwater management facilities will be integrated as required by the City Code. In all, the environmental upgrades on the Property with the Project are a remarkable upgrade from the existing conditions of Rosedale Apartments, which were built before environmental site design was required.

To facilitate upgraded urban design and a pedestrian-oriented development, the Foundation is proposing to reconfigure the existing City roads that bifurcate and serve the Property as described below.

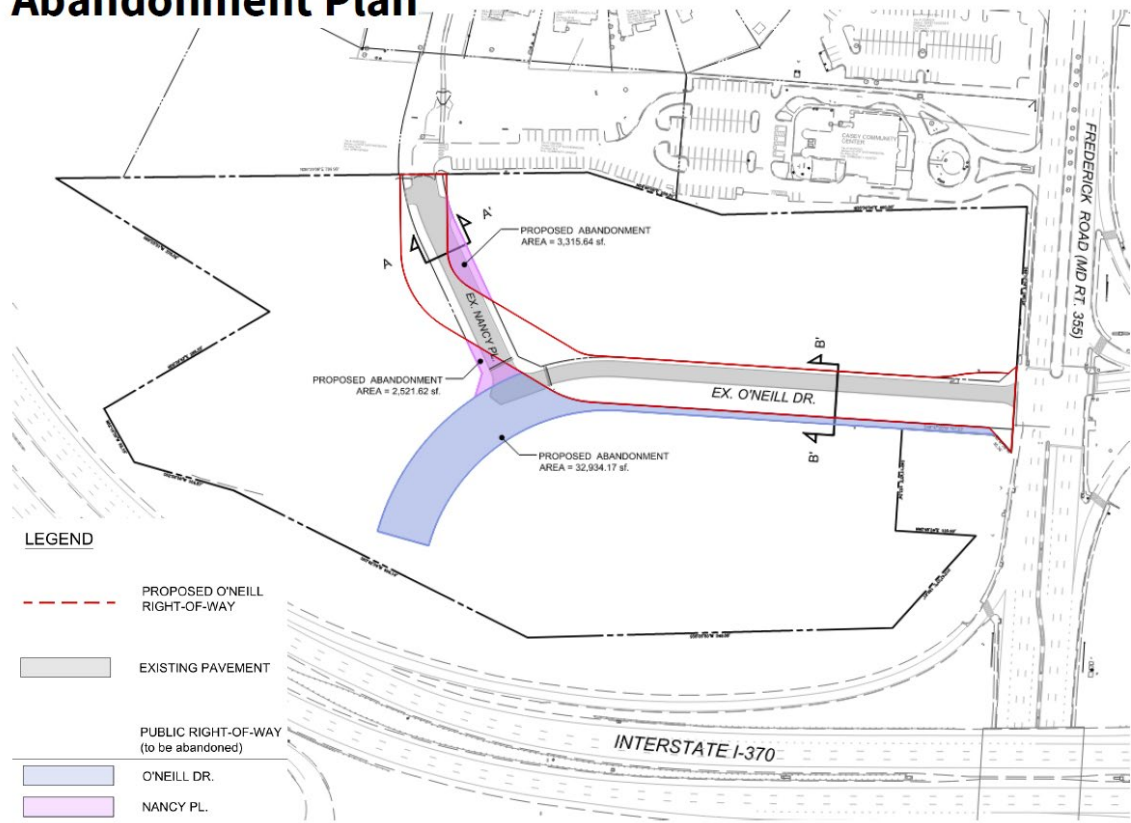
A. *Abandonment and re-configuration of O'Neill Drive*

Concurrent with this Application, the Foundation is requesting approval of the abandonment of portions of O'Neill Drive and Nancy Place to allow for these streets to be reconfigured with a more efficient layout. As illustrated on the abandonment concept below, a portion of the O'Neill Drive right-of-way proposed to be abandoned is unimproved and has never been in public use as a street. The other segments of O'Neill Drive and Nancy Place proposed to be abandoned are necessary to allow for a more modern street section that is responsive to the future context of the Project.

The portions of City right-of-way proposed to be abandoned are no longer necessary for present or anticipated future use as required by Section 19-23 of the City Code. More specifically, the unimproved portion of O'Neill Drive is no longer necessary as there is no possible or proposed connection to I-370 from the Property. The other portions of O'Neill Drive and Nancy Place can be abandoned while still allowing these streets to satisfy current Road Code standards. Significantly, the realigned road network will support the proposed mixed-income housing Project with additional pedestrian improvements, tree canopy cover, and modern stormwater management facilities. Last, the realigned roadways will maintain the existing connection through the Property to the Casey Community Center.

As illustrated in greater detail on the phasing and abandonment exhibits, the Foundation is proposing to plat the abandonment, reconfigured roadway, and 3 new lots following SDP. However, as an interim condition that is necessary to facilitate relocation of existing tenants to Phase I, the Foundation is proposing to maintain the current road improvements constituting O'Neill Drive and Nancy Place with public access maintained through temporary easements granted to the City. As part of Phase II, the Foundation will construct all of the roadway improvements in the re-aligned O'Neill Drive to City standards.

