



MONTGOMERY COUNTY PLANNING DEPARTMENT
 THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

**Staff Report: Preliminary Plan No. 120090090: Montgomery Village Marketplace
 Site Plan No. 820090060: Montgomery Village Marketplace**

ITEM #: _____

MCPB HEARING DATE: September 17, 2009

REPORT DATE: September 4, 2009

TO: Montgomery County Planning Board

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APPLICATION

DESCRIPTION: Proposal to create two lots for a 3,172 square foot bank with drive-thru lanes, a 12,896 square foot retail/restaurant building, and a 8,800 square foot retail/restaurant building, and a parking waiver of approximately 8 percent; 3.32 acres; TS Zone on Stedwick Road approximately 410 feet west of Montgomery Village Avenue; Gaithersburg Vicinity Master Plan.

APPLICANT: JDC Village Development, LLC c/o J. Donegan Company

FILING DATE: Preliminary Plan: October 29, 2008
 Site Plan: October 29, 2008

RECOMMENDATION: Approval with conditions

EXECUTIVE SUMMARY: The preliminary and site plan applications propose to consolidate 2 recorded lots and 1 unrecorded parcel in order to create 2 new lots, including a 0.38-acre lot for a 3,172 square foot bank with drive-thru lanes and a 2.94-acre lot for 21,696 square feet of retail and restaurant uses. The primary access point to the site from the private drive along the western property boundary will remain. Improvements along the Stedwick Road property frontage, within the right-of-way and at the Stedwick Road and Montgomery Village Avenue intersection will improve both pedestrian and vehicular access to and from the site.

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SECTION 1: CONTEXT AND PROPOSAL

SITE DESCRIPTION

Vicinity

The Subject Property is located on the north side of Stedwick Road approximately 410 feet west of Montgomery Village Avenue, within the Gaithersburg Vicinity Master Plan area. The property is at the edge of the Montgomery Village retail and commercial center, which has been developed following a suburban model with more emphasis on vehicular access and circulation than on pedestrian access. Adjacent uses include a post office to the west, the Village Center to the north, and a bank and offices to the east. The Village Center contains a supermarket, a pharmacy, and other businesses serving local neighborhood needs. The communities of Center Court, Center Stage, and Heron's Cove are located across Stedwick Road to the south. All adjacent and confronting properties are zoned Town Sector (TS).

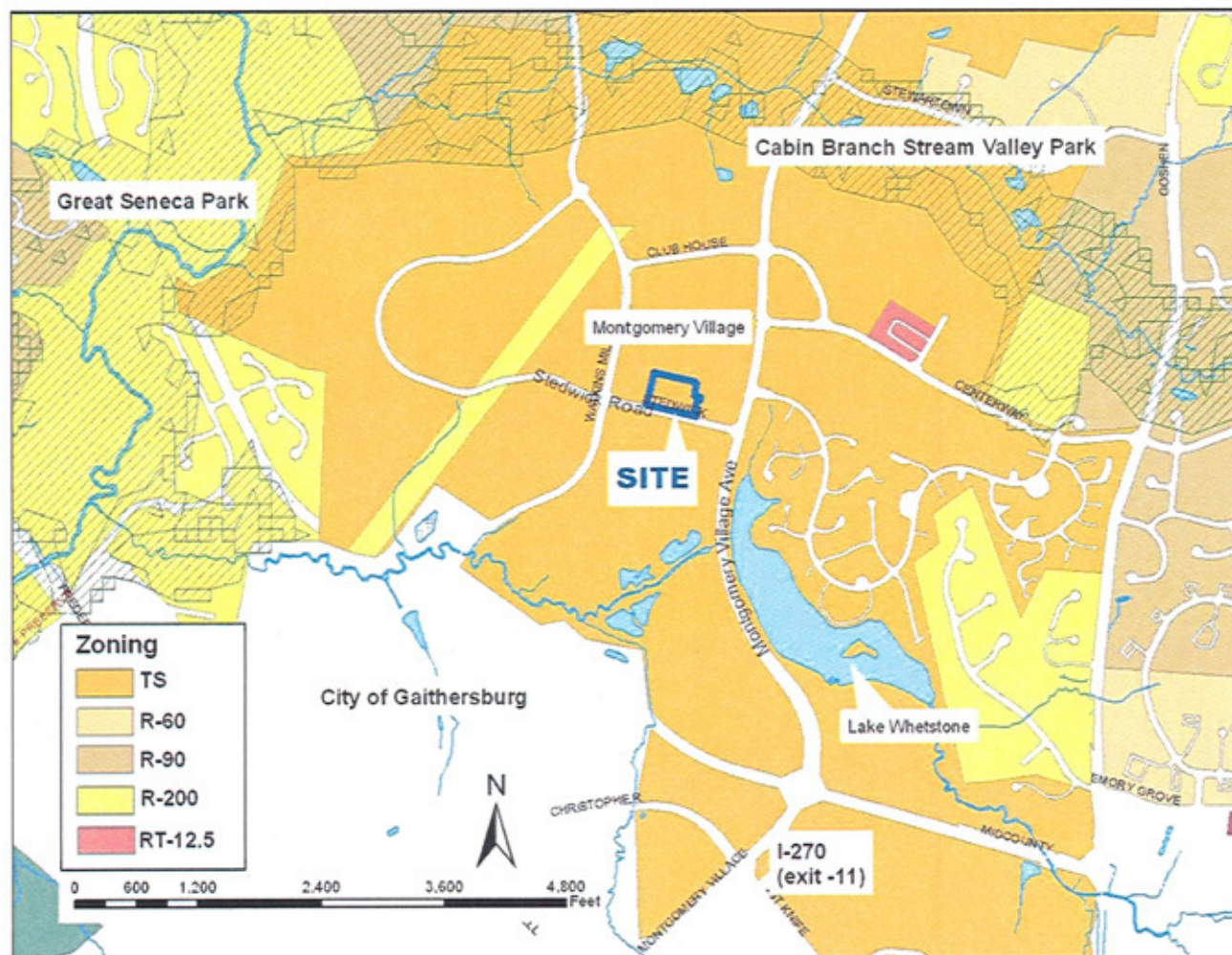


Figure 1: Vicinity Map

Site Analysis

The 3.32-acre property consists of two recorded lots, Lot 15 and 19, and one unrecorded parcel, Parcel 387. These properties are located at 10001, 10011 and 19101 Stedwick Road, respectively, between Montgomery Village Avenue and Watkins Mill Road, in Montgomery Village. The site lies within the Town Sector Zone. The site consisted of a former YMCA on Lot 15 approved under Site Plan No. 819860270 on May 22, 1986. Parking for the YMCA was on Parcel 387 originally approved under development plan E848 followed by subsequent approvals. The former Montgomery Village Visitors Center and parking lot was located on Lot 19 under Site Plan No. 819810150 approved on April 21, 1981. The buildings and parking lots have been demolished and removed, but a number of easements for the associated infrastructure remain on the property. Most notably, a semi-circular shaped easement for WSSC and Pepco underground utilities exists along the property frontage. There are no streams, wetlands, forests or associated buffers on this site. The site will be served by municipal water and sewer.



Figure 2: Aerial Photo with approximate site boundary outlined in blue

PROJECT DESCRIPTION

Previous Approvals

Following the initial zoning case **E-848** for Montgomery Village, which was approved in August of 1968, various modifications required development plan amendments to be approved. The most recent Development Plan Amendment, **DPA 02-2**, was approved by the District Council on July 1, 2003, signed on August 14, 2003, and later corrected on April 7, 2006.

On April 21, 1981, the Planning Board approved **Site Plan No. 819810150** for the Montgomery Village Visitors Center and parking lot, located on Lot 19.

On May 22, 1986, the Planning Board approved **Site Plan No. 819860270** for the former YMCA building on Lot 15 with parking on Parcel 387.

On July 23, 2009, the Planning Board supported approval of the abandonment of the pedestrian underpass/tunnel under Stedwick Road, **case AB 724** [Appendix A]. The Montgomery County Council will make the final decision regarding this tunnel closure, prior to certified site plan approval.

A **Preliminary Plan** is required in order to consolidate the 2 recorded lots and unrecorded parcel, create 2 new lots, and to assess the adequacy of public facilities for the proposed uses.

Proposal

As previously stated, the preliminary and site plan applications propose consolidation of 2 recorded lots and 1 unrecorded parcel in order to accommodate a 0.38-acre lot for a 3,172 square foot bank with 2 drive-thru lanes (proposed lot 28) and a 2.94-acre lot (proposed lot 29) for 21,696 square feet of retail and restaurant uses. This proposal retains a private drive along the western-most portion of the Property from Stedwick Road, currently providing access to the Post Office. The private drive will serve as the primary vehicular access point to the drive-thru bank lanes and the parking lot for the retail and restaurant uses. A secondary access to the site will also be provided along the eastern property line via a connection to the existing parking lot on that side.

Pedestrian access to the site is provided via a new 8-foot-wide sidewalk along the Stedwick Road frontage transitioning to a 5 foot-wide sidewalk along the private drive. The Applicant proposes to remove, structurally fill and then seal the Stedwick Road underground pedestrian tunnel at both ends, subject to final approval by the Montgomery County Council, and to provide a safe and efficient at-grade alternative to enable pedestrians to cross Stedwick Road. In coordination with the Montgomery Village Foundation, the Heron's Cove and Center Court condominium associations, MCDOT, and MNCPPC, the Applicant proposes to locate an at-grade mid-block crosswalk connecting the project site to the existing pedestrian system on the Heron's Cove Property, and to construct a 6 foot-wide sidewalk within the Heron's Cove property to enhance pedestrian connectivity.

The proposed buildings relate well to the adjacent streets and the surrounding development in Montgomery Village. Buildings A and C are oriented towards Stedwick Road, which will help to activate this street. The buildings could not be moved closer to the road because of various utility easements positioned in an usual curved configuration to accommodate the pedestrian tunnel underneath Stedwick Road. Staff explored the relocation of the utilities within the easement, but determined through discussions with the Applicant and utility companies that relocation was impractical, costly, and unfeasible. Building A holds the corner of the site at Stedwick Road and the private drive leading to the core shopping area of Montgomery Village. The drive-thru will be located in the rear of Building A to minimize views from Stedwick Road. Building B is located in the rear of the site at the Northwest corner. The locations of the buildings break-up extensive areas of parking into smaller areas and minimize views of the parking from Stedwick Road.

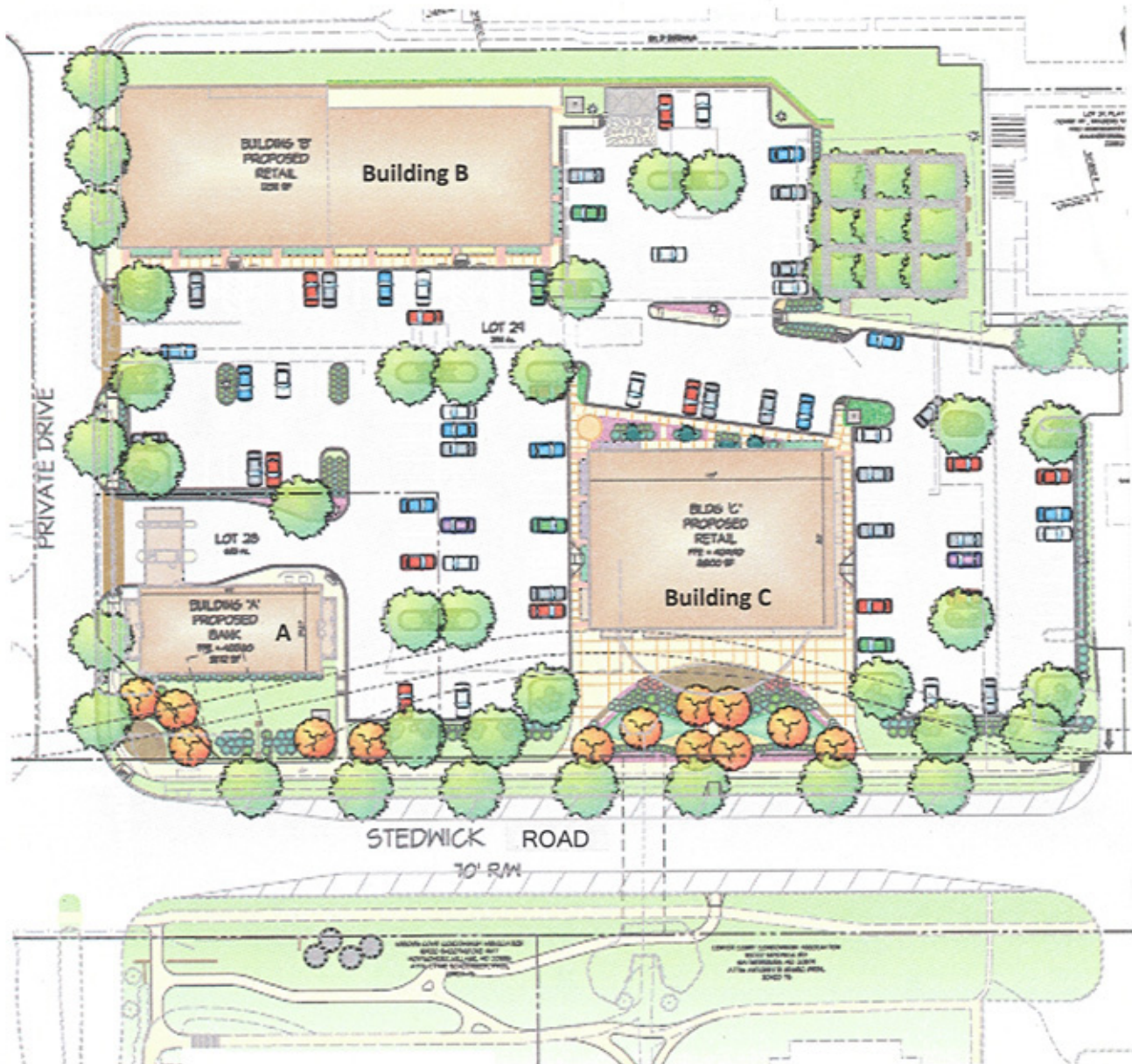


Figure 3: Illustrative Plan

The three main open spaces being provided complement the uses proposed and are well integrated into the site layout. The landscaped plaza between Building C and Stedwick Road (Figure 4) is the main gathering space, which will be activated by the retail and restaurants within Building C. This space will also draw pedestrians into the site from Stedwick Road since it is located across from the new pedestrian crossing. The open space between the bank and Stedwick Road is mostly landscaped and has a small paved area with two benches at the corner. This area will function mostly as a visual amenity that will complement other landscaped areas on site. The third open space retrofits an existing, although degraded, open space with a grove of mature trees located in the northeast corner of the site.



Figure 4: Main plaza between Building C and Stedwick Road



Figure 5: Bank building at the corner of Stedwick Road and the private drive.

During the course of this review, several issues came up related to the closure of the pedestrian tunnel underneath Stedwick Road, the most recent being the plans from MCDOT – Division of Transit Services to construct a transit layover facility along the Stedwick Road frontage of the site [Appendix B].

As a result of the tunnel closure, the Applicant was required to provide an alternative at-grade mid-block crossing on Stedwick Road. The preferred layout by MNCPPC included a median on Stedwick Road, given that the original recommendation to have bump-outs and crosswalks at the intersections was not acceptable to DOT. The chosen layout, which evolved from the layout on the image below (Figure 6), includes chokers at the proposed mid-block crosswalk and restriping of Stedwick Road between Montgomery Village Avenue and the shopping center driveway (opposite Mills Choice Road) to narrow the travel lanes in each direction, but no median.

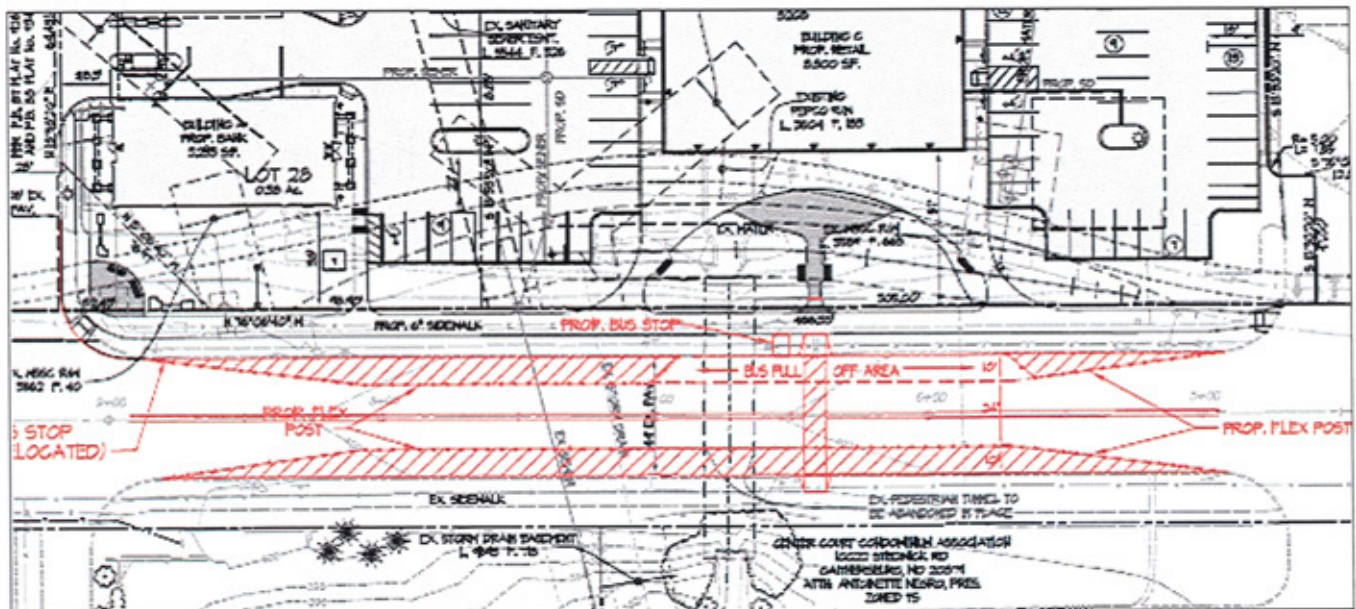


Figure 6: Proposed Improvements along Stedwick Road.

The mid-block crosswalk is aligned with the proposed plaza on the subject site. However, on the south side of Stedwick Road, there is a considerable grade change between Stedwick Road and the existing pedestrian system, which connected to the tunnel. Therefore, the Applicant was directed to provide stairs and an ADA path to connect the existing pedestrian system to the new mid-block crosswalk. The communities of Center Court and Heron's Cove are opposed to having stairs (and initially the ADA path) on their property because of liability and maintenance issues.

Recently in their letter dated August 28, 2009, MCDOT – Division of Transit Services has communicated that the property frontage along Stedwick Road offers a welcome opportunity to locate a new transit layover facility [Appendix B]. Staff's understanding is that the proposed facility along Stedwick Road would replace a current facility on Club House Road. The new facility is envisioned to provide a safe and well lit location for bus riders to wait for their bus service as well as provide an adequate layover location for two buses and a restroom facility for the bus operators. The target area for transit layover facility is in the space between proposed buildings A and C

(opposite the proposed on-site parking lot), however the entire area between proposed Building C and the entrance to the shopping center (opposite Mills Choice Road) will be designated as transit layover area. All of these improvements, including the transit layover facility and striping, are within the right-of-way and can be implemented at DOT's discretion.

The recommendation to locate a transit layover facility along the Stedwick Road frontage of the site conflicts with Site Plan Staff's original recommendations which resulted in the current site layout. Staff required the Applicant to revise their original layout in order to provide building frontage on Stedwick Road, and to activate Stedwick Road with outdoor sitting areas, plazas and the retail/restaurant uses on the proposed buildings. These modifications accomplished goals of pedestrian friendliness, and street activated retail, which contrast with a typical suburban strip center that gives more emphasis to vehicular access and circulation.

Locating a transit layover facility in front of the subject site would compromise the intent and purpose of the current layout, which is remarkably different than the rest of Montgomery Village. The existing development in the Village Center is characterized by buildings that are setback from the roads and surrounded by parking, whereas the proposed layout has buildings as close to the road as possible with open spaces and plazas in between. Therefore, it is inappropriate to locate a transit layover facility in front of this site, which has been uniquely designed to respond to the existing conditions on Stedwick Road.

The proposed transit layover facility would block visibility of the retail, the plazas, and the street activity. The noise and fumes from the buses would also discourage the use of the outdoor spaces especially those fronting on Stedwick Road. In hindsight, Staff's recommendations would have directed the buildings to front on the internal street connector with open spaces internally focused had the bus bays/layovers been required on Stedwick Road.

The Applicant has verbally opposed this transit layover facility in front of the site, and proposed alternative locations along Stedwick Road, where the buildings are not as well integrated in the streetscape environment. The Montgomery Village Foundation and Staff supported this proposal.

COMMUNITY OUTREACH

The Applicant has met all proper signage, noticing, and pre-submission meeting requirements. Staff has received correspondence from the Montgomery Village Foundation, the Center Court and Herons's Cove Condominium associations, and various residents that primarily relates to the tunnel closure on Stedwick Road, to issues of pedestrian safety and circulation, and tree removal [Appendix B]. Several versions of the preliminary and site plans have been presented to the Montgomery Village Foundation Board of Directors, the Commercial Architectural Review Committee (CARC), the Committee on the Environment (COE), the Transportation, Development and Public Facilities Committee (TD&PF), and the adjacent communities. The Applicant has worked with the community extensively, and many concerns have been resolved, however, given the extensive review time for the Stedwick Road cross section and late resolution of final details, Staff welcomes further review and comment from all citizens and committees involved.

Pedestrian safety concerns from residents of the community are twofold: offenses in the pedestrian tunnel continue to occur and safe opportunities to cross Stedwick Road are currently absent. Final agreement of the closure of the pedestrian tunnel is underway where the public comment process closes on September 14, 2009. Staff has received reports of two incidents at the Stedwick Road and Montgomery Village Avenue intersection where a pedestrian, in the crosswalk with the pedestrian light, was struck by a right-turning vehicle. Staff has made clear that a safe crossing must be accommodated within the right-of-way for Stedwick Road, particularly with a pedestrian refuge such as a median. As previously proposed, the plan contained four to six pedestrian "bumpouts" with two or three crosswalks along Stedwick Road. The original crosswalks were located at the southeastern and southwestern corners of the site, where they most closely matched the residents' desired circulation. At DOT's request, the bumpouts have been removed and all pedestrian traffic is directed to the center of the site at Building C via a striped crosswalk without a median. A choker and restriping plan for the right-of-way along the property frontage will now direct traffic to form a single lane in each direction in this section of Stedwick Road. While Staff does not believe this situation is ideal, Staff does believe pedestrian access to the site will be safe and adequate with these improvements.

In terms of tree removal concerns, community members have expressed concern about the possible loss of five mature Pin oaks on Stedwick Road during the addition of the second right turn lane. In condition 8c on page 26 of this report, the Applicant is required to replace the five Pin oaks adjacent to the widened portion of Stedwick Road with five 2 ½-3" caliper Willow oaks if the trees are damaged or destroyed. Concerns have also been raised about the existing grove of trees on the site and proper replacement for these trees following construction activities. Site plan Staff has made extensive recommendations to cover all possible scenarios. These recommendations are outlined on page 22 of this report.

