



Becraft Properties, The City of Gaithersburg Annexation X-7969-2018

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Completed: 9/05/2018

Description

Request to annex four parcels into the City of Gaithersburg and rezone the parcels from Montgomery County’s R-200 Zone to the City of Gaithersburg’s R-A Zone.

Location: South of the intersection of East Deer Park Drive and Central Avenue at 212, 216, and 220 East Deer Park Drive and 309 Central Avenue.

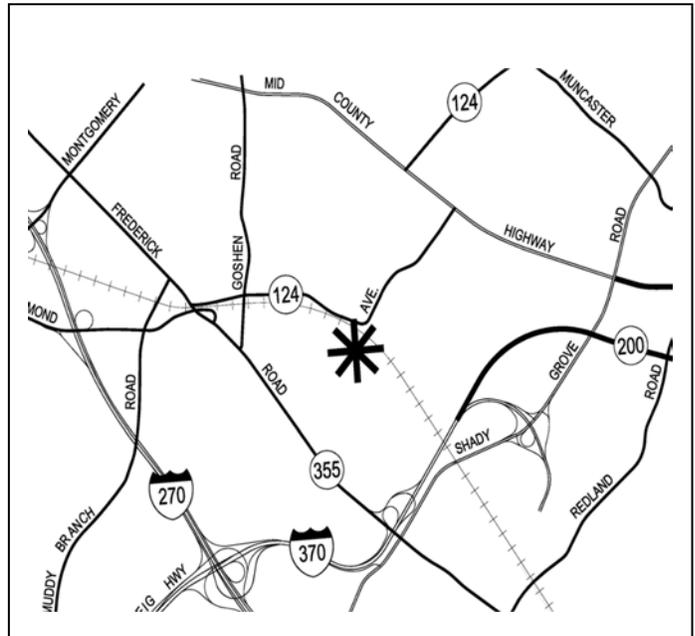
Master Plan: 2010 *Great Seneca Science Corridor Master Plan*.

County Zone: R-200.

Property Size: 1.813 acres.

Applicant: City of Gaithersburg.

Review: Maryland Code Local Government Division II – Municipalities, Title 4 - In General, Subtitle 4 – Annexation.



Staff Recommendation

- Staff recommends approval to transmit comments to the City of Gaithersburg and the Montgomery County Council.
- Annexation will change Montgomery County’s R-200 Zone to the City of Gaithersburg’s R-A Zone, which allows the same density.
- The existing lots are split between jurisdictions and the annexation will realign the lots under one municipal boundary.

Summary

State law requires municipalities that annex land to provide the County Council and the Planning Board notice of public hearings on the annexation, the annexation resolution, and the annexation plan. State law also requires the Council to approve the municipality's proposed zone under the annexation if that zone permits land uses or densities substantially different from those allowed in the county prior to annexation. Although the law does not explicitly require it, the Planning Board provides the Council with a recommendation on whether the zones proposed by the annexation require Council approval.

Planning staff recommends approval to transmit the comments in this report to the City of Gaithersburg and the Montgomery County Council.

Background and Location

MB Becraft LLC (the "Applicant" or "Petitioner") is the owner of the area proposed for annexation, which is located at the intersection of Central Avenue and East Deer Park Drive and includes lots 2, 7, 9 and 11 in Block 2 (Property). The Property is approximately one-half mile east of South Fredrick Avenue, as shown in the area outlined in red in Figure 1. To the east is the Washington Grove MARC Station; to the south is Washington Grove Elementary School; and to the north is the Gaithersburg City limits. The Property is zoned R-200 and is in the 2010 *Great Seneca Science Corridor* Master Plan area. The Property is in a neighborhood comprised of single-family detached houses. The surrounding zoning is R-200 and R-90 as shown in Figure 3.