# Abandonment Plan



**Table 2: Existing Right-of-Way and Abandonment**

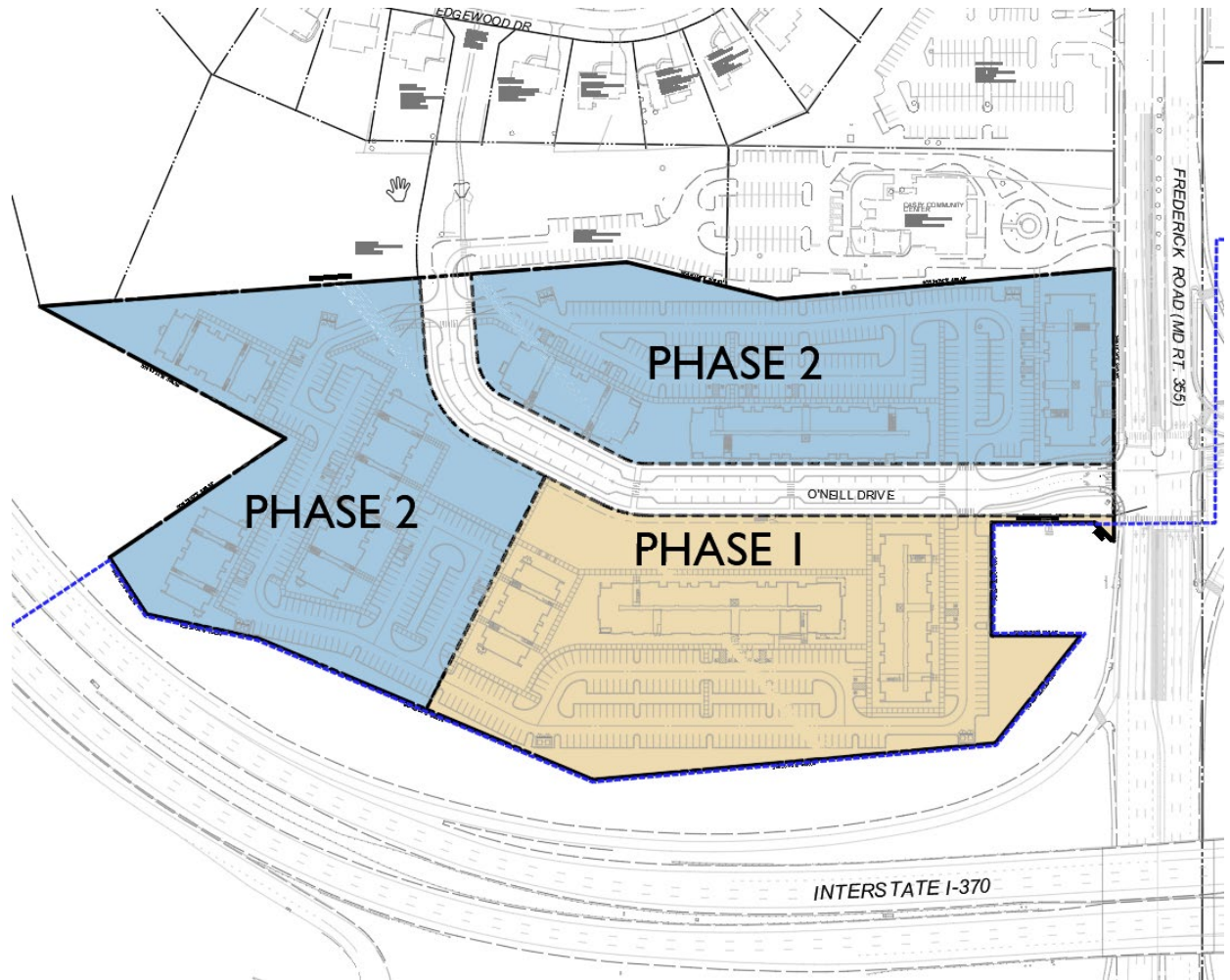
Road Name	Existing Right-of-Way		Proposed Right-of-Way Abandonment	
	Area (ac)	Area (sf)	Area (ac)	Area (sf)
O'Neill Drive	1.90 ac	82,694.01 sf	0.76 ac	32,934.17 sf
Nancy Place	0.48 ac	20,716.37 sf	0.13 ac	5,837.26 sf
<b>TOTAL</b>	<b>2.38 ac</b>	<b>103,410.38 sf</b>	<b>0.89 ac</b>	<b>38,771.43 sf</b>

While approximately 0.89 acres of City right-of-way is proposed to be abandoned, the Foundation is proposing to construct approximately 0.92 acres of useable green space as part of the Project. As a result, the City and residents are receiving a larger area of useable green space than the unnecessary right-of-way being abandoned. The proposed future right-of-way plan below illustrates the useable green space.