SECTION 2: PRELIMINARY PLAN REVIEW

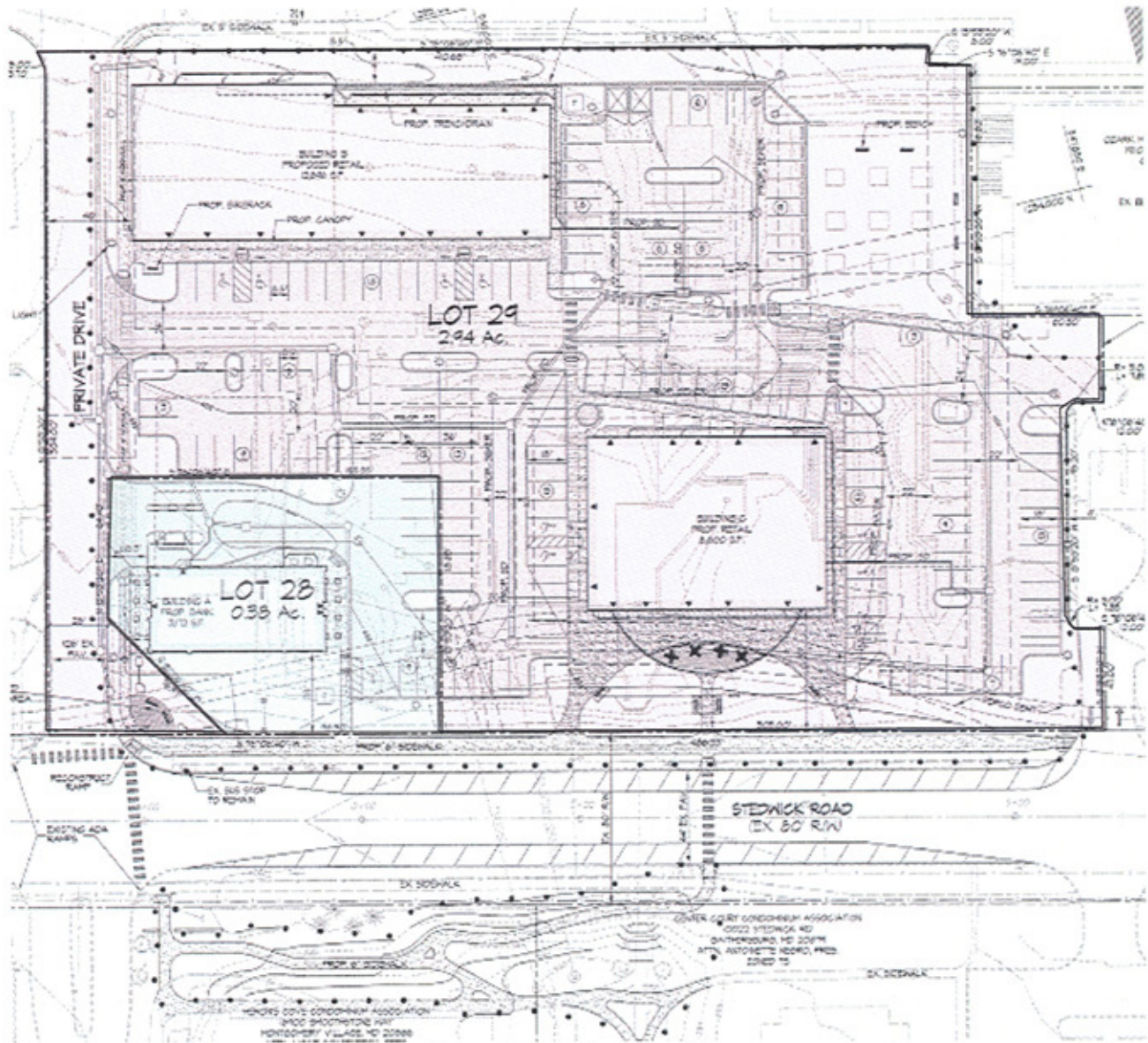


Figure 7: Preliminary Plan

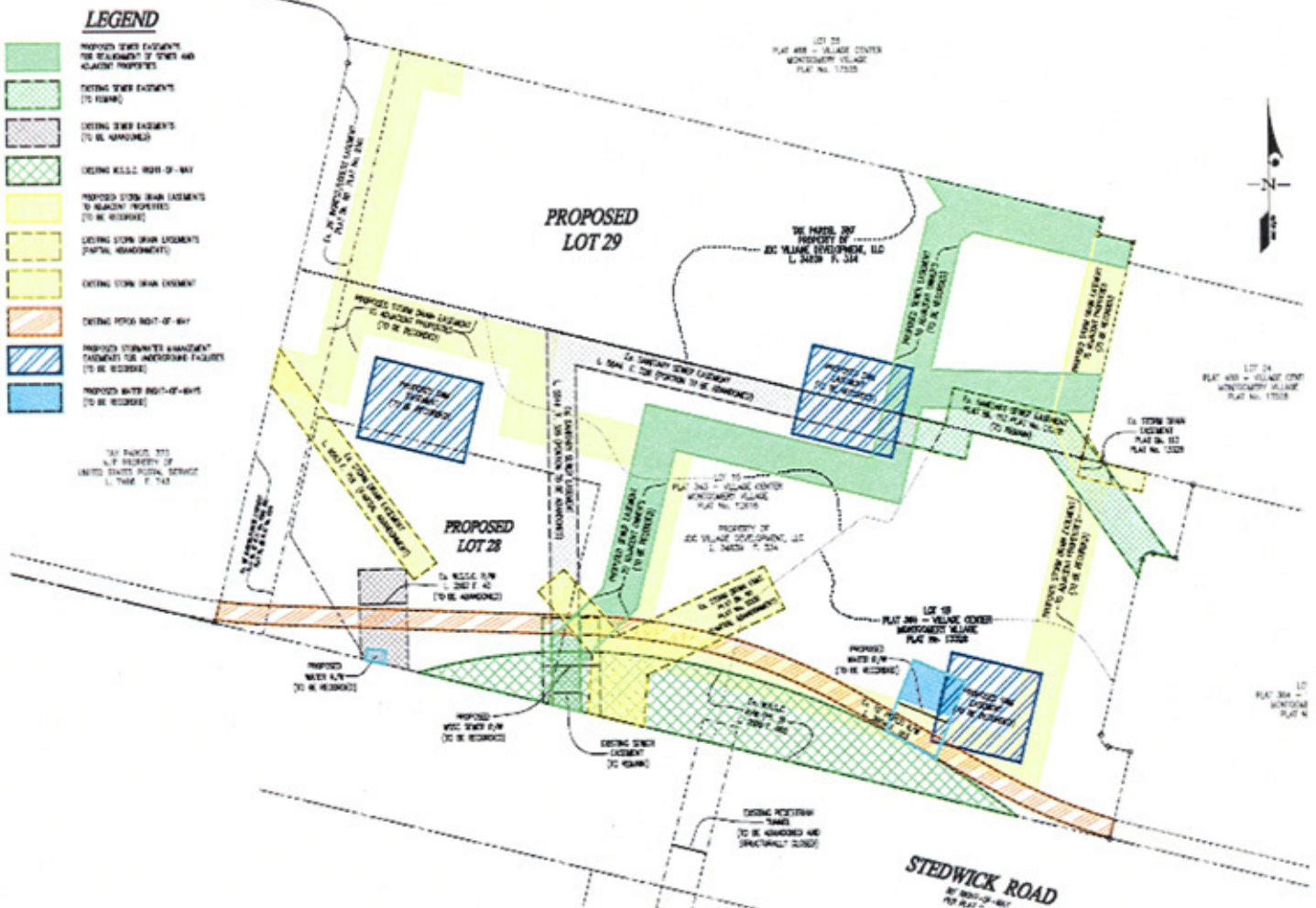


Figure 8: Existing and proposed Easement Exhibit

ANAYSIS AND FINDINGS

Master Plan Compliance

The 1985 Gaithersburg Vicinity Master Plan focused on three areas (the Shady Grove West Study Area, the Airpark Study Area, and the Smokey Glen Study Area), and states that “This Plan continues the recommendations of the 1971 Gaithersburg Master Plan for most of the land outside these study areas” (p. 5). Therefore, to generally conform to the 1971 Master Plan, the plan should show:

- A “central place,” a center of activity and attraction;
- An architectural focal point with opportunities for shopping, recreational and social activities;
- A connected pedestrian circulation system; and
- Appropriate uses.

The currently proposed retail uses are expected to attract activity, and there are two important spaces for gathering—the first is the bosque of trees in the northeast corner of the site and the second is in front of Building C. The area in front of Building C is an important space that was carefully considered. This gathering area will help create the “central place” on this site for the community, as envisioned by the master plan.

The proposal includes shopping opportunities, but more limited recreational and social opportunities. A significant improvement to the area under the bosque of trees, as described above, will provide the needed social opportunities.

The importance of a pedestrian circulation system, throughout the Village and within individual sites, has been consistently emphasized as part of site plan review. The sidewalks along the property frontage are to be rebuilt and upgraded from 6 feet to 8 feet in width connecting to an 8 foot sidewalk along proposed Building C. A sidewalk along the private drive on the western portion of the site will provide access to the Subject Property and retail destinations to the north. A sidewalk along proposed Building B will connect to the sidewalk system within the property directly to the east of the site. An at-grade mid-block crossing will connect the project to confronting properties along Stedwick Road. Specialty pavers are used throughout the pedestrian areas to define spaces and unit pavers are utilized at various crossing locations to serve as a traffic calming measure.

Community Based Planning Staff in their memo dated September 2, 2009 [Appendix B] recommends strengthening the internal pedestrian connections to conform with the new external connections. For example, the north-south connection should be completed through the center of the site, where pedestrians are now being directed. In addition, Community Based Planning Staff recommends connecting the sidewalk on the east side of the bank building to Building B by adding sidewalks to the planting islands, with crosswalks in between as well as adding four-foot paths to the corner parking islands on the southeast and southwest corners of Building C so that pedestrians don't have to walk between cars to access Building C. While these recommendations will increase pedestrian connections, Site Plan Staff did not believe these additional measures are necessary because the proposed pedestrian system adequately accommodates pedestrians without compromising vehicular safety.

The proposed bank use, general retail and restaurant uses are appropriate for the location of this site. The abutting properties that contain a post office, grocery store and various retail uses as well as the residential communities across Stedwick Road will contribute to accomplishing the Applicant's activity, focal point and pedestrian circulation goals for the site. All proposed uses must also comply with the County's Noise Ordinance, which will further ensure a harmonious relationship.

Adequate Public Facilities Review

Roads and Transportation Facilities

Master-Planned Roadways and Bikeways

In accordance with the *Gaithersburg Vicinity Master Plan*, the roadways and bikeways are classified as follows:

1. Stedwick Road is designated as an arterial, A-276, with a recommended right-of-way of 80 feet.
2. Montgomery Village Avenue is designated as major highway, M-24, with a recommended right-of-way of 120 to 150 feet including an existing Class I bikeway (E-16) in the *Gaithersburg Vicinity Master Plan*.

3. Watkins Mill Road is designated as an arterial, A-17, with a recommended right-of-way of 80 feet. According to the *Countywide Bikeways Functional Master Plan*, a dual bikeway, DB-27, is designated along this road.

Available Transit Service

The Ride-On routes operating along the nearby roadways are as follows:

1. Stedwick Road: Ride-On routes 59, 60, and 65
2. Montgomery Village Avenue: Ride-On routes 58, 59, 60, and 65
3. Watkins Mill Road: Ride-On routes 59 and 65

Pedestrian Facilities

The existing sidewalks along Stedwick Road are proposed to be reconstructed. As an alternative to and a condition of the closure of the pedestrian tunnel, a mid-block pedestrian crossing is proposed and recommended for approval in Preliminary Plan condition #8 on page 18 of this report. In addition to frontage improvements, the Applicant has been working with the Heron’s Cove and Center Court condominium associations to provide pedestrian connections leading to the mid-block crossing on the opposite side of Stedwick Road.

Transportation Demand Management Requirements

The site is located outside the Greater Shady Grove Transportation Management District (TMD), therefore, the Applicant is not required to enter into a Traffic Mitigation Agreement with the Planning Board and MCDOT or assist in achieving and maintaining its trip mitigation goal.

Local Area Transportation Review and Policy Area Mobility Review

In accordance with the applicable guidelines, a traffic study was submitted to satisfy Local Area Transportation Review (LATR) because the proposed land use generates 30 or more peak-hour trips within the weekday morning and evening peak periods. The table below shows the number of peak-hour trips generated by the proposed commercial land uses within the weekday morning (6:30 to 9:30 a.m.) and evening peak hours (4:00 to 7:00 p.m.) as analyzed in the traffic study submitted by the Applicant. The table shows new and total peak-hour trips where total trips include the new, diverted, and pass-by trips. Pass-by and diverted trips refer to those trips that only stop at the subject site on the way from other origins or to other destinations.

Land Use	Weekday Peak Hour			
	Morning		Evening	
	New	Total	New	Total
Proposed General Retail Uses- 26,000 sq. ft.	48	48	145	193
Former YMCA - Driveway Counts	16	16	9	9
Net Increase in Peak-Hour Trips	32	32	136	184

After preparing the initial traffic study, the specific types of commercial land uses were identified by the Applicant and are shown in the table below:

Land Use	Square Feet	Weekday Peak Hour			
		Morning		Evening	
		New	Total	New	Total
General Retail	10,848	9	19	36	77
Restaurant*	10,848	27	67	42	101
Branch Bank Office	3,253	7	40	15	84
Net Increase in Peak-Hour Trips	24,949	43	126	93	262
Former YMCA - Driveway Counts		16	16	9	9
Net Increase in Peak-Hour Trips		27	110	84	353

* Used the average trip-generation rate of a high-turnaround sit-down restaurant and a quality restaurant.

All three specific land uses proposed in the current plan are typical land uses commonly located in commercial shopping centers, even though the bank functions as a customer service-orientated office, not retail use. The net increase in total trips generated by the specific uses is more than the net increase analyzed for general retail (26,000 square feet) in the traffic study because the extra trips generated by the bank's drive-through windows are mostly pass-by and diverted trips. Preliminary Plan condition #1 on page 13 of this report refers to equivalent new trips because the net increase in new trips generated by the specific uses is fewer than the net increase analyzed in the traffic study.

Based on the results of this traffic study, the table below shows the calculated Critical Lane Volume (CLV) values at studied intersections:

Intersection	Weekday Peak Hour	Traffic Condition			
		Existing	Background	Total Future	Total Improved
Mills Choice Road & Proposed Site Access	Morning	Not applicable		158	-----
	Evening			368	-----
Watkins Mill	Morning	652	780	792	-----

Road & Stedwick Road	Evening	825	919	964	-----
Mills Choice Road & Stedwick Road	Morning	542	630	646	-----
	Evening	802	891	1,077	-----
Montgomery Village Avenue & Stedwick Road	Morning	1,633*	1,667*	1,670*	1,479*&**
	Evening	1,170	1,307	1,390	1,390**

* The CLV values exceed the congestion standard of 1,425 CLV for the Montgomery Village/Airpark Policy Area.

** The CLV values were calculated with the intersection improvement described in preliminary plan condition #6 on page 17 of this report.

At the intersection of Montgomery Village Avenue and Stedwick Road, the CLV values within the weekday evening peak hours exceed the congestion standard of 1,425. The evening CLV value for the total improved traffic condition continues to exceed the congestion standard, however, the extra capacity provided by the recommended intersection improvement has reduced the CLV value by more than 150% of the 3 CLV (i.e., 1,670 minus 1,667) impact attributable to the proposed development. At the other three studied intersections, the CLV values are less than the congestion standard of 1,425 CLV for the Montgomery Village/Airpark Policy Area. Thus, the LATR test is satisfied by the proposed intersection improvements.

The Policy Area Mobility Review (PAMR) test was adopted under the *2007-2009 Annual Growth Policy* for new developments in certain policy areas. Since the filing date of the preliminary plan was considered to be before July 1, 2008, the PAMR mitigation requirement was 0% of new site-generated peak-hour trips within the weekday morning and evening peak-hours. Thus, no mitigation is required to satisfy PAMR for the subject development.

Other Public Facilities

Public facilities and services are available and will be adequate to serve the proposed development. The property will be served by public water and sewer systems. The application has been reviewed by the Montgomery County Fire and Rescue Service who have determined that the Property has appropriate access for fire and rescue vehicles. Electrical, gas, and telecommunications services are also available to serve the Property.

Environment

Environmental Guidelines

A Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) was approved on December 17, 2007. As previously stated, there are no regulated environmental features onsite such as streams, wetlands, 100-year floodplain, environmental buffers, steep slopes, or highly erodible soils.

Forest Conservation

There is no forest onsite. A Forest Conservation Plan Exemption application (#42008123E) was submitted and later approved on February 7, 2008. The site qualified for an exemption under Chapter 22A-5(1) of the Montgomery County Code, which states that a site is exempt from Article II of the forest conservation law if “any planned unit development for which a project plan was approved by the Planning Board before January 1, 1992 and which received site plan approval before July 1, 1992 for the tract.” Under the same exemption, “a development plan or project plan amendment approved after January 1, 1992, is not exempt if it results in the cutting of more than 5,000 additional square feet of forest.” Parcel 387 was part of development plan E848; Lot 15 was covered under site plan 819860270; and Lot 19 part of site plan 819810150. Forest removal is not being pursued because there is no forest existing on the site. As a result, the entire property qualifies for a forest conservation plan exemption.

Stormwater Management

The stormwater management concept for the Montgomery Village Marketplace project was approved by the Department of Permitting Services on April 14, 2008 and reconfirmed on June 26, 2009. Approval is contingent upon the Applicant establishing an agreement with the Montgomery Village Foundation to use an existing stormwater management pond facility south of the Property. The concept consists of on-site channel protection measures via this existing pond and water quality control via the use of aqua filters and hydrodynamic pretreatment structures. Recharge is not required for this redevelopment.

Compliance with the Subdivision Regulations and Zoning Ordinance

This application has been reviewed for compliance with the Montgomery County Code, Chapter 50, the Subdivision Regulations. The application meets all applicable sections. Access and public facilities will be adequate to support the proposed use. The application has been reviewed by other applicable county agencies, all of whom have recommended approval of the plan [Appendix B].

PRELIMINARY PLAN RECOMMENDATION AND CONDITIONS

The application meets all requirements established in the Subdivision Regulations and the Zoning Ordinance and complies with the recommendations of the Gaithersburg Vicinity Master Plan. Therefore, Staff recommends approval of the Preliminary Plan subject to the following conditions:

- 1) Approval under this preliminary plan is limited to two lots for a maximum of 26,000 square feet of general retail uses or a combination of uses that generate an equivalent number of weekday peak-hour trips. The uses approved with this preliminary plan are a 3,172 square foot bank with two drive thru-lanes, and 21,696 square feet of general retail and restaurant uses, excluding fast-food restaurants. Any increase in square footages or changes to these uses will require site plan amendment/approval and further adequate public facilities (APF) review and approval.
- 2) The Applicant must comply with the conditions of the Montgomery County Department of Permitting Services (MCDPS) stormwater management approval dated April 14, 2008

[Appendix B]. These conditions may be amended by MCDPS, provided the amendments do not conflict with other conditions of the preliminary plan approval.

- 3) Prior to issuance of final use and occupancy permit for the third building, the Applicant must complete improvements to the Theater Pond. These improvements must be approved by Maryland Department of the Environment and/or MCDPS with input from the Department of Environmental Protection.
- 4) The Applicant must comply with the conditions of the Montgomery County Department of Transportation (MCDOT) letter dated August 28, 2009, except the request for the Applicant to construct, maintain, and grant uninterrupted access to an on-site, two stall restroom and storage facility [Appendix B, condition #2]. These conditions may be amended by MCDOT, provided the amendments do not conflict with other conditions of the preliminary plan approval.
- 5) The Applicant must satisfy provisions for access and improvements as required by MCDOT prior to issuance of access permits.
- 6) Verizon must be accommodated in all dry utility easements running through the property that will serve the new uses. Prior to recordation of plat(s), all replacement easements must be recorded.
- 7) The Applicant must relocate and reconstruct a six-foot-wide sidewalk along the Stedwick Road frontage.
- 8) The Applicant must satisfy Local Area Transportation Review (LATR) by providing a second right-turn lane on the eastbound Stedwick Road approaching its intersection with Montgomery Village Avenue. This additional lane will be provided by restriping and widening the eastbound approach at the intersection by approximately 6.5 feet on the north side and approximately 2.5 feet on the south side with an approximate 120 foot long taper to the west. The intersection improvement plan must be approved by the Montgomery County Department of Transportation (MCDOT). The permits and bonds must be approved by the Montgomery County Department of Permitting Services (DPS) prior to site plan certification
- 9) The Applicant must close the pedestrian tunnel under Stedwick Road pursuant to final approval of Abandonment Case AB-724 and provide an alternative mid-block pedestrian crossing across Stedwick Road between Mills Choice Road and the eastern driveway into the Montgomery Village Center. Associated with this pedestrian crossing, the Applicant must provide the necessary handicapped ramps, signage, and pavement treatments/markings. On the opposite side of Stedwick Road on the property controlled by the two condominium associations (i.e., Center Court and Heron's Cove), the tunnel opening must be re-graded, and an ADA-compliant pedestrian connection leading to the crossing must be provided, subject to final consent by the condominium associations. Prior to site plan certification, the tunnel closure final plan must be reviewed and approved by MCDOT and the permits and bonds must be approved by DPS.
- 10) The Applicant must provide inverted-U bike racks for 10 bicycle parking spaces located near the main entrances to the commercial businesses. Transportation Planning Staff must review and approve the ultimate location of the bike racks prior to certification of the site plan.
- 11) A Certified Site Plan must be approved prior to the approval of the record plat.
- 12) The Adequate Public Facility (APF) review for the preliminary plan will remain valid for eighty-five (85) months from the date of mailing of the Planning Board resolution.
- 13) All other necessary easements must be shown on the record plat.

SECTION 3: SITE PLAN REVIEW

Development Standards

The Town Sector (TS) Zone is intended to provide for the development of planned new towns or additions to existing urban developments, in order to achieve flexibility of design, integration of mutually compatible uses and optimum land planning with greater efficiency, convenience and amenity than the standards permitted by right and required in conventional zoning categories. The TS Zone allows the proposed bank and retail uses. The proposed development meets the purpose and requirements of the zone as detailed in the Findings section of this report.

The following data table indicates the proposed development's compliance with the Zoning Ordinance.

Project Data Table for the TS Zone

Development Standard	Permitted/Required	Proposed for Approval & Binding on the Applicant
Gross Tract Area	n/a	144,736 SF/ 3.32 acres
Town Sector Area Requirements (Section 59-C-7.24)		
- Total TS Tract Area (acres)	2,434.8	2,434.8
- Max. Commercial area ^(a)	10%	3.8% (92.8 acres)
- Max. Industrial area ^(a)	6%	0%
- Min. Open Space ^(a)	10%	28.7% (696.8 acres)
Total Building Area (square feet)	n/a	<u>24,868</u>
- Building A (Office/Bank)	n/a	3,172
- Building B (Retail/Restaurant)	n/a	12,896
- Building C (Retail/Restaurant)	n/a	8,800
Max. Building Coverage	n/a	17.2%
Min. Green Area (% of lot)	n/a	33.7% (48,724 SF/ 1.12 acres)
Parking Facility Internal Landscaping (%) (Section 59-E-2.73)	5% (3,128 SF)	8.5% (5,345 SF)
Max. Building Height (feet) (Section 59-C-7.26)		
- Building A (Office/Bank)	n/a	40
- Building B (Retail/Restaurant)	n/a	40
- Building C (Retail/Restaurant)	n/a	40
Min. Building Setbacks from Building Envelope (feet)		
- Side/ Rear	n/a	5
Min. Building Setbacks (feet)		
- Public street	n/a	10

Total Parking Spaces	200 (191)^(b)	175^(c)
- Office/Bank (3,172 SF)	9.4 (@ 2.9 sp/1000 SF)	
- Retail (10,848 SF)	54.2 (@ 5 sp/1000 SF)	
- Restaurant (10,848 SF)	135.6 (@25 sp/1000 SF)	
Handicap Spaces	6	6
Bicycle spaces (59-E-2.3(a)) (@ 1 bike space/20 vehicle spaces)	10 (200 vehicle sp/20)	10
Motorcycle spaces (59-E-2.3(d)) (@2% x total vehicle spaces)	4 (2% x 200 vehicle sp)	4

(a) Subject to the Development Plan Amendment (DPA) 02-2

(b) Per Section 59-E-3.1, this application qualifies for a mixed-use parking credit schedule as calculated in the table below:

Land use (min. pkg. Required)	Weekday				Weekend				Nighttime	
	Daytime (6am-6pm)		Evening (6pm-midnight)		Daytime (6am-6pm)		Evening (6pm-midnight)		(midnight-6am)	
Office (9.2)	(100%)	9.2	10%	0.9	10%	0.9	5%	0.5	5%	0.5
General Retail (54.2)	(60%)	32.5	90%	48.8	100%	54.2	70%	37.9	5%	2.7
Restaurant (135.6)	(50%)	67.8	100%	135.6	100%	135.6	100%	135.6	10%	13.6
All other uses (0)										
Total (200)		110		185		*191		174		17

(c) The Applicant has submitted a Parking Waiver Request of 8.4 percent of the required number of spaces [Appendix D].

FINDINGS

1. *The site plan conforms to all non-illustrative elements of a development plan or diagrammatic plan, and all binding elements of a schematic development plan, certified by the Hearing Examiner under Section 59-D-1.64, or is consistent with an approved project plan for the optional method of development, if required, unless the Planning Board expressly modifies any element of the project plan.*

The proposed development conforms to all non-illustrative elements of the Development Plan DPA 02-2 for Montgomery Village, which was originally signed August 14, 2003, and corrected on April 7, 2006. DPA 02-2 shows a total acreage of 2,434.8 acres, of which 100.7 acres are designated as commercial. Under the provisions of the Town Sector zone, a maximum of ten percent commercial acreage is permitted and the development plan indicates that about 4.1 percent is now commercial. The development plan also indicates acreages and percentages for open space and industrial uses, which are unaffected by this proposal.

The three existing properties fall within area II-A of the development plan, called the Village Center. It is possible, and perhaps even likely, that the former Visitor's Center and the vacant parcel were not originally included in the 43.1 acres of commercial property in the Village Center, but these details do not appear on the approved plan. Calculations show

that the total commercial acreage including this project falls well below the 43.1 acres approved on the development plan.

The binding elements included on the DPA pertained specifically to the application referred to as Rothbury Square (DPA 02-2) with 203 multi-family dwelling units in three, 3-story apartment buildings; and the CSAAC application (DPA 01-4).

2. *The Site Plan meets all of the requirements of the zone in which it is located, and where applicable conforms to an urban renewal plan approved under Chapter 56.*

The Site Plan meets all of the requirements of the Town Sector (TS) zone as demonstrated in the project Data Table on page 18. This zone does not have specific restrictions on various development standards in order to provide for more flexibility in development. Standards for setbacks, building coverage, and building height are established with this site plan approval and binding on the Applicant.

