

The staff recommends that a local park with a minimum of two large rectangular fields, related parking and a playground be provided on this site. The City of Gaithersburg staff recommendation that the applicant dedicate five acres of land as City Parkland would provide too small a park for these facilities. If the site is annexed, an agreement should be reached with the City of Gaithersburg to allow County leagues to permit these fields so that the park can serve residents in the County as well as the City of Gaithersburg and the future Crown Farm development.

Transferable Development Rights (TDRs) and Moderately Priced Dwelling Units (MPDUs)

The Crown Property is split zoned with the R-60/TDR-8 Zone to the west of proposed extension of Decoverly Drive to Fields Road and the R-200 Zone to the east. The applicant's project engineer estimates the TDR portion to the west to be approximately 94.2 acres.

The 1990 Shady Grove Study Area Master Plan contains the following language on pages 61 and 62 regarding the Crown Farm:

The Plan recommends a residential land use pattern that locates high-density housing near two proposed transit stops. The western portion of the farm is proposed for lower density housing in order to encourage a mix of apartments and attached and detached dwelling units.

This Plan proposes a total of 2,000 dwelling units on the Crown Farm. The majority of these units would be located near the transit stops and consist of multi-family units. The balance of the housing would be located on the western portion of the farm. This Plan strongly encourages the provision of detached housing on the western portion of the Crown Farm, but the actual number must be provided at time of subdivision and site plan review.

The 1990 Master Plan clearly recommends TDR development for approximately 53 percent of the subject property. The western portion of the property is a designated TDR receiving area (TDR-8) and zoned R-60/TDR consistent with the Master Plan.

The 1990 Master Plan recognized that areas designated for TDRs may be annexed by municipalities and includes the following recommendations regarding inter-jurisdictional issues:

Any land annexed by either Gaithersburg or Rockville should include a staging component in the annexation agreement, similar to that which would be in effect if the tract remained outside the City.

The cities should require the use of TDRs in their annexation agreements when TDR receiving areas are involved. In the absence of TDRs, the County Council should not concur in zoning densities greater than the base density shown in the Master Plan.

The cities of Rockville and Gaithersburg and the County should agree to develop a memorandum of understanding on maximum expansion limits and annexation issues. This agreement would provide the policy basis for reviewing all future annexation applications. (Page 137)

If the Crown Property were to remain within the County, optional method development of the west of the property would mandate acquisition and use of TDRs, and the provision of MPDUs. (i.e. TDRs would be purchased on all units above the base density, exclusive of MPDUs.) Use of the floating Planned Development (PD) Zone on the east would also mandate provision of MPDUs. The calculation of the number of TDRs and MPDUs when both are included in the same plan is relatively simple if the plan is at maximum density. The number of MPDUs equals 15 percent of the total number of units. The number of TDRs equals the difference between the R-60 base density (5 per acre) and the TDR option density (8 per acre) times the acreage (94.2) as follows:

Maximum Yield:

$$94.2 \text{ acres} \times 8 \text{ (TDR density)} \times 1.22 \text{ (maximum density bonus)} = 919 \text{ units}$$

Number of MPDUs:

$$919 \text{ units} \times 0.15 \text{ (%MPDU @ 22% bonus)} = 137.8 = 138 \text{ MPDUs (MPDU fraction is always rounded up)}$$

Number of TDRs:

$$94.2 \text{ acres} \times 8 \text{ (TDR density)} = 753 \text{ units}$$

$$94.2 \text{ acres} \times 5 \text{ (R-60 base density)} = 471 \text{ units}$$

$$753 - 471 = 282 \text{ TDRs}$$

Unit Summary:

Base Density	=	471 units
TDRs	=	282 units
MPDUs	=	138 units
Bonus Market Rate	=	28 units

TOTAL		919 units

The above calculations assume 100 percent single-family housing. The Master Plan recommends a range of 40-50 percent multi-family in the western portion of the Crown Farm. Assuming 50 percent multi-family, the number of TDRs under this scenario would be 212, as only one TDR is required for every two multi-family units.

The above calculations become more complicated if the proposed plan is not at maximum density. Because of the sliding MPDU scale, there are many alternative combinations of MPDUs and TDRs possible. The applicant can minimize the number of TDRs required by maximizing MPDUs and thereby receiving bonus market rate units. In the alternative, the applicant can limit the number of MPDUs by providing more TDRs. Either the number of MPDUs or the number of TDRs must be established first so that the other can be determined.

