

RECOMMENDATIONS

Approve transmittal of the following comments to the Montgomery County Council and the City of Rockville regarding the City of Rockville Annexation Petition (ANX 2020-00146) for 16160 and 16200 Frederick Road (MD 355), King Buick property:

- Approval is limited to 365 residential units and up to 2,500 square feet of non-residential development.
- The minimum right-of-way recommended for Frederick Road (MD 355) is 150 feet and the development should incorporate the design alignment for the MD 355 Bus Rapid Transit (BRT) project.
- The development should incorporate Vision Zero improvements along MD 355, including a minimum 6-foot landscape buffer adjacent to vehicular travel lanes and limit curb radii to a maximum of 25 feet.

BACKGROUND AND LOCATION

The King Buick property, also known as the Victor property, is located approximately 800 feet south of the intersection of Shady Grove Road and Frederick Road (MD 355). The proposed annexation area is approximately 11.96 acres, including 10.23 acres of the dealership property and 1.73 acres of the MD 355 right-of-way, owned by the State of Maryland. The property is in the General Retail (GR) 1.5 H-45 Zone. There are several buildings on the property with surface parking for vehicles. An additional 10-acre property in the City of Rockville, known as Frederick Road Limited Partnership, will be included with the proposed annexed King Buick property (Figure 1).

The Shady Grove Plaza property is located to the immediate north with various commercial uses, including an office building and a Comfort Inn hotel.

The King Farm community is located to the immediate south and west, including the Mattie J.T. Stepanek Park and the King Farm Farmstead Park. Across MD 355 is a vacant property at the intersection of MD 355 and Shady Grove Road, and the Shady Grove Transfer Station and Recycling Center are located adjacent to the vacant property.

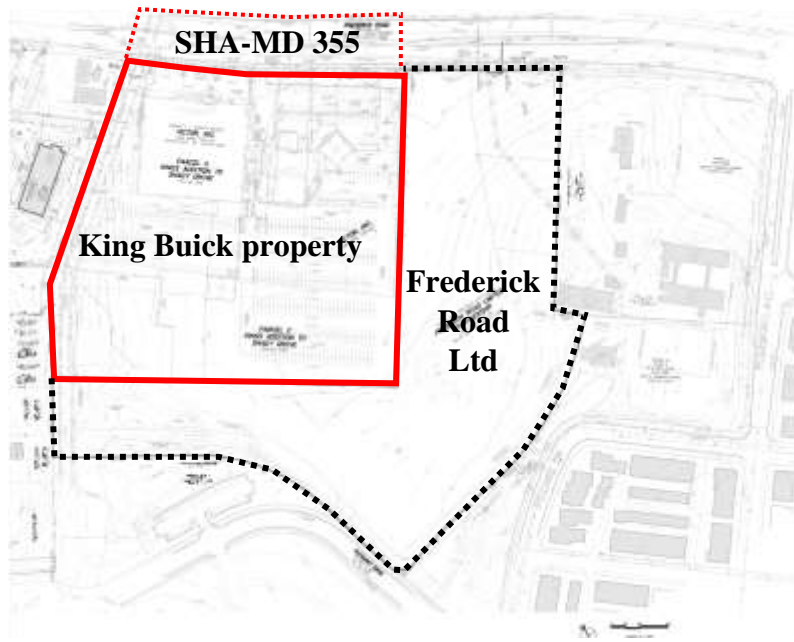


Figure 1: Properties associated with the proposed development and annexation

There are two prior City of Rockville annexations, which are located further south of this property at the northeastern and southeastern intersection of MD 355 and King Farm Boulevard Extended.

ANNEXATION PROPOSAL

The proposed annexation seeks to reclassify the 10.23-acre King Buick property from the County's General Retail (GR)1.5 H-45 Zone to the City of Rockville's Mixed-Use Corridor District (MXCD) Zone. In addition, a portion of the King Farm development, known as Frederick Road Limited Partnership, will be included with the King Buick property.



Figure 2: Illustrative Concept Plan for the King property and the adjacent City of Rockville property.

The proposed development would permit up to 365 residential units, including 247 townhouses and 118 two-over-two units. It is anticipated that the development would include up to 15 percent Moderately Priced Dwelling Units (MPDUs). EYA is the contract purchaser for both properties (Figure 2).

The City of Rockville's MXCD Zone permits a range of uses, including residential townhouses, multifamily residential, commercial and institutional uses. The County's existing GR Zone is a commercially oriented zone that permits a broad range of non-residential uses. However, residential uses are limited in the GR Zone. Section 59.4.6.3.C.2.a of the County's Zoning Ordinance notes that the "gross floor area of all Household Living uses is limited to 30 percent of the gross floor area in the subject site."

The Planning Board's Draft Plan of the Shady Grove Minor Master Plan Amendment (2020) recommends rezoning the King Buick property to the Commercial Residential Town (CRT) C0.5 R1.0 H-80 Zone. The County Council will begin reviewing the Board's Draft Plan in March. If approved, the CRT Zone would permit more residential uses than the GR Zone.

