

# Mayor and City Council Agenda Item Request

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**Meeting Date:** 9/8/2015

**Type:** Ordinance / Regulations / Resolution

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**Call to Podium:**

Trudy Schwarz, Community Planning Manager

**Agenda Item Title:**

Introduction of a Resolution of the Mayor and City Council Authorizing the Annexation (Petition Number X-7089-2015) of Approximately 8.28 acres of Land Adjacent to the Present Corporate Limits, Located at Southeast Quadrant of Quince Orchard Road (MD RTE 124) and Darnestown Road (MD RTE 28), Gaithersburg, Maryland, and Adjacent Road Rights of Way, and Known as the Potomac Valley Shopping Center Property

**Responsible Staff and Department:**

Trudy Schwarz, Planning and Code Administration  
Lynn Board, City Manager's Office  
John Schlichting, Planning and Code Administration  
Martin Matsen, Planning and Code Administration

**Desired Outcome from Council:**

Vote to Introduce X-7089-2015 and direct staff to schedule the public hearing

Public Hearing History	
Introduction Date:	9/8/2015
Advertisement Date :	
Public Hearing Date:	
Record Held Open Date:	
Policy Discussion Date:	
Anticipated Adoption Date:	

Mayor and City Council  
X-7089-2015  
Ex. 9

**SUPPORTING BACKGROUND ON NEXT PAGE**

# Mayor and City Council Agenda Item Request

## Supporting Background Information:

An Annexation Petition has been filed by Miles & Stockbridge, PC, on behalf of Darnestown Valley-WHM LP and Darnestown Valley Petroleum WHM, LLC owner of the Potomac Valley Shopping Center (south of Darnestown Road). (The Potomac Valley Shopping Center north of Darnestown Road is located within the City's municipal boundary). The area proposed for annexation is located at the southeast quadrant of the intersection of Darnestown Road (Maryland Route 28) and Quince Orchard Road (Maryland Route 124.) The addresses for the property include: 122110, 12114, 12116, 12118, 12120, 12126, 12130, 12132, 12136, 12140, 12146, 12150, 12154, 12158, 12162, 12166, and 12168 Darnestown Road.

The Applicant's petition requests that the City to annex approximately 8.2877 acres of land from Montgomery County into the City. The area of annexation consists of Parcel C, Parts of Parcel D and F, Quince Orchard Shopping Center (now identified as Potomac Valley Shopping Center), which includes 4.6734 acres of land. Additionally the petition includes 2.3209 acres of right of way for Darnestown Road (Maryland Route 28) and 1.2934 acres of right of way for Quince Orchard Road (Maryland Route 124.)

The annexation petition requests annexation of the property and rezoning from the Montgomery County Neighborhood Retail (NR) Zone to the City's Mixed Use Development (MXD) Zone. The property is located within the City's Maximum Expansion Limits as identified within the Municipal Growth Element of the 2003 Master Plan. The Land Use Element of the 2009 Master Plan of the City of Gaithersburg recommends that The Potomac Valley Shopping Center property be designated as Commercial-Office land use and be zoned MXD (Mixed Use Development). The application includes a Sketch Plan, an MXD Justification Statement and an Annexation Plan for providing services for the property.

Mayor Ashman has verified that the petition meets State requirements for the petition to go forward. This includes a letter from the Montgomery County Board of Elections and two memorandums from City Attorney Board.

The Introduction of the attached annexation resolution will commence the annexation process. If introduced, staff tentatively anticipates scheduling the Planning Commission public meeting for October 8, 2015, and the Mayor and City Council public hearing for November 16, 2015.

## Attachments:

Location Maps

Draft Resolution to be introduced

Application, Petition for Annexation and Exhibits (I - IV)

RESOLUTION NO. R-69-15

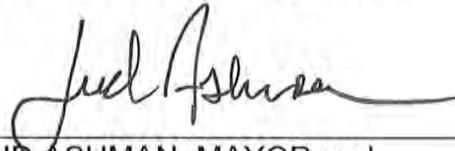
RESOLUTION OF THE MAYOR AND CITY COUNCIL AUTHORIZING THE CITY  
MANAGER TO NEGOTIATE AN ANNEXATION AGREEMENT FOR THE POTOMAC  
VALLEY SHOPPING CENTER PROPERTY (X-7089-2015)

WHEREAS, the owners the property known as the Potomac Valley Shopping Center located at 12110, 12114, 12116, 12118, 12120, 12126, 12130, 12132, 12136, 12140, 12146, 12150, 12154, 12158, 12162, 12166 and 12168 Darnestown Road, Montgomery County, Maryland, containing approximately 8.2877 acres of land (the "Potomac Valley Shopping Center Property") have filed a Petition for Annexation seeking annexation into the City of Gaithersburg; and

WHEREAS, the Mayor and Council have determined that an Annexation Agreement between the City of Gaithersburg and the owners of the Potomac Valley Shopping Center Property should be entered into setting forth the terms and conditions of the annexation should the City approve the annexation of the Potomac Valley Shopping Center Property:

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and City Council of Gaithersburg, that the City Manager be and he hereby is authorized to negotiate an Annexation Agreement with the owners of the Potomac Valley Shopping Center Property to be submitted for approval by the City Council with the Annexation Resolution.

ADOPTED by the City Council this 8th day of September, 2015.



JUD ASHMAN, MAYOR and  
President of the Council

THIS IS TO CERTIFY, that the foregoing Resolution was adopted by the City Council, in public meeting assembled on the 8th day of September, 2015.