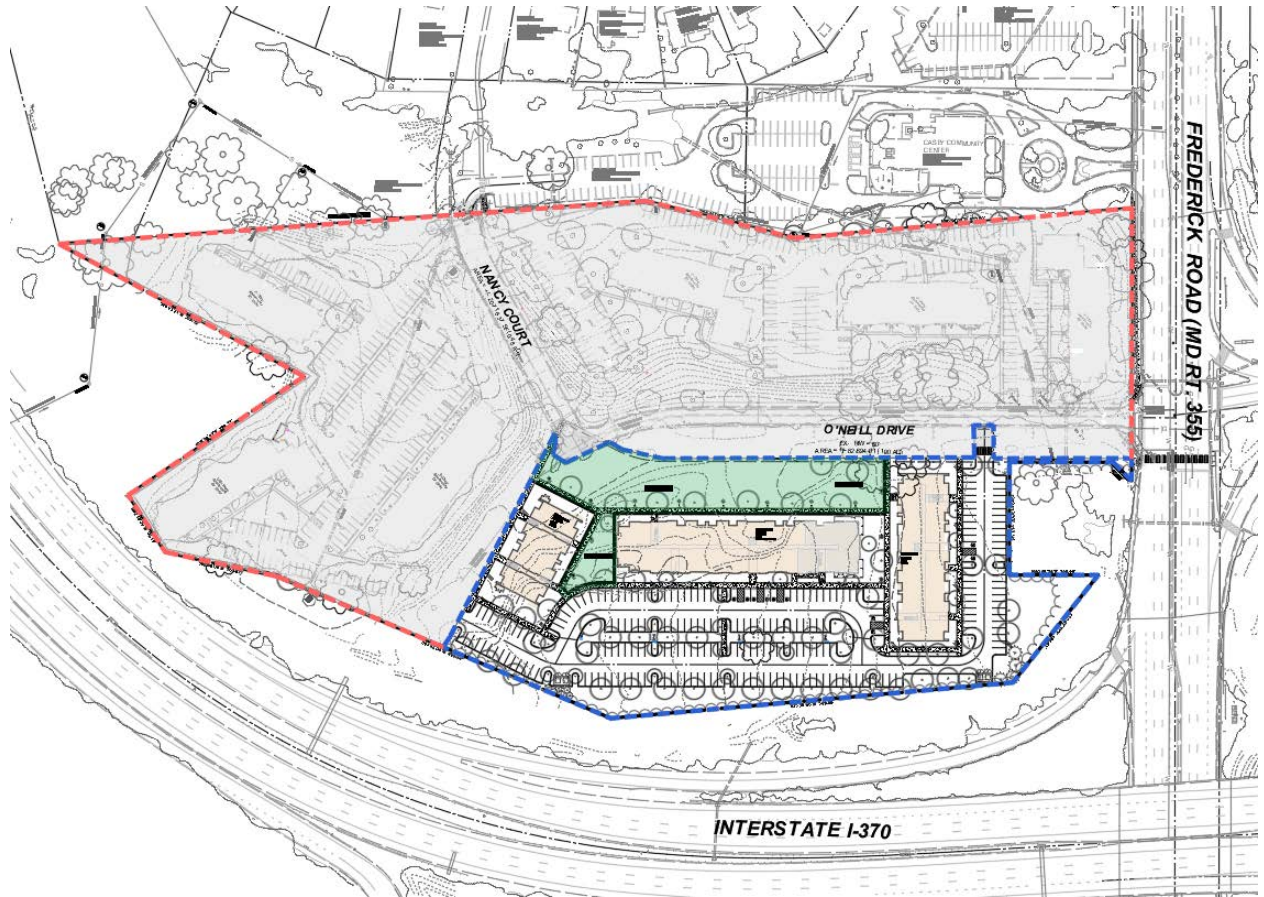
## B. Phasing

Given the need to have orderly phasing for redevelopment of the Property to ensure no existing tenants are displaced, the Foundation is proposing to redevelop the Property in accordance with the following sequencing. The Foundation notes that the combination of significant changes in grade across the Property, and its commitment to ensuring that no resident wishing to stay is displaced, have resulted in a layout where several buildings are oriented along surface parking and private driveways. While the overall goal is to orient the new buildings along the proposed green space and sidewalks, the various competing interests have to be balanced in favor of avoiding any displacement of existing residents and ensuring the viability of leveraging on and expanding the mix of rent-restricted and market-rate units at the Property.