CITY OF ROCKVILLE MAYOR AND COUNCIL

The City of Rockville Council introduced an Annexation Resolution for the annexation area on November 23, 2020 and set the public hearing on the resolution for April 17, 2021. The Mayor and Council are scheduled to adopt the Annexation Plan at their meeting on March 29, 2021. The Maryland Annotated Code requires an Annexation Plan. The City of Rockville planning staff supports the proposed annexation because the property is within the Maximum Expansion Limits (MEL), and the proposed MXCD Zone is consistent with the City's policies.

SHADY GROVE SECTOR PLANS

The King Buick property is within the Shady Grove Sector Plan area. Located within the Shady Grove Plaza area in the 2006 *Shady Grove Sector Plan*, the Plan recommended "maintaining the commercial and mixed-use zoning" for the area, which for this property was the Convenience Commercial (C-3) Zone (p.25). The 2014 District Map Amendment rezoned the King Buick property to the General Retail (GR 1.5 H-45) Zone from the C-3 Zone.

The Planning Board's Draft of the Shady Grove Minor Master Plan Amendment (2020) recommends "new non-residential and residential development" for the Shady Grove Plaza properties, including the dealership property (p.57). The 2020 Draft Plan recommends rezoning the dealership property to the Commercial Residential Town (CRT 1.5 C0.5 R1.0 H-80) Zone (Figure 3). If approved by the Council, the proposed development could be accomplished within the CRT Zone.

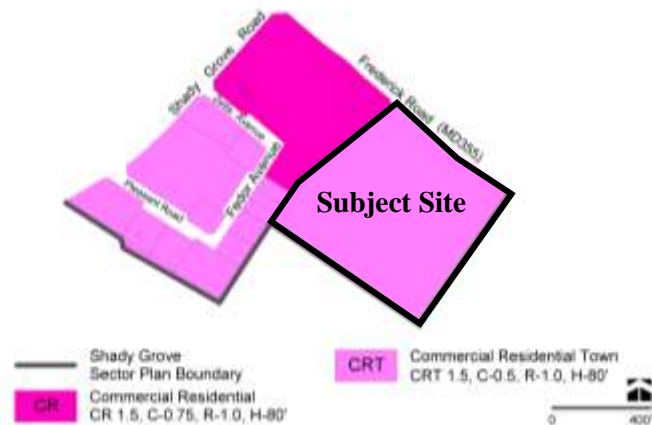


Figure 3: Planning Board's 2020 Draft Plan zoning recommendation for the King Buick property.

PUBLIC SCHOOLS

The King Buick property is located within the Gaithersburg Cluster, which is served by a high school, two middle schools, and seven elementary schools. A new high school at the Downtown Crown property is anticipated by September 2026, and both middle schools in the cluster, Forest Oak and Gaithersburg, are within their projected program capacities. Gaithersburg High School is currently above its enrollment capacity. The proposed annexation area is within the Rosemont Elementary School service area.

A new elementary school at Kelley Park, which is in the City of Gaithersburg, is anticipated by September 2022. The Planning Board's FY 2021 Annual School Test indicates the elementary school is within the utilization standards for Rosemont elementary school. According to Montgomery County Public Schools (MCPS) FY 2021-26 CIP, the projected Rosemont enrollment indicates an enrollment surplus of 22 students. If the property were developed within the County, no utilization premium payments would be required.

ANNOTATED CODE OF MARYLAND

The Annotated Code of Maryland establishes the rules and procedures for municipal annexations. Section 4-401 of the Code, titled “Power to enlarge municipal boundaries by annexation”, states that: Land to which power applies

(b) 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.

The proposed annexation request adheres to these requirements since the King Buick property adjoins the existing boundary of the City of Rockville; the annexation would not create an unincorporated area bounded on all sides by real property within the boundaries of the municipality; and the property is not within another municipality. The property is within the City’s Maximum Expansion Limits (MELs) and is consistent with the City’s Municipal Growth Element (MGE), shown in Figure 4.

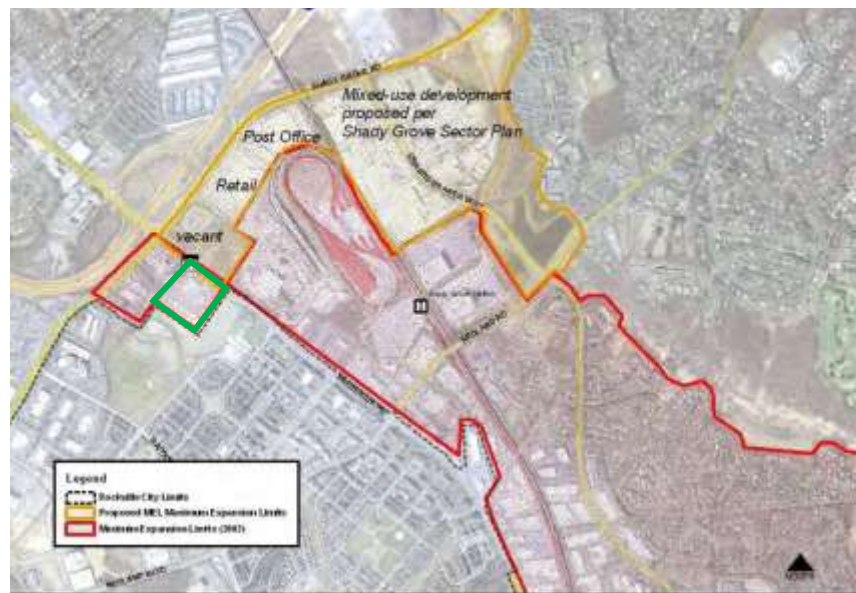


Figure 4: City of Rockville existing and proposed Maximum Expansion Limits (MELs).