The Applicant plans to provide 175 parking spaces but is requesting a waiver of 16 spaces (8.4 percent) [Appendix D] in order to achieve various site design goals including providing larger open spaces, preserving the grove of existing trees, creating a more pedestrian friendly environment, maximizing building frontage on Stedwick Road, and providing an inter-parcel vehicular connection. In addition, the subject site is located in the retail core of Montgomery Village, which being the first “walkable community” in Montgomery County encourages pedestrian access and circulation. Because of its proximity to other retail uses, it is likely that retail patrons will combine trips while parked at a single location and walk to various establishments. These reasons lessen the need for providing the full quantity of parking and justify a parking waiver of 16 spaces.

3. *The locations of buildings and structures, open spaces, landscaping, recreation facilities, and pedestrian and vehicular circulation systems are adequate, safe, and efficient.*

- a. Locations of buildings and structures

The location of the proposed buildings relate well to the adjacent streets and the surrounding development in Montgomery Village by having frontage on the streets and providing uses that complement existing retail and restaurant uses in the Village Center. Building A (Bank) and Building C (retail/restaurant uses) are oriented towards Stedwick Road which will help to activate this street and create a visual edge to the road. The buildings could not be moved closer to the road because of various utility easements positioned in an usual curved configuration that accommodates the pedestrian tunnel underneath the road. Assuming that the tunnel will be closed per the abandonment case AB 724, the existing utility easements will still need to remain in the current configuration. Building A holds the corner of the site at Stedwick Road and the private drive leading to the core shopping area of Montgomery Village. Building B is located in the rear of the site at the Northwest corner. This building with its associated head-on parking fronts onto an internal road connecting to the adjacent parcel to the east.

The main structures proposed are a drive-thru in the rear of Building A, which minimizes its visibility from Stedwick Road, and a retaining wall that will be built as an

extension of Building B. The wall has varying heights ranging from 6 and 13 feet and will accommodate the grade change between the subject site and the areas to the north. The locations of all buildings and structures are safe, adequate, and efficient.

b. Open Spaces

The application proposes three distinct open spaces, two of which are associated with Buildings A and C respectively, and the third, located in the northeast corner of the site, where an existing grove of trees is currently located. The landscaped plaza between Building C and Stedwick Road is the main gathering space with benches, tables and chairs, and it will function as a transition area between the uses within Building C and the pedestrian traffic along Stedwick Road. This space will be activated by the retail and restaurants within Building C, and will draw pedestrians into the site from Stedwick Road.

The open space between the Bank and Stedwick Road is mostly landscaped and has a small paved area with two benches at the corner. This area will function mostly as a visual amenity that will complement other landscaped areas on site.

The third open space retrofits an existing, although degraded, open space with a grove of mature trees. Because the health of these trees is questionable, Staff has recommended that the Applicant consult with a certified arborist to assess the condition of the trees and make recommendations on whether they should be saved or removed. If these recommendations include removal of less than half of the existing trees then the Applicant would be required to replace them in kind with the same species. If the recommendations include removal of more than half of the existing trees then the Applicant would be required to replace them with Yoshino cherries or Golden Rain trees, and potentially redesign the space. The open spaces provided are safe, adequate, and efficient.

c. Landscaping and Lighting

The landscape plan meets the internal landscaping requirements for parking facilities, enhances the Stedwick Road frontage, and beautifies the open spaces proposed. The plan consists of street trees along the perimeter of the property, shade trees in the parking lot islands, flowering trees in the open spaces, and a variety of evergreen and deciduous shrubs around the perimeter of the parking areas. The proposed landscaping helps to screen views of the parking areas from Stedwick Road and provides an edge for open spaces especially around the seating areas. The landscaping is adequate, safe and efficient.

The lighting plan consists pole mounted light fixtures with a 20-foot height located on the perimeter of the parking lot and on some parking lot islands, and along the private driveway leading to the northern shopping areas. The plan also includes a 10-foot light fixture to add pedestrian scale, especially in the plaza and main walkways. The proposed lighting provides safe, adequate and efficient illumination for the retail, restaurant, and bank patrons.

d. Recreation Facilities

The application is not subject to the Recreation Guidelines as this is not a residential project.

e. Pedestrian and Vehicular Circulation Systems

The pedestrian circulation system consists of sidewalks and crossing areas connected to open spaces, which integrate this site well with the adjoining retail areas and surrounding communities. Pedestrians can access this site through the sidewalks along the southern and western frontages of the site. Formerly, the pedestrian tunnel under Stedwick Road also provided access to the site, however for various reasons, including vandalism and crime, this tunnel is being recommended for abandonment and, if granted, will be permanently closed. As a condition of the abandonment, the Applicant proposes an at-grade mid-block crossing to provide a safe location for pedestrians to cross. Internally, east-west pedestrian circulation is accommodated in front of retail Building B, extending and connecting to the sidewalk system on the adjoining property to the east. North-south pedestrian circulation is accommodated on either side of Building C via two connector sidewalks. Specialty pavers are used throughout the pedestrian areas to define spaces, to add interest and to complement materials used in the architecture of the buildings. Additionally, unit pavers are utilized at various crossing locations, which act as a traffic calming measure.

Two-way vehicular access to the site is limited to one entrance from the private drive, which then extends through the site and connects to the adjoining property to the east. This inter-parcel connector reduces the number of access points from Stedwick Road and promotes a more pedestrian friendly environment. Various parking areas, with a total of 175 spaces, are provided to the north and south of this inter-parcel connector.

In addition, the Bank drive-thru also has a separate one-way access point to the private drive, which allows vehicles to quickly exit the site thus minimizing potential vehicular conflicts within the parking lot. The pedestrian and vehicular circulation systems are safe, adequate, and efficient.

4. *Each structure and use is compatible with other uses and other site plans and with existing and proposed adjacent development.*

The structures and uses proposed are compatible with other uses and site plans, and with existing adjacent development. The uses proposed include retail, restaurant and bank, which are fully compatible with the adjoining commercial uses in Montgomery Village, and contribute to the notion of a self-sufficient town as required by the zone. These uses add convenience and amenity to the surrounding residential communities by providing services and goods within close proximity. The three buildings proposed are generally compatible with the surrounding commercial buildings in terms of height and setbacks, but they will be better integrated in the site given the proposed landscaping and the various open spaces provided. The building facades, with various materials and architectural treatments, combined with varying building rooflines, add interest, distinctiveness and character to this development. Figures 8 and 9 below further illustrate the diverse façade treatments and building rooflines.



Figure 8: Building B, South elevation



Figure 9: Building C, South elevation

5. *The Site Plan meets all applicable requirements of Chapter 22A regarding forest conservation, Chapter 19 regarding water resource protection, and any other applicable law.*

A Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) was approved by Environmental Planning Staff on December 17, 2007. There are no streams, wetlands, forests or associated buffers onsite. A Forest Conservation Plan Exemption (#42008123E) was approved on February 7, 2008. The subject site qualified for a forest conservation exemption because it received development plan and site plan approvals prior to July 1, 1992, and the current proposal is not removing any additional square feet of forest.

The proposed storm water management concept approved on April 14, 2008, and reconfirmed on June 26, 2009, consists of on-site channel protection measures via the existing pond. Water quality control will be provided via the use of Aqua Filters and hydrodynamic pretreatment structures. Recharge is not required with this redevelopment site. As previously stated in this report, approval is contingent upon the Applicant establishing an agreement with the Montgomery Village Foundation to use an existing stormwater management pond facility south of the Property.

RECOMMENDATION AND CONDITIONS

Staff recommends approval of Site Plan No. 820090060, Montgomery Village Marketplace, for the creation of two lots for a 3,172 square foot bank with drive-thru, a 12,896 square foot retail/restaurant building, and a 8,800 square foot retail/restaurant building, on 3.32 acres. All site development elements as shown on the site, landscape, and lighting plans stamped by the M-NCPPC on August 14, 2009, are required except as modified by the following conditions:

1. Development Plan Conformance

The proposed development must comply with the binding elements of the Development Plan Amendment DPA 02-2 as approved by the District Council on July 1, 2003, and later corrected on April 7, 2006.

2. Preliminary Plan Conformance

The proposed development must comply with the conditions of approval for Preliminary Plan No. 120090090.

3. Site Plan

Approval of this plan voids approval of Site Plan No. 819810150 and Site Plan No. 819860270.

4. Abandonment AB-724

The proposed development must comply with the conditions of approval for the Abandonment Case AB-724 in reference to the closure of the pedestrian tunnel under Stedwick Road [Appendix A].

5. LEED Certification

The Applicant must achieve a LEED (Leadership in Energy and Environmental Design) Certified Rating Certification at a minimum. The Applicant must make good faith efforts to achieve a LEED Silver rating. Before the issuance of any use and occupancy certificate, the Applicant must inform M-NCPPC Staff of the LEED Certification Level for which they are applying. If this level is less than a Silver rating, before the issuance of the final use and occupancy certificate the Applicant must provide to Staff a written report for public record purposes only from the Applicant's LEED consultant analyzing the feasibility of achieving a LEED-Silver rating, to include an affidavit from a LEED-Accredited Professional identifying the minimum additional improvements required to achieve the LEED Silver rating, including their associated extra cost.

6. Architecture

The final design of the building façade must substantially conform to the architectural renderings received by MNCPPC on August 10, 2009, including fenestration, rooflines and materials labeled.

7. Pedestrian Circulation

- a. Provide an at-grade pedestrian crosswalk on Stedwick Road, subject to the final approval of the Montgomery County Department of Transportation.

- b. Provide pedestrian access from the south side of Stedwick Road to the future crosswalk on Stedwick Road, subject to the final approval of the Heron's Cove Condominium Association, the Center Court Condominium Association, and the Montgomery Village Foundation.

8. Landscaping

- a. The Applicant must hire a certified arborist to assess the condition of the existing trees at northeast corner of the site, and make recommendations on whether they should be saved or removed. These recommendations would be the basis for any future action regarding the existing grove of trees, including the re-design of the plaza area and replacement of trees.
- b. Replace street tree species (Chinese elm) with Willow Oaks, subject to final approval by the Commercial Architecture Review Committee (CARC) of the Montgomery Village Foundation.
- c. If any of the five mature Pin oaks on the Stedwick Road right-of-way, at the intersection with Montgomery Village Avenue, are damaged or lost during the addition of the second right turn lane, the Applicant must replace them in number with 2 1/2-3" caliper Willow oaks within the Stedwick Road right-of-way, subject to MC-DPS and/or MCDOT approval.

9. Lighting

- a. On-site street and parking lot downlighting fixtures must be full cut-off fixtures;
- b. Deflectors must be installed on all up-lighting fixtures causing potential glare or excess illumination;
- c. Illumination levels, excluding streetscape light fixtures, must not exceed 0.5 footcandles (fc) at any property line abutting county roads.
- d. The height of the light poles shall not exceed 20 feet excluding the mounting base.

10. Performance Bond and Agreement

The Applicant is subject to the following provisions for surety as described in Section 59-D-3.5 of the Montgomery County Zoning Ordinance and Site Plan approval:

- a. The Applicant shall provide a cost estimate from the landscape architect or landscape contractor indicating the installed costs of site plan elements such as but not limited to landscaping, lighting, recreation facilities, special paving, art work and site furnishings. The cost estimate should include a 10% inflation factor for the site plan elements to account for changes in price and materials and modifications to the approved plans.
- b. The Applicant shall submit a Performance Bond or other satisfactory form of surety as approved by M-NCPPC to cover the installed costs of site plan elements such as but not limited to landscaping, lighting, recreation facilities, special paving, art work and site furnishings as shown and described in the cost estimate.
- c. The Applicant shall execute an agreement for site plan elements in conjunction with the performance bond indicating the Applicant's agreement to install, construct and maintain the site plan elements.
- d. The Bond shall be submitted along with the agreement prior to the release of the first building permit.

11. Stormwater Management

The proposed development is subject to Stormwater Management Concept approval conditions dated April 14, 2008, and later reconfirmed on June 26, 2009, unless otherwise amended and approved by the Montgomery County Department of Permitting Services [Appendix B].

12. Development Program

The Applicant must construct the proposed development in accordance with the Development Program. A Development Program shall be reviewed and approved by M-NCPPC Staff prior to approval of the Certified Site Plan. The Development Program shall include a phasing schedule as follows:

- a. Street lamps and sidewalks must be installed within six months after street construction is completed. Street tree planting may wait until the next growing season.
- b. On-site amenities including, but not limited to, sidewalks, benches, trash receptacles, and bicycle facilities must be installed prior to release of any building occupancy permit.
- c. The development program must provide phasing for installation of on-site landscaping, lighting, plaza area in front of Building C, and open space in the northeast corner ("grove area").
- d. Community-wide pedestrian pathways, including the offsite improvements on the south side of Stedwick Road, must be completed prior to issuance of the 2nd building permit.
- e. Landscaping associated with each parking lot and building shall be completed as construction of each facility is completed.
- f. Pedestrian pathways and seating areas associated with each facility must be completed as construction of each facility is completed.
- g. The development program must provide phasing of pre-construction meetings, dedications, stormwater management, sediment and erosion control, trip mitigation, and other features.

13. Clearing and Grading

The Applicant is allowed to grade the subject site and relocate utilities after the appeal period for the Resolution has terminated, and prior to Certified Site Plan approval. The arborist's report regarding the grove of trees must be submitted by the Applicant and approved by MNCPPC prior to any clearing and grading.

14. Certified Site Plan

Prior to Certified Site Plan approval the following revisions shall be included and/or information provided, subject to Staff review and approval:

- a. Include the stormwater management concept approval, Development Program, Inspection Schedule, and Site Plan Resolution on the approval or cover sheet.
- b. Add a note to the site plan stating that "M-NCPPC Staff must inspect all tree-save areas and protection devices prior to clearing and grading".
- c. Provide a list of equivalent trees to be approved by Site Plan Review Staff, and add the note "In the event that any of the species listed in the plant schedule are not available, select species from the alternative plant list. Contractor to ensure that the replacements are of equivalent sizes."
- d. Show at-grade pedestrian crosswalk on Stedwick Road to reflect final approval from Montgomery County Department of Transportation.
- e. Modify data table to reflect all development standards enumerated in the Staff report.
- f. Provide details of all light fixtures proposed showing full cut-off devices.

- g. Provide details of new design for the open space in the northeast corner (“grove area”) including selection of hardscape materials, if applicable.
- h. Show zone of influence for each building on the plans.
- i. Provide detail of railings proposed on top of the retaining wall.
- j. Label materials of retaining wall to match materials used on building facades.

APPENDICES

- A. Prior approvals
- B. Reviewing Agency Approvals and correspondence
- C. Correspondence from the community
- D. Parking waiver request

APPENDIX A
Prior Approvals



MONTGOMERY COUNTY PLANNING DEPARTMENT

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB

Item No. ____

July 23, 2009

MEMORANDUM

DATE: July 9, 2009

TO: Montgomery County Planning Board

VIA: Larry Cole, Highway Coordinator *LC*
Move/Transportation Planning Division

FROM: Ed Axler, Planner/Coordinator (301) 495-4525 *EA*
Move/Transportation Planning Division

SUBJECT: Abandonment Case: AB 724 – Pedestrian Tunnel Closure under Stedwick Road
Montgomery Village/Airpark Policy Area

This memorandum presents staff's review of a request for Planning Board comments on the proposed abandonment of pedestrian underpass/tunnel under Stedwick Road that once connected the Center Court Condominium Association open space to the former YMCA. The abandonment is requested by the applicant of the pending Preliminary Plan No. 120090090 and Site Plan No. 820090060, Montgomery Village Marketplace. The existing tunnel was closed with the demolition of the YMCA in July 2008.

RECOMMENDATIONS

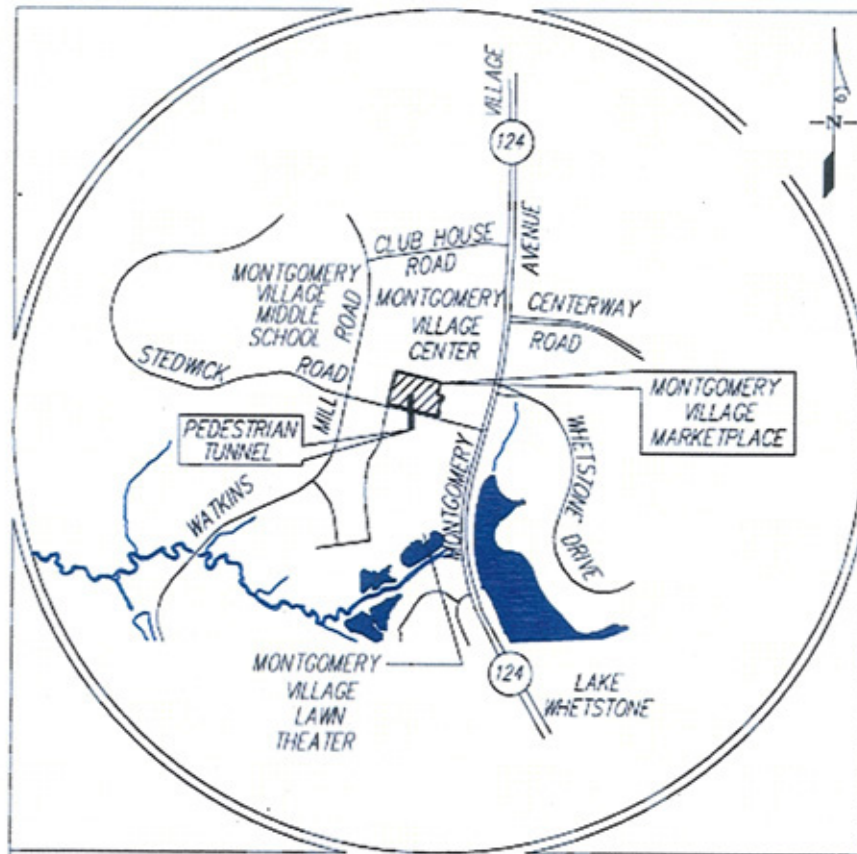
Staff recommends that the Planning Board **supports approval** of the proposed abandonment with the following conditions:

1. Remove the tunnel and provide marked crosswalks across Stedwick Road as approved by the Montgomery County Department of Transportation (MCDOT).
2. Provide for the removal of PEPCO's electric line that is no longer needed to light the tunnel in coordination with MCDOT.
3. Create the necessary deeds to transfer ownership of the tunnel's public right-of-way beyond Stedwick Road's right-of-way limits as follows:

- a. On the north side of the Stedwick Road right-of-way to the applicant of the Montgomery Village Marketplace.
- b. On the south side of the Stedwick Road right-of-way to the Center Court Condominium Association.

DISCUSSION

The proposed abandonment was referred by MCDOT for comment per Section 49-62 of the Montgomery County Code. The record of the County Executive's public hearing is scheduled to be left open until at least July 27, 2009. Attachment No. 1 includes MCDOT memorandum describing the Abandonment Case AB724, which requests the abandonment of approximately 440 square feet extending the north and south of the Stedwick Road right-of-way. The total public right-of-way is 1,903 square feet with approximately 1,463 square feet under the Stedwick Road public right-of-way: an approximately 198 square foot bumpout on the north side of the Stedwick Road right-of-way extending into existing Lots 15 and 18, Village Center Montgomery Village, and an approximately 242 square foot bumpout on the south side of the Stedwick Road right-of-way extending into the existing Center Court Condominium Association's property. The site's general vicinity map is shown below. Attachment No. 2 shows the existing public right-of-way to be abandoned.



Vicinity map of the pedestrian tunnel

The tunnel was built as a pedestrian underpass under Stedwick Road between the Center Court Condominium Association property on the south side and the former YMCA site on the north side as part of the original layout of Montgomery Village. On the south side of Stedwick Road, an existing sidewalk connects the Center Court, Center Stage, and Heron's Cove communities and leads to the tunnel's southern opening. An access easement exists for Center Stage and Heron's Cove residents to use the sidewalk located on the Center Court Condominium Association property.

The current commercial area on the north side of Stedwick Road is an attractive destination for pedestrians living on the south side of Stedwick Road. This commercial area contains a supermarket, a pharmacy, a post office, and other businesses serving the local neighborhood needs. In addition, transit passengers use Ride-On routes 59, 60, and 65 that operate along Stedwick Road. Existing bus stops are located near the corners of the four intersections along Stedwick Road with Mills Choice Road/western driveway into the shopping center, the eastern driveway into the shopping center, Montgomery Village Avenue, and Watkins Mill Road. Based on traffic data collected in May 2008, 15 pedestrians in the weekday morning peak hour and 23 pedestrians in the weekday morning peak hour were observed crossing Stedwick Road at the intersection with Mill Choice Road/western driveway into the shopping center.

When the tunnel was opened, the residents expressed their concern that using the tunnel was more dangerous than crossing Stedwick Road at-grade. Residents did not use the tunnel because of the lack of a clear line of sight to see the area surrounding the opposite opening and limited escape routes at the tunnel openings for a pedestrian to avoid any potential criminal activity. Crossing Stedwick Road at-grade was preferred because the lines of sight are wide open and not restricted.



A view looking north through the tunnel before it was barricaded

The residents' safety concern is supported by the Montgomery County Police Department, Sixth District. The tunnel was not easily accessible by police to monitor because of its isolated location. The Police Department reported numerous incidents where criminals fled through the tunnel from the shopping center to avoid apprehension before it was closed to the public. Numerous assaults and robberies have occurred in the area around the Stedwick Road tunnel. Specifically, in the "Police Reporting Area No. 546," 37 street robberies were reported between June 2006 and June 2009 and 161 assaults were reported during the same time frame. Hence, the Montgomery County Police Department strongly supports the closing of this tunnel.

The Center Court Condominium Association and YMCA regularly keep the tunnel clean and replaced burnout/broken lighting fixtures in the tunnel until approximately 2001 or 2002. When the Center Court Condominium Association and YMCA could no longer afford to maintain the tunnel, the conditions started to deteriorate with poor lighting and uncollected trash.



An example of a broken lighting fixture

The tunnel was reportedly used for criminal activities and police reported that there were several “taggings” on the tunnel walls that indicated gang activity in the area.



An example of graffiti on the tunnel walls

As a result, residents complained to the police of feeling unsafe using the tunnel and it was rarely used by residents before it was boarded up with the demolition of the YMCA in July 2008.

The Montgomery County Police Department, the Montgomery Village Foundation, the adjacent Center Court Condo Association, and various community members are in support of the tunnel closure. Attachments No. 3 and 4 are two letters from community groups supporting the closure of the tunnel.

The permanent closure of the pedestrian tunnel meets principles of Crime Prevention through Environmental Design (CPTED). By circulating at street level rather than underground, pedestrians will benefit from the continual surveillance of passing vehicular traffic. The visibility of pedestrians is maximized at street level by creating a positive social interaction among legitimate users, increasing the awareness of safety concerns to dissuade potential criminal activity.

The permanent closing of the tunnel under Stedwick Road is linked to the proposal for Montgomery Village Marketplace commercial to redevelop the former YMCA site. The proposed redevelopment consists of three commercial structures,

totaling approximately 25,000 square feet. The closure of the tunnel includes filling it in and installing bulk heads at the openings. For the area beyond the northern and southern openings, the tunnel structure is to be removed, covered with soil, seeded, and landscaped.