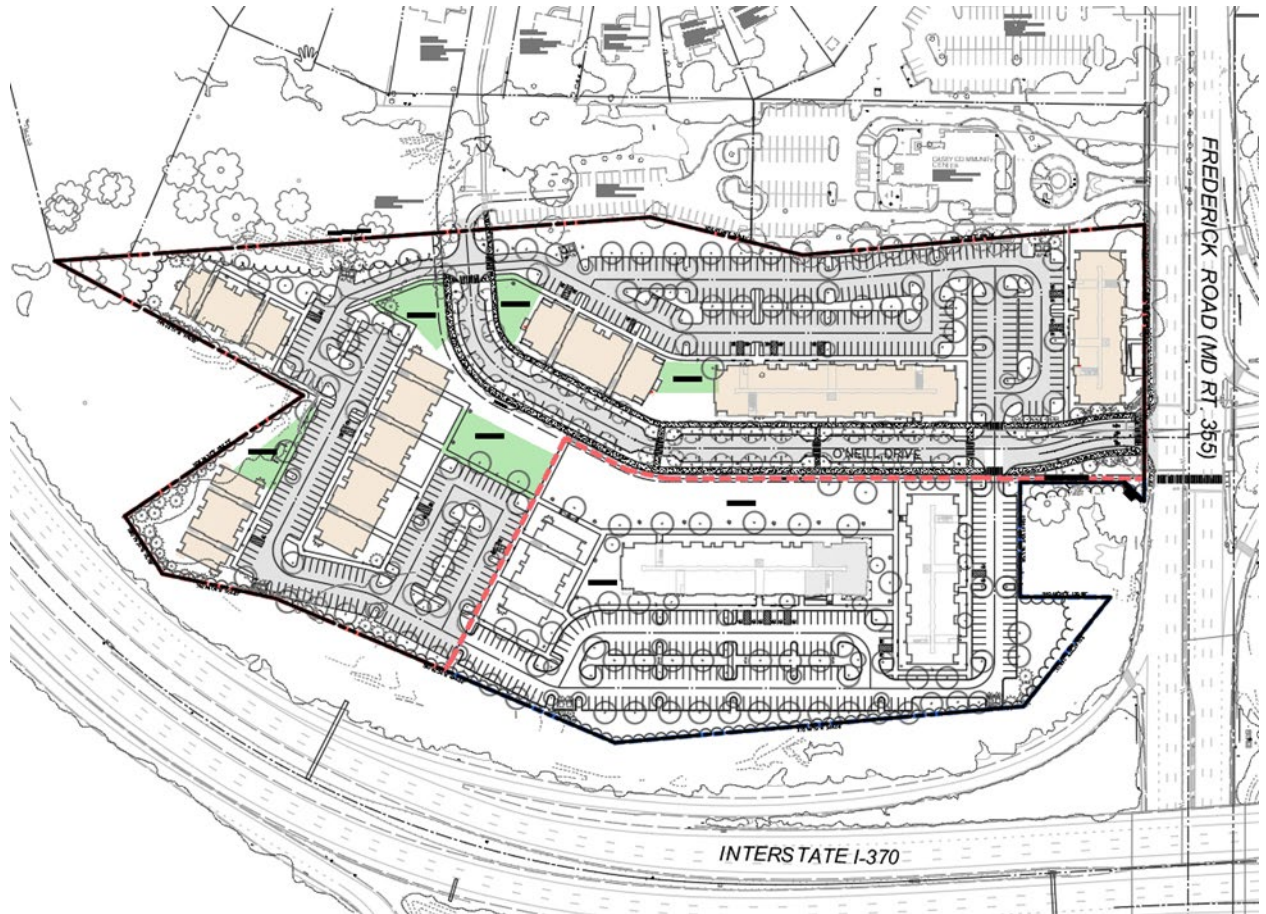
### *Phase I*

Redevelopment of the Property as Phase I of this comprehensive redevelopment would include up to 184 multi-family units (“Phase I”). The Applicant proposes development of three (3) multi-family buildings, ancillary surface parking, and recreational amenities across the Property. Two (2) of the buildings are proposed to be 5-stories (up to 70 feet tall) with elevators, and the third is proposed to be 4-stories (up to 60 feet tall). A mix of 1-bedroom ( $\pm 120$  units), 2-bedroom ( $\pm 46$ ), and 3-bedroom ( $\pm 18$  units) units are proposed. Open space will be provided in the form of a single common green that organizes both active and passive activities to include a tot-lot and outdoor seating.



## *Phase II*

Phase II is proposed to include up to 245 multi-family units across six (6) buildings, surface parking, and recreational amenities (“Phase II”). Two (2) of the buildings are proposed to be 5-stories (up to 70 feet tall) with elevators, and four (4) buildings are proposed to be 3- and 4-stories (up to 60 feet tall). A mix of 1-bedroom ( $\pm 95$  units), 2-bedroom ( $\pm 120$  units), and 3-bedroom ( $\pm 30$  units) units are proposed. Open space will be provided as a series of pocket parks distributed throughout Phase II and will include seating areas, a terraced walk, tot-lot, and an activity court with exercise stations.



### C. *Affordable Housing*

As described during the Annexation process, the vast majority of the existing multi-family dwelling units occupied at Rosedale Apartments function as naturally occurring affordable housing through discretion exercised by the Foundation. The Foundation has voluntarily maintained rental rates that are affordable to tenants with incomes ranging from \$38,000 to \$52,000<sup>2</sup> 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 the Foundation through a Section 501-C-3 charitable mixed-income housing entity that will restrict 75% of the units to occupancy by qualified low- and moderate-income residents (50-80% 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.

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<sup>2</sup> These are the minimum income ranges for current units (ranging from 1-bedroom to 3-bedroom units) at the Rosedale Apartments.

As part of the Annexation of Parcel 940, the City and Foundation entered into an Annexation Agreement, which is recorded in the Land Records of Montgomery County in Book 68184 at Page 46 (the “Annexation Agreement”). In accordance with Section 24-251 of the prior Zoning Ordinance, §4 of the Annexation Agreement exempted Parcel 940 from the City’s affordable housing ordinance. The granting of such a waiver for Parcel 940 was based on the Foundation’s voluntary commitment to restricting 75% of the units to occupancy by qualified low- and moderate-income residents (50-80% AMI as defined by IRS Rev. Proc. 96-32). This voluntary commitment by the Foundation exceeds the City’s minimum requirement of 15% affordable units under the Zoning Ordinance by five (5) times. Parcel B and C are not exempted from the City’s affordable housing ordinance since they were not subject to the Annexation.

In order to ensure that the affordable housing at the Project can function under a uniform regulatory scheme, the Foundation is seeking to extend the waiver from the City’s affordable housing ordinance to Parcel B and C pursuant to Section 24-13.5 of the Zoning Ordinance. Since a portion of the Property is already exempt from the City’s affordable housing ordinance and the Foundation has committed to five (5) times the minimum amount of regulated affordable units required under the affordable housing ordinance, there is no reasonable relationship or nexus between the Project and the affordable housing provisions of Article 13 of the Zoning Ordinance. As part of the granting of the requested waiver, the Foundation agrees to incorporate §4 (copied below) of the Annexation Agreement into a declaration of covenants recorded in Land Records against the entire Property. The code sections referenced below relate to the prior Zoning Ordinance and will be updated to reflect the current Zoning Ordinance.

#### 4. AFFORDABLE HOUSING.

*APPLICATION OF CITY LAW. In accordance with Section 24-251 of the City Code, Casey’s commitment to provide affordable housing consisting of rental units as set forth above and herein exempts the Property from the affordable housing ordinance as applied to rental units, now contained in Article XVI of the City Code and as amended. In the event that any portion or portions of the Property are converted to for-sale residential dwelling units, the for-sale units will be subject to the City’s regulations relating to providing affordable housing for new residential projects. In addition, if the provision of affordable rental housing changes on the Property, either by Casey or any successive property owner, such that the required proportion of the rental units restricted to occupancy pursuant to the IRS Guidelines is reduced to 15% or less (as described above, but currently requiring that 75% of the units be between 50 – 80% AMI) then the City’s Affordable Housing requirements in effect at the time of such change, if they require a proportion of rental units so restricted to 15% or more, shall be applied to the Property.*

To accomplish the Foundation’s commitment to relocating existing residents to new rent-restricted units, Phase I will need to accommodate 100% of the units at affordable rents. In subsequent phases, the Foundation intends to distribute the mix of market-rate and rent-restricted across each of the phases in a proportional manner to the extent feasible. In addition to increasing the overall supply of market-rate and rent-restricted dwelling units at the Property, the Foundation is proposing to increase the quality of units by providing a higher proportion of units with 2- and 3-bedrooms as compared to the existing conditions. The current unit mix at the Property is: (a) ±73.45% 1-bedroom units; ±20.3% 2-bedroom units; and (c) 6.25% 3-bedroom

units. The Foundation proposes to include the following unit mix as part of the Project: (a) 50.1% 1-bedroom units; (b) 38.7% 2-bedroom units; and (c) 11.2% 3-bedroom units.