Tony Tomasello, City Manager

X-7089-2015  
Ex. 10

owner_name_line_1	owner_name_line_2	owner_address_line_1	owner_address_line_2	owner_address_city	owner	owner_address
DARNESTOWN VALLEY-WHM LTD		PARTNERSHIP	12165 DARNESTOWN RD	GAITHERSBURG	MD	20878
ALEXA INVESTORS LLC		C/O ALEX DIAZ	11401 PATRIOT LN	POTOMAC	MD	20854
BOARD OF EDUCATION OF MONTG		COUNTY	850 HUNGERFORD DR	ROCKVILLE	MD	20850
MONTGOMERY COUNTY		101 MONROE ST		ROCKVILLE	MD	20850
MONTGOMERY COUNTY MD		110 NORTH WASHINGTON ST #318		ROCKVILLE	MD	20850
ORCHARDS HOA, INC		C/O VANGUARD MANAGEMENT ASSOCIATION INC.	P.O. BOX 39	GERMANTOWN	MD	20875
DARNESTOWN VALLEY PETROLEUM – WHM LLC			12165 DARNESTOWN RD	GAITHERSBURG	MD	20878
PROVIDENT BANKSHARES CORP.		C/O M&T	1 M AND T PLAZA, FLOOR 18	BUFFALO	NY	14203
MARYLAND STATE HIGHWAY ADMINISTRATION			707 N. CALVERT STREET	BALTIMORE	MD	21202
JOHNSON FAMILY ENTERPRISES LLC/ NV LAND	THREE AMIGOS REALESTATE LLC	RUSSEL JOHNSON	10315 KENSINGTON PKWY #205	KENSINGTON	MD	20895
		C/O ELM STREET DEVELOPMENT	1355 BEVERLY ROAD, SUITE 240	MCLEAN	VA	22101
STEPHEN J. ORENS/CASEY L. CIRNER	MILES & STOCKBRIDGE, P.C.		11 N. WASHINGTON STREET SUITE 700	ROCKVILLE	MD	20850
KEVIN MACK, PE	DEWBERRY	203 PERRY PARKWAY, SUITE 1		GAITHERSBURG	MD	20877
	BLACKSTONE MANAGEMENT, LLC	2A INDUSTRIAL PARK DR UNIT A		WALDORF	MD	20602
	COMMUNITY MANAGEMENT CORPORATION	11300 ROCKVILLE PIKE SUITE 907		ROCKVILLE	MD	20852
ALAN ROSEN		17017 SIOUX LN		GAITHERSBURG	MD	20878
ANDREA RIVERA	BRIGHTON WEST CONDOMINIUM V	PO BOX 87594		GAITHERSBURG	MD	20886
ANDREA UPTON	QUANTUM	5101 RIVER RD SUITE 101		BETHESDA	MD	20816
ANNIE GERALIS	VANGUARD MANAGEMENT	19538 AMARATH DR		GERMANTOWN	MD	20874
APRIL DAY	COMMUNITY ASSOCIATION SERVICES INC	18401 WOODFIELD RD STE H		GAITHERSBURG	MD	20879
BETH BRITTINGHAM	COMMUNITY MANAGEMENT CORPORATION	485 TSCHIFFELY SQUARE RD		GAITHERSBURG	MD	20878
BRIAN WEIBLINGER		147 APPLE BLOSSOM WAY		GAITHERSBURG	MD	20878
BRUCE BLUMBERG	ABARIS REALTY, INC.	12009 NEBEL ST		ROCKVILLE	MD	20852
CARLA JOHNSON	BENNINGTON HOA	29 GOODPORT LN		GAITHERSBURG	MD	20878
CHARLES VIA		313 SUMMIT HALL RD		GAITHERSBURG	MD	20877
CHERYL BERGER	ASSOCIATION BOOKEEPING SERVICE, INC.	849 QUINCE ORCHARD BLVD STE F		GAITHERSBURG	MD	20878
CHRISTOPHER CALANGAN		426 GIRARD ST APT 201		GAITHERSBURG	MD	20877
CLAUDE LUMPKINS	VISTA MANAGEMENT	1131 UNIVERSITY W BLVD SUITE 101		SILVER SPRING	MD	20902
CRAIG CHUNG	THE MANAGEMENT GROUP	20440 CENTURY BLVD		GERMANTOWN	MD	20874
DAVID SAPOZNICK	SUMMIT MANAGEMENT SERV INC, AAMC	3833 FARRAGUT AVE		KENSINGTON	MD	20895
DAVID STUDLEY		716 BEACON HILL TER		GAITHERSBURG	MD	20878
DEBBIE FLANDERS	POTOMAC OAKS	780 QUINCE ORCHARD BLVD		GAITHERSBURG	MD	20878
FLORINE HENDERSON	BRIGHTON WEST CONDOMINIUM II	752 W SIDE DR		GAITHERSBURG	MD	20878
FRAN WINTER	RELD SQUARE HOA PRESIDENT	2 GLAZEBROOK CT		GAITHERSBURG	MD	20878
GARY SIMON	COMSOURCE MANAGEMENT, INC.	3414 MORNINGWOOD DR		OLNEY	MD	20832
GLENN LOVELAND	ABARIS REALTY, INC.	12009 NEBEL ST		ROCKVILLE	MD	20852

HELEN TRUPPO	VANGUARD MANAGEMENT ASSOCIATES, INC	PO BOX 39	GERMANTOWN	MD	20875
JACKIE SHAW		5 ANTIOCH RD	GAITHERSBURG	MD	20878
JEFF KIVITZ	MAIN STREET PROPERTY MANAGEMENT	9 PARK AVE	GAITHERSBURG	MD	20877
JIM KOSS	OAKBROOK MANAGEMENT COMPANY	P.O. BOX F	KENSINGTON	MD	20895
JOANN SCHIMKE	WEST RIDING CITIZENS ASSOCIATION	734 TIFFANY CT	GAITHERSBURG	MD	20878
JOSELYN WELLS	COMMUNITY ASSOCIATION, INC.	15742 CRABBS BRANCH WAY	DERWOOD	MD	20855
KEVIN KAPP	VISTA MANAGEMENT	1131 UNIVERSITY W BLVD SUITE 101	SILVER SPRING	MD	20902
LAURA ETCHISON	IKO COMMUNITY MANAGEMENT	3416 OLANDWOOD CT SUITE 210	OLNEY	MD	20832
LISA FRANKLIN	PROCAM LLC	116 DUVALL LN	GAITHERSBURG	MD	20877
LORI COHEN	FIRSTSERVICE RESIDENTIAL	3949 PENDER DR 205 STE	FAIRFAX	VA	22030
MATT RINKER	CMC PROPERTY MANAGEMENT	1130 ROCKVILLE PIKE SUITE 907	ROCKVILLE	MD	20852
MEREDITH METSCHULAT	PROPERTY MANAGEMENT PEOPLE, INC.	955 RUSSELL AVE STE A	GAITHERSBURG	MD	20879
MICHELE KENNEDY	COMSOURCE MANAGEMENT INC	3414 MORNINGWOOD DR	OLNEY	MD	20832
NANCY GOGGIO		440 CONSERVATION DR	HEDGESVILLE	WV	25427
PATTY FLOYD	PAUL ASSOCIATES INC	6935 WISCONSIN AVE SUITE 400	CHEVY CHASE	MD	20815
PAULA KURTZWEIL WALTER		9108 EDGEWOOD DR	GAITHERSBURG	MD	20877
PEGGY TOLAND	COMMUNITY ASSOCIATIONS, INC.	15742 CRABBS BRANCH WAY	DERWOOD	MD	20855
PEGGY TOLAND	COMMUNITY ASSOCIATIONS, INC.	PO BOX 1130	GERMANTOWN	MD	20875
PEYTON HARRIS	CAPITAL MANAGEMENT	12011 LEE JACKSON HWY SUITE 350	FAIRFAX	VA	22033
QUINNE ODORIZZI	THE MANAGEMENT GROUP ASSOCIATES INC	20440 CENTURY BLVD	GERMANTOWN	MD	20874
RALPH CAUDLE	IKO REAL ESTATE, INC.	3416 OLANDWOOD CT STE 210	OLNEY	MD	20832
RAMON ESPIN	COMSOURCE MANAGEMENT, INC.	16 EXECUTIVE PARK CT	GERMANTOWN	MD	20874
RICHARD SKOBEL	MAIN STREET PROPERTIES	9 PARK AVE	GAITHERSBURG	MD	20877
ROB O'BRIEN	COMSOURCE MANAGEMENT INC	3414 MORNINGWOOD DR	OLNEY	MD	20832
ROBERT FOGEL	ABARIS REALTY INC	12009 NEBEL ST	ROCKVILLE	MD	20852
RON GODSEY	M.T.M. MANAGEMENT ASSOCIATES	26223 RIDGE RD	DAMASCUS	MD	20872
SANDRA EWING	VANGUARD MANAGEMENT INC	PO BOX 39	GERMANTOWN	MD	20875
SARA ROSSI	ALLIED REALTY CORP	7605 ARLINGTON RD SUITE 100	BETHESDA	MD	20814
SHIREEN AMBUSH	ABARIS REALTY	12009 NEBEL ST	ROCKVILLE	MD	20852
STEVE LESKOWITZ	THE MANAGEMENT GROUP	20440 CENTURY BLVD SUITE 100	GERMANTOWN	MD	20874
TIMOTHY MULFORD	PROPERTY MANAGEMENT PEOPLE	955 RUSSELL AVE STE A	GAITHERSBURG	MD	20879
TOM ARMSTRONG		108 LONGDRAFT RD	GAITHERSBURG	MD	20878

