



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

Staff Report: Preliminary Plan Amendment 11998004A: Seneca Meadows Corporate Center
Site Plan 820100140: Seneca Meadows Corporate Center

ITEM #: _____

MCPB HEARING DATE: November 4, 2010

REPORT DATE: October 24, 2010

TO: Montgomery County Planning Board

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 Development Review Division

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APPLICATION

DESCRIPTION: Proposal for a Preliminary Plan Amendment to increase the amount of approved retail square footage from 83,000 SF to 206,570 SF, reduce the amount of approved office and R&D from 1,577,000 SF to 1,319,700 SF, and create 2 lots and a parcel for future dedication for the construction of a 150,000 SF grocery store, 28,570 SF of general office, 4,300 SF of professional office, and 56,570 SF of retail/restaurant uses in the TMX-2 Zone; the subject Site Plan only applies to the grocery, office, and retail development on the newly created lots; located in the southwest quadrant of the intersection of Seneca Meadows Parkway and Observation Drive within the Germantown Master Plan Area.

APPLICANT: Seneca Meadows Corporate Center VII LLLP

FILING DATE: July 16, 2010

RECOMMENDATION: Approval with conditions

EXECUTIVE

SUMMARY: The proposed development would create two lots and one parcel for future dedication of right-of-way to serve the Corridor Cities Transitway (CCT). The proposed application requires a preliminary plan amendment to increase the amount of retail allowed and decrease the amount of office and R&D allowed, and to record two separate lots and one parcel for future dedication for the CCT. A new site plan is required to reflect the proposed build-out of this currently undeveloped portion of the Seneca Meadows Corporate Center.

SECTION 1: CONTEXT AND PROPOSAL

SITE DESCRIPTION

Vicinity

The subject site covered by the proposed site plan is located in the southwest quadrant of the intersection of Seneca Meadows Parkway and Observation Drive, within the Germantown Master Plan Area. The gross tract is bound by Observation Drive on the east, Seneca Meadows Parkway on the south, Father Hurley Boulevard/Ridge Road (MD 27) on the north, and I-270 on the west. The Subject Property is known as Lot 10, Block A of Seneca Meadows Corporate Center and Parcel P825. The site is zoned TMX-2 and is currently vacant. The property included in the proposed preliminary plan amendment encompasses 156.5 acres extending south along I-270 to the MD-118 interchange. The preliminary plan includes 9 recorded lots, 4 recorded parcels, and two unrecorded parcels. The overall preliminary plan property is zoned TMX-2, I-3, RMX-3/TDR and R-200.



Vicinity Map

Site Analysis – Site Plan

The subject property is one portion of the larger Seneca Meadows Corporate Center. It consists of one recorded lot (Lot 10, Block A of Seneca Meadows Corporate Center) approximately 233,318 square feet (5.356 acres) in size per Plat 22003, and Parcel P825 approximately 22 acres in size. The site is currently vacant, except for a gravel driveway and a sign at the intersection of Observation Drive and Seneca Meadows Parkway. There are 3.6 acres of forest onsite, and no other regulated environmental features on-site such as streams, wetlands, 100-year floodplain, environmental buffers, or steep slopes.