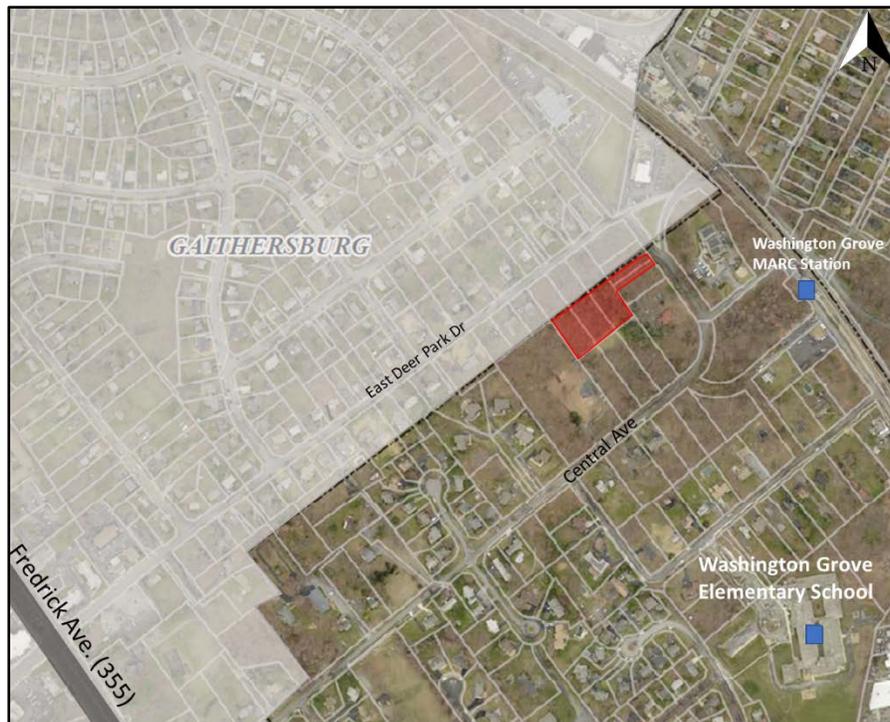


Figure 1- Vicinity Map

The Applicant has owned the Property since March 2018 and it is currently not developed. The lots have been recorded in the land records since 1888 and remain valid. The Property consists of four recorded lots that total approximately 1.81 acres. All of the lots are currently split between the jurisdictions of the City of Gaithersburg and Montgomery County.

Annexation Proposal

The Applicant is petitioning the City of Gaithersburg to annex lots 2, 7, 9 and 11 in Block 2 of the Oakmont Subdivision, Plat Book A Plat Number 20 (see Figure 2). The area of annexation consists of the portions of the four platted parcels that are currently not within the boundaries of the City of Gaithersburg. The proposed annexation intends to place these four lots that are currently within the two jurisdictions into one locality, within the City of Gaithersburg.

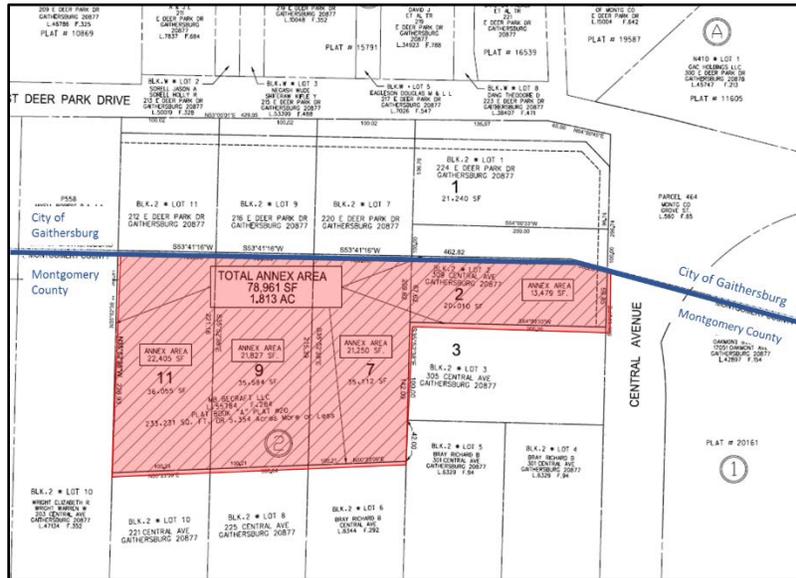


Figure 2- Annexation Property Boundaries

The annexation petition requests a rezoning from Montgomery County’s Low Density Residential R-200 Zone to the City of Gaithersburg’s R-A Low Density Residential Zone. The Property is located within the City’s Maximum Expansion Limits as identified within the Municipal Growth Element of the City’s 2003 Master Plan. The City’s R-A Zone does not allow greater density than the County’s R-200 Zone, as shown on the table below.

