

Appendix G: Clarification from MCDOT regarding use of Public Parking Lot 3



DEPARTMENT OF TRANSPORTATION

Isiah Leggett
County Executive

Arthur Holmes, Jr.
Director

April 3, 2009



Ms. Rose Krasnow, Chief
Development Review Division
Maryland-National Capital Park and Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910

Dear Ms. Krasnow:

Thank you for your letter dated March 9, 2009, asking for the County's opinion regarding a number of issues posed by the mixed use development of Public Parking Lot 3, in Silver Spring. I will respond to each of your questions as you numbered them.

1. For the Kalivas and Gerecht properties, to what extent, if any, is loading permitted from the County Parking Lot?

It is our opinion that neither Kalivas, nor Gerecht have an express right to perform "loading" from Lot 3. By deed and plat (though the latter appears to be unrecorded), Kalivas is allowed access to the rear of her property via a 16' "public alleyway" that crosses Lot 3. Access could include loading and unloading of vehicles, though Kalivas would have to confine those activities within the easement area.

The County has granted an easement for the benefit of the Gerecht property. The County granted to 8204 Associates Limited Partnership "an easement and right-of-way" for a "pedestrian bridge" that connects Gerecht's building to Lot 3 (*Liber 9322, Folio 513*). Other than provisions that allow 8204 Associates, and the County, access to the bridge for the purposes of reconstruction, repair, maintenance and the like, the easement implies pedestrian access only and would not allow loading from Lot 3.

In addition, Sec. 31-29(10) of the County Code specifically prohibits the loading or unloading of commercial vehicles on a County parking lot.

2. What sort of access (e.g. pedestrian, loading) to Parking Lot 3, if any, does the easement for the Gerecht property pedestrian bridge confer upon its owner?

Because the easement is for a "pedestrian bridge," the easement is seemingly intended to allow pedestrian access to the bridge.

Office of the Director

101 Monroe Street, 10th Floor • Rockville, Maryland 20850 • 240-777-7170 • 240-777-7178 FAX
www.montgomerycountymd.gov

Located one block west of the Rockville Metro Station

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3. Speak to the intent of the existing easements on the Gerecht property.

See the above responses.

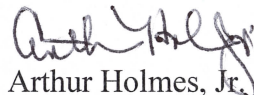
4. For the Kalivas and Gerecht properties, what might your staff consider to be reasonable loading access accommodations, in view of the proposed Project Plan.

With regard to the Gerecht property, my staff has suggested that the Project Plan should provide for pedestrian access from the pedestrian bridge to the public right of way.

The 16 foot wide public alley to the south of the Kalivas property cannot physically accommodate the service trucks currently used for loading by that property. My staff has advised me that the loading access to the Kalivas property proposed in the Project Plan provides convenient access that accommodates the current service and is a reasonable accommodation.

I hope I have been able to fully respond to your questions regarding this issue. If you have any further questions regarding the joint development of the Public Parking Lot, please contact Mr. Stephen Nash, Chief, Division of Parking Management, at 240-777-8711 or by email at steve.nash@montgomerycountymd.gov.

Sincerely,



Arthur Holmes, Jr.
Director