Aerial Photo

PROJECT DESCRIPTION

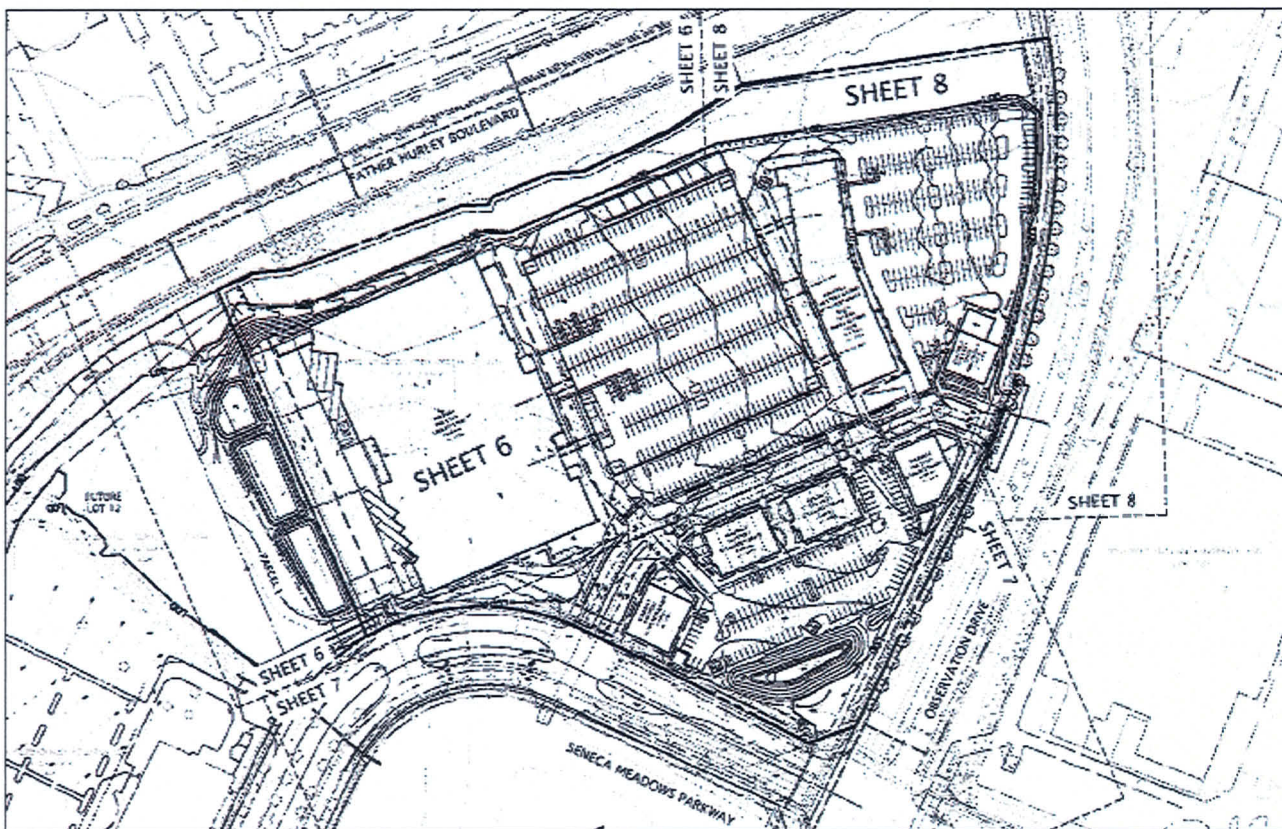
Previous Approvals

Preliminary Plan 19980040 for the underlying subdivision covering a larger area than the subject site was approved by the Opinion dated December 22, 1997. The Preliminary Plan was approved under the I-3 zone for a maximum of 83,000 SF of retail use and 1,577,000 SF of office and R&D uses. A total of 833,638 SF of R&D uses have been approved by various site plans for the Seneca Meadows Corporate Center, while 701,332 SF of the total approved by site plans have been constructed. The plan is now almost fully built out, with the exception of two unrecorded parcels (P125 and P825). After this Preliminary Plan Amendment and record plat, one unrecorded parcel

will remain.

Proposal

The proposed development, as shown below, would create two lots (Lots 11 and 12) and two recorded parcels for future dedication (Parcels K and L) approximately 21 acres, 4.4 acres, 1 acre, and 1.9 acres, respectively. Lot 11 is proposed to be developed with a 150,000 SF grocery store, 28,570 SF of general office, 4,300 SF of professional office, and 56,570 SF of retail/restaurant uses for a total of 239,440 SF (0.26 FAR) of development. The uses will be distributed throughout seven proposed buildings. Vehicular access and circulation is provided by private internal streets. A structured, two-story parking garage is proposed with pedestrian bridges is proposed to provide direct access to the grocery and office buildings, along with several smaller parking lots that will primarily serve the ancillary retail. Together they will provide a total of 1,244 spaces.



Preliminary Plan

ISSUES

Location of Stormwater Management Facilities

The 2009 Germantown Master Plan shows the Milestone Court Extension crossing the western side of the subject site to Seneca Meadow Parkway on the subject site as a two-lane Business District road with 130 feet of right-of-way that includes right-of-way for the Corridor Cities Transitway (CCT).

The Applicant is proposing to locate a significant portion of the required stormwater management

facilities on Parcel L, which is designated as future dedication for right-of-way to serve the CCT. Ideally the Applicant would provide the facilities outside of Parcel L, but the Montgomery County Department of Transportation (MCDOT) and the Stormwater Management Section of the Montgomery County Department of Permitting Services (MCDPS) have agreed to allow the stormwater management facilities to be located on Parcel L until the future dedication occurs. MCDOT has specified conditions under which the interim uses can occur (see Attached October 5, 2010 letter). Staff supports this arrangement and recommends that MCDOT memorialize, in a covenant recorded with Parcel L, that the property owner will be responsible for the relocation of stormwater management facilities should dedication of Parcel L occur in the future. The covenant should be subject to MCDOT and MCDPS approval and recorded in the Land Records prior to record plat approval.

COMMUNITY OUTREACH

The Applicant has met all proper signage, noticing, and pre-submission meeting requirements. Staff has received one email in support of the grocery store and has met with a representative of a concerned property owner regarding the Application's implementation of the master plan objectives. Specifically, concerns were raised regarding street activation, limits on "big-box" retail, and the amount of parking. Staff's analysis of this project has dealt with similar concerns, each of which is discussed in the analysis and findings below.

SECTION 2: ANALYSIS AND FINDINGS

MASTER PLAN COMPLIANCE & SITE DESIGN

The Subject Property is part of the Seneca Meadows/Milestone District identified on page 50 and 51 of the Germantown Master Plan area. The Plan recommends that the area develop with a minimum of 70 percent employment uses and limited housing, and street level retail. The mix of uses as proposed, with the exception of housing, is generally consistent with the Plan's land use designation of "Commercial Mixed Use" (office, retail, service, housing) on page 50.

The site plan proposes 206,570 SF of commercial/retail space (approximately 71% of this phase of the proposed development), which exceeds the proportionate amount of retail envisioned for this area. When considered in the context of the total development for the Seneca Meadows Corporate Center, of which this is a part, the 206,570 SF of commercial/retail space represents approximately 15.6% of the 1,526,700 SF approved, which falls within an acceptable level envisioned by the Master Plan. Further, this mix will continue to be refined by further phases, which should include residential and other commercial uses. In sum, Staff would not support more retail being added to other parts of the larger site, with the exception of small ancillary retail uses to support such residential and commercial office development envisioned for this area.

Regarding open space, the Master Plan calls for a designated urban open space near Seneca Meadows Parkway and the future alignment of the Transitway. This site plan as proposed does not contain a significant urban open space – instead relying on sidewalks and small plazas. Given the location of the project towards the periphery of any "walkable" street network, a larger nodal open space is not necessary here. Staff will work with the Applicant to ensure that such a space is

created at the more appropriate internal area near the transit stop; future phases must integrate such spaces near residential/retail/employment nodes.

The provision of the internal sidewalks and plazas, however, does establish an important design precedent for the area. Unfortunately, this section of Seneca Meadows Parkway and, even more so, Observation Drive do not have the character needed to create viable, pedestrian-oriented retail edges. Thus, to the extent possible, the Applicant has worked with Staff to use the guidance on street-level retail design in the Master Plan to create a more urban atmosphere within the site rather than at its edges. In this case, the proposed retail uses are organized along an internal primary street and on secondary drives between buildings and parking.

The importance of street-to-building relationships, however, is paramount to the future success of transit and reduction of vehicle trips in this area. The use of such relationships is reiterated by the Plan's statement to "locate limited retail uses along streets" and reinforced by the Plan's Resolution which states that plans should, "concentrate a limited amount of street level retail near the transit station." The key is that until transit and density begin to take shape in this area, most sites will have to use the techniques of internalizing street-activation and creating small-blocks to carve out of the suburban fabric the first steps towards implementing the Plan's vision. Later phases will build on these templates and allow Seneca Meadows Parkway and other streets to take on the desired character of a more urban, walkable place.