Staff recommends that a future Annexation Agreement be reviewed by the Planning Board and contain a provision mandating acquisition and use of TDRs, and provision of MPDUs.

ANNOTATED CODE OF MARYLAND

Creation of an Enclave

State law on annexations is found in the Annotated Code of Maryland, Article 23A, Section 19. The annotated code states the following:

*The legislative body, by whatever name known, of **every municipal corporation** in this State **may enlarge its corporate boundaries** as provided in this subheading; **but this power shall apply only to land:** (1) which is contiguous and adjoining to the existing corporate area; and (2) **which does not create any unincorporated area which is bounded on all sides by real property presently within the corporate limits of the municipality**, real property proposed to be within the corporate limits of the municipality as a result of the proposed annexation, or any combination of such properties. (Emphasis added.)*

This annexation has met the requirements of (a)(1) of the State Annotated Code because the subject property is contiguous to the municipal boundary in two locations along Fields Road. Staff is concerned that this annexation does not meet the requirements of (a)(2) of the State Code because it will result in the creation of an enclave, or island, of County land that is bounded on all sides by property that is within the City of Gaithersburg. (See Attachments 8 and 9.) This issue is addressed in the applicant's submission as "Joint Exhibit #3; Petition for Annexation." Number 3 of Exhibit 3 states: "Annexation of the Property will not create any unincorporated area which is bounded on all sides by real property presently within the corporate limits of the City of Gaithersburg, real property proposed to be within the City of Gaithersburg as a result of the proposed annexation, or any combination of any such properties."

If petition X-182 is approved and the Crown Farm is incorporated into the City of Gaithersburg, the annexation and subsequent redrawing of municipal and County boundaries will result in the creation of an unincorporated (County) area, which is completely surrounded by the City. As shown on Attachment 9, this area is located north of Fields Road and south of Washingtonian Boulevard and includes the Washingtonian Tower as well as several townhouse and apartment communities. This issue is not addressed in the City's preliminary staff report.

Substantially Different Zoning and Land Use

The State Annotated Code places some restrictions on changes in zoning and land use when property is annexed. In Article 23A, Section 9 (c), the code states the following:

...no municipality annexing land may for a period of five years following annexation place that land in a zoning classification which permits a land use substantially different from the use for the land specified in the current and duly adopted master plan or plans...of the county or agency having planning and zoning jurisdiction over the land prior to its annexation without the express approval of the board of county commissioner or county council of the county in which the municipality is located. (Emphasis added)

Section 9 (2) further states:

If the county expressly approves, the municipality...may place the annexed land in a zoning classification that permits a land use substantially different from the use for the land specified in the current and duly adopted master plan or general plan of the county or agency having planning and zoning jurisdiction over the land prior to its annexation.

The land uses permitted in the City's MXD (Mixed Use Development) Zone are substantially different from the County's zoning for the Crown Farm, which is R-60/TDR and R-200/PD. The City's MXD Zone allows (by right) all uses that are permitted in the City's commercial, employment, or industrial zones. (Section 24-160D.3 (b) of the City Zoning Code.) The County's R-60, R-200, and PD zones are primarily residential. The PD zone allows a very limited amount of retail, personal service, and professional office uses that serve the residents of the development. Since the land uses permitted in the City's proposed zone for the Crown Farm are substantially different than the uses allowed for the property in the County's zones, the Montgomery County Council will be required to take action on this annexation. The County Council will need to grant specific approval of the new zoning classification.

TRANSPORTATION

This memorandum contains Transportation Planning staff's initial comments on the transportation issues related to the subject annexation case and the traffic impact study. Our comments were developed based on our cursory review of the City of Gaithersburg's staff analysis and the February 24 traffic study prepared by the applicant's traffic consultant and received March 1. Staff provided preliminary comments on the traffic study, summarized below, on March 3 to the City of Gaithersburg's Engineering Services Director for consideration in their continuing review of the traffic study. Staff received a supplemental report from the traffic consultant on March 6 and is continuing the review of both documents.

There are three areas of substantive concern:

Corridor Cities Transitway (CCT) Facilitation

Preliminary discussions in the annexation process have indicated that the developer is considering a CCT alignment shift that would increase the transitway length and incorporate the transitway into the median of some roadways, both elements of concern to the Maryland Transit Administration (MTA). On the other hand, the preliminary discussions

have also suggested consolidating the two proposed stations into one station, located central to a cluster of high-rise residential buildings, both elements that staff finds would help increase overall system ridership. There does not appear to be any significant problem with a one-station approach as long as the development plans take into account station spacing and the parking requirements and other issues raised by the MTA. Any changes to the alignment as a result of the proposed development would receive the same level of examination as the alignment in the state's 2002 Draft Environmental Impact Statement (DEIS). The DEIS alignment received approval after a lengthy public input process and after an initial determination that stated concerns could be addressed.