**NOTICE OF PLANNING COMMISSION MEETING**  
**\*WEDNESDAY, OCTOBER 7, 2015 at 7:30 PM**  
**City Hall Council Chambers**  
**31 S. Summit Avenue, Gaithersburg MD 20877**

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You are receiving this postcard to inform you of a proposal for change within 200 feet of your property or you have expressed an interest in the subject plan(s).

<b>APPLICATION TYPE:</b>	<b>ANNEXATION PETITION</b>
<b>FILE NUMBER:</b>	<b>X-7089-2015</b>
<b>LOCATION:</b>	<b>Darnestown Road (RT 28) &amp; Quince Orchard Road (RT 124)</b>
<b>PROPOSAL:</b>	<b>Annex Potomac Valley Shopping Center (South) to the City of Gaithersburg</b>

For additional information, you may review the project file(s) at the Planning and Code Administration offices located at City Hall, 31 S. Summit Avenue, Gaithersburg Maryland between the hours of 8:00 am and 5:00 pm Monday through Friday. You may also refer to the City web site at [www.gaithersburgmd.gov](http://www.gaithersburgmd.gov) or contact us via telephone at 301-258-6330.

\*Subject to Change



*Gaithersburg*

City of Gaithersburg  
31 S. Summit Avenue  
Gaithersburg MD 20877



Photos Taken 9-29-2015 of Public Notification Signs

X-7089-2015  
Ex. 12



  
**PUBLIC MEETING**  
 PLANNING COMMISSION  
 X-7089-2015      7214-12168 (EVEN)  
 ANNEXATION      DARNESTOWN ROAD  
 WEDNESDAY 10/7/2015      7:30 P.M.  
GAITHERSBURG CITY HALL  
 3900 SUNNY AVENUE  
 GAITHERSBURG, MD 20878-4038

**COMMUNICATION: PLANNING COMMISSION**

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**MEMORANDUM TO:** Planning Commission**FROM:** Trudy M. Walton Schwarz, Community Planning Director  
Gregory Mann, Planner**DATE:** October 1, 2015**SUBJECT:** Staff Analysis & Annexation Plan  
X-7089-2015 – Potomac Valley Shopping Center  
Casey L. Cirner and Stephen J. Orens, Miles & Stockbridge, PC  
for Darnestown Valley – WHM LP and Darnestown Valley  
Petroleum, LLC

Application for annexation of approximately 8.28 acres of land, known as the Potomac Valley Shopping Center, located at 12110, 12114, 12116, 12118, 12120, 12126, 12130, 12132, 12136, 12140, 12146, 12150, 12154, 12158, 12162, 12166, and 12168 Darnestown Road, and adjacent road rights of way, adjacent to the present corporate limits. The application requests a reclassification of the subject property from the current Montgomery County Neighborhood Retail (NR 0.75) Zone to the Mixed Use Development (MXD) Zone in the City of Gaithersburg, Maryland.

**APPLICANT/OWNER:**

William P. Magruder, Darnestown Valley – WHM LP and Darnestown Valley Petroleum  
WHM, LLC  
12165 Darnestown Road  
Gaithersburg, MD 20878

**APPLICANT'S REPRESENTATIVE:**

Stephen J. Orens and Casey L. Cirner, Miles & Stockbridge, PC  
11 N. Washington Street, Suite 700  
Rockville, MD 20850