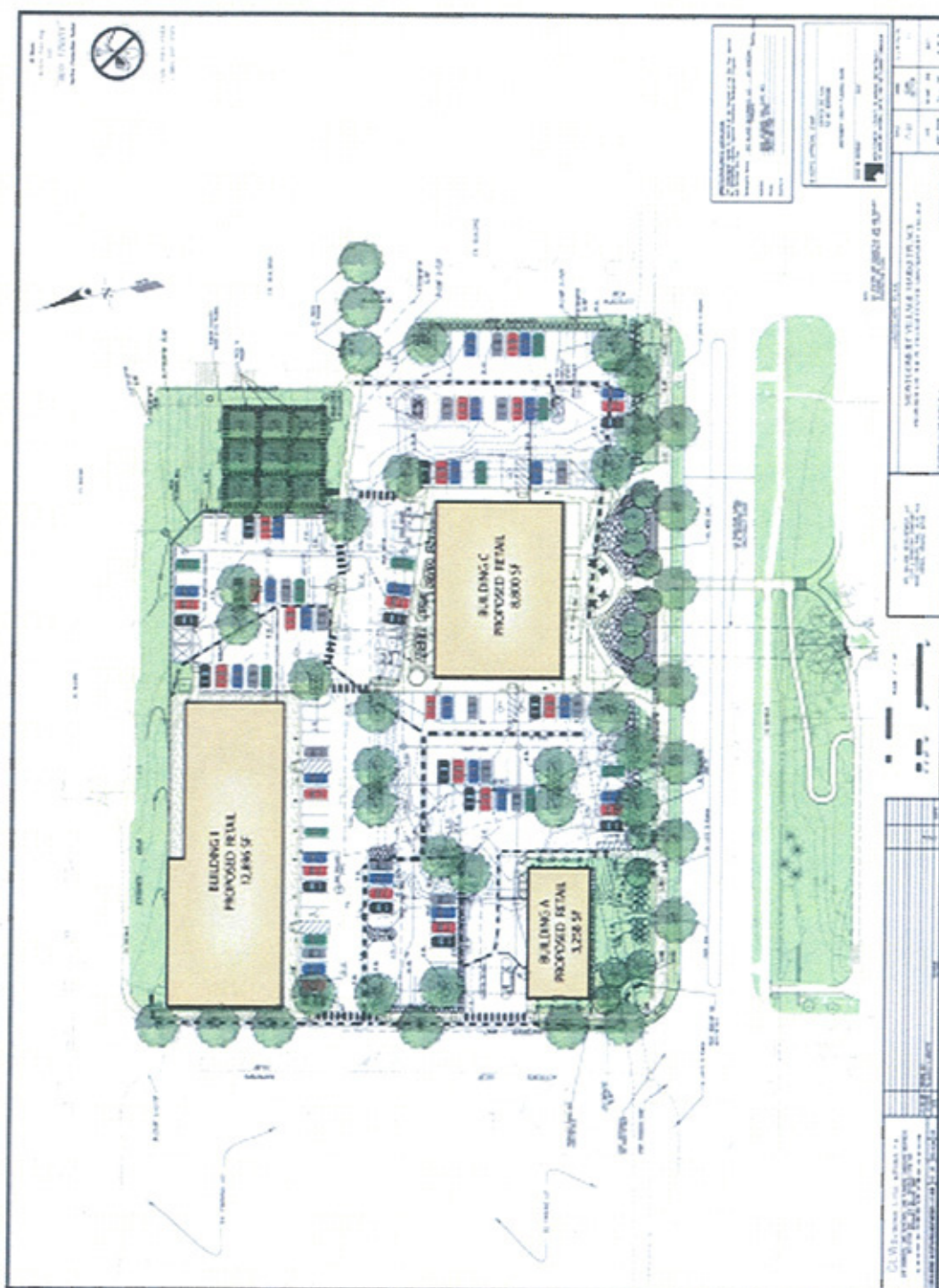
On the north side, the applicant of the Montgomery Village Marketplace proposes to create a new commercial center. This redevelopment could activate Stedwick Road by having the buildings pulled as close as possible to the road (given the existing utility easements) and providing plazas with outdoor sitting between the buildings and the road. By activating Stedwick Road, this proposal would encourage pedestrian circulation and activity at street level, which will have a positive impact on the speed of vehicular traffic on Stedwick Road. Motorists' awareness of the commercial activity and associated pedestrian movements should result in them reducing their speed, which in turn also creates a safer pedestrian environment. With a more vibrant street-level pedestrian environment, pedestrian safety would be improved according to CPTED principles. On the south side, the existing sidewalks on Center Court Condominium Association property lead to the tunnel.



The sidewalks leading into the tunnel on the south sides

To replace the function of the tunnel, the applicant of the Montgomery Village Marketplace proposes to provide two designated at-grade pedestrian crossings of Stedwick Avenue at the western driveway into the shopping center (i.e., for direct pedestrian path to the Post Office) and midblock between the eastern and western

driveways (i.e., for a pedestrian path into the center of the YMCA site). The applicant proposes to reconfigure the existing sidewalks to redirect pedestrians to the proposed at-grade designated crosswalks across Stedwick Road. However, the Montgomery Village Foundation's Transportation Development and Public Facilities Committee did not review this latest plan because the applicant is waiting for MCDOT approval of the revised plan. Instead, the Committee reviewed the previous plan with three different at-grade crossings of Stedwick Road. The midblock pedestrian crossing proposed by Montgomery Village Marketplace is shown below.



A citizen has also expressed concern about the safety crossing Stedwick Road at the intersection of Montgomery Village Avenue. Accident data from MCDOT identified only 2 accidents involving a pedestrian between 2003 and 2007 for the segment of Stedwick between Montgomery Village Avenue and Watkins Mill Road. We believe that the provision of marked crosswalks would improve pedestrian safety in this area.

The right-of-way to be abandoned contains a PEPCO electrical line that was maintained by MCDOT to operate the lights within the tunnel. With the closure of the tunnel, the electric line would no longer be required. The area of the tunnel right-of-way proposed to be abandoned contains no wetlands or any other environmental or cultural constraints.

In conclusion, we find that with the conditions described above, the public right-of-way proposed for abandonment is not needed for present or future public use. Alternatively, the tunnel closure would be a benefit to the community. The acquisition of the public right-of-way will enable the applicant of the Montgomery Village Marketplace on the north side to improve the plan design by permitting plazas with outdoor seating be placed between the proposed buildings and Stedwick Road.

EA:tc
Attachments

Cc: Michael Cassedy
Mohammad Din
Sue Edwards
Greg Leck/Sam Farhadi
Kevin Foster
Erin Grayson
Jody Kline
Sharon Levine
Toni Negro
Sandra Pereira
Leslie Saville
Mark Terry
Diane Tillery

mno to MCPB AB734.doc



ATTACHMENT 1

DEPARTMENT OF TRANSPORTATION

Isiah Leggett
County Executive

Arthur Holmes, Jr.
Director

June 1, 2009

Mr. Royce Hanson, Chairman
Maryland-National Capital Park and
Planning Commission
8787 Georgia Avenue
Silver Spring, MD 20910

RE: Request for Comments on Proposed
Closure
AB724 – Stedwick Road Pedestrian
Tunnel
Montgomery County Village

Dear Mr. Hanson:

The purpose of this letter is to request M-NCPPC comments on the proposed closure of a pedestrian tunnel underneath Stedwick Road in Montgomery County Village. The request for this closure was made by Miller, Miller & Canby on behalf of its client, JDC Village Development, LLC, the Applicant. This closure was suggested by the Montgomery County Planning Board and is associated with Preliminary Plan No. 120090090 and Site Plan No. 820090060.

I would greatly appreciate receiving your comments by July 13, 2009 (the date of the public hearing); however, the record of the public hearing will be left open until at least July 27, 2009. If your staff need more time to comment, please let me know, and I will ask the hearing officer to extend the time limit further.

If either you or your staff need additional information or have questions, please call me at 240-777-7254.

Sincerely,

Michael S. Cassedy

Enclosures

cc: Dan Hardy

**Division of Transportation Engineering
Property Acquisition Section**



LAW OFFICES

MILLER, MILLER & CANBY

CHARTERED

PATRICK C. McKEEVER (DC)
JAMES L. THOMPSON (DC)
LEWIS R. SCHUMANN
JODY S. KLINE
ELLEN S. WALKER
MAURY S. EPNER (DC)
JOSEPH P. SUNTUM

200-B MONROE STREET
ROCKVILLE, MARYLAND 20850
(301) 762-5212
FAX (301) 424-9673
WWW.MILLERMILLERCANBY.COM

SUSAN W. CARTER
ROBERT E. GOUGH
DONNA E. McBRIDE (DC)
GLENN M. ANDERSON (FL)
MICHAEL G. CAMPBELL (DC, VA)
SOO LEE CHO (CA)
AMY C. GRASSO

** All attorneys admitted in Maryland and where indicated*

JSKLINE@MMCANBY.COM
SLCHO@MMCANBY.COM

March 27, 2009

Montgomery County Executive
Honorable Isiah Leggett
Executive Office Building
101 Monroe Street, 2nd Floor
Rockville, MD 20850

RE: Application for Closure of Pedestrian Path Underneath Stedwick Road in Montgomery Village

Dear Mr. Leggett:

This letter is an application seeking closure of a pedestrian path/tunnel located beneath the Stedwick Road right-of-way located within Montgomery Village, Maryland.

We represent JDC Village Development, LLC (hereinafter "JDC"), owner/developer of property located adjacent to the northern end of the pedestrian path/tunnel. JDC has submitted Preliminary Plan (No. 120090090) and Site Plan (No. 820090060) applications for approval by the Maryland-National Capital Park & Planning Commission for redevelopment of its property. The proposed redevelopment consists of three (3) commercial structures, totaling 26,222 square feet of floor area. (A reduced copy of the Site Plan for the proposed "Montgomery Village Marketplace" is enclosed for your information). The plans contemplate closure of the existing pedestrian tunnel.

In connection with the review of the above referenced Preliminary Plan and Site Plan by M-NCPPC, JDC has been requested to make application to the County to close the existing pedestrian path/tunnel underneath Stedwick Road and to provide an alternative means of pedestrian access across Stedwick Road. (Improvements to the area pedestrian circulation system are incorporated in the Applicant's plans.) In the past several years, the path/tunnel has become a serious security concern for the residents of Montgomery Village and its retention is inconsistent with good community design principles for the new retail center. Therefore, it is hereby requested that the existing pedestrian

path/tunnel be permanently closed by the County for the safety and welfare of residents in the surrounding neighborhood, pursuant to the provisions and procedures of Chapter 49, Article 6 of the Montgomery County Code.

In support of this application, enclosed is a legal description and sketch of the pedestrian path/tunnel in question, along with a check for the required filing fee of \$2,500.00 (the original of which is being sent directly to Michael Cassedy of MCDOT for processing). Also enclosed is a copy of Montgomery Village, Plat 9, which shows a plan of dedication for Stedwick Road extending from Watkins Mill Road to Montgomery Village Avenue. (Note: The pedestrian path/tunnel is not referenced on this plat nor does it appear on any other plat that we have researched relative to the surrounding properties, but nonetheless, the path/tunnel exists and has been confirmed by the County Department of Transportation to be part of the public right-of-way.)

Thank you for your attention to this matter.

Sincerely yours,

MILLER, MILLER & CANBY

JODY KLINE

Jody S. Kline


Soo Lee-Cho

cc: Michael Cassedy
Linda Duhamel
Cathy Conlon
Erin Grayson
Leslie Saville
David Humpton
Sharon Levine
Jay Donegan
David Weber
Frank Watkins
Mike Workosky
Seth Fisher

Project Title: [Blank]
 Date: [Blank]

MISS UTILTY
 1-800-889-8777

CALL TOLL TREE
 1-800-889-8777

LEGEND

PROPOSED CURB & SIDING
 PROPOSED LIGHT
 PROPOSED WALKWAY
 PROPOSED PAVED DRIVEWAY, DRIVE & WALKWAY
 EXISTING SLUICES
 EXISTING TRENCH
 PROPOSED TERRAPACE
 EXISTING STRUCTURE
 PROPOSED PAVING
 PROPOSED SIGNAGE
 LIGHT OF DISTURBANCE
 PROPOSED TREES & SHRUBS
 PROPOSED STRUCTURE
 PROPOSED SIGN BACK BOLLARD

ALL UTILITIES ARE LOCATED AND DEPTH ARE SHOWN BY THE CITY ENGINEER'S RECORD DRAWING, AND THE FIELD NOTES.

THE ENGINEER HAS REVIEWED THE PROJECT AND IS SURE THAT THE PROPOSED WORK WILL BE DONE IN ACCORDANCE WITH THE CITY OF MONTGOMERY PLANNING AND ZONING DEPARTMENT'S DESIGN AND CONSTRUCTION STANDARDS AND REGULATIONS, AND THE CITY OF MONTGOMERY PLANNING AND ZONING DEPARTMENT'S DESIGN AND CONSTRUCTION STANDARDS AND REGULATIONS.

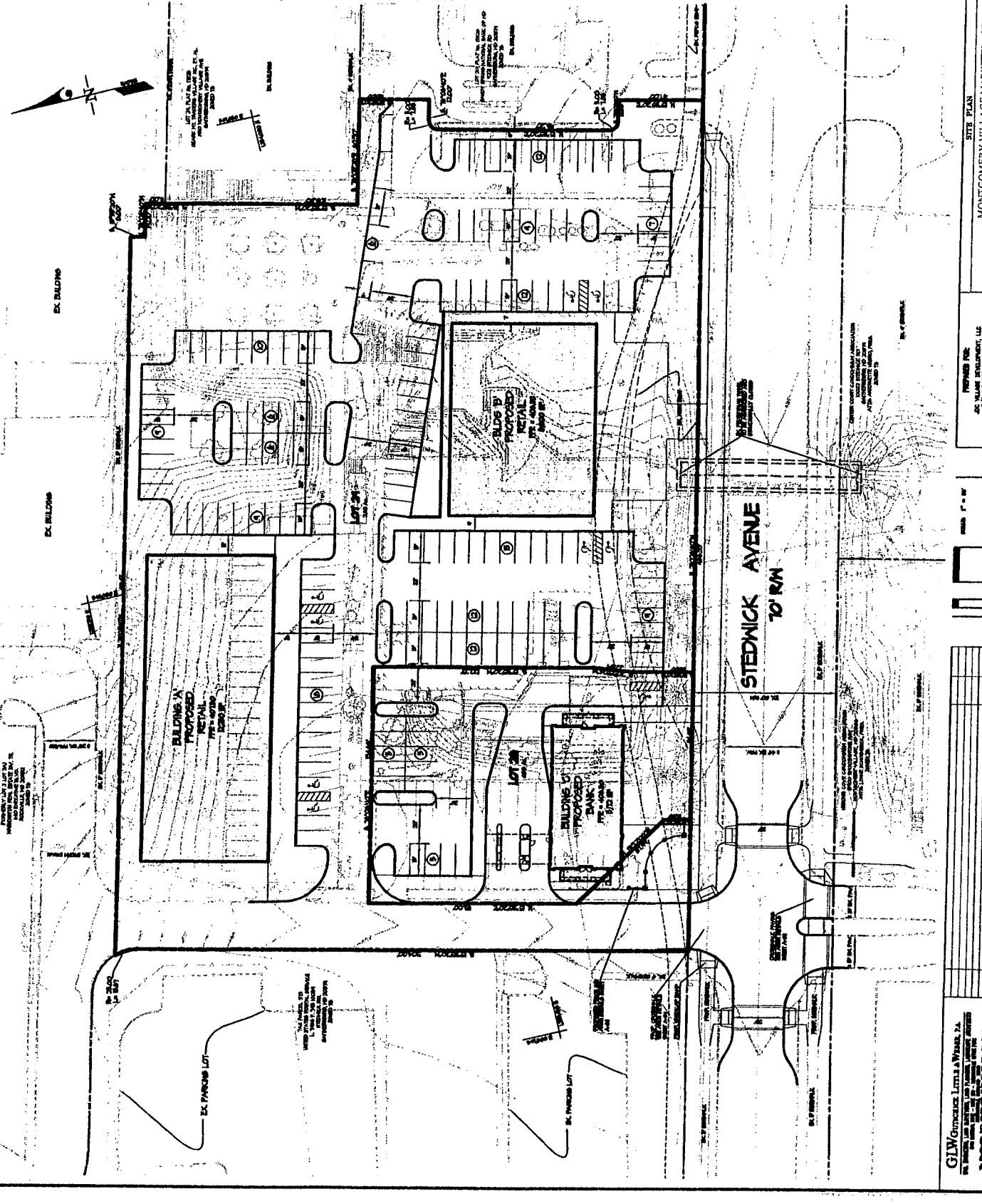
PERMIT INFORMATION
 The proposed work is covered by the license of the Professional Engineer and the City of Montgomery Planning and Zoning Department's Design and Construction Standards and Regulations.

Contract No.: [Blank]
 Date: [Blank]

City of Montgomery
 Department of Planning and Zoning

MUNICIPAL APPROVALS
 APPROVED BY PLAN [Blank]
 APPROVED BY [Blank]

CITY OF MONTGOMERY



GLW
 1120 N. GREENWOOD ST. SUITE 100
 MONTGOMERY, AL 36102
 404.249.4444

PREPARED FOR:
 [Blank]

DATE:
 [Blank]

SHEET NO.:
 [Blank]

TITLE:
 SITE PLAN

PROJECT:
 MONTGOMERY VILLAGE MARKETPLACE

DESCRIPTION OF

CLOSURE OF PEDESTRIAN TUNNEL

**UNDER LOT 15, PLAT NO. 12618, LOT 19, PLAT NO. 13328, STEDWICK ROAD,
PLAT NO. 8208 AND CENTER COURT CONDOMINIUM, PLAT NO. 1349**

BEING a strip or parcel of land hereinafter described as running in, through, over and across Lot 15 as shown on a Plat of Subdivision entitled "PLAT 343, LOTS 15 & 16, BEING A RESUBDIVISION OF LOT 1 M.V. PLAT 74, PART OF SECTION II-A, VILLAGE CENTER MONTGOMERY VILLAGE" and recorded as Plat No. 12618, also running in, through, over and across Lot 19 as shown on a Plat of Subdivision entitled "PLAT 364, LOTS 19 & 20, BEING A RESUBDIVISION OF LOT 16, VILLAGE CENTER MONTGOMERY VILLAGE" and recorded as Plat No. 13328, also running in, through, over and across Stedwick Road as shown on a Plat of Subdivision entitled "PLAT - 9, SHOWING A PLAN OF DEDICATION OF PART OF STEDWICK ROAD THROUGH MONTGOMERY VILLAGE" and recorded in Plat Book 80 as Plat No. 12618 and also running in, through, over and across Center Court Condominium as shown on a Condominium Plat entitled "SECTION - TWO, CENTER COURT CONDOMINIUM, MONTGOMERY VILLAGE" and recorded in as Plat No. 1349, all among the Land Records of Montgomery County, Maryland and being more particularly described in the meridian as established by the Maryland State Grid as defined by the North American Datum of 1983 and adjusted in 1991 (NAD 83/91) as follows:

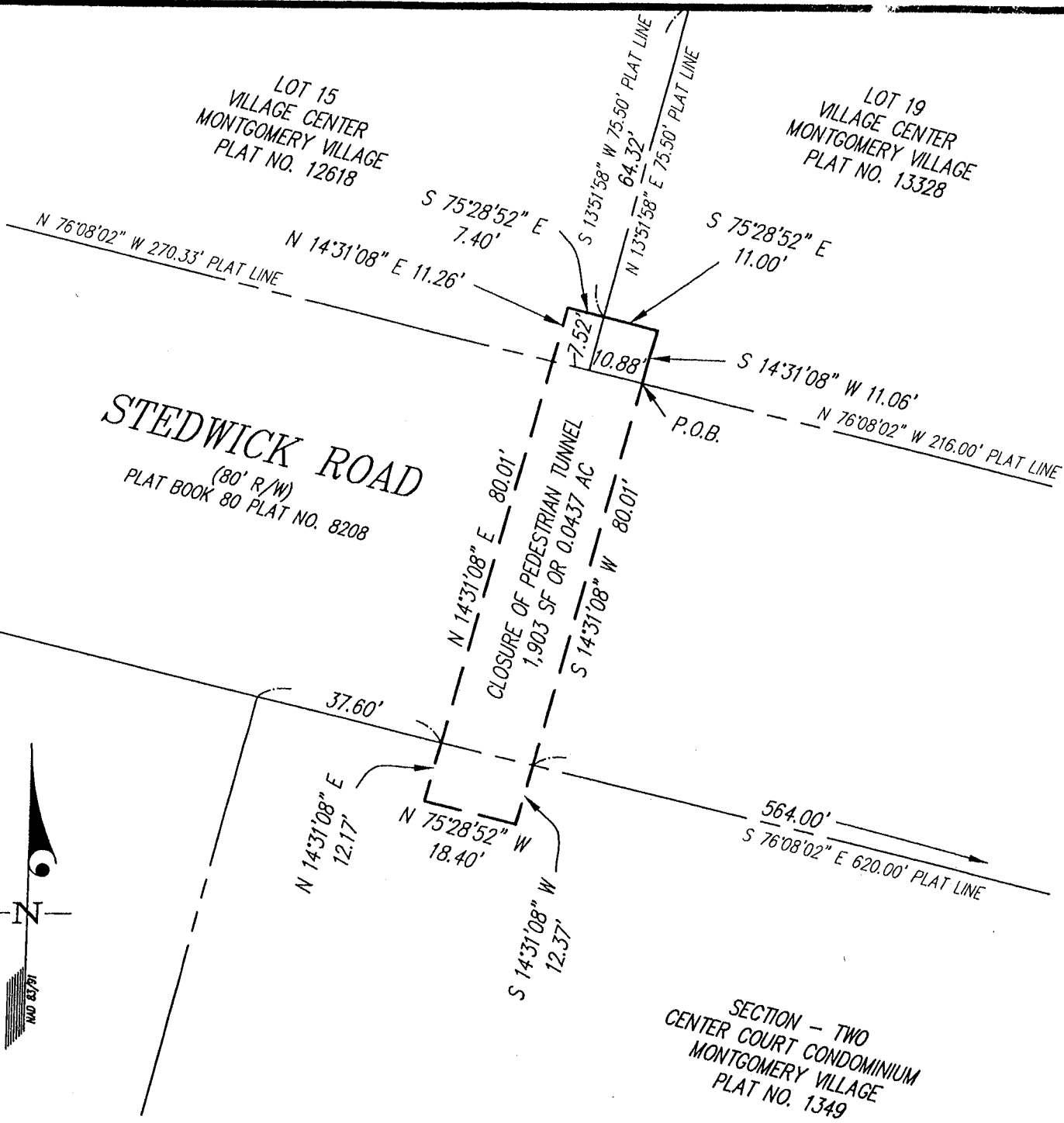
BEGINNING for the said strip or parcel of land at a point on the southwesterly or North 76°08'02" West, 216.00 feet line of said Lot 19, 10.88 feet from the northwesterly end thereof, said point also being on the northeasterly or South 49°57'49" East, 1135.88 feet right of way line of said Stedwick Road and thence leaving said lines and running in, through, over and across said Stedwick Road

1. South 14°31'08" West, 80.01 feet to a point on the northeasterly or South 76°08'02" East, 620.00 feet line of said Condominium Plat No. 1349, 564.00 feet from the southeasterly end thereof, said point also being on southwesterly or North 76°08'02" West, 1135.88 feet right of way line of said Stedwick Road ; thence leaving said lines and running in, through, over and across said Center Court Condominium, the following three (3) courses and distances
2. South 14°31'08" West, 12.37 feet to a point; thence
3. North 75°28'52" West, 18.40 feet to a point; thence

4. North $14^{\circ}31'08''$ East, 12.17 feet to a point on the northeasterly or South $76^{\circ}08'02''$ East, 620.00 feet line of said Condominium Plat No. 1349, 37.60 feet from the northwesterly end thereof, said point also being on southwesterly or North $76^{\circ}08'02''$ West, 1135.88 feet right of way line; thence leaving said lines and running in, through, over and across said Stedwick Road
5. North $14^{\circ}31'08''$ East, 80.01 feet to a point on the southwesterly or North $76^{\circ}08'02''$ West, 270.33 feet line of said Lot 15, 7.52 feet from the southeasterly end thereof, said point also being on the northeasterly or South $49^{\circ}57'49''$ East, 1135.88 feet right of way line of said Stedwick Road and thence leaving said lines and running in, through, over and across said Lot 15, the following two (2) courses and distances
6. North $14^{\circ}31'08''$ East, 11.26 feet to a point; thence
7. South $75^{\circ}28'52''$ East, 7.40 feet to a point on the southeasterly or South $13^{\circ}51'58''$ West, 75.50 feet line of said Lot 15, 64.32 feet from the northeasterly end thereof, said point also being on the northwesterly or North $13^{\circ}51'58''$ East, 75.50 feet line of said Lot 19; thence leaving said lines and running in, through, over and across said Lot 19, the following two (2) courses and distances
8. South $75^{\circ}28'52''$ East, 11.00 feet to a point; thence
9. South $14^{\circ}31'08''$ West, 11.06 feet to the point of beginning containing a computed area of 1,903 square feet or 0.0437 of an acre of land.

The licensee below was in responsible charge over the preparation of this metes and bounds description and the surveying work reflected in it, all in compliance with requirements set forth in COMAR Title 09, Subtitle 13, Chapter 06, Regulation .12.

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IDENTIFICATION PLAT

CLOSURE OF PEDESTRIAN TUNNEL

UNDER LOT 15, PLAT NO. 12618, LOT 19, PLAT NO. 13328, STEDWICK ROAD, PLAT NO. 8208 AND CENTER COURT CONDOMINIUM, PLAT NO. 1349

GAITHERSBURG DISTRICT NO. 9
MONTGOMERY COUNTY, MARYLAND

GLWGUTSCHICK LITTLE & WEBER, P.A.