Table 1- Zoning Comparison

Zoning Comparison		
Jurisdiction	Montgomery County	City of Gaithersburg
Zone	R-200	R-A
Permitted Uses	The predominant use is single-family detached residential.	Primarily low density residential single-family detached dwellings.
Density	Minimum lot area: 20,000 SF; 2.18 units per acre	Single-family detached lots of 20,000 square feet.

Table 2- Becraft Annexation Plan

Becraft Annexation Plan				
	Size (sq. ft.)			
Lots	City	County	Total	Annexed
2	6,531	13,479	20,010	13,479
7	13,862	21,250	35,112	21,250
9	13,757	21,827	35,584	21,827
11	13,650	22,405	36,055	22,405
Total	47,800	78,961	126,761	78,961 (1.813 acres)

Master Plan

The Property is located within the Oakmont district of the 2010 *Great Seneca Science Corridor Master Plan*. The Master Plan does not specifically address the Property, but it states “these primarily residential communities have little development potential and the stable residential areas should be preserved” (page 70). The proposed annexation will maintain the single-family detached housing based on the City of Gaithersburg’s R-A Zone.

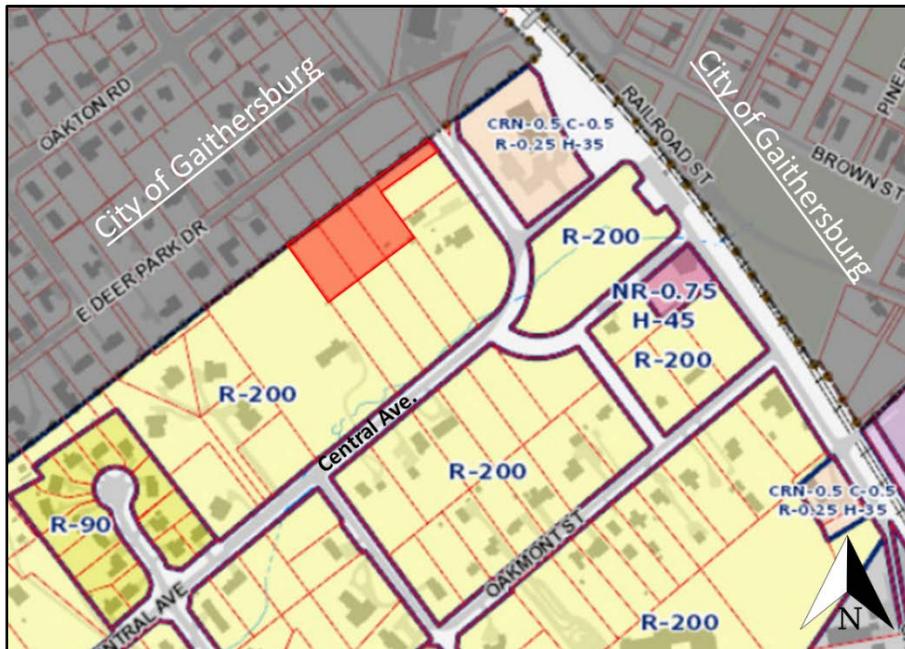


Figure 3- Montgomery County's Zoning Map

Annotated Code of Maryland

The Annotated Code of Maryland includes procedures and requirements for the annexation of land by incorporated municipalities, as outlined below.

Maryland Code Local Government Division II – Municipalities, Title 4 - In General, Subtitle 4 - Annexation

§ 4-401. Power to enlarge municipal boundaries by annexation

- (a) *In general.* -- Subject to subsections (b) and (c) of this section, the legislative body of a municipality may enlarge its boundaries by annexation as provided in this subtitle.
- (b) *Land to which power applies.* -- The power of annexation applies only to land that:
- (1) *is contiguous and adjoining to the existing boundaries of the municipality;*
and
 - (2) *does not create an unincorporated area that is bounded on all sides by:*
 - (i) *real property presently in the boundaries of the municipality;*
 - (ii) *real property proposed to be in the boundaries of the municipality as a result of the proposed annexation; or*
 - (iii) *any combination of real property described in item (i) or (ii) of this item.*
- (c) *Annexation of land in another municipality prohibited.* -- A municipality may not annex land that is in another municipality.