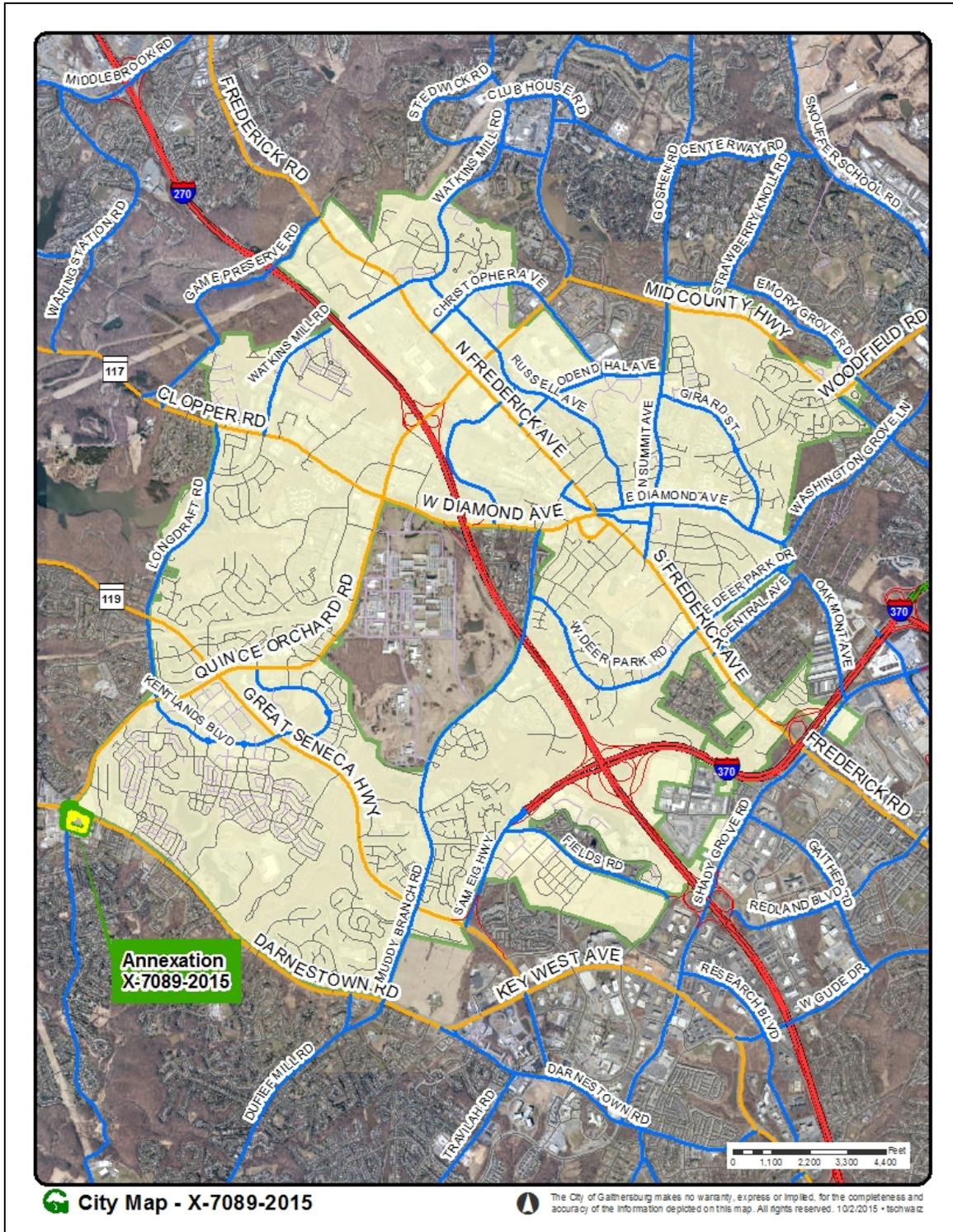
**TAX MAP REFERENCE:**

Tax Sheet: ES 562

Tax Parcel ID Numbers: 06-00401632, 06-00401643, 06-02300505

**LOCATION:**

The subject property is located at the southeast quadrant of the intersection of Darnestown Road (Maryland Route 28) and Quince Orchard Road (Maryland Route 124).



The petition requests the annexation of approximately 8.2877 acres of land, consisting of three (3) parcels and two (2) road rights-of-ways (ROW). The areas of annexation consist of Parcel C and parts of Parcel D and F comprised of approximately 4.6734 acres of land. The petition further includes 2.3209 acres of ROW for Darnestown Road (Maryland 28) and 1.2934 acres of ROW for Quince Orchard Road (Maryland 124). The roadways and parcels are adjacent and contiguous to the current City limits. Should the properties be annexed into the City the roadways would continue to be maintained by the Maryland State Highway Administration (SHA).



Exhibit 8 - Location Map

**BACKGROUND:**

The Applicants, Darnestown Valley-WHM, LP and Darnestown Valley Petroleum WHM, LLC, have submitted a petition for annexation, X-7089-2015, to the City. As part of the annexation request, the Applicant is requesting a rezoning from the Neighborhood Retail (NR 0.75) Zone to the City of Gaithersburg Mixed Use Development (MXD) Zone.

The Local Government Article and Land Use Article of the *Maryland Annotated Code and Chapter 24 (Zoning) of the City of Gaithersburg Code* outline the process and requirements for a proposed annexation. The Planning Commission is required to review

the proposed annexation and associated rezoning and land use plan for consistency with the City's Master Plan, and provide a recommendation to the Mayor and City Council at least 15 days prior to the required Mayor and City Council public hearing<sup>1</sup>. The Mayor and City Council are required to hold a public hearing prior to making a final decision on the requested annexation and zoning. The public hearing before the Mayor and City Council is scheduled for November 16, 2015.

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

As part of this application, the Applicant has submitted a previously approved Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) plan (ENV-1195-2012)<sup>2</sup>. This roughly rectangular site, which is located at the corner of Quince Orchard Road and Darnestown Road, is a currently improved site containing a retail strip center, three (3) standalone commercial pad sites and a gas station.

According to the approved NRI/FSD, there are four (4) specimen trees on the properties with a diameter of 24 inches or more. Additionally, there are no rare, threatened, or endangered species observed, identified or known to occur on the properties, and the properties do not contain any floodplains, wetlands, highly erodible, unsuitable, and unsafe soils, steep slopes, or cultural or historic features.

**MASTER PLAN HISTORY:**

**Montgomery County Master Plan**

The subject properties are part of the *Montgomery County Potomac Subregion Master Plan*<sup>3</sup>, located within the North Potomac Community Area. The *Potomac Subregion Master Plan*, which was approved and adopted in 2002, made no specific recommendations for the subject parcels.

Darnestown Road (between Riffle Ford Road and Muddy Branch Road), as discussed in the Transportation portion of the *Potomac Subregion Master Plan*, is master planned as a major highway road with a ROW of 120 feet. Further, Quince Orchard Road (between Dufief Mill Road and Darnestown Road) is master planned as an arterial road with a ROW of 80 feet. Both roadways currently meet or exceed the required rights-of-way. Should the properties be annexed into the City, the roadways would continue to be maintained by Maryland SHA.

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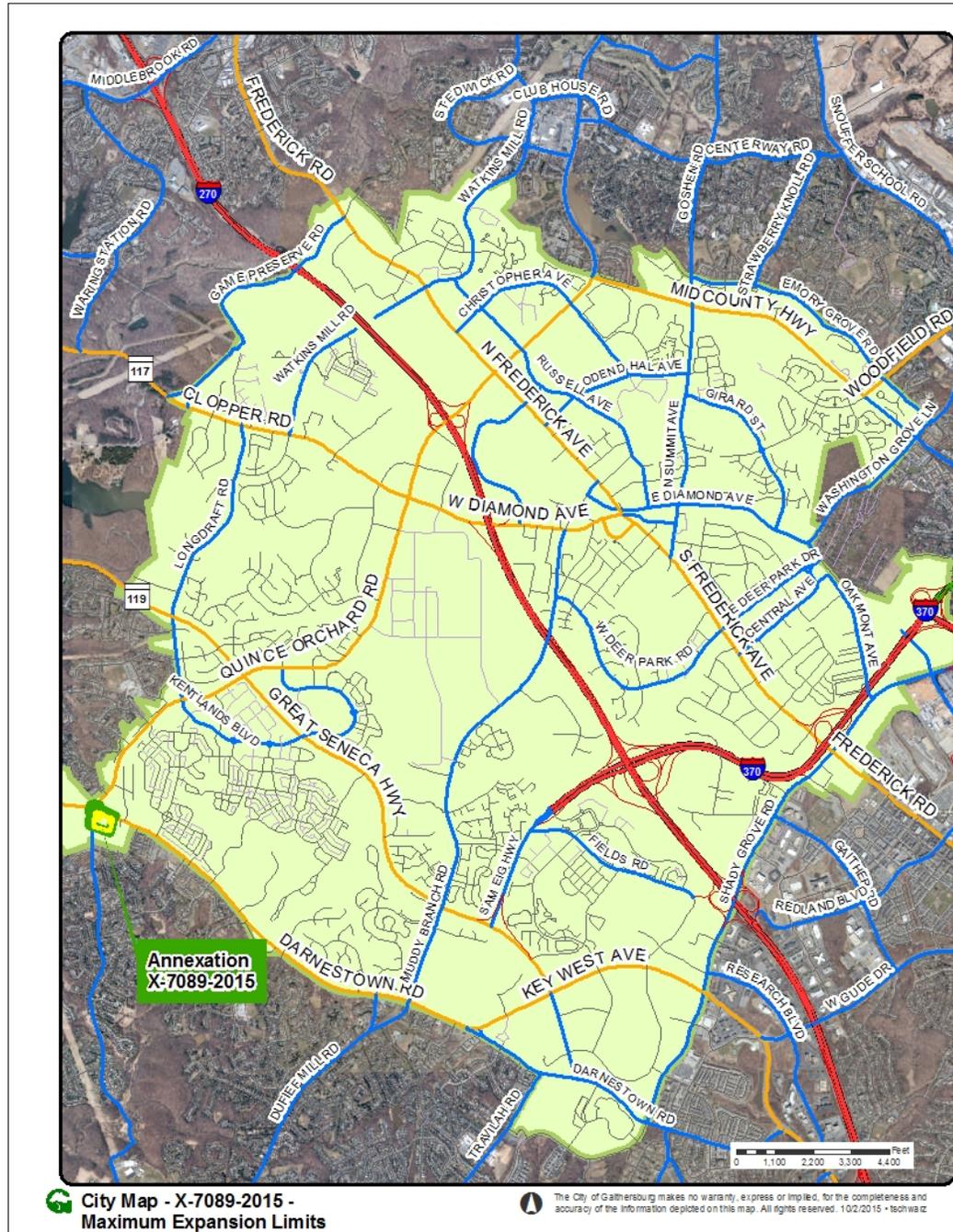
<sup>1</sup> Section 24-9 Gaithersburg City Code