As noted above, the Rosedale Apartments already serve City residents with low- and moderate-income and the phased redevelopment of the Property will ensure that those residents are not displaced. The Foundation proposes to document these affordability commitments through an agreement and covenants coordinated with the City's Department of Community, Neighborhood, and Housing Services that will also satisfy all City requirements for MPDU's and affordable housing.

#### **IV. Required Findings for Approval of the LMA to the CD Zone**

Section 24-4.2(B)(4) of the City Code sets forth the findings that the City Council must make before approving the LMA for rezoning Parcel B and C to CD zoning, unifying the entire Property to the CD Zone. The following statements describe how the proposed Project and the LMA fulfills these findings:

***1. The rezoning application meets or accomplishes the purposes, objectives, and minimum standards and requirements of the zone; and***

***a. Purpose of the CD Zone. Section 24-4.4(A)***

***i. Encourage development, redevelopment, and renovation of declining or underutilized properties along the corridor:***

While the Rosedale Apartments have functioned as a successful affordable rental community for many years, the age and condition of these units necessitate substantial upgrades to support the needs of its residents. In this respect, the Application is necessary to allow for redevelopment and reinvestment in rental units, both affordable and market-rate, for the benefit of the residents and City. The existing units are greater than fifty (50) years old and no longer meet market demands in the City. The units need to be replaced in the near term, and the rezoning of the Property to be uniformly in the CD Zone is critical to the goal of redeveloping the Property with upgraded housing. In addition to substantially upgrading these apartment units, the Foundation desires to include upgraded recreational amenities and useable green space to enhance the quality of life of these City residents. Moreover, Parcel 940 is undeveloped, and the entire Property is underutilized when evaluated against modern, best land use practices for infill residential development.

***ii. Create a more sustainable development pattern and enhance the city's sense of place.***

As noted above, the existing improvements at the Property are outdated and nearing the end of their useful life. The Foundation's plan to replace these aging units with infill redevelopment that increases the housing supply on the Property will further the City's goal for more sustainable growth along designated corridors. The additional market-rate and rent-restricted housing will have proximity to transit and employment nodes, which allows for more sustainable growth at this Property.

Since the Rosedale Apartments were constructed in the 1970's without current stormwater management and forest conservation techniques, the Application presents a unique opportunity to preserve and expand upon the mixed-income housing while providing substantial environmental upgrades including(among other things) modern stormwater management facilities, a minimum of 30% tree canopy coverage across the re-configured parking areas, upgraded recreational facilities, and an enhanced forest conservation buffer from I-370. The creation of a prominent green space that is framed by new, upgraded multi-family buildings with mixed-income housing will enhance the City's sense of place. The rezoning and SDP will result in an upgraded and improved community that enhances the Frederick Avenue corridor and adjacent Casey Community Center.

***iii. Promote revitalization within the Corridor by encouraging new private investment that also fosters equity and livability.***

The Application is directly aimed at revitalizing this portion of the MD 355 corridor through upgraded affordable dwelling units and green space. Rezoning the entire Property to the CD Zone is necessary to allowing for revitalization of the aging units, as such a redevelopment is not feasible with the current split zoning. While the existing 192 units in Rosedale Apartments provide important affordable housing to City residents, the Project will allow for an increase in both market-rate and affordable units in modern buildings. The inclusion of enhanced environmental features and useable green space for future residents of this mixed-income community fosters both equity and livability. More specifically, and as further illustrated on the neighborhood context exhibit, the Property is near a mix of commercial uses providing neighborhood goods and services and is accessible to a variety of transit options (bus, metro, and planned BRT). the Project incorporates significant green areas and amenities that will enhance the resident experience at the Property. The Foundation's commitment to a minimum of 75% affordable units is critical ensuring existing residents access to affordable rents in newly constructed units, but also ensures that a portion of market-rate units will be available for residents that improve their economic circumstances while residing at the Property. Additionally, the phasing plan for the Project will mitigate having existing residents displaced during the construction process by providing sufficient new units in Phase I to allow for relocation of tenants who desire to remain on the Property.

***iv. Create clearly defined regulations that provide more certainty of what is feasible on a property and create opportunities to add value through density and mix of uses.***

The Application will allow for the Property to be redeveloped in a staged, orderly, and comprehensive fashion with additional residential density. The rezoning of Parcel B and C to the CD Zone will allow for uniform zoning across the entire Property with clearly defined and more flexible development standards, including design guidelines. Significantly, the Application ensures that the existing, aging units can be replaced with modern units without displacing any tenants or eliminating any affordable units. Additionally, the Project will expand on the 192 naturally occurring affordable units with approximately 429 multi-family units, including 75% of the total units designated for qualified low- and moderate-income residents (50-80% AMI). The addition of infill housing, both market-rate and rent-restricted units, will create additional customers and employees in proximity to nearby neighborhood goods and services, and the

Frederick Avenue Corridor. The reinvestment in the Property with new and upgraded dwelling units, green space, and pedestrian infrastructure will help to promote infill redevelopment opportunities at other locations along the MD 355 corridor.

***v. Promote quality development through flexible development standards and a proactive design approach.***

As noted above, the Application will allow for the replacement of aging and outdated improvements with a higher quality of planning and design that accommodates the City's current environmental and urban design practices. The Project includes a proactive design approach that balances the need to upgrade the aging units with modern units while preserving and expanding on the level of affordable units through a phased redevelopment. The requested rezoning will allow for uniform CD zoning across the entire Property, which provides greater flexibility and better design options for the Project. More specifically, the rezoning allows the Foundation to work with the City on creating a better site layout with upgraded pedestrian infrastructure and open space that will enhance the residents experience and complement the Frederick Avenue Corridor and neighboring Casey Community center.