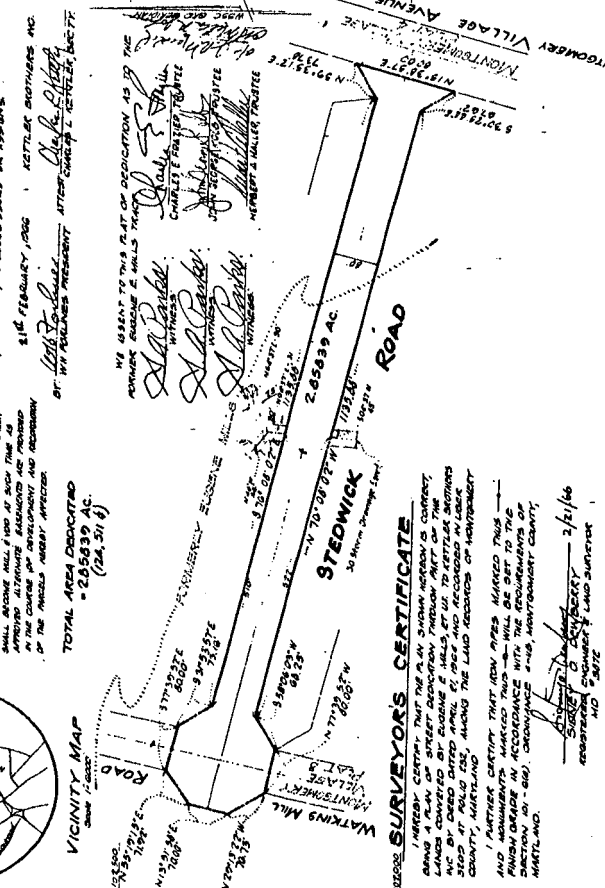
CIVIL ENGINEERS, LAND SURVEYORS, LAND PLANNERS, LANDSCAPE ARCHITECTS
3909 NATIONAL DRIVE - SUITE 250 - BURTONSVILLE OFFICE PARK
BURTONSVILLE, MARYLAND 20866
TEL: 301-421-4024 BALT: 410-880-1820 DC/VA: 301-989-2524 FAX: 301-421-4186

REFERENCE :		PLAT Nos. 1349, 8208, 12618 & 13328
DRAWN BY :	DATE :	JAN., 2009
CHECKED BY :	SCALE :	1"=30'
		G.L.W. FILE No. 07-049

OWNER'S DEDICATION

WE SETTLER BROTHERS AND... AND CONSENTOR... ABOUT THE PLAN OF... THE USE AND BENEFIT OF MONTGOMERY VILLAGE... MONTEGOMERY COUNTY AND ASSAULT, MARYLAND... CONTAINS TO THE RIGHT OF THE... THE... AS AN INSTRUMENT OF PUBLIC... COUNTY, MARYLAND, ITS SUCCESSORS OR ASSIGNS OF MONTGOMERY COUNTY, MARYLAND.

DATE: FEBRUARY 1968
 SETTLER BROTHERS AND...
 OF MONTGOMERY COUNTY, MARYLAND



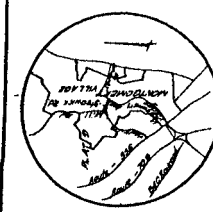
SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT THE PLAN SHOWS... THE... MONTEGOMERY COUNTY, MARYLAND... AND I FURTHER CERTIFY THAT... MONTEGOMERY COUNTY, MARYLAND.

DATE: 2/1/68
 SURVEYOR

PLAT - 3
 SHOWING A PLAN OF DEDICATION OF PART OF STEADWICK ROAD THROUGH MONTGOMERY VILLAGE

MONTGOMERY COUNTY, MARYLAND
 GREENHOVE OLIVER & COMPANY
 CIVIL ENGINEERS - LAND SURVEYORS
 8111 ARLINGTON BLVD. HAITIM, VIRGINIA



RECORDING INFORMATION

RECORDED IN...

DATE...

INDEXED...

FILE NUMBER...

APPROVED:

DATE...

COMMISSIONER OF LAND SURVEY

NOTICE/REQUEST FOR COMMENTS

BY JULY 27, 2009

AB724 STEDWICK ROAD PEDESTRIAN TUNNEL

MONTGOMERY VILLAGE SUBDIVISION

MONTGOMERY VILLAGE

This closure case was requested by Miller, Miller & Canby on behalf of its client, JDC Village Development, LLC, the Applicant. The subject pedestrian tunnel is under Stedwick Road between Montgomery Village Avenue and Watkins Mill Road in the Village Center area. The tunnel is approximately 80 feet long by 18.4 feet wide. The Montgomery County Planning Board requested the Applicant to seek the closure of this tunnel and to provide an alternative means of pedestrian access across Stedwick Road.

A public hearing will be held on

**Monday, July 13, 2009, at 2:00 p.m.
Executive Office Building, Lobby Auditorium
101 Monroe Street
Rockville, MD 20850**

Comments can be made by letter, fax or e-mail to

**Michael Cassedy
Department of Transportation
100 Edison Park Drive, 4th Floor
Gaithersburg, MD 20878**

**Phone 240-777-7254
Fax 240-777-7259**

E-mail michael.cassedy@montgomerycountymd.gov

MAP 5047

ADC 5047

A12 NW

B

C

11 NW D

E

F

G10 NW

77°12'00"

77°15'00" 730,000 FT

77°14'15"

77°13'30"

740,000 FT 77°12'45"

Joins Map 4929

39°11'15" 39°10'30" 39°09'45" 39°09'00" 39°08'15"

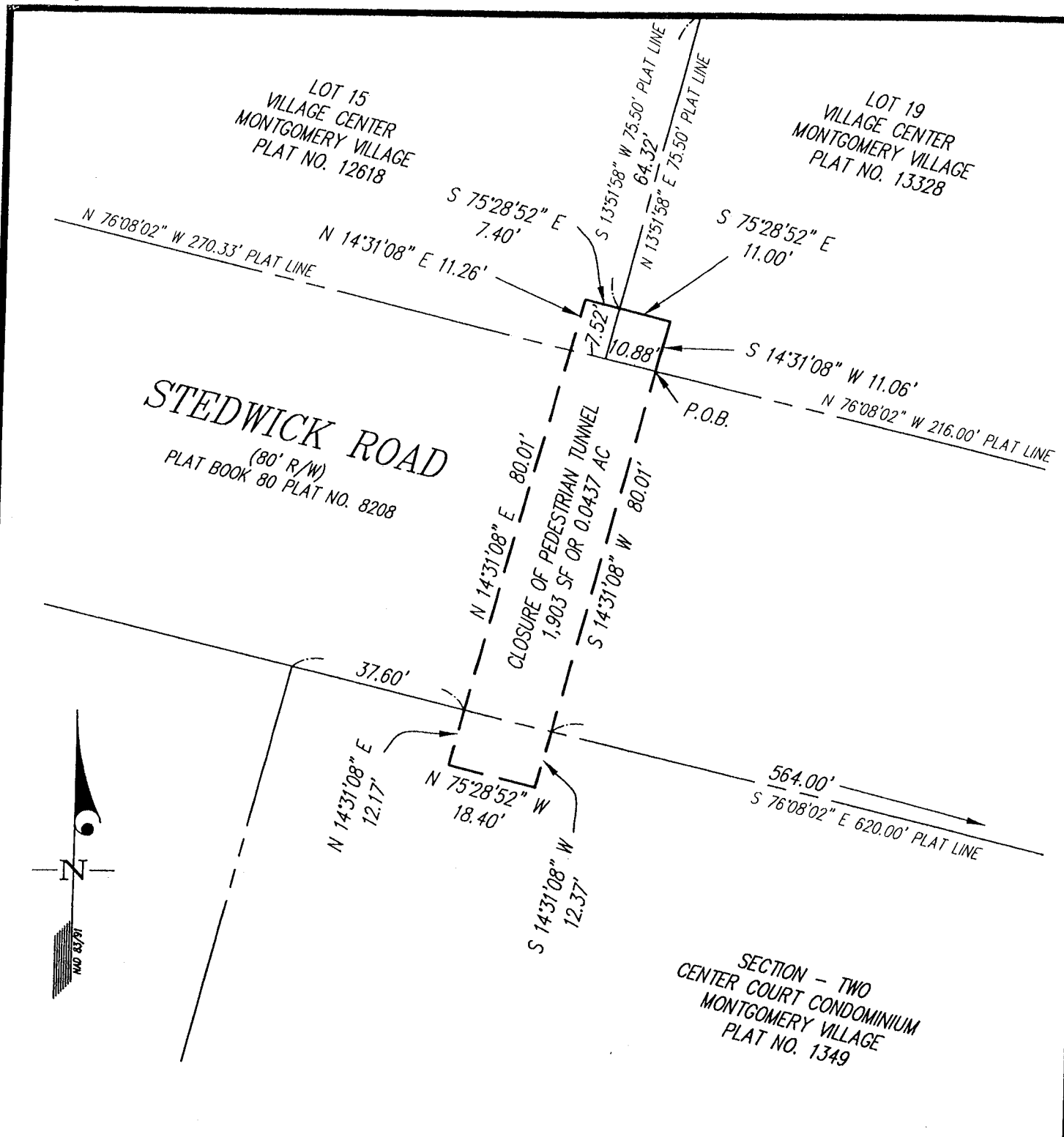
227 NW 226 NW 225 NW 224 NW 223 NW

Joins Map 5046 225 NW

ND GRID 480,000 FT ND GRID 480,000 FT



L:\AAU\DRAWINGS\07049\SKETCHES\07049 TUNNEL ABAND-1.dwg 1/6/2009 2:33:19 PM EST



IDENTIFICATION PLAT

CLOSURE OF PEDESTRIAN TUNNEL

UNDER LOT 15, PLAT NO. 12618, LOT 19, PLAT NO. 13328, STEDWICK ROAD, PLAT NO. 8208 AND CENTER COURT CONDOMINIUM, PLAT NO. 1349

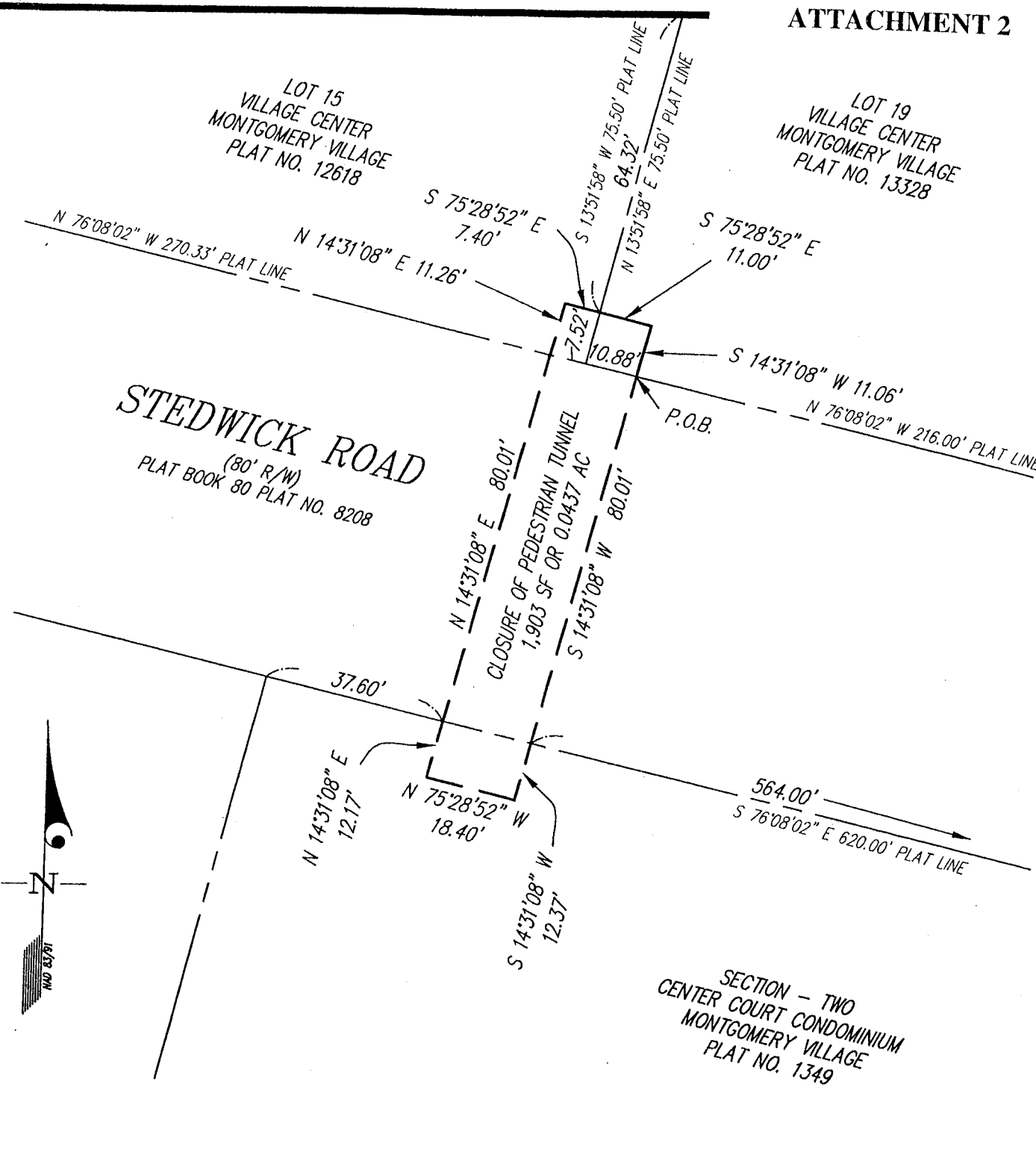
GAITHERSBURG DISTRICT NO. 9
MONTGOMERY COUNTY, MARYLAND

GLWGUTSCHICK LITTLE & WEBER, PA.

CIVIL ENGINEERS, LAND SURVEYORS, LAND PLANNERS, LANDSCAPE ARCHITECTS
3909 NATIONAL DRIVE - SUITE 250 - BURTONSVILLE OFFICE PARK
BURTONSVILLE, MARYLAND 20866
TEL: 301-421-4024 BALT: 410-880-1820 DC/VA: 301-989-2524 FAX: 301-421-4186

REFERENCE :
PLAT Nos. 1349, 8208, 12618 & 13328

DRAWN BY :	DATE : JAN., 2009	G.L.W. FILE No. 07-049
CHECKED BY :	SCALE : 1"=30'	



IDENTIFICATION PLAT
CLOSURE OF PEDESTRIAN TUNNEL

UNDER LOT 15, PLAT NO. 12618, LOT 19, PLAT NO. 13328, STEDWICK ROAD, PLAT NO. 8208 AND CENTER COURT CONDOMINIUM, PLAT NO. 1349

GAITHERSBURG DISTRICT NO. 9
 MONTGOMERY COUNTY, MARYLAND

GLW GUTSCHICK LITTLE & WEBER, P.A.

CIVIL ENGINEERS, LAND SURVEYORS, LAND PLANNERS, LANDSCAPE ARCHITECTS
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L:\CADD\DRAWINGS\07049\SKETCHES\07049 TUNNEL ABAND-1.dwg 1/6/2009 2:33:19 PM EST

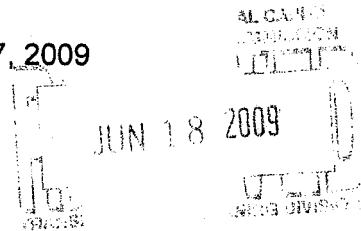


MONTGOMERY VILLAGE FOUNDATION, INC.

10120 APPLE RIDGE ROAD
MONTGOMERY VILLAGE, MARYLAND 20886-1000

(301) 948-0110 FAX (301) 990-7071 www.mvf.org

June 17, 2009



Royce Hanson, Chairman
Montgomery County Planning Board
8787 Georgia Avenue
Silver Spring, MD 20910

Dear Mr. Hanson:

I am writing on behalf of the Montgomery Village Foundation (MVF) Board of Directors to comment in support of the proposed closure of the Stedwick Road pedestrian tunnel (Case AB 724) in Montgomery Village. The subject tunnel closure is a prerequisite to the Montgomery Village Marketplace's Preliminary Plan No. 120090090 and Site Plan No. 82090060 for the proposed redevelopment of the former YMCA site.

Over the past several years, the perception by those who live in close proximity to the tunnel is that criminal activity often occurs there. Both the Herons' Cove and Center Court condominium boards of directors, representing the immediately adjacent communities, support closing this tunnel because of criminal activity, a problem that has unfortunately been confirmed numerous times.

As a matter of fact, at the very time when a group was meeting property owner Jay Donegan at the site to discuss alternative pedestrian crossings, they observed what appeared to be a drug deal taking place in the tunnel - in broad daylight.

In light of this and other reported incidents over the years, the MVF Board supports closing this pedestrian tunnel and creating a safe alternative, by providing an above ground pedestrian crossing on Stedwick Road. Thank you for considering our concerns.

Sincerely,

A handwritten signature in black ink, appearing to read 'Bob Hydorn'.

Bob Hydorn, President
MVF Board of Directors

cc: Glenn Kreger, Acting Chief, Community-Based Planning
Ed Axler, Transportation Planning Division
Mark Pfefferle, Acting Chief, Environmental Planning Division
Scott Whipple, Urban Design Division, Historic Preservation
Erin Grayson, Subdivision Plan Review, Dev. Review Div.
Sandra Pereira, Site Plan Review, Dev. Review Div.
Leslie Saville, Vision Div.
Larry Cole, Highway Coordinator
Jody Kline, Miller, Miller & Canby
MVF Presidents' Council
David B. Humpton, EVP, Montgomery Village Foundation

ATTACHMENT 3

ATTACHMENT 4

June 29, 2009

Christina M. Devlin, Ph.D.
18927 Mills Choice Road, #5
Montgomery Village, MD 20886

(240) 683-4508

Mr. Ed Axler
Montgomery County Planning Board
8787 Georgia Avenue
Silver Spring, MD 20910

RE: AB724 Stedwick Road Pedestrian Tunnel Closing

Dear Mr. Axler:

I am a resident homeowner in the Heron's Cove Condominium in Montgomery Village. I am writing to support the permanent closure of the tunnel which is underneath Stedwick Road between Montgomery Village Avenue and Watkins Mill Road. The tunnel is not safe for citizens to use, is poorly maintained, and is no longer an appropriate amenity for the community. We need a safe, above-ground pedestrian crossing.

Although I am unable to attend the public hearing on July 16 in-person, I request that you include my submission when reviewing this matter.

Should you have any questions or need additional information from me, please feel free to contact me.

Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ch M Devlin', with a long horizontal flourish extending to the right.

Christina M. Devlin, Ph.D.



MONTGOMERY COUNTY PLANNING BOARD
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

OFFICE OF THE CHAIRMAN

RECEIVED

July 27, 2009

JUL 29 2009

DEVELOPMENT REVIEW

Michael S. Cassedy
Office of Real Estate
Montgomery County Department of Transportation
100 Edison Park Drive, 4th Floor
Gaithersburg, MD 20878

RE: Comments on the Proposed Abandonment Case AB 724 – Closure of the Pedestrian Tunnel under Stedwick Road
Montgomery Village/Airpark Policy Area

Dear Mr. Cassedy:

The Montgomery County Planning Board, at its regularly scheduled meeting of July 23, 2009, reviewed the referenced abandonment application and recommended approval of the subject abandonment with the following modified recommendations:

1. As a condition of Site Plan No. 820090060, Montgomery Village Marketplace, Applicant will structurally fill and seal the tunnel at both ends and provide marked crosswalks across Stedwick Road subject to approval by the Montgomery County Department of Transportation (MCDOT).
 - a. Applicant will enter into an agreement with the Center Court Condominium Association providing for the right of access to its property to structurally fill and seal the tunnel on the south of Stedwick Road and to allow a portion of the filled and sealed tunnel that extends beyond the right-of-way for Stedwick Road to remain in place. The filled and sealed area will be re-graded.
 - b. The Applicant will provide a new pedestrian path connection to the MCDOT-approved, designated pedestrian crossing of Stedwick Road.
 - c. Applicant will provide for the removal of PEPCO's electric line that is no longer needed to light the tunnel in coordination with MCDOT.
2. Applicant will show on the plat for the Montgomery Village Market Place property the extent of the closed tunnel beyond the limits of the right-of-way for Stedwick Road.

NOTICE OF REOPENING PUBLIC HEARING RECORD

CONCERNING MONTGOMERY COUNTY

CLOSING A PEDESTRIAN TUNNEL

UNDER STEDWICK ROAD

MONTGOMERY VILLAGE

CASE # AB724

The designee of the County Executive will reopen the public record for one week beginning Monday September 7, 2009, and closing at 5:00 p.m. Monday September 14, 2009, to receive additional written information from the Department of Transportation and from any other party of interest.

Applicant: JDC Development, LLC, represented by Miller, Miller & Canby

Closure Area: Pedestrian tunnel under Stedwick Road between Montgomery Village Avenue and Watkins Mill Road in Montgomery Village. The subject pedestrian tunnel is adjoined by property to the north owned by the Applicant. The closure request is associated with the Applicant's future development plans, Montgomery Village Marketplace.

After the closure of the record the Hearing Officer shall report his findings and recommendations to the County Executive for further consideration as prescribed by County Code.

Written statements for consideration in this matter may be submitted to

**Michael Cassedy
Department of Transportation
100 Edison Park Drive, 4th Floor
Gaithersburg, MD 20878**

Phone 240-777-7254

Fax 240-777-7259

E-mail michael.cassedy@montgomerycountymd.gov

APPENDIX B
Memoranda from Reviewing Agencies



MONTGOMERY COUNTY PLANNING DEPARTMENT
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

September 2, 2009

MEMORANDUM

TO: Erin Grayson, Preliminary Plan Reviewer
Sandra Pereira, Site Plan Reviewer
Development Review Division

VIA: Sue Edwards, Team Leader, North Central Transit Corridor *Sue*
Vision Division

FROM: Leslie Saville, Planner (301.495.2194) *LS*
Vision Division

SUBJECT: Preliminary Plan 120090090
Site Plan 820090060
Montgomery Village Marketplace
Gaithersburg Vicinity Master Plans, 1985 and 1971

STAFF RECOMMENDATION

Staff recommends approval of this plan with the revisions, additions and clarifications that are detailed below. Recommended revisions should:

- Strengthen the pedestrian connections
- Create a strong "central place"
- Assure compatibility with the adjacent residential communities.

Findings

The Montgomery Village Marketplace preliminary and site plans partially conform to the Gaithersburg Vicinity Master Plan, and are generally consistent with the Montgomery Village development plan.

Pending items

Some elements of this submission are missing and numerous reviews are continuing at the time this memo was being drafted. Ongoing reviews include:

- Final agreement on the closing of the pedestrian tunnel including:
 - Council approval of the tunnel closure;
 - Final public comments (the public record closes on September 14);
 - Community comments on the Department of Transportation's removal of and location changes to the proposed bumpouts and crosswalks;
 - Final drawings of the location of the ramp on the south side of Stedwick Road and east of Mills Choice Road, showing an existing easement; and
 - Comments from the community and applicant on the location of the proposed bus waiting area;
- An arborist's assessment of the existing bosque of red maples in the northeast corner of the site;
- Final design of the above area, based upon the arborist's assessment;
- Stormwater management approval (a memorandum of understanding is being drafted but is not yet complete); and
- Review of elevations, materials, landscape, lighting and signage plans by Montgomery Village's Commercial Architectural Review Committee (tentatively scheduled for September 4 or September 11).



DESCRIPTION AND BACKGROUND

The Montgomery Village Marketplace plan is a redevelopment proposal for two lots and a vacant parcel that previously included the YMCA and Montgomery Village Visitors' Center. Stedwick Road and two residential communities border the property to the south, a post office is adjacent to the west across a private drive, the Village Center stores are to the north, and a bank and offices are to the east.

The proposal shows three new buildings including one with a double-lane drive-thru, three access drives (one to the east and two to the west), parking, a plaza and an open space with a bosque of red maple trees and possibly paving. The existing private drive and possibly part of the bosque will be retained; it appears that everything else will be removed.

MASTER PLANS

The 1985 Gaithersburg Vicinity Master Plan focused on three areas (the Shady Grove West Study Area, the Airpark Study Area, and the Smokey Glen Study Area), and notes of the balance of the master plan area: "This Plan continues the recommendations of the 1971 Gaithersburg Master Plan for most of the land outside these study areas" (p. 5). The master plan references that follow are excerpted from the 1971 Gaithersburg Vicinity Master Plan, which followed the original Montgomery Village development plan.

Generally, to conform to the Master Plan, the plan should show:

- A "central place," a center of activity and attraction;
- An architectural focal point with opportunities for shopping, recreational and social activities;
- A connected pedestrian circulation system; and
- Appropriate uses.

Excerpts from the Plan for each of these items follow, with a discussion of how the proposal conforms to the Plan.

A "central place," a center of activity and attraction

"As the urban core will be the central place for the entire Corridor City, each neighborhood will have a central place. This central place or focus will be a center of activity and attraction (Land Use Plan, Residential Uses, p. 23).

The former YMCA, Welcome Center, plazas and gathering spaces on this site provided a strong "central place." The initial Kettler Brothers application described numerous "Public Plazas (including statuary, fountains, gardens and decorative pools),...sidewalk cafes, kiosks, [and] cinemas" within the commercial areas, which would be owned and maintained by the landlords, and open to the public (A Proposal: Montgomery Village Recreational and Cultural Facilities, n.d.).