The properties proposed for annexation are currently part of an unincorporated area of Montgomery County. The annexation area is contiguous and adjoining to the existing lots and boundaries of the City of Gaithersburg. The annexation will not create an enclave, or unincorporated land surrounded by land inside or proposed to be inside the municipal boundaries.

§ 4-402. Initiation of annexation -- In general

An annexation proposal may be initiated by:

- (1) *the legislative body of the municipality as provided in § 4-403 of this subtitle; or*
- (2) *a petition in accordance with § 4-404 of this subtitle.*

This annexation proposal was initiated with a petition in accordance with Section 4-404.

§ 4-404. Proposal for annexation -- Initiation by petition

- (a) *In general.* -- Subject to § 4-413 of this subtitle, an annexation petition shall be signed by:
- (1) *at least 25% of the registered voters who are residents in the area to be annexed;*
and
 - (2) *the owners of at least 25% of the assessed valuation of the real property in the area to be annexed.*
- (b) *Verification of compliance with requirements.* -- After an annexation petition is presented to the legislative body of the municipality, the presiding officer of the legislative body shall verify:
- (1) *the signatures on the petition; and*
 - (2) *that the petition meets the requirements of subsection (a) of this section.*
- (c) *Introduction of resolution in legislative body.* --
- (1) *After verifying compliance with the requirements of this section, the presiding officer of the legislative body promptly shall cause a resolution proposing the change of boundaries as requested by the petition to be introduced in the legislative body.*
 - (2) *The annexation resolution shall conform to the form and content requirements of this subtitle.*

The petition submitted by the Applicant indicates that the petitioners own and control 100 percent of the assessed valuation of the Property to be annexed. The City of Gaithersburg will verify the signatures on the petition.

§ 4-406. Public notice and hearing on resolution

(a) *In general.* -- After an annexation resolution is introduced, the chief executive and administrative officer of the municipality shall publish notice in accordance with the requirements of this section that:

- (1) *briefly and accurately describes the proposed annexation and the applicable conditions and circumstances; and*
- (2) *specifies the date, time, and place that the legislative body sets for the public hearing on the proposed annexation.*

(b) *Publication of notice; date and location of hearing.* --

(1) *Public notice of the annexation resolution shall be published:*

(i) *Public notice of the annexation resolution shall be published:*

1. *At least four times; or*
2. *if the total area of the proposed annexation is 25 acres or less, at least two times;*

(ii) *at not less than weekly intervals; and*

(iii) *in at least one newspaper of general circulation in the municipality and the area to be annexed.*

(2) *The public hearing shall be:*

(i) *set no sooner than 15 days after the final required publication of the public notice; and*

(ii) *held in the municipality or the area to be annexed.*

The City has fulfilled its obligations under this Section. On August 8, 2018, the City of Gaithersburg provided a notice of the annexation public hearing, which is scheduled for October 15, 2018. This annexation petition is scheduled for the Montgomery County Planning Board's review and information on September 13, 2018. The County Council will review the proposal after the City Gaithersburg.

§ 4-415. Annexation plan

(c) *Annexations on or after October 1, 2009.* -- Except as provided in subsection (e) of this section, for annexation that begins on or after October 1, 2009, the annexation plan shall be consistent with the municipal growth element of the comprehensive plan of the municipality.

(f) *Copies of annexation plan.* -- At least 30 days before the public hearing on an annexation resolution required under § 4-406 of this subtitle, a copy of the annexation plan shall be provided to:

(3) *any regional or State planning agency with jurisdiction in the county.*

As discussed above, the annexation plan is consistent with the municipal growth element of the City's 2003 Master Plan, adopted in April 2009. The proposed development of the Property is consistent with the Master Plan recommendation and is compatible with the existing residential use.

§ 4-416. Planning and zoning authority

(b) *Different land use or density.* -- Without the express approval of the county commissioners or 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.

This is not applicable due to comparable zone from R-200 to R-A.

(c) County approval of zoning classification. -- Notwithstanding § 4-204 of the Land Use Article and if the county expressly approves, the municipality may place the annexed land in a zoning classification that allows a land use or density different from the land use or density specified in the zoning classification of the county or agency with planning and zoning jurisdiction over the land prior to its annexation applicable at the time of the annexation.