<sup>2</sup> Exhibit 2-N – Natural Resources Inventory

<sup>3</sup> Exhibit 2-L – Excerpts from Montgomery County 2002 Potomac Subregion Master Plan

## City of Gaithersburg

The subject properties were not identified within the 1997 *City of Gaithersburg Master Plan* or the 2003 *City of Gaithersburg Master Plan Land Use Element*. However, the 2003 *City of Gaithersburg Master Plan Municipal Growth Element* (adopted 2009) did identify this area within the City's maximum expansion limits (MEL)<sup>4</sup>.



<sup>4</sup> Exhibit 2-J – Excerpts from the 2003 *City of Gaithersburg Master Plan Municipal Growth Element*

The subject properties are included in the 2009 *City of Gaithersburg Master Plan Land Use Element* as map designation 17<sup>5</sup> which recommends, if annexed, zoning the property MXD (Mixed Use Development) and adopting the Commercial-Office land use designation. The 2009 *Master Plan* further states:

*“This 4.7-acre area includes parcels that are located within the City’s Maximum Expansion Limits, are contiguous with the City’s current boundary, and could be annexed without creating an enclave. The property owner has expressed interest in having the land annexed into the City. The property is currently surrounded by a mix of commercial and institutional uses.”*

**Applicable Strategic Direction: Planning, Economic**

**Land Use and Zoning Actions:**

- *Adopt Commercial -Office land use designation, if annexed*
- *Recommend CD or MXD Zoning, if annexed*

The 2009 *City of Gaithersburg Master Plan Transportation Element* describes both Darnestown Road (between Muddy Branch Road and Quince Orchard Road) and Quince Orchard Road (between Darnestown Road and Twin Lakes Drive) as major arterial roads with a ROW of 120 feet. As mentioned previously, roadways would continue to be maintained by the Maryland SHA, should the property be annexed into the City.

The 2009 *Process and Overview Element*, while not making specific recommendations for this property, did establish the following Guiding Strategies that are applicable to this petition:

- Explore opportunities for those areas located within the City’s Maximum Expansion Limits.
- Limit new development where public utilities, facilities, and services cannot be established without unduly burdening the existing service provision or users.
- Focus redevelopment opportunities on underutilized sites
- Include a mix of uses to create seven days a week activity with a balanced mix of commercial and residential uses
- Limit new development where public utilities, facilities, and services cannot be established without unduly burdening the existing service provision or users. Continue to enforce the Adequate Public Facilities Ordinance (APFO) and update requirements periodically, if needed
- Adhere to the tenets of New Urbanism with aesthetic considerations in accordance with the urban design policies within the Master Plan – Smart Growth Policy Document for new housing development and re-development.

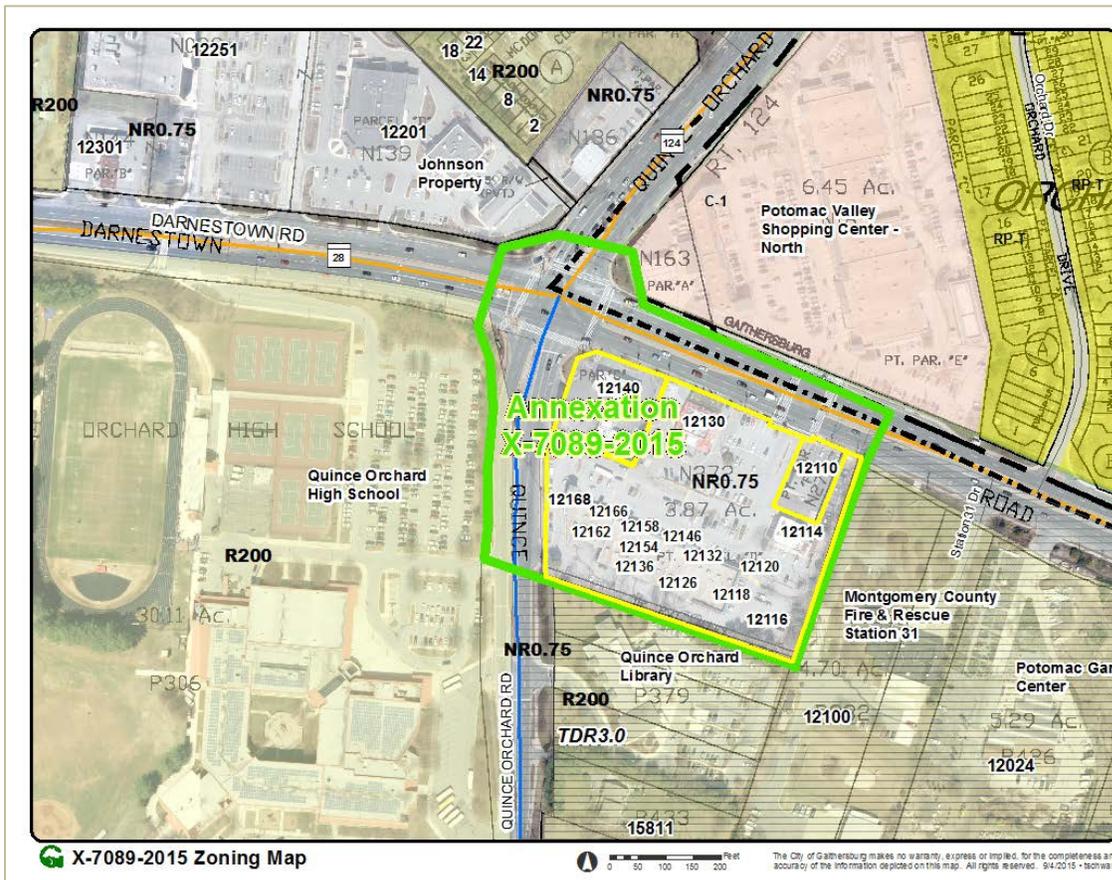
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<sup>5</sup> Exhibit 2-J – Excerpts from the 2009 *Land Use Element of the City of Gaithersburg Master Plan*

- Incorporate the City’s Smart Growth Principles to encourage high quality development and redevelopment. Thoughtful design techniques should be considered to protect natural resources, utilize existing infrastructure, and promote traditional neighborhood design.