Similar to the issue of streetscape and building relationships generally is the more specific Master Plan guidance on 'big box retailers'. The Plan's Resolution states that "big box retailers, if proposed, should have active store fronts with multiple entrances and smaller retail uses facing Seneca Meadows Parkway and Observation Drive." As mentioned above, the Parkway and Observation Drive on this corner site do not have the atmosphere necessary to create viable, street-oriented retail in such an early phase of development. Thus, the creation of a model template for such activity on internal streets is more appropriate at this stage. That said, views and pedestrian relationships along each frontage street have been designed to begin the transformation of this environment. Two of the retail buildings have been brought to the frontage of Observation Drive where they work with the internal street to begin a more urban pattern; this is repeated by another retail shop at the corner of the private street and Seneca Meadows Parkway. Practically speaking, there are also stormwater and grading issues that necessitate a more internal focus on the corner of the intersection of the Parkway and Observation Drive.

The grocery store itself is not, technically, a 'big box retailer' and has many more employees than a standard grocery store due to its diversity of services. The placement of the structure, along with the primary entrance and outdoor seating courtyard allows for direct pedestrian access from the Parkway, the internal street, and parking areas. Last, unlike most development of this density and in this context, much of the parking will be structured which serves to decrease the impermeable footprint that is typically created by a standard big box store.

In conclusion, the Application meets the applicable recommendations of the Master Plan and that the limited preliminary plan amendment and site plan are consistent with the Germantown Master Plan.

ADEQUATE PUBLIC FACILITIES REVIEW

Roads and Transportation Facilities

Adequate vehicular access to the site is provided by a full-movement driveway connection to Seneca Meadows Parkway and Observation Drive. A separate loading and unloading full-movement driveway is provided for trucks from Seneca Meadows Parkway near the west side of the Subject Property. The general traffic access point already exists on Seneca Meadows Parkway as does a 5-foot wide sidewalk on Seneca Meadows Parkway. Observation Drive has an existing 8-foot wide sidewalk. The internal vehicular facilities have not yet been constructed. Primary pedestrian access is provided via 8-foot wide sidewalks, which connect to the existing sidewalks along the street frontage, and will provide pedestrian access throughout the entire site.

Adequate Public Facility (APF) Analysis

An APF analysis, which was conducted at the time of the original preliminary plan for 1,577,000 SF of office and 83,000 SF of retail, concluded that the project would meet the transportation APF requirements after providing specific roadway improvements. These improvements have been provided, and the previous APF approval remains valid. Up to this point, 701,332 square feet of office and none of the retail have been constructed.

Under this preliminary plan amendment, the Applicant proposes a reduction of 257,300 square feet of the approved but un-built office use, and an addition of 123,570 square feet of new retail. This will result in a total of 1,319,700 SF of approved R&D office use and a total of 206,570 SF of retail use over the entire Seneca Meadows Corporate Center site. All of the new retail would be constructed as part of the site plan on proposed Lot 11. Based on the traffic statement submitted by the Applicant and reviewed by staff, the 257,300 square feet of previously approved office development would generate approximately the same amount of peak hour trips as will be generated by the 123,570 square-foot of proposed retail development. Therefore, a reduction of 257,300 square feet of office space will accommodate the proposed addition of 123,570 square feet of retail space. It should be noted that in estimating trips for the proposed retail development, actual surveyed trips generated by existing Wegman's stores in other locations have been used. Therefore, in order for the Applicant to meet the requirements of the APF approval in place, the Applicant is required to reduce 257,300 square feet of office space from the originally approved preliminary plan to accommodate the proposed total of 206,570 square feet of retail use.

Other Public Facilities

Other 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. Other public facilities such as schools, police stations, firehouses and health services are currently operating within the standards set by the Growth Policy resolution currently in effect. Electrical, gas, and telecommunications services are available to serve the Property.

ENVIRONMENT

A Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) was submitted for the Subject Property (site plan area only) and was approved by Environmental Planning staff in November of 1997. As previously stated, with the exception of approximately 3.6 acres of forest, there are no regulated environmental features onsite such as streams, wetlands, 100-year floodplain, environmental buffers, steep slopes, or highly erodible soils. Therefore, this plan complies with the Montgomery County Environmental Guidelines.

Forest Conservation

The proposed development is the 4th and final phase of the Forest Conservation Plan for the entire Seneca Meadows Corporate Center, which covers approximately 156 acres. The site is located within a *use class IV/IV-P* portion of Little Seneca Creek watershed. The site is not within a Special Protection Area.

The current preliminary plan amendment and site plan address forest conservation requirements and tree save issues for the development of the proposed uses and the associated parking lots and infrastructure. Lot 10 and Parcel P125 are also included under the current phase. However, the areas have previously been rough graded and do not contain trees, forest, or other environmental areas of concern.

The current phase has approximately 3.6 acres of existing forest which contains a number of significant and specimen trees. No other environmentally sensitive features occur on-site for this phase. Approximately 2.2 acres of forest clearing is proposed, which was conceptually approved during the earlier phases. An onsite buffer strip of forest retention/planting area is proposed within a new Category I easement on proposed Lot 11 along Ridge Road. The new easement area will buffer Ridge Road and the confronting residents from the proposed grocery store and parking structure. Compared to the previously approved concept, some portions of the proposed buffer have been widened while other areas have been narrowed. The easement area is less than 50' wide in some sections, but meets the overall intent of the previously proposed easement since the total area placed in easement is approximately equal in size.

Forest Conservation Issues

The overall site contains existing recorded Category I and Category II Forest Conservation Easement areas which satisfied earlier phases of the projects (the easements are also connected with the current proposal). A number of issues and concerns with the existing easement areas have surfaced during the review of the current application. Site visits and review of GIS images revealed that many of the easement areas are delineated in the field with metal signs and steel posts. However, in some areas the landmarks are completely absent and in other areas the signs and posts do not reflect the true boundary of the easement. The incorrectly identified easement areas have contributed to some encroachment issues which include:

Mowing- Certain portions of the Category I Easements contain manicured lawns which are maintained by the Applicant's maintenance crews, and in some instances, by adjacent residents. The lawn areas generally occur where the easement signposts are either absent or incorrectly located. Staff is requiring the Applicant to restore the easement areas (subject to

staff approval) by providing supplemental plantings and correctly locating signs at appropriate intervals. The Applicant will also need to communicate with the maintenance crews and adjacent residents to ensure that no further mowing encroachments occur.