***b. Minimum locational requirements – Section 24-4.4(B)***

***i. No land shall be classified in the Corridor Development Zone, outside of annexations and comprehensive rezonings, unless the land is located within an area so designated on an approved and adopted land use master plan.***

As noted above, the City's Land Use Element (2009) recommends that the Property be rezoned to CD.

***ii. When undertaking new development or redevelopment in the CD Zone, all uses identified for specific areas or properties within an approved and adopted 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.***

The Project incorporates mixed-income residential units and upgraded recreational amenities as envisioned by the City's Land Use Element (2009). While the Master Plan recommends a balanced mix of commercial/office and residential uses, as discussed during the annexation process, the Property is not suitable for a viable commercial use for a variety of reasons, including poor access and visibility from MD 355. The Applicant has studied the opportunity to add a smaller scale commercial or institutional use closer to MD 355 and I-370 and concluded that such a use will not be supported by the market. More specifically, the Foundation owns 72,000 square feet of commercial space on this block in the Eugene S. Casey Building (800 S. Frederick Avenue). This commercial space is approximately 38% vacant ( $\pm$ 28,000 sq. ft. is available for lease). Given that it has been challenging to secure tenants and reduce the vacancy at this nearby building, the Foundation does not see clear path toward establishing a viable commercial or institutional use as part of this Project. Further, there are lease restrictions with various tenants at the office building that precludes the Foundation from providing certain uses on the Property, and further compromises the viability of a commercial use as part of the Project. In addition to these challenges, the Applicant notes that the commercial

market has dramatically changed since the time of the 2009 Land Use Element. In this respect, it is appropriate and in the public interest to acknowledge that the highest and best use of the Property is for mixed-income housing without any commercial uses being added.

In lieu of proposing a mix of uses as part of the Application, the design of the Project leverages and complements the surrounding mix of uses, including the planned BRT station, the adjacent retail centers (e.g., Walnut Hill), various medical office uses, and various public and institutional uses (e.g., Rosemont Elementary School and the Casey Community Center). Since the Foundation owns and operates the office building that abuts the Casey Community Center to the west, this Application helps to provide a greater mix of uses by increasing the number of residential units with proximity to its nearby commercial site. As a result, the Foundation’s position is that the Project is responsive to the 2009 Land Use Element’s recommendation for a mix of uses as the revitalization of the Property with additional residential uses and more modern urban design enhances and improves the viability of the surrounding mix of uses.

***c. Development standards – Section 24-4.4(C)***

***i. Floor Area Ratio (FAR)***

Since the Property is 14.6 acres in size, it is eligible for a base FAR of 3.0. However, Parcel 940 is limited to a maximum of 1.125 FAR pursuant to the Annexation (in accordance with State law which limits for 5 years the ability to up-zone a Property newly annexed without requiring express approval of the previous jurisdiction). Parcel 940 is limited to a maximum FAR of 1.125, which amounts to 257,211 square feet of gross floor area. The Foundation is requesting a total of 232,107 square feet of gross floor area on Parcel 940, which is consistent with the terms of the Annexation. For Parcels A and B that are proposed to be rezoned to the CD Zone, the Applicant is requesting ±0.81 FAR, which amounts to 330,845 square feet of gross floor area. As shown on the table below, the proposed densities across the Property will be consistent with the Annexation and Table 24-4.4.1 of the Zoning Ordinance. While the Project contains a substantial amount of affordable housing, the Applicant is not requesting any FAR bonuses.

<b>Residential Density (gfa/FAR)</b>		
FS63, Parcel P940 <sup>(1)</sup>	257,211 gfa 1.125 FAR	232,107 gfa 1.015 FAR
FS63, Parcel N738 & N881 <sup>(2)</sup>	942,873 gfa 1.600 FAR	330,845 gfa 0.811 FAR
Total Density (gfa/FAR)	1,200,084 gfa 1.467 FAR	562,952 gfa 0.884 FAR

***ii. Height***

The Applicant proposes a maximum building height of five (5) stories and up to seventy (70) feet for the Project, as allowed by the CD Zone. The Project is proposed to include a total of nine (9) different multi-family buildings with a mix of building heights ranging from 3 to 5 stories and 40 to 70 feet. Several of the buildings feature a lower-level of residential units in a split-floor arrangement to help transition the proposed grades across the site.

### *iii. Building setbacks*

The building setbacks for the Property are provided in accordance with Section 24-4.4(4)b of the Zoning Ordinance. The western Property boundary requires a fifteen (15') to twenty-five (25') minimum building setback (depending on building height) for being adjacent to property zoned residential (R-A, Low Density Residential). No setbacks are required for the other Property boundaries. The actual setbacks relative to each of the nine (9) proposed multi-family buildings are illustrated on CG=1.1.

### *iv. Design guidelines*

The Project aims to revitalize a long-standing affordable housing community by incorporating the annexed Parcel 940 to ensure an orderly and phased development process. The Applicant is proposing Design Guidelines as part of this SDP to guide more refined streetscape, landscape and architectural elements developed at the time of Final Site Plan application.

### *v. Parking and access*

Access to the Project will be through O'Neill Drive, which has an existing access point at its intersection with MD 355. As described above, the Applicant is proposing to reconfigure O'Neill Drive and Nancy Place to allow for safer and more efficient circulation patterns as part of the Project. The proposed abandonment of portions of O'Neill Drive and Nancy Place, and rededication of right-of-way, will result in enhanced pedestrian infrastructure and useable green space for this mixed-income community.