**SURROUNDING LAND USES AND ZONING:**

The surrounding neighborhood consists of a variety of commercial and institutional land uses. Potomac Valley Shopping Center North, which is located within the City of Gaithersburg, is located to the north of the property and is zone C-1 (Local Commercial). The properties located to the east, west, and south are all located within Montgomery County and are zoned R-200. The R-200 area to the south and the east has been identified as a receiving area Transfer of Density Rights for three units (TDR-3), meaning that the property was developed at a greater density than what is allowed in the R-200 Zone. The surrounding properties consist of the Rockville Volunteer Fire Department to the east, the Quince Orchard Library to the south, and Quince Orchard High School to the west.



## **ZONING:**

### **Existing Montgomery County Zoning**

The subject property is currently zoned Neighborhood Retail - NR 0.75 H-45 in Montgomery County<sup>6</sup>.

### **Substantial Change**

Pursuant to Local Government Article of the *Maryland Annotated Code*, Subtitle 4-400, Subsection 4-416(b) states:

*“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*

City Staff will be working with the Maryland-National Capital Park and Planning Commission (MNCPPC) – Montgomery County Planning Department (MCPD), to evaluate the proposed annexation and zoning.

### **Proposed City Zoning**

The Applicant has requested that the subject properties, if annexed into the City, be zoned MXD. It is the objective of this zone to establish procedures and standards for the implementation of the Master Plan Land Use recommendations for comprehensively planned, multi-use projects. It is also intended that this zone provide a more flexible approach to the comprehensive design and development of multi-use projects than the procedures and regulations applicable under the various conventional zoning categories. In so doing, it is intended that this zoning category be utilized to implement existing public plans and pertinent City policies in a manner more closely compatible with City plans and policies than may be possible under other zoning categories. The specific purposes of this zone as listed in Section 24-160D.1 of the City Code as:

*(a) To establish standards and procedures through which the land use objectives and guidelines of approved and adopted master plans can serve as the basis for evaluating an individual development proposal, as well as ensuring that development proposed will implement the adopted master plan and other relevant planning and development policies and guidelines for the area considered for MXD zoning.*

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<sup>6</sup> Exhibit 2-K – Montgomery County Certified Zoning Map

*(b) To encourage orderly, staged development of large scale comprehensively planned multi-use developments by providing procedures for various zoning and plan approvals, including development phasing.*

*(c) To encourage design flexibility and coordination of architectural style of buildings and signage.*

*(d) To ensure the integration and internal and external compatibility of applicable residential and nonresidential uses by providing a suitable residential environment that is enhanced and complemented by uses such as commercial, recreational, open space, employment and institutional uses and amenities within a multi-use development. A multi-use development is defined as a single parcel or a group of contiguous parcels of land zoned MXD which, among the various parcels comprising that contiguous area, include residential, commercial, recreational, open space, employment and institutional uses and amenities.*

*(e) To assure compatibility of the proposed land uses with internal and surrounding uses by incorporating higher standards of land planning and site design than could be accomplished under conventional zoning categories and to provide a superior quality of development exceeding that which could be achieved under conventional zoning regulations and procedures.*

*(f) To encourage the efficient use of land by: locating employment and retail uses convenient to residential areas; reducing reliance upon automobile use and encouraging pedestrian and other nonvehicular circulation systems; retaining and providing useable open space and active recreation areas close to employment and residential populations; and providing for the development of comprehensive nonvehicular circulation networks, separated from vehicular roadways, which constitute a system of linkages among residential areas, open spaces, recreational areas, commercial and employment areas, and public facilities.*

*(g) To provide a superior natural environment by the preservation of trees, natural topographic and geologic features, wetlands, watercourses and open spaces.*

*(h) To allow development only in a phased or staged fashion to ensure the adequacy of the provision of public facilities and the concurrent implementation of community amenities.*

Additionally, the MXD allows a commercial/employment density of up to a Floor Area Ratio (FAR) of 0.75, similar to what is allowed in Montgomery County's NR 0.75 Zone.

## **PUBLIC FACILITIES:**

The City of Gaithersburg's Adequate Public Facilities Ordinance (APFO) establishes requirements related to water and sewer service, emergency services, traffic impacts, and school capacity that must be met for development to occur. As the APFO relates to annexations, Section 24-244 of the City Code states:

*"This article [XV. Adequate Public Facilities] shall not apply to any development that has received schematic development plan approval, preliminary site plan approval, or final site plan approval prior to the effective date of this article. Additionally, when a property is subject to an annexation agreement, any provision of this article that is contrary to the annexation agreement shall not be applicable."*

### **Water and Sewer Service:**

The subject property currently has Washington Suburban Sanitary Commission (WSSC) water and sewer categories of W-1 and S-1, respectively. These category designations mean the property is currently served by both water and sewer service and any development could expand those services. Further, the *2003 Municipal Growth Element* and the *2009 Water Resources Element* both affirmed that there is sufficient water and sewer supply capacity for growth area developments within the City's approved Maximum Expansion Limits. The Applicant is proposing to keep the current use type on the property. Therefore, the job demand should continue to be maintained. Future density for a mixed use development will be evaluated at the time of redevelopment of the property. The current development proposal to maintain the existing building footprints and use types with some modifications has sufficient water and sewer capacity. There is also sufficient water and sewer capacity for additional future development of the property.

### **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 Potomac Valley Shopping Center property is within the ten (10) minute response areas of Montgomery County Department of Fire and Rescue Services Stations 31 (immediately adjacent to the property on Darnestown Road), 8 (Montgomery Village Avenue) and 32 (Travilah).

## Traffic

The City's Traffic Impact APFO states that applications for development approvals shall be subject to the adopted Gaithersburg Traffic Impact Study Standards regulations<sup>7</sup>. It further states that no application for development approval shall be approved unless it complies with the requirements of Traffic Impact Study Standards regulations, or the Applicant has obtained a determination from staff that the standards are not applicable to the Applicant's proposed development. The adopted Traffic Impact Study Standards require a traffic impact study (TIS) for any new development or redevelopment that generates thirty (30) or more total weekday trips in the AM and/or PM peak hours<sup>8</sup>. The Traffic APFO is evaluated at Schematic Development Plan application. At this time, the Applicant is proposing to continue the existing use on the site.

## Schools

The subject property lies within the Quince Orchard Cluster of the Montgomery County Public School (MCPS) system, which includes the following schools: Rachael Carson Elementary, Lakelands Park Middle School, and Quince Orchard High School. The current plan does not propose any housing on this property. Any future plans, should they include any residential use, would need to comply with the City's requirement for adequate school capacity.