Encroachments- A large generator, a number of concrete pads for picnic tables and portions of existing asphalt paths have been constructed within part of the Category I Easements. The generator location was approved with respect to a previously approved *site plan* under a minor amendment approved by staff on November 16, 2000; however, the associated approval for Forest Conservation purposes was not obtained. In order to correct this, staff is requiring the Applicant to re-plot the site to exclude the generator from the Category I Easement and provide 2:1 replacement. Staff has identified a potential onsite area for the replacement.

Portions of asphalt paths are constructed within the Category I Easements. The Applicant's position is that the paths were to be field located in coordination with M-NCPPC staff and were ultimately accepted by staff, so they should be allowed to remain regardless of their location within the easement. However the associated M-NCPPC inspection report (dated 6/22/2001) states that only wood chip pathway and boardwalks were to be constructed within the Category I Easements; the asphalt path was to be located outside of the easement boundary. Furthermore the existing signage along the path does not appear to show the correct easement locations. Therefore it is believed the easement location was not correctly identified at the time of construction. Staff is requiring the applicant to re-plot the site to exclude the asphalt paths from the Category I Easements and provide 2:1 replacement. Alternatively, the path material within the easement areas could be replaced with wood chips and/or boardwalks as needed.

Two concrete vaults which may serve to intercept storm water overflows are located within the conservation easement area (and are not located within an overlapping storm water management easement, per the record plat). Staff is requiring the Applicant to re-plot the site to exclude the concrete vaults from the Category I Easements and provide 2:1 replacement.

A number of concrete pads with picnic tables are located within various locations of the conservation easements. Staff is requiring the Applicant to demolish the concrete pads within the easement areas and replace them with topsoil and mulch. The pads may be reconstructed outside of the easement area if necessary for site plan purposes.

Forest Conservation Variance

Section 1607(c) of the Natural Resources Article, MD Ann. Code, identifies certain individual trees as high priority for retention and protection. Any impact to trees, including removal or any disturbance within a tree's critical root zone (CRZ), requires a variance. An Applicant for a variance must provide certain written information in support of the required findings in accordance with Section 22A-21 of the Montgomery County Code. The law requires mitigation for any impacts to all trees that measure 30" diameter at breast height (DBH) or greater; any tree designated as the county champion tree; trees with a DBH 75% or greater than the diameter of the current State champion for that species; rare, threatened and endangered species; and trees part of a historic site

or associated structure. This project did have a Preliminary Forest Conservation Plan prior to the October 1, 2009 effective date. However the approved plan showed an LOD that resulted in only minor impact to the subject tree. The current proposal shifts the LOD approximately 20' feet closer to the subject tree, creating new impacts (which would also necessitate removal of the tree). The newly proposed impacts to this greater than 30" DBH tree trigger the variance requirement.

Other trees on site which are 30" or greater were either previously approved for removal or will actually experience lesser impacts than previously approved (due to LOD changes). The additional impacts subject to the variance requirements are limited to the one tree.

In accordance with Montgomery County Code, Section 22A-21(c) the Planning Board referred a copy of the variance request to the County Arborist in the Montgomery County Department of Environmental Protection for a written recommendation prior to acting on the request. The County Arborist has 30 days to comment. In this case, the variance request was referred to the Montgomery County Arborist on October 15, 2010. The County Arborist responded on October 18, 2010 and will not provide a recommendation since they believe the tree variance provision does not apply to development applications submitted before October 1, 2009 (refer to attachment A). In accordance with Section 22A-21(e), Environmental Planning staff recommends a finding by the Planning Board that the Applicant has met all criteria required to grant the variance:

- a. *Will not confer on the applicant a special privilege that would be denied to other applicants.* The Seneca Meadows Property is located within the Germantown Employment Area Sector Plan, approved and adopted October 2009. The property is zoned TMX-2, and the location of the proposed development is strategic in that it is easily accessible from I-270, several State roads (MD-27, MD-355, MD-118), and the future Corridor Cities Transitway (CCT). Granting the variance will allow the master plan for this property to be implemented (which would be an expected outcome for other applicants and therefore not a special privilege).
- b. *Is not based on conditions or circumstances which are the result of the action by the applicant.* The applicant has utilized structured parking and integrated Stormwater Management (SWM) facilities into the surface parking areas. These measures have reduced the overall footprint of the development to the maximum extent practical, and enabled additional forest save measures in other areas when compared with the preliminary forest conservation plan. The impact to T62 is necessary and unavoidable to implement the Shops at Seneca Meadows plan as proposed. Staff believes the variance can be granted under this condition if mitigation for the 31" DBH tree is provided. Staff recommends that 31 four to six foot tall holly trees be planted within the proposed easement area, as mitigation for the resource removed. The evergreen plantings will enhance the ultimate effectiveness of the buffer screen (from which the subject tree is proposed for removal). Final locations of the plantings will be determined by the forest conservation inspector.
- c. *Does not arise from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property.* The requested variance is a result of the current application on the subject property and is not related to land or building use on a neighboring property.

- d. *Will not violate State water quality standards or cause measurable degradation in water quality.* The site is the subject of Stormwater Management and Sediment Control Plans affiliated with development applications 11998004A and 820100140. The Department of Permitting Services is satisfied that the plans meet sediment control and water quality requirements. The location of the subject tree is not directly associated with a stream, floodplain, or wetland. State water quality standards would not be violated by the impact or removal of the 31”tree, and no measurable degradation of water quality would occur.

As a result of the above findings, Environmental Planning staff recommends the Board approve the applicant’s request for a variance from Forest Conservation Law to remove one subject tree associated with the site. The variance approval is assumed into the Planning Board’s approval of the final forest conservation plan.