The annexed land will be rezoned from the County's R-200 Zone to the City's R-A Zone. Both zones are low density residential and the primary purpose of the annexation is to bring the lots under the control of one jurisdiction. The City of Gaithersburg will have exclusive jurisdiction over planning, subdivision, and zoning of the Property to be annexed.

Public Facilities and Services

The proposed annexation will be served by public water and sewer with a service category of W-1 and S-1. Other public facilities and services including police stations, firehouses and health care are currently operating and will continue to be sufficient following the annexation. Electric, gas and telecommunications services will also be available and adequate.

Environment

The Property is located northeast of the Muddy Branch stream, which runs parallel to Central Avenue. By approving the annexation, the Property will be developed with primary access from East Deer Park Drive. This will minimize the potential impacts to the Muddy Branch stream by improving the access point for these properties from East Deer Park Drive.

Transportation

Three of the lots (7, 9, and 11) will maintain the existing access from East Deer Park Drive. Lot 2 will maintain the frontage access along Central Avenue.

Community Concerns

Planning staff has received no correspondence on the proposed Petition.

Conclusion

The proposed annexation meets the requirements of *Maryland Code Local Government Division II – Municipalities, Title 4 - In General, Subtitle 4 - Annexation*. Therefore, Planning staff recommends approval to transmit comments to the City of Gaithersburg and the Montgomery County Council.

Attachment

1. The City of Gaithersburg Notice Letter

ATTACHMENT 1



Gaithersburg
A CHARACTER COUNTS! CITY

August 8, 2018

Ms. Gwen Wright
Planning Director
Montgomery County Planning
8787 Georgia Avenue
Silver Spring, MD 20910

Re: X-7969-2018 Becraft Properties Annexation to the City of Gaithersburg

Dear Ms. Wright,

The City of Gaithersburg received a petition for annexation for approximately 1.81 acres of land from Montgomery County into the City on June 27, 2018. The parcels, known as the Becraft Properties, are located south of the intersection of East Deer Park Drive and Central Avenue at 212, 216, and 220 East Deer Park Drive and 309 Central Avenue.

This letter serves as official notification, as required by §4-406 of the Land Use Article, that the Mayor and City Council will hold a public hearing regarding the proposed annexation on October 15, 2018. This application will go before the Montgomery County Planning Board for a determination of "substantial conformance" prior to the public hearing. The City Council's record is currently open. Advertising for the public hearing will be in accordance with §4-406 of the Land Use Article.

Attached is a copy of the Applicant's petition and statement in support and the annexation plan. You may contact me with any questions you may have regarding the application at 240-805-1153 or laura.howell@gaitthersburgmd.gov