The currently proposed retail uses are expected to attract activity, and there are two important spaces for gathering—the first is in front of Building C and the second is under the bosque of trees in the northeast corner of the site. Staff recommends:

- For the plaza in front of Building C:
 - Include moveable chairs, tables and umbrellas (in warm weather, due to the sunny southern exposure) to create something similar to the sidewalk café described in the Kettler application.
 - There are no fountains, pools or statuary, but there are benches and significant garden plantings; these should be maintained as an important focal point (any failing plants should be replaced promptly).
 - This area must remain open to the public, and not be restricted to, for example, patrons of an adjacent restaurant.
- For the area under the bosque of trees:
 - Complete an assessment of tree health by a certified arborist;
 - Following the assessment, complete a design of that area. The design should create a public space that is safe and attractive. A good example (sketched by a Commercial Architectural Review Committee (CARC) member but not yet reviewed by the CARC), shows a more active area than the plaza in front of Building C, with an open paved area, seating, a small stage, a series of seating walls, and the replacement trees from the original bosque moved to the north edge of the space, creating a green backdrop.
 - The preservation of this open area is, in large part, staff's (and the community's) basis for recommending that a parking waiver be granted for this project;
 - This is an important space that should be given considerable thought; this area will help create the "central place" on this site for the community, as envisioned by the master plan;
 - As with the Building C plaza, this area must remain open to the public;
 - The final design of this area should also help this proposal comply with the next provision.

An architectural focal point with opportunities for shopping, recreational and social activities

"Each neighborhood has a variety of housing types and its own local shopping, educational, and recreational facilities" (Corridor City Design Concept, p. 11).

"It will have a convenience-type shopping center and, in some cases, will also have associated multi-family residences. Although each community center is primarily a shopping facility, each should be an architectural focal point that signals the location where people can perform shopping, recreational, and social activities" (Land Use Plan, Residential Uses, p. 23).

The YMCA building previously on this site was a strong architectural focal point; the current proposal does not include that kind of architectural statement. The Urban Design Division and CARC members should address this provision.

The proposal includes shopping opportunities, but more limited recreational and social opportunities. A significant improvement to the area under the bosque of trees, as described above, will provide the needed social opportunities. Staff seeks suggestions from the applicant, residents, and others for ways to provide a recreational component.

A connected pedestrian circulation system

“Suitable provisions for pedestrian circulation will be required in shopping areas and in areas of high-density development” (Other Transportation Systems, p. 21).

The language in the master plan reflects the original plan for Montgomery Village. Kettler Brothers described up to 10 miles of footpaths in the original Village area: “The foot paths are an integral part of the open space system. Through paths connecting major public areas will be designated or dedicated for public use” (A Proposal: Montgomery Village Recreational and Cultural Facilities, n.d.). The Planning Board echoed this language: “Certain of these facilities would be open to the general public, including mainly foot paths (especially those that traverse the area from east to west along the stream valley), bicycle paths, and those associated with commercial areas” (Montgomery County Planning Board to the County Council, June 29, 1965, p. 2).

The importance of the pedestrian system, throughout the Village and within individual sites, has been consistently emphasized. As part of a site plan review of the former YMCA on this site (8-86027), staff wrote: “Effective and continuous pedestrian walkways have been provided on-site. Existing conditions provide significant plaza areas and entranceways which welcome one to sit, relax, and enjoy. The proposed plan provides for handicap access from the parking area on the west side of the property” (staff report, May 16, 1986, p. 2).

Staff notes that the site plan before them has recently been modified to comply with DOT requirements and at this writing, has not been reviewed by any of Montgomery Village’s committees. As previously proposed, the plan contained four to six pedestrian “bumpouts” with two or three crosswalks along Stedwick Road. The original crosswalks were located at the southeastern and southwestern corners of the site, where they most closely matched the residents’ desired circulation. At DOT’s request, the bumpouts have been removed and all pedestrian traffic is directed to the center of the site at Building C. Painted “choker” lines in the road will now direct traffic to form a single lane in each direction in this section of Stedwick Road.

Staff recommends:

- Strengthening the internal pedestrian connections to conform with the new external connections:
 - Complete the north-south connection through the center of the site, where pedestrians are now being directed (aerial photos show beaten paths going from south to north, where a grocery store, hardware store, and other shops are located). Widen the sidewalks on the west side of Building C and the east side of Building B to ten feet, and provide ten-foot wide stairs to the sidewalk on the north side of the site. Wall and railing materials for the stairs should be reviewed and approved by the Urban Design Division and the CARC.

- Connect the sidewalk on the east side of the bank building to Building B by adding sidewalks to the planting islands, with crosswalks in between.
- Add four-foot paths to the corner parking islands on the southeast and southwest corners of Building C so that pedestrians don't have to walk between cars to access Building C.
- Prior to signing of the certified site plan, obtain and review final comments from at least one of Montgomery Village's committees (TD&PF or CARC) on the changes to the pedestrian circulation made by DOT in their August 28, 2009 memo.

Appropriate uses

"A community center has been built at the intersection of Montgomery Village Avenue and Centerway Road. This center will be expanded at a later time. The center is part of the approved Montgomery Village town sector plan which governs this large-scale private development. Its size, location, and access by major and arterial roads, as shown by the Residential Communities map, are indicative of its general sphere of influence (Land Use Plan, Residential Uses, p. 23, Residential Communities map, p. 24).

"Apart from the CBD, the community or "comparison" shopping centers will be the main commercial areas... Comparison shopping outlets include department stores, furniture shops, and appliance stores among other uses. Thus, the community shopping center functions partly as a neighborhood center for convenience-type needs, while at the same time supplying to a larger trade area some comparison items, such as clothing, shoes, and jewelry. A restaurant and a movie theater are important establishments in these centers. Examples of this type of center in the Planning Area are the Montgomery Village Mall and the Gaithersburg Square Shopping Center" (Community Shopping Centers, p. 30).

Staff does not have a list of tenants for this project, other than Chevy Chase Bank. As the applicant describes the possible mix of future tenants, it appears to generally serve as convenience retail, with several possible restaurants.

Staff recommendations:

- Without a list of tenants, staff cannot determine whether the proposed uses will be compatible with the adjacent residential areas. Limit any uses that have standard hours that extend beyond the "nighttime" hours in the County's Noise Ordinance (9 p.m. to 7 a.m. weekdays, and 9 p.m. to 9 a.m. on weekends and holidays). Any hours of operation that differ from those hours should require an agreement with the two adjacent communities and the MVF Board.
- Outdoor lights should be placed on timers, and shut off one hour after closing.
- The bank site drive-thrus may convert to another use at a later date; some uses, such as a late-night drive-thru using outdoor speakers, would not be compatible with the adjacent residential uses.

TOWN SECTOR ZONE, DEVELOPMENT PLANS, PAST APPROVALS

The Town Sector Zone

To conform to the Town Sector zone, the plan should show compatible uses, optimal land planning, efficiency, convenience and amenity:

- The plan should be compatible with both the adjacent commercial and civic uses and the two residential communities across Stedwick Road;
- Public footpaths should be provided;
- Developments should include amenities such as public plazas with statuary or fountains, as described in the zoning application. The previously approved plans included significant public use space.

This property was part of the original 1,767.33-acre Montgomery Village Town Sector zoning application, E-327, approved August 24, 1965, which rezoned the property from R-R to the Town Sector zone. Staff reviewed the provisions of the TS zone, the zoning application and approval, and found that most or all of the requirements are reflected in the master plan or development plan approval.

DPA 02-2 is the current Development Plan for Montgomery Village; it was originally signed August 14, 2003, and corrected on April 7, 2006. It shows a total acreage of 2,434.8 acres, of which 100.7 acres are designated as commercial. Under the provisions of the Town Sector zone, a maximum of ten percent commercial acreage is permitted. The development plan indicates that about 4.1 percent is now commercial.

These three properties fall within area II-A of the development plan, called the Village Center. A comparison of the development plan and existing acres and uses show several differences.

It is possible, and perhaps even likely, that the former Welcome Center and the vacant parcel were not originally included in the 43.1 acres of commercial property in the Village Center, but these details do not appear on the approved plan. Calculations show that the total commercial acreage including this project falls well below the 43.1 acres approved on the development plan.

Compliance with the Development Plan			
	Development plan	Existing conditions*	If all 3.32 acres are commercial
Total acres	58.0	42.6	42.6
Population	864	864**	864**
Uses	Single family, multifamily, commercial, civic	Multifamily, commercial, civic	Multifamily, commercial, civic
Commercial acres	43.1	33.2***	35.2
<i>*SDAT and GIS sources</i> <i>**Confirmed by a MVF population study in 2005</i> <i>***In this calculation, the Welcome Center is considered as a civic use, and the northern parcel is considered vacant.</i>			

Under the Town Sector zone, the total amount of commercial acreage is limited to ten percent of the total acreage in the zone. As shown on the table below, the total commercial acreage calculates to 4.1 percent under the existing development plan, and 3.8 percent using GIS calculations of this proposal. The table also shows the industrial and open space acreages and percentages, which are unaffected by this proposal. The proposal conforms to all minimum and maximum requirements and limitations of the zone.

Town Sector Zone Minimums and Maximums		
	Development plan	As proposed
Total acres	2,434.8 acres	2,434.8 acres
Commercial (10% max.)	100.7 (4.1%)	92.8 (3.8%)
Industrial/major empl. (6% max.)	0 (0.0%)	0 (0.0%)
Open space (10% min.)	696.8 (28.6%)	696.8 (28.6%)

Because the uses and acreages fall within what is shown on the development plan, staff considers a development plan amendment to be unnecessary. However, the actual acreages and uses on the development plan need to be corrected.

In 2005, the Montgomery Village Foundation staff and residents conducted a survey of the Village population, and found significant discrepancies in the development plan. On July 15, 2009, Bob Hydorn wrote to the Planning Board on behalf of the MVF Board of Directors, asking our assistance in reconciling the acreages and population credits for Montgomery Village (letter attached). Review of this project confirms this need.

COMMUNITY COMMENTS

Several versions of this plan have been presented to the Montgomery Village Foundation Board of Directors, the Commercial Architectural Review Committee (CARC), the Committee on the Environment (COE), the Transportation, Development and Public Facilities Committee (TD&PF), and the adjacent communities. The applicant has worked with the community extensively, and many concerns have been resolved. Reviews are still pending as follows:

- None of the communities or committees have reviewed DOT’s August 28, 2009 proposal, with the changes to the mid-block pedestrian crossing locations, the bus waiting area, the “choker” striping along Stedwick Road, or other details;
 Staff recommends that the community and committees review DOTs proposal as soon as possible and submit testimony to the Planning Board about these items;
- DOT made changes to the mid-block crosswalks—all previously considered crosswalks have been removed, and a new one in the center of the site has been recommended;
Staff recommends an additional interior pedestrian connection as described above; and
Staff recommends a final review of the proposed crosswalks by at least one of MVF’s committees and the two adjacent communities;

- DOT's recommendations for a bus operator restroom/storage area, and a bus waiting area has previously created concerns among residents, particularly about the locations of the bus waiting areas;
 - Staff also has concerns about buses in the proposed waiting area blocking visibility of pedestrians crossing Stedwick Road in front of this site. Staff requests that DOT consider shifting the bus waiting area to the west of the private drive, adjacent to the post office, where fewer mid-block pedestrian crossings are likely to occur.
- The stormwater management approval is pending the completion of a memorandum of understanding between the Montgomery Village Foundation and the applicant;
 - Staff recommends including a condition requested by MVF that all needed improvements be made to Theater Pond before the issuance of the first occupancy permit;
- The Commercial Architectural Review Committee (CARC) will review the site plan, elevations, materials, landscape, lighting and signage at their next meeting. They are calling a special meeting on either September 4 or 11 in order to provide comments to the Planning Board;
 - Staff recommends that any changes proposed by the CARC be confirmed by the urban design staff, then incorporated into the certified site plan;
- The final alignment of a ramp from the Theater Pond bike path to the southern sidewalk along Stedwick Road is pending review of an existing easement;
 - Staff recommends that the easement be shown on the drawings with the final alignment of the ramp from the southern bike path, and that the final path alignment be approved by the two adjacent communities, who will share responsibility for maintaining the facility;
- Community members have expressed concern about the possible loss of five mature Pin oaks on Stedwick Road during the addition of the second right turn lane;
 - Staff recommends that, if the trees are damaged or lost, the applicant should replace the five Pin oaks adjacent to the widened portion of Stedwick Road with five 2 ½-3" caliper Willow oaks.

OTHER CONCERNS

Pedestrian safety

This proposal includes a second right-hand turn lane from eastbound Stedwick Road onto southbound Montgomery Village Avenue. Transportation staff indicates that this will reduce the morning Critical Lane Volume from an existing 1,670 and future 1,670 to an "improved" 1,479, all of which exceed the congestion standard of 1,425.

As noted above, the master plan places a strong emphasis on pedestrian connections. Staff has received reports of two incidents at this intersection where a pedestrian, in the crosswalk with the pedestrian light, was struck by a right-turning vehicle. Police reports also indicate that two other pedestrians have been struck at this intersection in the last few years. By adding an extra turn lane to this intersection, pedestrians have a greater crossing distance and will be at

increased risk of being struck. Staff asked that, as an alternative to adding another turn lane, that street lights be added on Clubhouse Road (the street parallel to and one block north of Stedwick Road, where the MVF has previously requested streetlights), in order to increase pedestrian safety; no response was received.

Parking waiver

This application includes a parking waiver. Staff recommends the waiver because of the value placed on retaining the open space area in the northeast corner of the site. Improvements to this area should be completed and the area should be open to the public before the first issuance of occupancy permits.

Screening parking

The master plan places an emphasis on the pedestrian, but with the large surface parking area and the drive-thrus in this proposal, this plan emphasizes the auto more than the pedestrian. To reduce the visual impact of cars in the parking lot, place 3 ½-foot tall walls between Buildings A and B, Buildings A and C, and Building C and the offsite building to the east. Wall materials should be reviewed and approved by the Urban Design Division and the CARC.

Compatible materials

The proposal currently includes an approximately 12-foot tall retaining wall on the north side of the site, behind Building B and behind the northern parking area. This wall is not shown on the elevations and wall materials are not indicated. As above, the materials should be reviewed and approved by the Urban Design Division and the CARC. The stairs (requested above to complete the pedestrian connections through the site) through this wall should be reviewed with this wall.

Light levels and glare

To assure compatibility with the adjacent residential areas, care must be taken with light levels and glare:

- Light poles and other mounting heights should be no higher than 14 feet;
- Clarify the headings for columns X, Y and Z on the Luminaire Location Summary (Sheet 8);
- Eight "Type G" lights appear to be on 10-foot poles in the sidewalks around Building C. Move these fixtures out of the walkways. On the south, move two into the planting area, adjacent to Stedwick Road. On the east and west, move six into the bosque area on the northeast corner of the site;
- Clarify the location, number and type of wall-mounted fixtures. Three such fixtures are noted on the Luminaire Schedule, but several appear on the elevations;
- As noted earlier, lights should be controlled by timers, and should shut off one hour after stores close;
- The complete lighting plan should be reviewed by the Urban Design Division and the CARC, in conjunction with the adjacent communities.

Signs

Signage details are not provided, so staff cannot determine what impact they might have on the adjacent residential areas. Please submit sheets to the CARC as well as our Development Review and Urban Design divisions. Lighted signs should be turned off no later than the lights, described earlier.

Trees

On the latest landscape plans, the street trees are shown as Willow oaks, *Quercus phellos*, and this tree is likewise recommended to be used if the five Pin oaks adjacent to the new right-turn lane on Stedwick Road must be replaced. If the CARC and MVF staff recommend another oak, such as the Red, Swamp or Chestnut oak (*Q. rubra*, *bicolor* or *prinus*), staff defers to their recommendation.

Proposed fence

Submit the "Arch Details" sheet referenced on the Landscape Plan (Sheet 6) for two proposed fences.

Off-site impacts

This site has off-site impacts that are not included in the drawings, such as the second right-hand turn lane from Stedwick Road onto Montgomery Village Avenue, and the ramp from the Theater Pond bike path up to the new pedestrian crosswalk (replacing the tunnel connection), which have raised community concerns. To provide greater clarity, staff recommends an agreement stating that:

- The applicant will replace the five Pin oaks on Stedwick Road, if needed, as part of the right-turn lane addition, as described above.
- The applicant will plant two crape myrtles on the south side of the south sidewalk on Stedwick Road, across from and matching the crape myrtles in front of Building C. These will replace the two trees that currently flank the south tunnel entrance. They should be identical to and planted at the same time as those in front of Building C.

Attachment:

MVF letter regarding Town Sector Zone population density and acreage

LS:ha: M:\Saville\MV Marketplace\MV Marketplace MP comments 090109.doc



MONTGOMERY VILLAGE FOUNDATION, INC.

10120 APPLE RIDGE ROAD
MONTGOMERY VILLAGE, MARYLAND 20886-1000

(301) 948-0110 FAX (301) 990-7071 www.mvf.org

July 16, 2009

RECEIVED
09-0783
AUG 04 2009

OFFICE OF THE CHAIRMAN
THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

Royce Hanson, Chairman
Montgomery County Planning Board
8787 Georgia Avenue
Silver Spring, MD 20910

Dear Mr. Hanson:

I am writing on behalf of the Montgomery Village Foundation Board of Directors to ask that the Town Sector Zone (TSZ) population density and acreage calculations be reviewed and verified as soon as possible. We believe that it will be important to have the correct information prior to updating the Gaithersburg East Master Plan and also as our TSZ approaches the 50-year mark.

During the processing of DPA-02-02 Gables Residential, there were questions about the correct number of and the treatment of Moderately Priced Development Units (MPDU's) and the correct amount of acreage in Montgomery Village. Following is a list of our specific concerns:

Population Credits

1. What are the original numbers of MPDU's that were built in each development, and what, if any, population density bonus was awarded?
2. What is the current number of MPDU's in each development?
3. When an MPDU reverts to market rate, does its awarded population density bonus lapse as well?
4. How does current HOC ownership/management affect an existing MPDU and its population density bonus?
5. Can MPDU's that did not receive a population density bonus at the time they are built ever receive a population density bonus?

Acreage Amounts

Adding up the various changes that have been made over the years to the Town Sector Zone gives us the approximate number of 2,434.8 acres that has been used to determine the maximum population. However, adding up all the acreage shown on the most recent map (Gables Rothbury, DPA 02-02) gives us a total acreage of 2,404.5, which falls short by about 30 acres.

This serious question needs to be answered, as 30 fewer acres results in a corresponding reduction in acreage in the number of remaining population credits by about 450.

We appreciate your assistance with this request.

Sincerely,

Bob Hydorn, President
MVF Board of Directors

cc: MVF Board of Directors
MVF Presidents' Council
David B. Humpton, EVP, Montgomery Village Foundation



DEPARTMENT OF TRANSPORTATION

Isiah Leggett
County Executive

Arthur Holmes, Jr.
Director

August 28, 2009

Ms. Catherine Conlon, Subdivision Supervisor
Development Review Division
The Maryland-National Capital
Park & Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910-3760

RE: Preliminary Plan # 120090090
Montgomery Village Marketplace

Dear Ms. Conlon:

We have completed our review of the preliminary plan dated August 18, 2009. This original preliminary plan for this project was reviewed by the Development Review Committee at its meeting on December 8, 2008. We recommend approval of the plan subject to the following comments:

All Planning Board Opinions relating to this plan or any subsequent revision, project plans or site plans should be submitted to DPS in the package for record plats, storm drain, grading or paving plans, or application for access permit. Include this letter and all other correspondence from this department.

1. Grant necessary slope and drainage easements. Slope easements are to be determined by study or set at the building restriction line.
2. Our Division of Transit Services has had a project underway for some time to construct a transit layover and bus operator restroom facility in the vicinity of this site. This facility will provide a safe, well lit, well defined location for our customers to wait for their bus service as well as provide an adequate layover location for two buses and a restroom facility for our operators. The proposed improvements to Stedwick Road (discussed later in this letter) provide a welcome opportunity to implement this necessary public improvement project.

In order to avoid having to place a prefabricated bus operator restroom and storage structure within the public right-of-way adjacent to this project, we have requested the applicant to construct, maintain, and grant uninterrupted access to an on-site, two stall restroom and storage facility that would be located on the outside of the closest proposed on-site building. The terms for this facility will need to be concluded prior to issuance of the building permit.

3. Prior to approval of the record plat for this site, the applicant will need to obtain County approval to extinguish those existing public storm drain easements within the site that will no longer be needed as a result of this redevelopment.

Division of Traffic Engineering and Operations

100 Edison Park Drive, 4th Floor • Gaithersburg, Maryland 20878
Customer Service 240-777-6000 • Main Office 240-777-2190 • TTY 240-777-6013 • FAX 240-777-2080
trafficops@montgomerycountymd.gov

4. Council approval of the applicant's petition to close the existing pedestrian tunnel under Stedwick Road will be required prior to approval of the record plat. At the permit stage, the applicant will need to prepare a plan to construct mid-block chokers at the proposed mid-block crosswalk. The applicant will also be required to restripe Stedwick Road between Montgomery Village Avenue and the shopping center driveway (opposite Mills Choice Road).

The choker and restriping plan will promote use of the nearby proposed transit layover facility, improve pedestrian safety by reducing the crossing distance and by delineating the location of the "ladder style" mid-block crosswalk, and encourage reduced vehicle speeds by narrowing the travel lanes in each direction. This restriping will need to be coordinated with the applicant's proposal to slightly widen and restripe Stedwick Road at Montgomery Village Avenue to create a second eastbound right turn lane.

We intend to install the transit layover area in the area between proposed building C and the entrance to the shopping center (opposite Mills Choice Road). The target area for this facility is in the space between proposed buildings A and C – opposite the proposed on-site parking lot.

The crosswalk proposed on the plan on the east side of the Stedwick Road/shopping center entrance/Mills Choice Road intersection will not be implemented under these improvements.

5. Record plat to reflect denial of access along Stedwick Road site frontage.
6. Private common driveways and private streets shall be determined through the subdivision process as part of the Planning Board's approval of a preliminary plan. The composition, typical section, horizontal alignment, profile, and drainage characteristics of private common driveways and private streets, beyond the public right-of-way, shall be approved by the Planning Board during their review of the preliminary plan.
7. The parking layout plan will be reviewed by the Department of Permitting Services at the site plan or building permit stage, whichever comes first. To facilitate their review, that plan should delineate and dimension the proposed on-site travel lanes, parking spaces, curb radii, handicap parking spaces and access facilities, and sidewalks. The applicant may wish to contact Ms. Sarah Navid of that Department at (240) 777-6320 to discuss the parking lot design.
8. Provide on-site handicap access facilities, parking spaces, ramps, etc. in accordance with the Americans With Disabilities Act.
9. Where perpendicular parking spaces border a sidewalk, a two (2) foot vehicle overhang is assumed. The applicant should either provide a seven (7) foot wide sidewalk or wheelstops within those parking spaces.
10. For any parking facility containing more than fifty (50) parking spaces, the applicant needs to furnish bicycle parking facilities as required Section 59 E-2.3 of the Montgomery County Code. The applicant should provide either bike lockers or inverted "U" type bike racks.

11. The owner will be required to submit a recorded covenant for the operation and maintenance of private streets, storm drain systems, and/or open space areas prior to MCDPS approval of the record plat. The deed reference for this document is to be provided on the record plat.
12. Relocation of utilities along existing roads to accommodate the required roadway improvements shall be the responsibility of the applicant.
13. If the proposed development will alter any existing street lights, signing, and/or pavement markings, please contact Mr. Dan Sanayi of our Traffic Engineering Design and Operations Section at (240) 777-6000 for proper executing procedures. All costs associated with such relocations shall be the responsibility of the applicant.
14. If the proposed development will alter or impact any existing County maintained transportation system management component (i.e., traffic signals, signal poles, handboxes, surveillance cameras, etc.) or communication component (i.e., traffic signal interconnect, fiber optic lines, etc.), please contact Mr. Bruce Mangum of our Transportation Systems Engineering Team at (240) 777-6000 for proper executing procedures. All costs associated with such relocations shall be the responsibility of the applicant.
15. Trees in the County rights of way - species and spacing to be in accordance with the applicable DOT standards. Tree planting within the public right of way must be coordinated with Mr. Brett Linkletter with our Division of Highway Services, Tree Maintenance Unit. Mr. Linkletter may be contacted at (301) 840-2283.
16. Permit and bond will be required as a prerequisite to DPS approval of the record plat. The permit will include, but not necessarily be limited to, the following improvements:
 - A. Construct mid-block chokers (at the location of the mid-block crosswalk) and a six (6) foot wide sidewalk across the Stedwick Road site frontage. Provide handicap ramps at each driveway along the property frontage and at each end of the proposed mid-block crosswalk. Restripe and resign Stedwick Road between Montgomery Village Avenue and Mills Choice Road to implement the improvements described earlier in this letter.

* **NOTE: the Public Utilities Easement is to be graded on a side slope not to exceed 4:1.**
 - B. Construct a second eastbound right turn lane on Stedwick Road at Montgomery Village Avenue as addressed in the Traffic Impact Study for this project.
 - C. Permanent monuments and property line markers, as required by Section 50-24(e) of the Subdivision Regulations.
 - D. Erosion and sediment control measures as required by Section 50-35(j) and on-site stormwater management where applicable shall be provided by the Developer (at no cost to the County) at such locations deemed necessary by the Department of Permitting Services (DPS) and will comply with their specifications. Erosion and sediment control measures are to be built prior to construction of streets, houses and/or site grading and are to remain in operation (including maintenance) as long as deemed necessary by the DPS.

Ms. Catherine Conlon
Preliminary Plan No. 120090090
August 28, 2009
Page 4

Thank you for the opportunity to review this preliminary plan. If you have any questions or comments regarding this letter, please contact me at greg.leck@montgomerycountymd.gov or (240) 777-6000.