The Applicant is proposing 643 parking spaces to serve the Project, which is a parking ratio of approximately 1.50 parking spaces per dwelling unit. In addition to the surface parking spaces proposed, 51 on-street parking spaces are proposed along newly constructed O'Neill Drive. The proposed parking ratio will accommodate sufficient parking for residents and their visitors. While the proposed parking exceeds the minimum requirement in the Zoning Ordinance (517 spaces) by 126 spaces, Section 24-4.4(F) of the Zoning Ordinance provides that "the city council, at the time of schematic development plan review, shall determine the appropriate approximate number of spaces or parking ratios for specific uses."

Using supply/demand knowledge gained from the Rosedale Apartments, the Foundation has carefully evaluated the parking utilization for the existing 192 units to project forward and conclude, for the reasons that follow, that a parking ratio of 1.50 per dwelling units is appropriate and necessary for the Project going forward. First, the 192 units that exist today are served by 377 parking spaces, which results in a parking ratio of 1.96 spaces per dwelling unit. The exiting parking is utilized and often reaches full capacity. In this respect, the Foundation is proposing to reduce its parking ratio as part of the Project. Second, while there is no documented shared parking agreement<sup>3</sup> with the City relating to the adjacent Casey Community Center, the Property is presently used as "overflow" parking when functions are hosted at the Casey Community Center (e.g., farmer's markets, Muslim prayer services, and social events). As a result, it is

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<sup>3</sup> Cross parking and ingress/egress easement discussions between the Foundation and the City are an absolute necessity as part of the SDP.

critical that there be surplus parking on the Property to ensure that residents can find parking when events are held at the Casey Community Center that result in off-site parking being needed. Last, the Foundation closely monitors the transportation modes used by current residents and has observed that the majority of its residents rely upon their own vehicles as opposed to Metro or other transit modes. Given the foregoing, the Foundation is requesting that the Council establish a parking ratio of 1.50 spaces per unit (exclusive of the on-street visitor spaces) for the Project.

***vi. Buffers and screening***

A buffer containing native shrub plantings will be provided along the perimeter of the proposed surface parking areas where parking either fronts onto a public street or is highly visible from the adjacent Casey Community Center. Trash enclosures will be screened with a solid architectural surround and native shrub plantings provided around the outside of the enclosure to discourage vandalism.

The Property is buffered from I-370 by a combination of existing soundwall and existing tree cover located in the right-of-way. The existing forest buffer proposed to be preserved varies in width from +/-50' to +/-110' along the Property's frontage. No additional plantings are proposed with the plan. The Applicant will also perform a noise study to determine if additional measures are needed to mitigate noise impacts from I-370 for the Project's residents. To the extent that additional mitigation is needed for interior units as part of the noise study, the Applicant will construct the buildings to attenuate noise. It is important to note that I-370 was designed and constructed as a major Interstate with the Rosedale Apartments already existing. As such, any required noise attenuation resulting from I-370 to meet noise standards for residential use of the Property was a responsibility of the public sector, not the Applicant with this Project. That said, the new buildings will be constructed using materials necessary to provide for further attenuation of noise for the Project's residents.

***2. The rezoning application is in accord with recommendations in the applicable land use master plan for the property and is consistent with any special conditions or requirements contained in said land use master plan; and***

Consistent with the City's findings in approving the Annexation, the Application remains in accord with the Master Plan recommendations for the Property. The City's Land Use Element (2009) recommends CD zoning for the entire Property, and contains the following land use recommendations:

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. 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. (Master Plan, pp. 62-63).

The Application's proposed rezoning of Parcel B and C to CD is consistent with the CD zoning that was placed on Parcel 940 through the Annexation. The Application is necessary to allow for a cohesive redevelopment of the Property with updated affordable and market-rate multi-family units, infrastructure, and amenities.

As noted above, the Foundation acknowledges that the Master Plan recommends a balanced mix of commercial/office and residential uses. However, the Foundation has determined that there is no viable commercial component use for the Property and that attempting to force a commercial use that is not supported by the market will only detract from the Project's ability to provide high-quality affordable units and amenities. More specifically, the Foundation is the owner of the nearby Eugene S. Casey Building that is nearly 40% vacant. In this respect, the Foundation understands the market for commercial and institutional uses at the Property very well. While the Foundation is unable to commit to providing a commercial use as part of the Project, it is important to acknowledge that the Foundation has already developed a mix of uses in this community when factoring in the Casey Community Center that was dedicated by the Applicant on the abutting property to the west, and the Casey Building operated by the Foundation two (2) properties to the west of the Project.

Given the changes in the market since the time of the Master Plan recommendations for the Property, it is appropriate for the City to consider how the Project furthers the more recently adopted Housing Element and Strategic Plan. The Project will 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, this Application will further the goal to comprehensively upgrade the housing on the Property by replacing Rosedale Apartments with new and expanded housing opportunities while accomplishing several 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 Foundation's decision to implement a mixed-income housing project at the Property will ensure that there is no displacement of tenants that desire to remain at this upgraded and expanded housing community. Additionally, the construction of new, upgraded multi-family housing with

pedestrian infrastructure and useable green space will enhance the surrounding mix of commercial, public, and institutional uses. The rezoning and SDP will facilitate improvements to the Project, which will complement the Frederick Avenue Corridor and surrounding mix of uses, including the Casey Community Center.

***3. The rezoning application will be internally and externally compatible and harmonious with existing and planned land uses in the areas within the proposed rezoning and adjacent areas; and***

Consistent with the City staff analysis as part of the Annexation, this Application will facilitate a unique Project that the market typically does not produce at an underutilized Property in an equity emphasis area with adequate existing infrastructure and surrounding supportive uses. In this respect, the Project will be internally and externally compatible and harmonious with existing and planned land uses in the CD zoned area and adjacent areas by leveraging upon the Foundation’s unique ability to deliver high-quality affordable housing with upgraded infrastructure and amenities that will be responsive to the surrounding context (including the planned BRT station).