Sincerely,

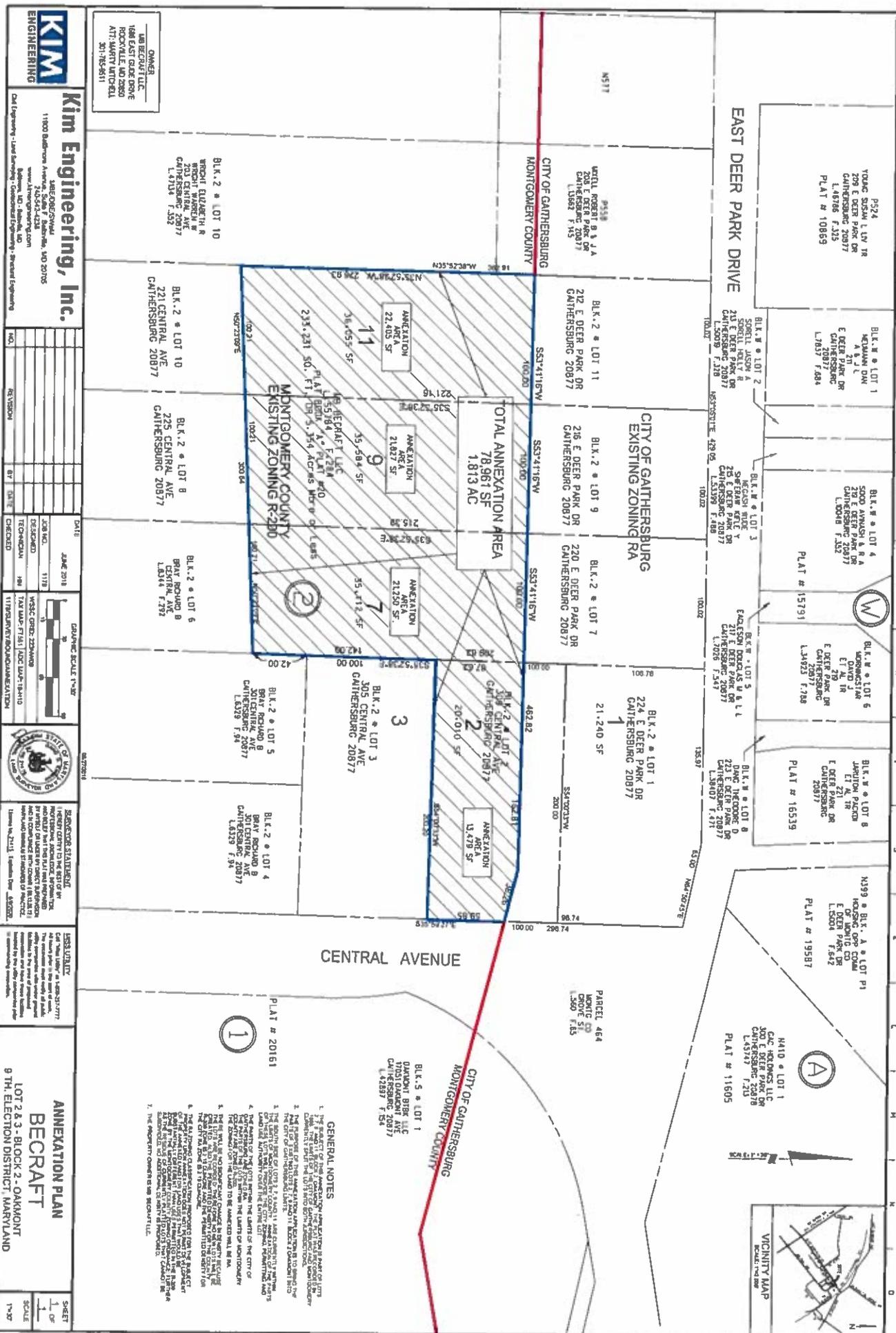
Laura Howell, Long Range Planner
Planning and Code Administration

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Tony Tomasello



KIM
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11000 Builders Avenue
CATERPILLAR BLVD., MD 20705
Tel: 410-321-4232
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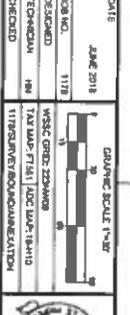
DATE: JUNE 2018

PROJECT: ANNEXATION PLAN
SHEET: 1 OF 1
SCALE: 1"=50'

Kim Engineering, Inc.

11000 Builders Avenue
CATERPILLAR BLVD., MD 20705
Tel: 410-321-4232
www.kimengineering.com

NO.	DESCRIPTION	DATE	BY	CHECKED
1	ISSUED FOR PERMIT	06/15/18	JK	JK
2	REVISED PER CITY COMMENTS	06/20/18	JK	JK
3	REVISED PER CITY COMMENTS	06/20/18	JK	JK
4	REVISED PER CITY COMMENTS	06/20/18	JK	JK
5	REVISED PER CITY COMMENTS	06/20/18	JK	JK
6	REVISED PER CITY COMMENTS	06/20/18	JK	JK
7	REVISED PER CITY COMMENTS	06/20/18	JK	JK
8	REVISED PER CITY COMMENTS	06/20/18	JK	JK
9	REVISED PER CITY COMMENTS	06/20/18	JK	JK
10	REVISED PER CITY COMMENTS	06/20/18	JK	JK
11	REVISED PER CITY COMMENTS	06/20/18	JK	JK



ANNEXATION PLAN
BECRAFT

LOT 2 & 3 - OAKMONT
9 TH, ELECTION DISTRICT, MARYLAND

GENERAL NOTES

1. THE SUBJECT OF THIS ANNEXATION IS SHOWN ON LOTS 2 AND 3 OF BLOCK 2, OAKMONT, 9TH ELECTION DISTRICT, MARYLAND. THE SUBJECT OF THIS ANNEXATION IS SHOWN ON LOTS 2 AND 3 OF BLOCK 2, OAKMONT, 9TH ELECTION DISTRICT, MARYLAND.
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