Sincerely,



Gregory M. Leck, Manager
Development Review Team

m:/subd/gml/docs/PP/120090090, Montgomery Village Marketplace.doc

Enclosure

cc: Jay Donegan; JDC Village Development, LLC
David S. Weber; Gutschick, Little & Weber, P.A.
Tim Longfellow; Gutschick, Little & Weber, P.A.
Jody Kline; Miller, Miller & Canby, Chartered
Sharon Levine; Montgomery Village Foundation
Antoinette Negro; Center Court Condominium Association
Paul Noel; Heron's Cove Condominium Association
Robert Kronenberg; M-NCPPC Development Review
Shahriar Etemadi; M-NCPPC Transportation Planning
Edward Axler; M-NCPPC Transportation Planning
Erin Grayson; M-NCPPC Development Review
Sandra Pereira; M-NCPPC Development Review
Catherine Matthews; Upcounty Regional Services Center
Nancy Hislop; Upcounty Regional Services Center
Joseph Y. Cheung; MCDPS Right-of-Way Plan Review
Sarah Navid; MCDPS Right-of-Way Plan Review
Henry Emery; MCDPS Right-of-Way Plan Review
Arthur Holmes, Jr.; MCDOT Director
Edgar Gonzalez; MCDOT Director's Office
Michael Cassidy; MCDOT Property Acquisition
Carolyn Biggins; MCDOT Transit Services
Philip McLaughlin; MCDOT Transit Services
Deanna Archey; MCDOT Transit Services
Stacy Coletta; MCDOT Transit Services
Brett Linkletter; MCDOT Highway Services
Emil Wolanin; MCDOT Traffic Engineering & Operations
Dan Sanayi; MCDOT Traffic Engineering & Operations
Bruce Mangum; MCDOT Traffic Engineering & Operations
Fred Lees; MCDOT Traffic Engineering & Operations
Mark Terry; MCDOT Traffic Engineering & Operations
David Adams; MCDOT Traffic Engineering & Operations
Preliminary Plan Folder
Preliminary Plans Notebook



DEPARTMENT OF PERMITTING SERVICES

APPROVED FOR

SWM Concept Reconfirmation:
 NEED TO PROVIDE MONTGOMERY
 Village Foundation agreement
 To use existing pond on their
 property.

Blair J. Pugh 6/26/09
 Approved Date

DEPARTMENT OF PERMITTING SERVICES

Carla Reid Joyner
 Director

Isiah Leggett
 County Executive

April 14, 2008

Mr. David Webber
 Gutshick, Little & Webber
 3909 National Drive, Suite 250
 Burtonsville, MD 20866

Re: Stormwater Management **CONCEPT** Request
 for Montgomery Village (Market Place)
 Preliminary Plan #: N/A
 SM File #: 233296
 Tract Size/Zone: 3.31 ac./ Town Center
 Total Concept Area: 3.3 ac.
 Lots/Block:
 Parcel(s):
 Watershed: Great Seneca Creek

Dear Mr Webber:

Based on a review by the Department of Permitting Services Review Staff, the stormwater management concept for the above mentioned site is **acceptable**. The stormwater management concept consists of on-site channel protection measures via the existing pond. Water quality control will be provided via the use of Aqua Filters and hydrodynamic pretreatment structures. Recharge is not required with this redevelopment site.

The following **conditions** will need to be addressed **during** the detailed sediment control/stormwater management plan stage:

1. Prior to permanent vegetative stabilization, all disturbed areas must be topsoiled per the latest Montgomery County Standards and Specifications for Topsoiling.
2. A detailed review of the stormwater management computations will occur at the time of detailed plan review.
3. An engineered sediment control plan must be submitted for this development.
4. All filtration media for manufactured best management practices, whether for new development or redevelopment, must consist of MDE approved material.

This list may not be all-inclusive and may change based on available information at the time.

Payment of a stormwater management contribution in accordance with Section 2 of the Stormwater Management Regulation 4-90 is not required.

This letter must appear on the sediment control/stormwater management plan at its initial submittal. The concept approval is based on all stormwater management structures being located outside of the Public Utility Easement, the Public Improvement Easement, and the Public Right of Way unless specifically approved on the concept plan. Any divergence from the information provided to this

office; or additional information received during the development process; or a change in an applicable Executive Regulation may constitute grounds to rescind or amend any approval actions taken, and to reevaluate the site for additional or amended stormwater management requirements. If there are subsequent additions or modifications to the development, a separate concept request shall be required.

If you have any questions regarding these actions, please feel free to contact Blair Lough at 240-777-8335.

Sincerely,



Richard R. Brush, Manager
Water Resources Section
Division of Land Development Services

RRB:dm bil

cc: C. Conlon
S. Federline
SM File # 233296

QN - on-site; Acres: 3.3
QL - on-site; Acres: 3.3
Recharge is not provided

APPENDIX C
Correspondence from the community



MONTGOMERY VILLAGE FOUNDATION, INC.

10120 APPLE RIDGE ROAD
MONTGOMERY VILLAGE, MARYLAND 20886-1000

(301) 948-0110 FAX (301) 990-7071 www.mvf.org

May 5, 2009

Royce Hanson, Chair
Montgomery County Planning Board
8787 Georgia Avenue
Silver Spring, MD 20910

Dear Mr. Hanson:

I am writing on behalf of the Montgomery Village Foundation Board of Directors to inform you of our actions on several proposed components of the planned Marketplace retail development.

Support Proposed Closing of Pedestrian Tunnel

We support closing the pedestrian tunnel in conjunction with creating safe, alternative street pedestrian crossings to be installed adjacent to Center Court, Heron's Cove and the west side of the development. There is unanimity among the most heavily impacted communities of Heron's Cove, Center Court and Stedwick in support of closing the tunnel. Our support will remain *tentative* until all information about the proposed alternative crossings, including traffic studies, has been provided.

Oppose Proposed On-Street Parking on Stedwick Road between Montgomery Village Avenue and Watkins Mill Road

We oppose all on-street parking on Stedwick Road between Montgomery Village Avenue and Watkins Mill Road. The most heavily impacted communities of Center Court, Heron's Cove and Stedwick have expressed their concerns that in the past, when such parking was permitted on one side of Stedwick Road, the vehicles that parked there were primarily trucks, other commercial vehicles and cars that could not park in communities. Some of the trucks were 18-wheelers. These vehicles were a hazard to vehicles exiting Heron's Cove and Center Court because they obstructed the view of oncoming traffic and were also a problem to pedestrians. If parking were again allowed on this segment of Stedwick Road, there is consensus among these residents that there would be similar hazards and that this initiative would not be likely to serve Marketplace patrons, because there is no pedestrian access to the development from the roadway.

Remain Silent for Now on Proposed Addition of Right Turn Lane on Eastbound Stedwick Road at Montgomery Village Avenue

The MVF Board has taken no action on the proposed right turn lane addition because it may be possible to explore alternative solutions to mitigate the failing intersection.

Support Request for Parking Waiver

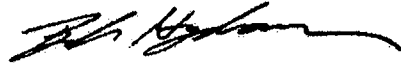
The Board believes the parking waiver is reasonable, particularly because fewer parking spaces will allow a stand of trees to remain on the site.

Support the Re-subdivision of the Property into Two Lots

The MVF Board supports the re-subdivision provided that MVF does not lose any authority over either lot.

It is important to note that all of the above positions were taken following a thorough vetting among the most impacted communities. We thank you for your thoughtful consideration.

Sincerely,



Bob Hydorn, President
MVF Board of Directors

cc: Jody Kline, Miller, Miller & Canby
Sue Edwards, I-270 Corridor Team Leader
Nancy Sturgeon, Community Based Planning
Leslie Saville, Community Based Planning
David B. Humpton, EVP, Montgomery Village Foundation

Pereira, Sandra

From: paulnoel@aol.com
Sent: Tuesday, September 01, 2009 3:06 PM
To: Saville, Leslie; Pereira, Sandra
Cc: slevine@mvf.org; heronscove@verizon.net; Jaydonegan@aol.com
Subject: Preliminary Plan #120090090, Montgomery Vlg Marketplace Comments

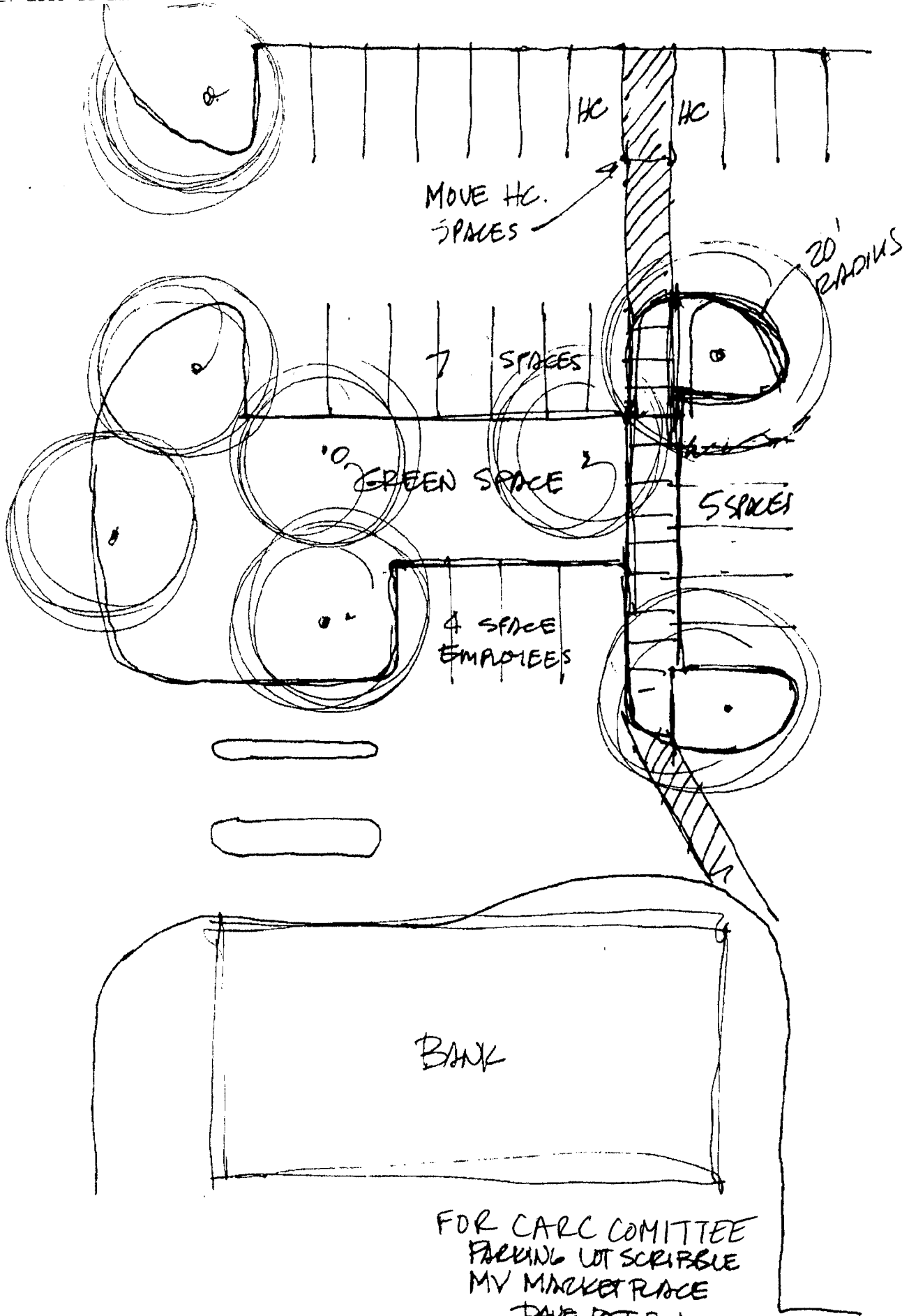
On behalf of Heron's Cove Condominium, which is located directly across Stedwick Road from the MV Marketplace, we would like to make the following comments on the August 28, 2009 memo prepared by Gregory Leck of the Development Review Team.

- We are disappointed that the proposed crosswalk at Mill Choice Road to cross Stedwick Rd will not be built. However, we do understand that only one cross walk will allowed for safety and traffic flow reasons.
- We look forward to seeing detailed plans for the "bus parking bays" on Stedwick Road to be used for the transit layover/operator restroom facility to be included in The Marketplace. Our concern is that adequate sight lines exist for traffic entering and turning onto Stedwick Road, specifically traffic entering the road from the north side.

Should you require any further clarification of these comments, please do not hesitate to contact me.

Thank you.

Paul Noel
President, Heron's Cove Board of Directors
(301) 926-1550



FOR CARC COMMITTEE
 PARKING LOT SCRIBBLE
 MV MARKET PLACE
 DAVE POST, PLA
 8/26/09

Center Court Condominium

c/o Main Street Property Management Inc.

9 Park Avenue

Gaithersburg, MD 20877

Phone: 240-632-0001

email: mgtbymainstreet@aol.com

Fax: 240-632-9511

July 2, 2009

Mr. Royce Hanson
Montgomery County Planning Board
8787 Georgia Avenue
Silver Spring, Maryland 20910

Dear Mr. Hanson:

Center Court Condominium is a small residential community of 132 units located at the intersection of Montgomery Village Avenue and Stedwick Road in Montgomery Village, Maryland. Entrance to the community is opposite the Village Mall shopping center and the proposed Market Place development by Jay Donegan and associates.

Since 1973 a tunnel beneath Stedwick Road has provided pedestrian access to these locations for residents of Center Court and the adjacent communities of Center Stage and Heron's Cove. A pedestrian walkway provides access directly to the tunnel and is governed by an easement established by the developer of Montgomery Village. However, the walkway is on Center Court property and is maintained by the condominium association.

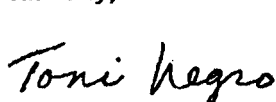
For many years the Montgomery Village Foundation assumed responsibility for maintenance and repair of the tunnel. In 1998 this responsibility was relinquished and transferred to the adjoining communities. For several years, Center Court and the former YMCA provided funds for this purpose until budget restraints made it difficult to support this effort.

In recent years the tunnel has suffered from neglect and lack of maintenance. It has been transformed from a safe, convenient access route for residents to an undesirable entity where persons congregate and engage in illegal and questionable activities. Even though Montgomery County has acknowledged ownership of the tunnel does not expend resources to maintain the tunnel.

Consequently, the alternative to close the tunnel is a realistic solution to the problems and issues expressed by the adjacent communities. While the residents of Center Court have benefited from the convenience of the tunnel, the conditions there have changed.

Consequently the Board of Directors of Center Court Condominium supports closure of the tunnel beneath Stedwick Road.

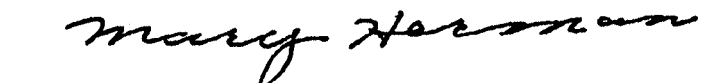
Sincerely,


Toni Negro, President


Amber Philler, Vice President


Robert Nisbet, Treasurer


Tommy Thompson, Board Member


Mary Herman, Board Member

Cc: Michael Cassidy, Department of Transportation



MONTGOMERY VILLAGE FOUNDATION, INC.

10120 APPLE RIDGE ROAD
MONTGOMERY VILLAGE, MARYLAND 20886-1000

(301) 948-0110 FAX (301) 990-7071 www.mvf.org

June 17, 2009

Royce Hanson, Chairman
Montgomery County Planning Board
8787 Georgia Avenue
Silver Spring, MD 20910

JUN 18 2009

Dear Mr. Hanson:

I am writing on behalf of the Montgomery Village Foundation (MVF) Board of Directors to comment in support of the proposed closure of the Stedwick Road pedestrian tunnel (Case AB 724) in Montgomery Village. The subject tunnel closure is a prerequisite to the Montgomery Village Marketplace's Preliminary Plan No. 120090090 and Site Plan No. 82090060 for the proposed redevelopment of the former YMCA site.

Over the past several years, the perception by those who live in close proximity to the tunnel is that criminal activity often occurs there. Both the Herons' Cove and Center Court condominium boards of directors, representing the immediately adjacent communities, support closing this tunnel because of criminal activity, a problem that has unfortunately been confirmed numerous times.

As a matter of fact, at the very time when a group was meeting property owner Jay Donegan at the site to discuss alternative pedestrian crossings, they observed what appeared to be a drug deal taking place in the tunnel - in broad daylight.

In light of this and other reported incidents over the years, the MVF Board supports closing this pedestrian tunnel and creating a safe alternative, by providing an above ground pedestrian crossing on Stedwick Road. Thank you for considering our concerns.

Sincerely,

Bob Hydorn, President
MVF Board of Directors

cc: Glenn Kreger, Acting Chief, Community-Based Planning
Ed Axler, Transportation Planning Division
Mark Pfefferle, Acting Chief, Environmental Planning Division
Scott Whipple, Urban Design Division, Historic Preservation
Erin Grayson, Subdivision Plan Review, Dev. Review Div.
Sandra Pereira, Site Plan Review, Dev. Review Div.
Leslie Saville, Vision Div.
Larry Cole, Highway Coordinator
Jody Kline, Miller, Miller & Canby
MVF Presidents' Council
David B. Humpton, EVP, Montgomery Village Foundation

Saville, Leslie

From: Hugh Clayton [hugh.clayton@nara.gov]
Sent: Friday, April 10, 2009 12:18 PM
To: Saville, Leslie
Cc: Hugh Clayton
Subject: RE: I did not see your e-mail about the questions you had on Stedwick Road and Montgomery Village Ave

**** Reply Requested by 4/10/2009 (Friday) ****

Both were in daylight and both were in the morning since I was trying to board the bus to get to work.

The one where the driver had a real attitude (and she hit me) occurred on October 24, 2007.

The one that was the first one, I think the other was in the spring time like around May of 2005.

So, no it was not dark. The cars did not have their headlights on.

>>> "Saville, Leslie" <Leslie.Saville@mncppc-mc.org> 4/10/2009 12:11 PM

>>>

Hi Mr. Clayton -

Thanks so much for the details. The description below is very helpful.

About what time was it? Was it dark? Do I recall correctly that one happened in October and the other in Dec or Jan? Did cars have their headlights on?

I'm not sure what happened to my e-mail from last evening, but I'll forward it. If it doesn't arrive within a minute or two, would you let me know? Thanks, again.

Leslie
301-495-2194

-----Original Message-----

From: Hugh Clayton [mailto:hugh.clayton@nara.gov]
Sent: Friday, April 10, 2009 12:01 PM
To: Saville, Leslie
Cc: Hugh Clayton
Subject: I did not see your e-mail about the questions you had on Stedwick Road and Montgomery Village Avenue

**** Reply Requested by 4/10/2009 (Friday) ****

Yesterday I had called my work answering machine and got your message but I was in the parking lot of my dentist.

You were asking about the direction of both cars when I was struck in the intersection of Stedwick Road and Montgomery Village Avenue.

BOTH cars were eastbound on Stedwick Road about ready to turn right and go southbound on Montgomery Village Avenue.

BOTH drivers were only paying attention of the cars coming on their left (southbound MV Avenue) and did not pay attention to me coming from their right (crossing from the southside of Stedwick Road to the northside of Stedwick Road to access the Ride On Bus stop).

I had the walk sign (go) and was in the middle of the crosswalk and both hit me.

The second one copped a real big attitude.

Saville, Leslie

From: Navid, Sarah [Sarah.Navid@montgomerycountymd.gov]
Sent: Friday, July 25, 2008 11:01 AM
To: Saville, Leslie
Subject: FW: a County owned pedestrian tunnel is CLOSED by a PRIVATE company ...

Leslie,

Do you have any info on this? Thanks.

Sarah

Department of Permitting Services
255 Rockville Pike, 2nd floor
Rockville, MD 20852
t 240-777-6304

-----Original Message-----

From: Day, Shelley **On Behalf Of** TrafficOps
Sent: Friday, July 25, 2008 10:54 AM
To: Navid, Sarah
Subject: FW: a County owned pedestrian tunnel is CLOSED by a PRIVATE company ...

Forwarding as discussed with Mark Terry,

Sincerely,

Shelley Day, PAA
Department of Transportation
Division of Traffic Engineering and Operations
Tel. (240) 777-8745
Fax. (240) 777-2080
Email: shellev.dav@montgomerycountymd.gov

-----Original Message-----

From: Serrano, Timothy **On Behalf Of** DPWT-Highway Mail
Sent: Tuesday, July 22, 2008 2:22 PM
To: TrafficOps
Subject: FW: a County owned pedestrian tunnel is CLOSED by a PRIVATE company ...

Traffic, any information?

-----Original Message-----

From: Long, Richard
Sent: Tuesday, July 22, 2008 8:52 AM
To: DPWT-Highway Mail
Cc: Anderson, Leroy; Smith, Christopher
Subject: RE: a County owned pedestrian tunnel is CLOSED by a PRIVATE company ...

I haven't been given any notices about this work. You should contact Mr. Tom Shoemaker and Mr. Fred Lees in traffic about this. You may want to contact Stella in traffic also. We will attempt to look into this but I believe it's a Montgomery Village Foundation issue or a DPWT / Traffic issue. Thanks.

Richard Long
Permitting Services Inspector III
Right-of-Way Inspection
Phone - 301-370-3709
Fax - 240-777-6339
E-Mail - richard.long@montgomerycountymd.gov

This e-mail may contain confidential or privileged information , and/or protected health information. If you believe that you have received this e-mail in error, please advise the sender by reply e-mail and then delete this e-mail immediately.

-----Original Message-----

From: Serrano, Timothy **On Behalf Of** DPWT-Highway Mail
Sent: Monday, July 21, 2008 3:52 PM
To: Long, Richard
Subject: FW: a County owned pedestrian tunnel is CLOSED by a PRIVATEcompany ...
Importance: High

I believe this is yours. Please respond.

Thanks,
Tim Serrano

-----Original Message-----

From: Hugh Clayton [mailto:hugh.clayton@nara.gov]
Sent: Thursday, July 17, 2008 9:50 AM
To: DPWT-Highway Mail
Cc: Hugh Clayton
Subject: a County owned pedestrian tunnel is CLOSED by a PRIVATEcompany ...
Importance: High

The pedestrian tunnel that is underneath Stedwick Road in Montgomery Village that links the Center Court Condomiums with the campus of the Montgomery Village Shopping Center is CLOSED.

The company that is demolishing the old YMCA pool and headquarters has closed it off.

This was not part of the agreement. It was not supposed to be closed off until there is a crosswalk installed on Stedwick Road.

What can be done about this situation? I am paying for a tunnel that I am not being allowed to use. This is how I get to work each day to walk to the Montgomery County Ride On Bus stop. I can't cross at the corner of Montgomery Village Avenue and Stedwick Road because that's where I got hit in the crosswalk with the green go sign in October 2007.



MONTGOMERY VILLAGE FOUNDATION, INC.
ARCHITECTURAL STANDARDS DEPARTMENT

10120 APPLE RIDGE ROAD
MONTGOMERY VILLAGE, MARYLAND 20886-1000

(301) 948-0110 FAX (301) 990-7071 www.mvf.org

November 13, 2008

Mr. Jay Donegan
J. Donegan Company
8500 Leesburg Pike – Suite 403
Vienna, VA 22182

Dear Mr. Donegan:

The MVF Commercial Architectural Review Committee thanks you, Mr. Jody Kline, and Mr. Frank Watkins for attending the November 7, 2008 meeting to discuss plans for the MV Marketplace project. As stated by Ms. Judi Kranz, CARC Chair, at the meeting, the committee thanks you for your time and cooperation. Additionally, the members complimented the updated plans including a proposed brick wall with open sections of wrought iron, and a more integrated pedestrian crossing and path system.

The committee approved the concept of the retail marketplace with two drive-through buildings but noted several areas of concern.

1. Tree save - There are currently several large and impressive trees on the hill at the back of the site. The committee is asking that some of these trees be saved and to accommodate this save, the submitted plan was modified to show a re-alignment of the street with the removal of several proposed parking spaces. New parking spaces were also identified in other areas. The committee asked for a reconsideration of saving as many trees as possible.
2. Pedestrian entry – In order to make the entrance into the center more pedestrian friendly, it was suggested that an additional entry be made at the corner of the site near the bank, perhaps where the proposed semi-circle is located.
3. Pedestrian crosswalk – The committee recommended embellishing the proposed crosswalk improvements with signs and lighting, and considering stairs if needed to make the pathways more accessible.
4. Second story on Building A- It was the consensus of the committee that a second story be considered on Building A. By adding either retail stores or offices on this level, there is the possibility of sharing parking with the Village Center shops, and providing integration between the existing Giant and small retail shops and the new marketplace. Additionally, there is currently an open exterior corridor to the rear of the proposed Building A. This pathway is used regularly by pedestrians walking from the front of the Village Center to the rear of the center. There are already several businesses that front onto this corridor pathway.

The committee requests Mr. Donegan to submit plans for landscaping, lighting, materials and grading in addition to consideration of its recommendations.

Please advise when a re-submission would be possible so a meeting can be scheduled. Your continued cooperation is greatly appreciated.