Master Plan Roadways

Staff is concerned that the City may not pursue elements of the roadway system described in the current master plan of highways (as referenced in the 1990 Shady Grove Study Area Master Plan amendment). Preliminary discussions in the annexation process have indicated that the development might abandon the proposed arterial roadway extension of Diamondback Drive to meet Fields Road at Sam Eig Highway, and that provisions for future grade separated interchanges on Sam Eig Highway may not be preserved. Preservation of interchange right-of-way is a particular concern since the City did not fully preserve options per Planning Board comment on the related annexation case (X-181).

Transportation System Adequacy

Staff has begun review of the February 24 traffic impact study referenced in the application. The study identifies roadway infrastructure needs including many that would be associated with site development regardless of annexation status. Staff has three concerns regarding the study:

- The study contains several technical deficiencies that would preclude our acceptance of it as a formal Local Area Transportation Review analysis, were it to be submitted for a development case before the Planning Board. These deficiencies relate to study scope assumptions regarding background traffic, site definition details, the treatment of internal capture and pass-by trips, and the lack of defined improvements or programs to mitigate all site-generated impacts.
- The application indicates that the proposed zoning after annexation would yield higher commercial densities, yet the traffic study does not identify what elements of site-generated traffic are associated with the annexation.
- From a procedural perspective, the annexation case review schedule does not allow sufficient time for our staff, the State Highway Administration (SHA), Montgomery County Department of Public Works and Transportation (DPWT), and the public to review and comment on the study.

The site is located within the proposed Greater Shady Grove Transportation Management District (TMD). The County Council Transportation and Environment Committee approved the draft resolution in January and County Council action is expected this spring. Regardless of the annexation status, staff expects the Crown Farm property to be required to participate in the TMD, including consideration of travel demand management strategies, such as, but not limited to, the level of service provided by the shuttle bus service proposed in the City's staff analysis.

ENVIRONMENT

Environmental Planning staff has reviewed the proposed annexation for the Crown Farm and recommends that the annexation agreement contain the following commitments:

- In accordance with Montgomery County Forest Conservation law and regulations, at least 15 percent of the site should be forested. Since only 7.5 acres of the site is currently in forest, all this area should be protected and an additional 19.2 acres be planted according to forest specifications.
- All environmental buffers and forest conservation areas should be protected by perpetual conservation easements.
- Any development on this site should comply with county stormwater management requirements and avoid further stress on this subwatershed. Waivers should not be requested or granted, because the downstream effects would be a burden on the Muddy Branch in Montgomery County.
- Noise mitigation should be required to address noise impacts based on ultimate traffic conditions from Sam Eig Highway and Fields Road/Omega Drive.
- Green or high performance buildings, and protection of natural resources should be integrated into all uses within this mixed-use development and expanded upon to create a green community.

The site consists of approximately 182.8 acres and is located in the Muddy Branch watershed. The headwaters of the Decoverly Tributary form the southern boundary of the property and three branches of this tributary are partially or wholly within the property boundaries. Two of these streams have little or no forested buffer areas. The property is almost completely composed of farm fields. The U.S Army Corps of Engineers staff has delineated the wetland boundaries and those wetlands lie completely within the environmental buffers on the site. At later stages, the wetland analysis should consider any indicators of the existence of prior converted cropland conditions on the site. Prior converted croplands are former wetland areas that have been artificially drained for agricultural purposes, and provide excellent opportunities for restoration and mitigation.

Forest Conservation

This site has an approved Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) from the City of Gaithersburg. The M-NCPPC staff has not fully reviewed this document, and no approval has been sought from the M-NCPPC. The site contains approximately 7.5 acres of forest. The afforestation threshold, the appropriate threshold for forest conservation purposes, is 26.7 acres (15 percent of the site). The concept/sketch plan shows open space covering the forest in the stream buffer, but does not indicate whether the unforested portion of the stream buffer will be planted in forest. The forested portion of the proposed school site extends beyond the environmental buffer, but no indication is given whether this forest is to be retained. If all this forest is protected and the entire remaining stream buffer is reforested, the afforestation threshold is approximately 11 acres short on site.