***4. That the rezoning, if approved, would reflect the goals and intent of the city's strategic plan.***

The Application will further many of the goals established by the City’s Strategic Plan (adopted in 2022). The Project 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). It is important to note that this project will address an affordability need that is typically not done with most private /market rate developers outside of inclusionary zoning requirements.

## **VI. Findings Required for CD Schematic Development Plan Approval for the Property and Project**

Section 24-12.5(F)(2) of the Zoning Ordinance sets forth the required findings for approval of the Schematic Development Plan for the Property in the CD Zone. For the reasons provided in the following sections, the Application satisfies all required findings for approval of the requested SDP.

***1. The plan meets or accomplishes the purposes, objectives and minimum standards and requirements of the zone; and***

As described in Section IV.1 above, the Application satisfies all of the purposes, objectives and minimum standards and requirements of the CD Zone.

***2. The plan is in accord with the area master plan and any accompanying special condition or requirements contained in said master plan for the area under consideration; and***

As described in Section IV.2 above, the Application is in accord with the Master Plan recommendations for the Property.

***3. The plan will be internally and externally compatible and harmonious with existing and planned land uses in the CD zoned area and adjacent areas; and***

As described in Section IV.3 above, the Application will be internally and externally compatible and harmonious with existing and planned land uses in the vicinity of the Property.

***4. The existing or planned public facilities are adequate to service the proposed development contained in the plan; and***

The Application satisfies the City's Adequate Public Facilities Ordinance ("APFO") requirements as described below.

***Adequacy of Transportation Facilities:*** A Traffic Report is currently being prepared by Wells + Associates (the "Traffic Study") and is included with the Application. The Traffic Report evaluated four (4) off-site intersections, eight (8) background developments, and a regional growth rate for the weekday AM peak hour and PM peak hour conditions.

According to the Institute of Transportation Engineers (ITE) Trip generation Manual 11th Edition, the existing Rosedale apartments site (192 multi-family apartments) currently generate 73 AM peak hour and 75 PM peak hour trips, and the proposed 450 multi-family apartment is expected to generate 186 AM peak hour trips and 176 PM peak hour trips. Thus, the site development would add 113 AM peak hour and 101 PM peak hour trips expected at full buildout.

In addition to the intersection capacity, the following items will be examined at each of the four off-site intersections: (1) crosswalk conditions; (2) pedestrian signal conditions; (3) ADA conditions; (4) bike lanes; and (5) pedestrian timing. The analysis will include current conditions, future conditions without the SDP development, and future conditions with the SDP development at each of the studied intersections. It will also include the impacts of the future BRT along Frederick Road. Consistent with City requirements, the studied intersections were analyzed with respect to acceptable Critical Lane Volume ("CLV") standards and queuing analyses, with the following findings.

All study intersections currently operate at overall acceptable levels of service based on the delay based (Synchro) methodology during both the AM and PM peak hours, with the exception of the MD 355/Shady Grove Road intersection that currently operates beyond capacity (at LOS "F") during the PM peak hour. The results of the queuing analysis indicate that the majority of queues can be adequately accommodated under existing, background, and total future conditions, with the exception of select locations (Northbound left at MD 355/S. Westland Drive, eastbound left at MD 355/Shady Grove Road, and southbound left at MD 355/Shady Grove Road. The locations where queues exceed the storage area exist under existing, background, and total future conditions. The critical northbound left turn lane on MD 355 at O'Neill Drive would adequately accommodate queuing under future conditions with the site

development. The results of the total future analysis are consistent with existing and background conditions with all of the study intersections operating at acceptable levels of service during both the AM and PM peak Hours. As identified under all conditions, the MD 355/Shady Grove Road intersection is anticipated to continue to operate beyond capacity at LOS “F” during the PM peak hour. The development of the Project would have only a minor impact on overall delay and operations at this location.

Bus service through Ride-On is available along the Property’s Frederick Road frontage and provides 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 pursuant to the Montgomery County Bicycle Master Plan, which provides access to an existing separated bikeway on Shady Grove Road.

***Adequacy of School Capacity:*** The Project is served by the Gaithersburg High School cluster of the Montgomery County Public (MCPS) system. The schools within the cluster that serve the development are Rosemont Elementary School, Forest Oak Middle School, and Gaithersburg High School. According to the August 1, 2024, school capacity memo prepared by City Staff, there is sufficient capacity in the Gaithersburg High School cluster for FY 2025-2030. Additionally, there are no MCPS Utilization Premium Payment fee for residential development that is located within the Gaithersburg High School cluster service area. Therefore, the Application complies with the requirement of the adequate public facilities requirement for schools pursuant to Section 24-14.4 of the Zoning Ordinance.

***Water and Sewer Service:*** The SDP is currently 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 24-14.5 of the Zoning Ordinance.

***Fire and Emergency Service:*** Pursuant to Section 24-14.6 of the 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.

***5. That the plan, if approved reflect the goals and intent of the city's strategic plan.***

As detailed in Section IV.4 above, the Application will advance the goals and intent of the City’s Strategic Plan. More specifically, the rezoning and SDP 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). The rezoning of the Property to be entirely zoned CD is necessary to allow for appropriate and flexible design standards that support new multi-family units at the Property. The rezoning and SDP also establish flexible phasing, which is critical to ensuring that existing tenants can be relocated to new affordable units in Phase I. The Project also includes upgrades to

pedestrian accessibility and open space on-site, which will complement and enhance the surrounding mix of uses along the Frederick Avenue Corridor.

## **VII. CONCLUSION**

For all the reasons stated above, the Application satisfies all required findings for approval of the CD zone for Parcels B and C pursuant to Section 24-4.2(B)(4) of the zoning Ordinance, and the SDP application for the Property pursuant to Section 24-12.5(F) of the Zoning Ordinance. Accordingly, the Applicant respectfully requests approval of its LMA and SDP.