## **PROPOSED USE / SITE PLAN:**

**Current Site Plan** - The Applicant is proposing to continue using the existing shopping center<sup>9</sup> as a commercial site (including the following uses: retail, restaurant, gas station, office (including medical office), and instructional uses (such as a driving school, dance studio or other similar uses). The property proposed for annexation contains a strip shopping center and four "pad sites" which include a gas station, two fast-food restaurants, and a bank. The total site includes 39,097 square feet of commercial uses. The property contains 238 parking spaces. Using the City's parking ordinance, 166 parking spaces are required for the center.

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<sup>7</sup> Section 24-245

<sup>8</sup> Regulation 01-07

<sup>9</sup> Exhibit 2-S –Existing Conditions

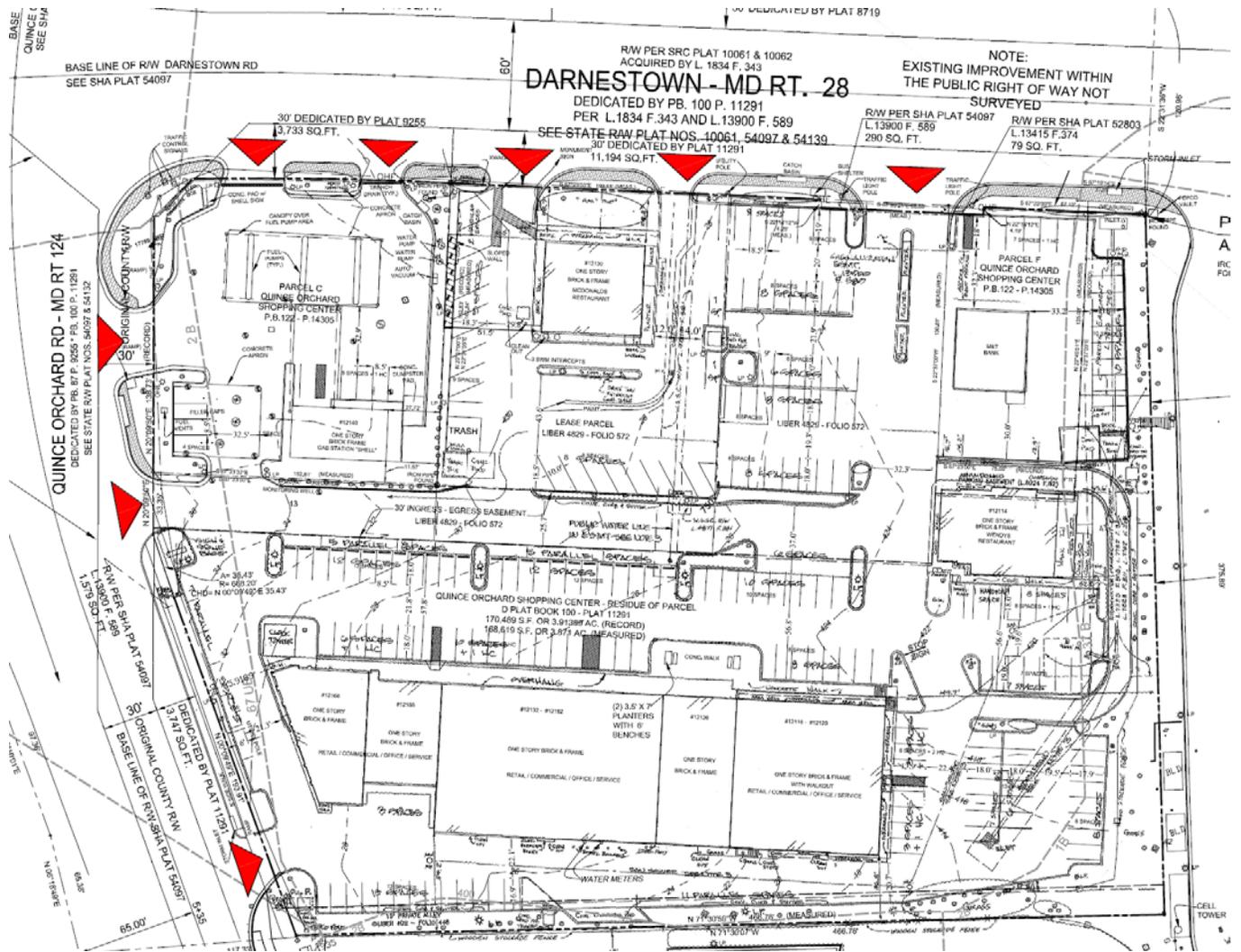


Exhibit 2-S – Existing Site Plan



View from Darnestown Road Showing Bank, Fast Food Restaurant and Gas Station



Two Story Retail/Office/Driving School



Retail Shops

**Future Use - Sketch Plan** – The Applicant has submitted as part of the Annexation Petition a Sketch Plan<sup>10</sup> as required for MXD Zoned properties. This sketch plan proposes future development to include two components:

- Commercial Focus – Designated in Pink
- Office/Commercial – Designated in Orange

The Applicant has defined Commercial Uses to include the following uses: retail, restaurant, gas station, office, dance studio, instructional uses such as a driving school, dance studio or other similar uses.)