Stormwater Management

The Montgomery County Department of Permitting Services (MCDPS) Stormwater Management Section approved the stormwater management concept for the project on October 13, 2010. The stormwater management concept consists of utilizing Environmental Site Design (ESD) to the maximum extent practicable in accordance with Chapter 19 of the County Code. Runoff that is not managed by onsite ESD practices will be managed in existing regional ponds.

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, and Chapter 59, the Zoning Ordinance. 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 C).

DEVELOPMENT STANDARDS

The purpose of the TMX-2 zone is to implement the recommendations of the applicable master or sector plan by facilitating mixed use development with networked open space and uses; provide flexible development standards, and encourage design that produces desirable relationships between circulation systems, open space, and buildings. As discussed in the master plan site design section of this report, the application begins – to the extent possible at such an early transformational phase – to provide a pedestrian network with open spaces, mixed uses, and appropriate building orientations. This should lead to later development that will build on the street and building pattern template and provide housing and transit connections when the transitway is completed and the necessary densities of a truly mixed-use place with residential and employment uses become economically viable.

The proposed uses – retail, restaurant, grocery, and office – are all permitted uses in the zone.

As shown in the data table below, the development complies with all dimensional and density standards in the zone, including height, building coverage, and floor area ratio, as well as public use space and parking. With respect to public use space, it is important to note that the minimum public use space is 10% of the net lot area and the Applicant has proposed 28%. A proper illustration of these spaces is required by the conditions of approval in order to ensure that these spaces are limited

to the larger sidewalks and plazas along the office, retail, and restaurant uses. This number may, therefore be lowered but may not be reduced below 26%.

Regarding parking, the Applicant is proposing to provide 1244 spaces, even though only 926 spaces are required. Although this seems high, especially given the goals of the zone and master plan, there are several reasons Staff supports approval without further limits on the amount of parking. First, the envisioned transit and connectivity aspects of the Plan are not yet in place. For the time being, this will remain essentially an auto-oriented destination. Second, there is available density left for further build-out as densities grow and transit opportunities evolve. Third, the parking required by the TMX-2 zone is less than required by the ordinance generally. For example, the ordinance requires as much as 11 spaces per 1,000 square feet of restaurant uses. Thus, if all possible restaurant uses were constructed under the general parking rules, 852 parking spaces would be required; under the TMX-2 standards, only 227 parking spaces are required. This difference (625 spaces) is about twice the difference between the proposed and required spaces; the site is under parked according to the old rules, over-parked according to the new rules, but probably accurate for the current economic market and context.

Development Standards for the TMX-2 Zone Standard Method Development		
Standard	Required/Allowed	Proposed
Lot area (min square feet)	none	914,991
Building coverage (max %)	75	36
Public use space (min %)	10	28 ¹
Building height (max feet)	42	42
Setbacks (min feet)		
Adjacent building on a separate lot	15	n/a
Adjacent commercial or industrial zone	20	n/a
Adjacent single-family residential zone	25	n/a
Public right-of-way	10	10
Density (floor area ratio)	0.5	0.26
BLT requirement	none	n/a
Parking (min)	926	1244

SITE PLAN FINDINGS

- 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.*

¹ This number may be reduced up to 2% below the amount proposed per the conditions of approval.

The subject site plan is not subject to any development, diagrammatic, schematic development, or project plan.

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 subject site plan meets all the intents and standards of the TMX-2 zone. The application will serve as a first link in the creation of a networked area of open spaces and mixed uses with desirable relationships between circulation systems, public spaces, and buildings. The application proposes uses that are permitted in the zones and meets all of the development standards required by the zone, as shown on the data table on page 13, including maximum density, building coverage, and height, and minimum public use space and parking.

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

As discussed in the master plan and site design section, the buildings are located with maximum efficiency given the grading and environmental context of the site. They are adequately spaced with regard to streets, open space, and each other for the early development of a location that will eventually become more transit and pedestrian friendly. The layout is safe, providing visual and physical access directly from primary roads and sidewalks.

b. Open Spaces

Open spaces are provided in front of or between the office, retail/restaurant, and grocery stores. These spaces are efficiently placed along the primary sidewalks and will adequately address the needs of shoppers, employers, and patrons. A variety of plantings, paving, seating arrangements and amenities provide a diversity of spaces at each building frontage or side. They are safe for use during the day and evening with adequate lighting and visual access.

c. Landscaping and Lighting

A significant number of plantings will occur on site including forest conservation areas, parking lot treatments, street trees, ornamental plantings, and screen plantings. This variety of plant material will provide efficient and adequate comfort and visual enjoyment throughout the year. The plantings are safely arranged to maintain sight lines and minimize encroachment into pedestrian areas; the lighting provided along and within these areas will ensure safe use after dark.

d. Recreation Facilities

No recreation facilities are required by this development since this is a commercial development.

e. Pedestrian and Vehicular Circulation Systems

Vehicular access for employees and visitors is established by an internal main street that

acts as the curved hypotenuse of a triangle formed by the intersection of Seneca Meadows Parkway and Observation Drive. A second access point further west on Seneca Meadows Parkway will serve as the loading entrance for the grocery store. The primary internal street serves as an axis along which the primary pedestrian sidewalks have been located and from which smaller streets and sidewalks extend. Parking for the site is provided along the internal street and on surface and structured facilities throughout the site.

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

The proposed retail, restaurant, office, and grocery uses are compatible with the adjacent commercial and office development and will provide services for the nearby residential areas. The scale, massing, and height of the buildings are compatible to and similar to – if not smaller than – the scales, massing, and height of adjacent development, especially across Observation Drive. No other site plans are currently under review in the immediate vicinity.

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.*

The subject site plan has approximately 3.6 acres of existing forest which contains a number of significant and specimen trees. No other environmentally sensitive features occur on-site for this phase. Approximately 2.2 acres of forest clearing is proposed, which was conceptually approved during the earlier phases. An onsite buffer strip of forest retention/planting area is proposed within a new Category I easement along MD 27. The new easement area will buffer MD 27 and the confronting residents from the proposed grocery store and parking structure. Compared to the previously approved concept, some portions of the proposed buffer have been widened while other areas have been narrowed. The easement area is less than 50' wide in some sections, but meets the overall intent of the previously proposed easement since the total area placed in easement is approximately equal in size.