Section 4-406 of the Maryland Code’s, titled “Public notice and hearing on resolution,” states in part:

- (a) 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.

Notice to county and planning agencies

- (d) Immediately after the first publication of the public notice, the municipality shall provide a copy of the public notice to:
- (1) the governing body of the county in which the municipality is located; and

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

The January 20, 2021 submission from the City of Rockville serves as the public notice, which is required by Section 4-406 of the Maryland Code. The City of Rockville's Mayor and Council introduced an Annexation Plan on November 23, 2020 and set the public hearing on the Resolution for April 17, 2021. The Mayor and Council are scheduled to adopt the Annexation Plan at their meeting on March 29, 2021.

Different Land Use and Density

The Annotated Code, planning and zoning authority (Section 4-416), places some limits on land use changes and zoning, when a property is annexed from the County into a municipality.

(b) 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 percent, than could be granted for the proposed development, in accordance with the zoning classification of the county applicable at the time of the annexation.

County approval of zoning classification

(c) 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 non-residential land uses permitted in the existing General Retail (GR) Zone are similar to those in the proposed Mixed-Use Corridor District (MXCD) Zone. However, residential uses are more constrained in the GR Zone where residential development is allowed as a limited use, rather than as a permitted use, and is restricted to 30 percent of a property's gross floor area.

The Draft Plan's proposed mixed-use Commercial Residential Town (CRT) Zone for the King Buick property is more aligned to the City's MXCD Zone than the GR Zone. Both the CRT and MXCD Zones are intended to create mixed-use and pedestrian-oriented centers, either near transit areas or along major highway corridors (City of Rockville Ordinance, Article 13, 25.13.02).

Without the Council's express approval, the proposed development may be delayed for five years under the Maryland Annotated Code, Local Government Article, Section 4-416(b). The County's current GR 1.5 H-45 Zone does not allow the residential density, or height, to permit this development.

As proposed, the density for the development is approximately 1.23 FAR. The proposed FAR is within the existing GR 1.5 Zone of the property, as well as the Planning Board's Shady Grove Minor Master Plan Amendment Draft Plan, which recommends the Commercial Residential Town (CRT 1.5 C0.5 R1.0 H-80) Zone. The main difference is the land use mix, which is permitted more in the CRT Zone than the GR Zone.

ENVIRONMENT

The 2006 *Shady Grove Sector Plan* recommends various strategies towards creating a sustainable environment, such as a network of urban parks, recreation parks, and green buildings. Similarly, the Planning Board's Shady Grove Minor Master Plan Amendment recommends a broad range of approaches, such as striving for "maximum shade cover over paved areas in streetscapes and plazas" and prioritizing environmental public benefit points (p.82). There are no streams, wetlands, or forests on the subject site.

TRANSPORTATION

The King Buick property is located along Frederick Road (MD 355). This segment of MD 355 is classified as a major highway with a minimum 150-foot right-of-way. Areas identified as the Metro Neighborhoods in the Shady Grove Plan area have different recommended right-of-way widths, based on which BRT option is pursued. The 2020 Draft Plan envisions MD 355 with an enhanced streetscape, safe pedestrian access and bus rapid transit (BRT) opportunities. The Draft Plan recommends that the roadway provide "enlarged pedestrian refuges along MD 355 to provide areas for pedestrians, bicyclists, and micromobility users to wait safely while crossing the street. This vision would be consistent with the urban boulevard design of the 2006 Sector Plan" (p.112).

The County's Vision Zero Action Plan (2020) indicates that MD 355, within the Shady Grove area, is within the High Injury Network (HIN) for roadways. The Draft Plan recommends several Vision Zero measures, including providing a minimum six-foot landscaped buffer between pedestrian/bicycle facilities and vehicular travel lanes, and limiting curb radii to a maximum of 25 feet within the Plan area to make the roadway safer (p.120).

CONCLUSION

The proposed annexation is in substantial conformance with uses authorized in both the CRT Zone and the recommendations in the Planning Board's 2020 Draft Shady Grove Sector Plan Amendment. However, it does not conform to the current GR Zone because of the existing height and the residential limits in the zone. The proposed zone is not substantially higher than the current zone, nor the Draft Plan's proposed zone and recommendations. It is also within the density limits permitted under Section 4-416 of the Annotated Code. The Council's upcoming action on the Shady Grove Minor Master Plan Amendment will likely change the GR zone on the King Buick property; therefore, staff recommends that the Montgomery County Council grant the annexation request.

ATTACHMENT:

1. Annexation Plan