<sup>10</sup> Exhibit 2-R – Zoning Sketch Plan

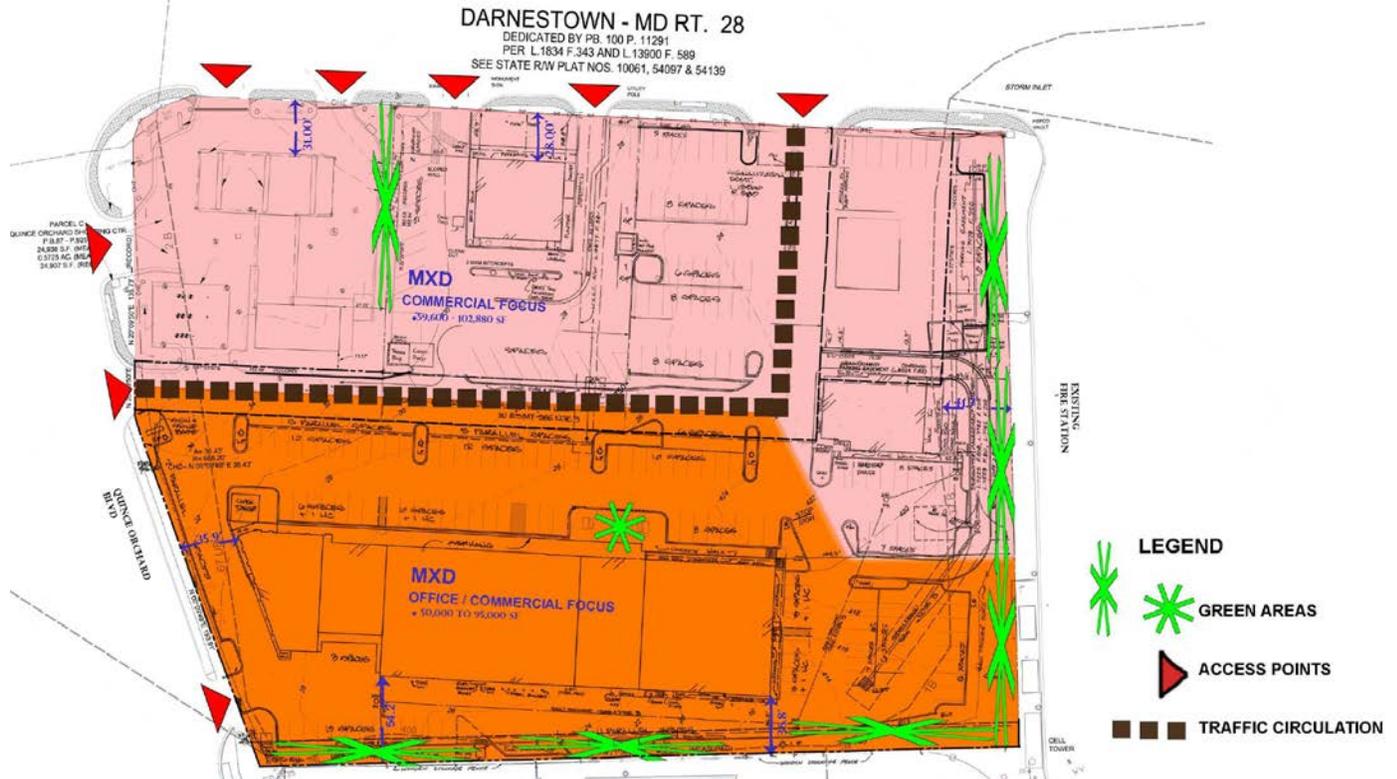


Exhibit 2-R – Sketch Plan

The Plan proposes a maximum Floor Area Ratio (FAR) of 0.75 for the 4.673 acre or 263,797 square feet site. This calculates to a development capacity of 197,847 square feet. The plan also proposes a minimum of twenty percent (20%) of Green Space. Additionally the plan limits the building height to five stories.

## **ANNEXATION PLAN**

Section 4-415 of the Local Government Article of the *Maryland Annotated Code* requires that a municipality adopt an annexation plan in addition to the annexation resolution. Annexations must be consistent with the City of Gaithersburg’s Municipal Growth Element (see section 4-415(c)). Staff concurs with the Applicant’s Annexation Plan<sup>11</sup> some of which has been already discussed in this report and recommends the following:

### **Land Use Patterns:**

The Potomac Valley Shopping Center (South) is currently improved with a retail strip center and pad sites that consists of commercial, office, medical, automobile filling station, instructional, restaurant, retail and financial institutional uses. Annexation of the Subject Property is consistent with the Municipal Growth Element of the City of Gaithersburg’s Comprehensive Plan because the Subject Property is included within the City’s Maximum

<sup>11</sup> Exhibit 3 – Annexation Plan

Expansion Limits. The proposed zoning classification for the Subject Property is MXD, Mixed Use Development. The proposed MXD zone is recommended for the Subject Property in the Land Use Element of the City of Gaithersburg's Comprehensive Plan, and therefore consistent with the land use pattern envisioned by the City. The Land Use Element provides that:

*"This 4.7-acre area includes parcels that are located within the City's Maximum Expansion Limits, are contiguous with the City's current boundary, and could be annexed without creating an enclave. The property owner has expressed interest in having the land annexed into the City. The property is currently surrounded by a mix of commercial and institutional uses."*

**Applicable Strategic Direction: Planning, Economic**

**Land Use and Zoning Actions:**

- *Adopt Commercial -Office land use designation, if annexed*
- *Recommend CD or MXD Zoning, if annexed*

**Public Services and Facilities:**

As mentioned previously in the Adequate Public Facilities review, the subject property of the annexation is assigned WSSC water and sewer categories of W-1 and S-1, respectively. The site is currently served by public water and sewer services, thereby eliminating the need for the extension and provision of such services by the municipality, or in this case, the Washington Suburban Sanitary Commission.

Montgomery County is responsible for providing public libraries to the County, including the City of Gaithersburg. Although the Subject Property is recommended for non-residential uses, it adjoins the Montgomery County Public Libraries Quince Orchard branch and will certainly be utilized by employees and customers of the property.

The City of Gaithersburg has its own Police Department and through a memorandum of understanding, the Montgomery County Police Department also serves the City of Gaithersburg. Following the annexation, the City of Gaithersburg Police Department will extend services to the Subject Property and the abutting right of way.

The Montgomery County Fire and Rescue Service ("MCFRS") provides fire protection and emergency services to the City of Gaithersburg. As mentioned previously, the Potomac Valley Shopping Center property is within the ten (10) minute response areas of MCFRS Stations 31 (immediately adjacent to the property on Darnestown Road), 8 (Montgomery Village Avenue) and 32 (Travilah). This service will continue to be provided to the property following annexation.

The property is serviced by State Roads, Maryland Routes 28 and 124. These roadways would continue to be maintained by Maryland SHA should the property be annexed into the City.

## **Cost to the City for Providing Services and Extension of Services**

The extension of municipal services to the Subject Property will begin upon annexation. The cost to the City for providing the services to the Subject Property is contemplated within the Maximum Growth Element of the City's Master Plan and included as part of the City's Budget process.

## **Municipal Growth Element**

As mentioned above, the proposed annexation is discussed in the 2003 *City of Gaithersburg Master Plan Municipal Growth Element* (adopted 2009). This document identified this area within the City's Maximum Expansion Limits (MEL) and part of its Growth Areas.

## **Stormwater Management**

The Applicant will be required to comply with the City's Stormwater Management requirements to the maximum extent practicable. This will be part of any development review process for expansion or redevelopment.

## **Conclusion:**

The City of Gaithersburg is a State-designated Priority Funding Area. As such, the City is recognized as having existing infrastructure that would support future development and redevelopment. 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 public facilities and financial security to support the annexation of the subject area proposed for annexation.

## **STAFF RECOMMENDATION AND FINDINGS:**

Staff finds that the proposed petition for annexation, X-7089-2015, complies with the City's Master Plan. The annexation will further the City's stated goals of promoting economic development, diversifying local economy to allow a variety of uses, allowing for redevelopment opportunities on underutilized sites, promoting a mix of uses for "24/7 activity" and increasing the City's tax base. Additionally, staff supports the proposed annexation as it increases area in the City for jobs, which assists in balancing the Jobs to Housing Ratio. The proposed annexation, as identified in the City's adopted Maximum Expansion Limits, will conform to City's municipal growth boundary. Lastly, the proposed annexation will be not unduly burden existing public facilities as outlined in the Annexation Plan.

The Local Government Article and Land Use Article of the *Maryland Annotated Code* and *Chapter 24 (Zoning) of the City of Gaithersburg Code* outline the requirements and process for a proposed annexation. The Planning Commission is required to review the proposed annexation and associated rezoning and land use plan for consistency with the City's master plan and adequacy of public facilities, and 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 tentatively scheduled for November 16, 2015.

Staff recommends that the Planning Commission holds their record open for 8 days until 5:00pm on October 15, 2015, and provide a formal recommendation on the annexation petition and annexation plan on October 21, 2015 (fifteen days prior to the Mayor and City Council Hearing.)