The Montgomery County Department of Permitting Services (MCDPS) Stormwater Management Section approved the stormwater management concept for the project on October 13, 2010. The stormwater management concept consists of utilizing Environmental Site Design (ESD) to the maximum extent practicable in accordance with Chapter 19 of the County Code. Runoff that is not managed by onsite ESD practices will be managed in existing regional ponds.

SECTION 3: RECOMMENDATIONS AND CONDITIONS

PRELIMINARY PLAN RECOMMENDATION AND CONDITIONS

The Application meets all requirements established in the Subdivision Regulations and the Zoning Ordinance and substantially conforms with the recommendations of the Germantown Master Plan. Therefore, Staff recommends approval of the Preliminary Plan Amendment subject to the following conditions:

- 1) Approval under this preliminary plan amendment is limited to 1,319,700 square feet of R&D office use and 206,570 square feet of retail use.
- 2) Prior to May 1, 2011 the Applicant must restore the excessively mowed easement areas by providing supplemental plantings and must correctly locate easement signs at appropriate intervals. Restoration work subject to staff approval.
- 3) Prior to future site plan submission for remaining undeveloped lot(s) the Applicant must re-plat the site to exclude the generator from the Category I Easement and provide 2:1 replacement (onsite if possible).
- 4) Prior to future site plan submission for remaining undeveloped lots the Applicant must re-plat the site to exclude the asphalt paths from the Category I Easements and provide 2:1 replacement (onsite if possible). Alternatively, the path material within the easement areas could be replaced with wood chips and/or boardwalks as needed.
- 5) Prior to future site plan submission for remaining undeveloped lots the Applicant must re-plat the site to exclude the concrete vaults from the Category I Easements and provide 2:1 replacement (onsite if possible).
- 6) Prior to May 1, 2011 the Applicant is to demolish the concrete pads within the easement and replace with topsoil and mulch or submit a site plan amendment for the impacted area.
- 7) The Applicant must resubmit a revised Final Forest Conservation Plan to address staff comments dated October 19, 2010.
- 8) The Category I Easement area on proposed Lot 11 must be recorded on a plat prior to release of any building permits.
- 9) The Applicant must satisfy provisions for access and improvements as required by MCDOT prior to issuance of access permits.
- 10) The Applicant must comply with the conditions of the Montgomery County Department of Permitting Services (MCDPS) stormwater management approval dated October 13, 2010. These conditions may be amended by MCDPS, provided any modifications do not conflict with any other condition of the preliminary plan approval.
- 11) The record plat(s) for proposed Lots 11 and 12 must reflect that the loading access from

Seneca Meadows Parkway to these lots is temporary and will be terminated in the future when construction of Milestone Court is complete. Loading access to these two lots will be from Milestone Court when constructed.

- 12) Site Plan # 820100140 must be approved by the Board and certified by the Development Review Division prior to the approval of the record plat.
- 13) No additional clearing or grading is permitted prior to certified site plan approval.
- 14) All previous conditions of Preliminary Plan 119980040 remain in full force and effect unless specifically amended by this approval.
- 15) The Adequate Public Facility (APF) review for the Preliminary Plan remains valid per the original plan approval until January 22, 2012.

SITE PLAN RECOMMENDATION AND CONDITIONS

Staff recommends approval of site plan 820100140, The Shops at Seneca Meadows, for the construction of a 150,000 square-foot grocery store; 28,570 square feet of general office uses; 4,300 square feet of professional office uses; and 56,570 square feet of retail/restaurant uses on 21.0 acres in the TMX-2 Zone. All site development elements shown on the site and landscape plans stamped "Received" by the M-NCPPC on September 21, 2010 are required except as modified by the following conditions.

Conformance with Previous Approvals

1. Preliminary Plan Conformance

The proposed development must comply with the conditions of approval for preliminary plan 11998004A as listed in the Planning Board Resolution unless amended.

Environment

2. Forest Conservation

The proposed development must comply with the conditions of the approved final forest conservation plan. The Applicant must satisfy all conditions in the memorandum dated October 21, 2010 prior to the recording of a plat(s) or the issuance of sediment and erosions control permits by the Montgomery County Department of Permitting Services.

Open Space

3. Maintenance of Public Amenities

The Applicant and future owners are responsible for maintaining all publicly accessible amenities including, but not limited to, plazas, sidewalks, benches, plantings, and lighting.

Site Plan

4. Lighting

- a. The lighting distribution and photometric plan with summary report and tabulations must conform to IESNA standards for commercial development.
- b. All onsite down- light fixtures must be full or partial cut-off fixtures.
- c. The height of the light poles must not exceed 27 feet including the mounting base in all surface parking areas and 35 feet including the mounting base in the loading area. The height of the light poles on top of the structured garage must not exceed 12 feet including the mounting base.

5. Landscape Surety

The Applicant shall provide a performance bond in accordance with Section 59-D-3.5(d) of the Montgomery County Zoning Ordinance with the following provisions:

- a. The amount of the surety shall include plant material, on-site lighting, recreational facilities, and site furniture within the relevant block of development. Surety to be posted prior to issuance of the first building permit and shall be tied to the development program.
- b. Provide a cost estimate of the materials and facilities, which, upon staff approval, will establish the initial bond amount.
- c. Completion of plantings to be followed by inspection and bond reduction. Inspection approval starts the 1 year maintenance period and bond release occurs at the expiration of the one year maintenance period.
- d. Provide a screening/landscape amenities agreement that outlines the responsibilities of the Applicant and incorporates the cost estimate. Agreement to be executed prior to issuance of the first building permit.