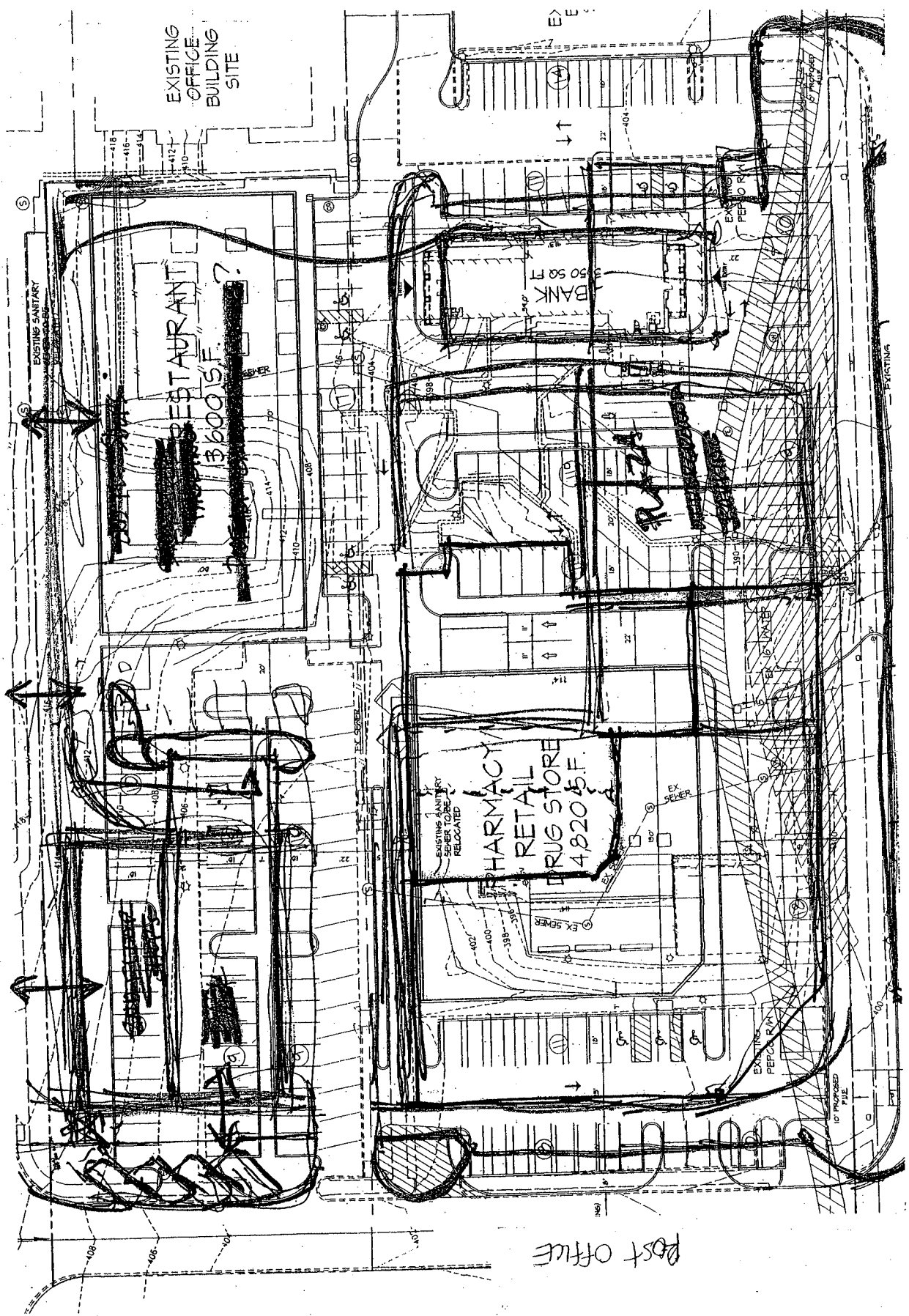
Respectfully yours,



Diane B. Stasiewicz, Director
MVF Architectural Standards
DBS/

Enclosure

Cc: Robert Hydorn, President, MVF Board of Directors
Dave Humpton, MVF Executive Vice President



EXISTING OFFICE BUILDING SITE

RESTAURANT
13,600 S.F.

PHARMACY
EXISTING SANITARY SEWER TO BE RELOCATED
RETAIL DRUG STORE
4,820 S.F.

BANK
50,500 S.F.

POST OFFICE

EXISTING SANITARY

EXISTING SANITARY SEWER TO BE RELOCATED

EXISTING WATER

EXISTING PERFORATED PILE

EXISTING PERFORATED PILE

EXISTING

MINUTES OF MEETING
MONTGOMERY VILLAGE FOUNDATION, INC.
COMMERCIAL ARCHITECTURAL REVIEW COMMITTEE

November 7, 2008

A meeting of the Commercial Architectural Review Committee was held at 9:00 a.m. on Friday, November 7, 2008, at the Montgomery Village Foundation Office, Montgomery Village, Maryland.

Members Present

Judi Kranz, Chair
Gary Unterberg, Vice Chair (Arrived at 9:18 a.m.)
Randy Creaser (Arrived at 9:21 a.m.)
John Kraus
David Post
Diane Stasiewicz, Director of MVF Architectural Standards

Members Absent

George Smith

Others Present

Linc Perley, MVF Board Liaison
Diane Stasiewicz, Director of MVF Architectural Standards
Jay Donegan, J. Donegan Company
Jody Kline, Attorney for Mr. Donegan
Frank Watkins, Bignell, Watkins, Hasser Architects
Jennifer Thornett, Recording Secretary

1. Call Meeting to Order

Ms. Kranz, Chair, called the meeting to order at 9:12 a.m.

2. Residents' Time/Applications to Review

Mr. Klein reported that the project ran into delays due to transportation issues. He noted that the J. Donegan Company negotiated with the county's Department of Park and Planning regarding the Policy Area Mobility Requirements (PAMR). Park and Planning removed the trip mitigation requirement.

Mr. Donegan noted that the site plan was submitted in the spring. He added that the project would not have been economically feasible if the transportation obstacles had not been resolved. Mr. Donegan thanked MVF for speaking on its behalf. He stated that he did consider

leaving the project; however, he was reassured by the support from the MVF, which reconfirmed his commitment to the project.

Mr. Donegan confirmed that he has secure financing in place. He added that every budget line item is currently over budget. Mr. Donegan noted that there are still transportation issues to address, but if the project stays on track he anticipates approval from the county next summer and a summer 2010 opening.

Ms. Stasiewicz asked Mr. Donegan what his expectations are from the meeting. Mr. Donegan noted that he hopes for an approval of the plan in order to move forward. He reported that the buildings were scaled back so that the marketplace is self-contained. Mr. Donegan added that the proposed mix of uses is the best for attracting retailers. He noted that he hopes the marketplace will set the standard for quality in the community and will act as a catalyst for re-development elsewhere.

Mr. Watkins presented the updated circulation plan. He noted that proposed retail buildings are smaller than originally proposed in order to allow for additional parking and wider pedestrian walks in front of the shops. Mr. Watkins added that there is an open exterior corridor in the rear of building A for servicing.

There was discussion regarding whether there will be access to the marketplace from Sandy Spring Bank. Mr. Donegan noted that his preference would be to have one-way traffic from the bank. He added that cross easements are already in place.

Mr. Watkins noted that the pedestrian tunnel will be closed and added that the pedestrian crossing will be improved and integrated with existing paths in the adjacent communities. It was recommended that the crosswalk be embellished with signs and lighting. He added that they will need to review the topographic information collected on the site and study the relationship with existing walls and stairs. It was noted that the pedestrian access will be ADA compliant. Mr. Donegan added that walls will be used around the marketplace to direct pedestrians where to enter; the walls will include open sections of wrought iron.

There was discussion regarding the trees that will be removed under the proposed plan. Ms. Stasiewicz asked Mr. Donegan to reconsider the removal of the trees on the hill as one is historical. Mr. Donegan noted that his team will preserve as many trees as economically feasible. He noted that the trees on the hill are in a critical area of development. It was

suggested that the amount of parking be reduced in order to save the trees. Mr. Kline noted that the county has to approve the parking requirements.

In response to a question from the committee, Mr. Donegan noted that he is not considering a second level for building A. He noted that it would require additional parking and would be more appropriate for office use.

Mr. Kraus noted concern with the second drive-through on the site. Mr. Donegan confirmed that the building will not be used for a fast food restaurant. He added that it will likely be a coffee shop. Mr. Donegan noted that he is willing to concede the second drive-through; however, not having a drive through may be the difference in acquiring a high-end retailer such as Starbucks.

There was discussion regarding the height of the wall surrounding the property. Mr. Donegan noted that the wall is not intended to block the pedestrian view. He added that they will review the plans and have to consider the changes in grade.

Mr. Donegan, Mr. Kline and Mr. Watkins stepped outside of the room at the committee's request for internal discussion regarding the proposed plans. The committee agreed that it would approve the two drive-throughs as presented. Mr. Unterberg presented a proposal for saving the trees on the hill that would re-align a street and remove a few parking spaces. There was discussion regarding concerns with security in the access road behind building A. It was the consensus of the committee to request that Mr. Donegan reconsider a second story on building A; it was noted that there is the possibility for shared parking with the Village Center shops. Mr. Creaser proposed an additional pedestrian entry at the corner of the site near the bank in order to make it more pedestrian friendly.

Mr. Donegan, Mr. Kline and Mr. Watkins were invited back into the room. Ms. Kranz thanked them for their time and complimented them on the plans. She noted that the committee approved the two drive-throughs and asked that they reconsider a second story on building A. Mr. Kranz asked Mr. Unterberg and Mr. Creaser to present their proposals as well.

Mr. Donegan noted that he will have the engineer review the proposed parking changes. He added that the parking has huge implications on the amount and type of retail that he can attract to the marketplace. Mr. Donegan assured the committee that they will preserve as many trees as possible. He added that they will also review the proposed pedestrian entry near the bank.

Ms. Kranz thanked Mr. Donegan and his team for their time and cooperation. She added that the committee would like to see the plans for landscaping, lighting, materials and grading.

3. Letters Sent Out

Ms. Stasiewicz reported that she is reviewing the applications for tenant signage. She provided an update on the letters sent out:

- **Montgomery Village Liberty (Watkins Mill Road)** – thank you note
- **Verizon Wireless (Stedwick Road)** – approval of brick material for equipment building
- **CVS (Village Center)** – denial of free-standing sign
- **Denny's (Village Center)** – approval of new signage
- **Rita's (Goshen Plaza)** – approval of new tenant signage
- **C2 Education (Village Center)** – approval of new tenant signage
- **Subway (Village Center)** – approval of signage used to replace incorrect sign (tenant was previously cited for incorrect sign as approved in sign packet)
- **H Mart (Montgomery Village Crossing)** – signage approved with modification (signage approved in one color)
- **GameStop (Montgomery Village Plaza)** – approval of new tenant signage
- **Quest Diagnostics (Professional Center)** – approval of new tenant signage
- **ImageSun (Montgomery Village Plaza)** – approval of new tenant signage
- **Montgomery Village BP (Village Center)** – landscape letter (there is a new manager at the station; a discount cash sign was approved, however, it is requested that the sign be moved closer to the existing price sign)

Mr. Kraus noted that in mixed use centers, retailers are often encouraged to create their own façade to show its unique identity. He added that this new point of view adds excitement to the centers. Ms. Stasiewicz noted that MVF encouraged WRIT to develop a sign packet and added that the MVF is not adverse to the idea.

Ms. Stasiewicz reported that the CVS installed benches and a guard rail; she showed pictures of the improvements. She added that the CVS needs to submit a proposal for modifying the exterior lights. It was noted that a guard was added to shield the light. Ms. Stasiewicz agreed to follow-up on the issue.

4. For Your Information – Matters of Concern

Ms. Stasiewicz reported that the Lawn Theater will be renovated and shared the concept plan. She noted that the concept plan was presented to the MVF Board of Directors at its meeting on October 23, 2008. Ms. Stasiewicz added that the architect is from Montgomery Village.

Ms. Stasiewicz shared the conceptual view for the proposed solar lighting at the Lake Whetstone South Dock. She noted that the report was presented to the MVF Board of Directors at its meeting on October 23, 2008. It was noted that it is estimated to take six to twelve years to recoup the initial costs. Mr. Perley noted that a big concern with the solar panels is vandalism.

Ms. Stasiewicz provided the Committee with an excerpt from the *Village News* regarding updates to issues around the community. She noted that the county is trying to purchase land at the Webb Tract, a privately-owned parcel of land off of Snouffer School Road. Ms. Stasiewicz reported that the county proposes relocating the Public Safety Training Academy and the MCPS food warehouse to the site. It was noted that portions of the Webb Tract are within 100 feet of homes in East Village.

Ms. Stasiewicz reported that the Holiday Inn renovations will be complete in December 2008, with a grand opening in January 2009.

5. Approval of June 6, 2008 Minutes

Mr. Kraus moved to approve the minutes of the June 6, 2008 Commercial Architectural Review Committee meeting as presented. The motion was seconded and passed unanimously.

6. Next Scheduled Meeting of the CARC – February 6, 2009

The next meeting of the CARC is scheduled for February 6, 2009.

7. Adjournment

There being no further business, the meeting was adjourned at 11:04 a.m.

Approved: _____

Jennifer Thornett
Recording Secretary

COMMERCIAL ARCHITECTURAL REVIEW COMMITTEE

MOTION LIST

November 7, 2008

1. Mr. Kraus moved to approve the minutes of the June 6, 2008 Commercial Architectural Review Committee meeting as presented. The motion was seconded and passed unanimously.

Grayson, Erin

From: Carrie Smedira [cstinky2@yahoo.com]
Sent: Tuesday, February 26, 2008 3:47 PM
To: Grayson, Erin
Subject: Mont Village Market Place Plan 7200800900

Hi Erin,

I spoke to one of your colleagues on Friday February 22, 2008 and he gave me your email address.

I would like to offer another comment regarding the Montgomery Village Market Place Plan # 720080090. There is heavy pedestrian traffic from my condo complex, Heron's Cove, to the shopping center and post office across the street. Kids walk to the middle school this way, commuters get off of the bus, and people like myself walk across the street to pick up milk from Giant.

I don't like the idea of a traffic light as the solution to control cars and pedestrians at the proposed "Existing Access Driveway" that's directly across from Mills Choice Road. Instead, I think a better and easier solution is to move the main entrance & exit of the new market area to "Proposed Entrance" I see on the drawing. The proposed entrance is not directly across from Center Court's or Heron's Cove entrance and would be an easy solution to separating the pedestrian/vehicle problem at the condo entrances.

Of course, this leaves the entrance and exit problems of the post office. I'm not sure if you know this about the Montgomery Village Post Office, but the wacky entrance and exit that exists now is there because a senior citizen drove into the lobby of the post office years ago!! I'm not even kidding - ask the postal employees. I don't know if it was a man or woman, but they were parked and instead of backing out of their parking space, they drove straight through the lobby walls. The post office parking lot needs an overhaul anyways. The redirection of traffic for a smoother entrance and exit would be a blessing, trust me. Ask anyone!

I said this to your colleague, but I would also like to say it to you: This shopping center has a lot of pedestrian traffic. In the spring and summertime, lots of residents walk with their dogs and hang out in front of Einstein Bagels. That shopping area is where the immediate residents gather on Sundays. We need more outside areas where kids from the Middle School and two elementary schools can hang out (like an ice cream shop) and people with dogs can hang.

Thanks for listening and feel free to contact me anytime on email,

Carrie Smedira
19118 Mills Choice Rd Apt 4
Montgomery Village, MD 20886

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December 2, 2007

Development Review Division
Maryland-National Capital Park and Planning Commission
8787 Georgia Avenue
Silver Spring, MD 20910-3760

I am a resident of Center Court Condominium and received a copy of the proposal for Montgomery Village Market Place (Plan Number 720080090) and have some comments:

1. The proposed development is directly across the street from two condominium communities (Center Court and Heron's Cove), yet the developers chose not to review their plans with the residents in order to gain their perspective. I hope this is not an indication of an attitude that will ignore any of our concerns. I believe they should be willing to work with us to resolve any questions that arise.
2. The plan proposes adding a new pharmacy. There are currently two pharmacies within a block of this location (and others close by) and I find it difficult to see the need for a third. If this overbuilding or a particular type of retail operation results in the failing of one or more, we will then be left with another empty store of which the current Village Mall has a sufficient quantity.
3. Currently there exists a tunnel managed by the Montgomery Village Foundation under Stedwick Road. The proposal indicates that this will be abandoned. Aside from the question of whether the Foundation has agreed to this, there is the question of where the current pedestrian traffic will go. On either side of Stedwick Road, the path is below grade a fair amount and without a solution to this problem, pedestrian traffic will be apt to move through either Heron's Cove or Center Court property, a result which I believe will be to the detriment of both communities. Please note that the path is used primarily by Heron's Cove and several communities which are a part of South Village.
4. It is unclear from the plan, but there appears to be a new roadway to the east of the proposed pharmacy which shows one way traffic to the North only. This would be acceptable, but any traffic coming South would not be acceptable since headlights from traffic at night would disrupt residents across the street.
5. Again it is unclear from the plan, but there appears to be a drive through to the north of the pharmacy. Again any drive through should be restricted to the North of the building.
6. It also appears that the entrance will be on the Southwest corner of the pharmacy. It would be preferable to place this on the Northwest, to reduce any noise reaching across the street.
7. Placement of any lights should either shine directly down, or be placed on poles on the Stedwick Road side of the buildings facing the buildings to reduce any more light pollution than we already have.



MONTGOMERY VILLAGE FOUNDATION, INC.

10120 APPLE RIDGE ROAD
MONTGOMERY VILLAGE, MARYLAND 20886-1000

(301) 948-0110 FAX (301) 990-7071 www.mvf.org

November 21, 2007

J. Donegan Company
8500 Leesburg Pike – Suite 403
Vienna, Virginia 22182 RE: YMCA site

Dear Mr. Donegan,

The MVF Commercial Architectural Review Committee thanks you for attending the November 9, 2007 meeting. Although some discussion took place that day, since some of the members were unable to attend, another meeting was held on November 16. This was not a formal CARC meeting but a discussion workshop to determine what the CARC's position was on the proposed redevelopment of the YMCA site.

Based on the discussion and a review of the members' concerns regarding the proposed retail center, the committee compiled a list of its specific requests to be conveyed to you, Mr. Donegan. The list follows:

- No curb cuts are necessary on Stedwick Road.
- Create a pedestrian friendly environment with dedicated pedestrian walkways.
- Maintain the character of Montgomery Village, research and consider saving the existing YMCA building shell, and architecturally acknowledge the historic site and the context.
- Incorporate materials of similar quality to the ones in the existing structure.
- Dedicate space for trees, and save mature trees wherever possible.
- Continue pedestrian access to the north and west of the development.
- Provide an alternate parking proposal – street oriented retail with adequate internal circulation.
- Study mixed use (work/live, residential and retail).
- Survey the community and create a community focus group to inform developers of the retail needs of Village residents.
- Create an open, active outdoor space.

Should you have any questions concerning this letter, I am always available to assist you at 301-948-0110 extension 345, or via email at dstasiewicz@mvf.org.

Respectfully,

A handwritten signature in cursive script that reads "Diane B. Stasiewicz".

Diane B. Stasiewicz, Director of MVF Architectural Standards
cc: Jody Kline, Miller, Miller & Canby

Enclosure

APPENDIX D
Parking waiver request

**APPLICANT'S AMENDED STATEMENT OF JUSTIFICATION
IN SUPPORT OF A PARKING WAIVER**

The Applicant in Site Plan Application No. 820090060 provides the following information in support of its request to waive the maximum number of parking spaces required to support its proposed "Montgomery Village Market Place" project.

By way of background, Montgomery Village Market Place is a proposed 24,949 square foot community-oriented retail center. For purposes of calculating required parking, the Applicant has allocated the square footage of the proposed uses within the Center in the following amounts: 43.5% to retail uses (10,848 SF), 43.5% to restaurant space (10,848 SF) and 13% to bank space (3,253 SF). The parking calculation for these assumed uses (under the shared parking formula) would require a total of 191 spaces. The current design for the proposed retail center provides 175 parking spaces. Therefore, a waiver of 8.3% of the required number of spaces ($191 - 175 = 16$ parking spaces) is requested. The waiver is justified for the following reasons:

1. The Applicant is unable to maximize the parking on the site or has chosen to maintain features that achieve the overall design goals of the program but reduce the amount of parking that can be provided. These features include:

A. Preserving a "grove" of nine mature trees in the northeast corner of the site in a location which would have been very well positioned to provide for parking.

- (1) In order to maximize green area around the "grove" or "bosque" of trees, the Applicant converted five (5) "head-on" parking spaces to less encroaching parallel parking spaces, only three of which could be fit in the available space thus reducing the parking by two less spaces.

B. Providing an inter-parcel vehicular connection to the bank site to the east that eliminates a modest number of spaces. This driveway allows for the movement of vehicles between the two adjacent properties without entering the public street system and mixing with local or commuter traffic. This feature helps reduce overall congestion in the immediate area.

C. Attempting to maximize building frontage on Stedwick Road, which is complicated by the location of major utility easements and results in less than optimum parking arrangement but creates better urban design.

2. In addition to environmental and site design considerations, a parking waiver of 16 spaces (8.3%) is appropriate in conjunction with approval of Montgomery Village Market Place for the following reasons:

A. Montgomery Village was created as the first “walkable community” in Montgomery County. The subject property is located in the “heart” of Montgomery Village, where it is readily accessible by a comprehensive pedestrian pathway system, part of which will be improved by the Applicant. Therefore, it is relatively easy for users of this proposed center to walk to rather than drive to the center.

B. The subject property is located in close proximity to some of the higher density areas of Montgomery Village, including multi-family and condominium projects to the south which are in close proximity to the subject property and are readily accessible by a pedestrian system already in place that will be supplemented and improved by the Applicant.

C. Residents of the Village have indicated to the Applicant, and market analysis suggests, that restaurants will be an important use at this proposed retail center. Accordingly, 50% of the potential square footage of the center has been allocated to restaurant uses. Of course, restaurants generate parking at a higher rate than comparable retail space. The

Applicant seeks a waiver of 8.3% (16 spaces) in order to have the flexibility to accommodate restaurants in up to 50% of the gross floor area of the center.

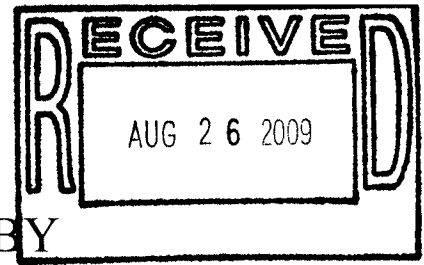
D. Because of its close proximity to other retail uses (adjacent Montgomery Village Shopping Center; nearby CVS drug store) and service uses (confronting public post office; adjoining bank and office building), with parking already in place to serve those uses, the strong probability exists that customers will make “joint destination” trips whereby they will park in front of the Giant food store, or in the large parking field in front of the Montgomery Village Shopping Center, and will walk to Montgomery Village Market Place in order to shop or to eat.

E. There is a “natural” shared use relationship between retail and restaurants. That is, certain types of restaurants tend to have maximum parking demands during periods when retail uses are less patronized. To the extent that restaurants within Montgomery Village Market Place are oriented more toward dinner business rather luncheon business, then parking will be light in the shopping center when restaurant demand is at its highest. Conversely, patronage of restaurants during the mid-day hour will tend to be for diners making “joint use” trips to the center and then staying to eat. In either event, given the complementary nature of restaurants and retail, parking at full rates for both uses is excessive.

For the reasons set forth above, a modest parking waiver of 16 spaces (8.3%) is requested due to the unique location and anticipated operational characteristics of “Montgomery Village Market Place”.



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SWCARTER@MMCANBY.COM

August 25, 2009

Ms. Sandra Pereira
Development Review Division
Maryland-National Capital Park
and Planning Division
8787 Georgia Ave.
Silver Spring, MD 20910

RE: Site Plan Application No. 820090060
"Montgomery Village Marketplace"

Dear Sandra:

By letter dated August 19, 2009, Jody Kline transmitted a revised Parking Waiver Request to reflect new parking numbers in light of the last round of site plan changes. Jody is out of town this week but it was just brought to my attention by David Weber, the Civil Engineer, that two of the figures contained in the Amended Statement of Justification require correction. Accordingly, I am transmitting a "clean" copy of the Amended Statement of Justification which should replace the one that was transmitted to you on August 19, 2009 as well as a "redlined" copy of the first page which reflects the two changes that were made.

By way of further explanation, an older site plan contained figures that reflected building "coverage" rather than building "footprint." However, the building "coverage" figure included a canopy which should not have been included in the calculations for parking requirements. Accordingly, paragraph 2, line 1, should reflect the fact that Montgomery Village Market Place is a proposed 24,868 square foot community oriented retail center. Line 5 of the same paragraph should reflect the fact that the 13% devoted to bank space is equivalent to 3,172 square feet.

Should you have any questions, please do not hesitate to contact me.

Sincerely yours,

MILLER, MILLER & CANBY

Susan W. Carter

SWC/cdp
Enclosure

cc: Jay Donegan
Frank Watkins
David Weber
Tim Longfellow
Julie Soss
Jody Kline

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