The school site, which is illustrated at approximately 30 acres, is of particular concern. Approximately 7.5 acres of this site is forested, 6.5 acres of which is in the stream buffer. This reduces the usable area for the school to approximately 22.5 acres. Staff believes that the school site should be re-evaluated, if a full-size high school is proposed.

Montgomery County Code, Chapter 22A requires development of this type to plant or protect 15 percent of the site in forest. The concept/sketch plan submitted does not indicate any specific area of forest protection or forest planting.

Environmental Guidelines

This proposed development will be subject to the environmental regulations for the City of Gaithersburg. These regulations are patterned on the Planning Board's Environmental Guidelines, so the environmental buffers should be the same as would be required if the project were being reviewed through the M-NCPPC development review process. There is no encroachment proposed into wetlands or stream buffers on the plans submitted with the annexation request.

Watershed Protection/Water Quality

The property is located in the Decoverly Tributary to the Muddy Branch watershed. That section of Muddy Branch is designated as a Use I-P. The *Countywide Stream Protection Strategy* (CSPS, 1998) rates subwatershed stream conditions fair and habitat conditions good but unstable. Further stress on this subwatershed can have dramatic effects on downstream conditions in Montgomery County. Although a regional stormwater pond just off the site serves the area proposed for the high school, on-site stormwater management should be used to protect the stream above this point. Any development on this site should comply with county stormwater management requirements outside the stream valley buffers and avoid further stress on this subwatershed. Waivers for any part of the site should be avoided.

Water and Sewer

The service area categories for this site as designated in the County's Water and Sewer Plan are W-1 and S-6. Under these categories, the site is currently eligible for public water service, but not public sewer service. The provision of public sewer service will require the approval of a category change request (from S-6 to S-3) for the entire site. The owners will coordinate this request with the City and with the County's Department of Environmental Protection.

The Washington Suburban Sanitary Commission (WSSC) provides public water and sewer service in this area, both to the city and the surrounding county. Two major WSSC water transmission lines (60" and 36") traverse the property in a northeast-southwest direction. Access to public water service will be provided by extensions to the extensive network of smaller, local service water mains surrounding the property on almost all sides. The land generally falls from north to south, or away from Fields Road. This will likely direct sewer service extension towards the WSSC sewer mains south

and west of the site that parallel the Decoverly Tributary of Muddy Branch. The developers will work with WSSC through the utility's system extension permit process to secure the necessary approvals for the off-site and on-site water and sewer main extensions required to serve this project.

Noise

The applicant has completed a baseline existing noise analysis and they have noted that noise is an issue along Sam Eig Highway and Fields Road/Omega Drive. Analysis of future noise conditions based on projected/ultimate traffic conditions should be conducted at the next stage of review, and a noise mitigation concept developed. The top priority for noise mitigation is to place noise tolerant site uses (e.g., storm water management, non-residential uses, parking areas, active recreation areas, etc.) in the noise impacted areas. Noise-sensitive development (residential units, passive recreational areas, etc.) should be set back away from Sam Eig Highway and Fields Road.

Use of Green Urbanism Techniques

M-NCPPC staff encourages the use of creative strategies by which all developments reduce their ecological footprints, while at the same time becoming livable and equitable places. This development proposal promotes a condensed form of development around the transitway, mixed uses, walkable neighborhoods, and housing choices. Natural resources, such as streams, forests, and wetlands should be preserved and protected to help build *genius loci* or spirit of the place and to assist in keeping the air and water clean. Green building standards, as defined by the United States Green Building Council's Leadership in Energy and Environmental Design (LEED) program make large contributions to the sustainability of the city and region.

Green or high performance buildings, and protection of natural resources should be integrated into each use within this mixed-use development and expanded upon to create a green community development form. Goals of the green community should be to reduce energy use and protect air quality. Some specific considerations for creating a green community are: pervious green spaces judiciously placed throughout the development in a connected pattern; tree planting rates in the range of 15 to 25 percent to sequester carbon dioxide; use of reflective pavement; building orientation for passive solar, a fine textured grid of pedestrian and bicycle paths; and amenities such as community gardens.

HISTORIC RESOURCES

Staff recommends that the City of Gaithersburg include historic preservation provisions for the England-Crown Farm in the annexation agreement. These provisions should include:

- A historic and architectural analysis of the England-Crown Farm complex with a detailed statement of historic significance and definition of the period of significance. The analysis should include a detailed description of each of the buildings on the parcel (P833), a history of construction, and a categorization of their historic value (outstanding, contributing, non-contributing). In addition, the analysis should include significant landscape features and vista.