6. Development Program

The Applicant must construct the proposed development in accordance with a development program that will be reviewed and approved prior to the approval of the Certified Site Plan. The development program must include the following items in its phasing schedule:

- a. Street lamps and sidewalks must be installed within six months after street construction is completed for each section of the development. Street tree planting may wait until the next growing season.
- a. On-site amenities for each open space, including but not limited to sidewalks, benches, trash receptacles, and bicycle facilities, must be installed prior to release of any building occupancy permit for adjacent buildings.
- b. Clearing and grading must correspond to the construction phasing to minimize soil erosion and must not occur prior to approval of the Final Forest Conservation Plan, Sediment Control Plan, and M-NCPPC inspection and approval of all tree-save areas and protection devices.
- c. The development program must provide phasing for installation of on-site landscaping and lighting.
- d. Landscaping associated with each parking lot and building shall be completed prior to use and occupancy of each parking lot and building.
- e. The development program must provide phasing of dedications, stormwater management, sediment and erosion control, afforestation, trip mitigation, and other features.

7. Certified Site Plan

Prior to approval of the Certified Site Plan the following revisions must be made and/or information provided subject to Staff review and approval:

- a. Public use space exhibit that limits qualifying open space to plazas and sidewalks along the primary internal street.
- b. Include the final forest conservation approval, stormwater management concept approval, development program, inspection schedule, and site plan resolution on the approval or cover sheet.

- c. 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”.
- d. Modify data table to reflect development standards enumerated in the staff report.
- e. Ensure consistency of all details and layout between site plan and landscape plan.
- f. Minor modifications to labeling, layout, and details for clarity and to address conditions.
- g. Provide a building envelope for each building/pad site and include in the data table.

APPENDICES

- A. October 5, 2010 letter from MCDOT to MCDPS Stormwater Management
- B. October 18, 2010 letter from County Arborist
- C. Agency Comments

Appendix A

October 5, 2010

Mr. Rick Brush
MCDPS Water Resources
255 Hungerford Road
Rockville, MD 20850

RE: Seneca Meadows Corporate Center
Preliminary Plan Amendment #1-98004A

Dear Mr. Brush

Sarah Navid and Bill Campbell, DPS staff members, and I met with the owner of Seneca Meadows Corporate Center September 16, 2010 to discuss the use of the Parcel 'L' (130' wide master plan road/transit B25). MCDOT is in agreement that the ultimate master planned use of the parcel will not happen for some time. The road and transit are not in the County CIP or the State's CTP and it is my opinion that they will not be included in the near term.

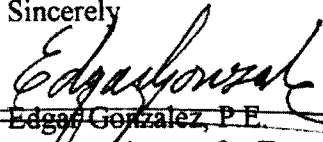
The applicant is willing to work with the County to facilitate the long term use of Parcel L for a future road/transit while using the property now for stormwater management and temporary parking. Seneca Meadows Corporate Center VII LLP will maintain use and ownership with a covenant, to be recorded in the land records, to dedicate the property when the County or the State is ready to proceed with the road or transit. The existing preliminary plan requires the reservation (but no the dedication) of less than 130 feet. The amended preliminary plan will include Parcel L with a condition that the property is subject to a covenant with the County. The covenant will include the following items:

- 1 As shown on the preliminary plan amendment, Parcel L will be created with the subdivision of Parcel K, Lot 11 and Lot 12.
- 2 Parcel L will be dedicated at no cost to Montgomery County in the future. Montgomery County will be required to give the property owner one year notice to dedicate the property before the road/transit is needed for the start of construction in the County CIP or State CTP.
- 3 Parcel L will be used in the interim by the property owner for stormwater management (SWM), parking and associated utilities, including water and sewer.
- 4 The water and sewer will be permanent with WSSC easements as appropriate.
- 5 SWM will be designed to minimize possible relocation in the future. A graphic of a road/transit solution (Road Concept) has been developed to work with the current SWM design, and attached to this letter. The road/transit SWM design cannot be established now since the final road/transit design requirements are not known and SWM requirements will likely change over time.

- 6 The Road Concept to coordinate with the current SWM will be a 4 lane commercial – business district section with 5’ sidewalk on one side and 8’ bike lane on the other side. This road concept assumes 2 lanes for local traffic and 2 lanes for bus transit / BRT. The final design is subject to change in the future. This concept allows for approximately 75’-80’ of road area within the 130’ parcel. The remaining area could be used for SWM all in one side of the dedication. MC DOT requests an opportunity to review and comment on the final configuration, before the SWM permit is issued.
- 7 The temporary parking within Parcel L associated with Lot 12 (current lot 10) will be relocated on to Lot 12 at the owner’s cost once the property is dedicated to Montgomery County. In exchange for the 130 feet dedication, the County or State will be responsible for any changes it elects to make to the then existing parking and SWM improvements located on Parcel L, as part of their road / transit construction.
- 8 The developer and County agreed that there would be no road connections under the elevated road/transit to provide access between Lots 11 and 12.
- 9 Parcel K, part of the future grade separated interchange for Father Hurley Blvd and Observation Drive, will be dedicated to Montgomery County upon recordation of the plat.

The interim use of Parcel L by the owner, while facilitating the long term alignment of Master Plan Road B25, is beneficial for both parties. The County will receive an ongoing reservation and future dedication at no public cost. Seneca Meadows Corporate Center VII LLLP is able to use the ground for current development with a plan for the future. It is our understanding that the preliminary plan amendment will be approved with a condition related to the proposed covenant noted above. MCDOT finds this solution acceptable. If you have any questions please give me a call.

Sincerely



~~Edgar Gonzalez, P.E.~~

Deputy Director for Transportation Policy, MC DOT

Cc Cathy Conlon, MNCPPC
 Josh Sloan, MNCPPC
 Bill Campbell, MCDPS
 Sarah Navid, MCDPS
 Paul Chod, SMCC VII LLLP
 Bradley Chod, SMCC VII LLP
 Andy Chod, SMCC VII LLLP
 Gary Unterberg, Rodgers Consulting
 Greg Leck, MCDOT

Appendix B



DEPARTMENT OF ENVIRONMENTAL PROTECTION

Isiah Leggett
County Executive

Robert G. Hoyt
Director

October 18, 2010

Françoise Carrier, Chair
Montgomery County Planning Board
Maryland National Capital Park & Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910

RE: Seneca Meadows Center, DAIC 11998004A/820100140, NRI/FSD applied for on
8/14/1997

Dear Ms. Carrier:

Based on a review by the Maryland National Capital Park & Planning Commission (MNCPPC), the application for the above referenced request is required to comply with Chapter 22A of the Montgomery County Code. As stated in a letter to Royce Hanson from Bob Hoyt, dated October 21, 2009, the County Attorney's Office has advised me that the specific provisions pertaining to significant trees in the State's Forest Conservation Act do not apply to any application that was submitted before October 1, 2009. Since this application was submitted before this date, I will not provide a recommendation pertaining to the approval of this request for a variance.

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

Sincerely,

Laura Miller
County Arborist

cc: Robert Hoyt, Director
Water Wilson, Associate County Attorney
Mark Pfefferle, Acting Chief

Appendix C

October 21, 2010

Mr. Phillip Hughes
Rodgers Consulting
19847 Century Boulevard, Suite 200
Germantown, MD 20874

Re: Revised Stormwater Management **CONCEPT**
Request for Wegman's (Seneca Meadow
Corporate Center)
Preliminary Plan #: N/A
SM File #: 237197
Tract Size/Zone: 22.94 ac./ 1 - 3
Total Concept Area: 22.94 ac.
Lots/Block:
Parcel(s): P825
Watershed: Little Seneca Creek

Dear Mr. Hughes:

Based on a review by the Department of Permitting Services Review Staff, the stormwater management concept for the above mentioned site is **conditionally acceptable**. The stormwater management concept consists of utilizing Environmental Site Design (ESD) to the maximum extent practicable in accordance with Chapter 19 of the County Code. Runoff that is not managed by onsite ESD practices will be managed in existing regional ponds.

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.
5. Provide confirmation the two existing ponds mentioned in the concept submission have CPv or Qn control for this site. If the ponds do not have the anticipated necessary storage then additional stormwater management practices will be required on-site.
6. Note that green roofs may be practical for use on some future buildings.

(25)

7. Additional geotechnical testing may be required to find locations on site which may be in cut areas and still conducive for infiltration although the site was previously graded years earlier.
8. Comply with the conditions of the letter dated October 5, 2010 from Mr. Edgar Gonzalez P.E., Deputy Director for Transportation Policy, MCDOT to Rick Brush, Manager, Land Development Section, DPS.

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.

Maryland Department of the Environment regulations require all final sediment control and stormwater management plans approved on or after May 4, 2010 must comply with the most recent changes to the Maryland Stormwater Design Manual. After that date, previously approved stormwater management concept plans are no longer valid unless they have been designed to the standards or have been reconfirmed by the Department of Permitting Services.

If you have any questions regarding these actions, please feel free to contact William Campbell at 240-777-6345.

Sincerely,

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

RRB:fla bli

cc: C. Conlon
M. Pfefferle
SM File # 237197

QN -on-site; Acres: 22.9
QL - on-site; Acres: 22.9
Recharge is provided



DEPARTMENT OF PERMITTING SERVICES

Isiah Leggett
County Executive

Carla A. Reid
Director

October 11, 2010

To: Kim McCary
Senior Associate
Rodgers Consulting, Inc.

RE: The Shops at Seneca Meadows, Site Plan (#820100140)

Dear Mr. McCary:

In response to your request for expedited review and approval of your submitted plans for the above project, and to meet the deadline for inclusion into the next planning board meeting on October 28, 2010, while our plan reviewer Ms. Sarah Navid is out of the office until October 25.

Review of the proposed plans are conditionally approved for service truck access and circulation as outlined on plans provided on September 21, 2010, indicating;

- a. Use of MDSHA standards for the proposed right-in/right-out on Observation Drive.
- b. Provision for additional access stacking along east-bound Seneca Meadows Parkway, for left turn turning movements into the proposed site.
- c. The existing service entrance to remain in-place.

Should you have any question or if I could be of any further assistance, please do not hesitate to contact me at 240-777-6352.

Sincerely,

Atiq Panjshiri
Senior Specialist
Right of way plan review Section

Division of Land Development Services • Right of Way Permitting and Plan Review

255 Rockville Pike, Suite 201-E • Rockville, Maryland 20850-4168 • 240-777-6298, Fax 240-777-6296

(27)

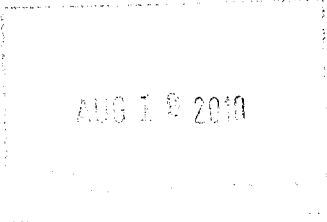


Martin O'Malley, Governor
Anthony G. Brown, Lt. Governor

Beverley K. Swaim-Staley, Secretary
Neil J. Pedersen, Administrator

Maryland Department of Transportation

August 16, 2010



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

Re: Montgomery County
The Shops at Seneca Meadows
DRC File No. 820100140
near MD 27 (Ridge Road)

Dear Ms. Conlon:

The State Highway Administration (SHA) appreciates the opportunity to review the plans for the Shops at Seneca Meadows development. We offer the following comments:

- The site has access via Observation Drive and Seneca Meadows Parkway which are both County roadways.
- This section of Ridge Road is not MD 27. Ridge Road does not begin as a State Route until its intersection with Frederick Road (MD 355). The plan sheets should be corrected.
- This office requests five (5) copies of the TIS be sent for SHA review. While there is no driveway access to Ridge Road, based on the TIS, off-site improvements may be needed. Should off-site improvements be required, the improvements will need to be reviewed, approved and permitted by SHA.

If you have any questions or require additional information, please contact Ms. Corren V. Giles at (410) 545-5595; toll free at (800) 876-4742, or via email at cgiles@sha.state.md.us.

Sincerely,

Steven D. Foster, Chief
Engineering Access Permits Division

SDF/cvg

Cc: Mr. Shahriar Etemadi / M-NCPPC
Montgomery County DOT
Montgomery County DPS
Developer Engineer
Ms. Anyesha Mookherjee
Ms. Kate Mazzara
Mr. Victor Grafton
Mr. Mark Loeffler

sent via e-mail
sent via e-mail
sent via e-mail
sent via e-mail

My telephone number/toll-free number is _____
Maryland Relay Service for Impaired Hearing or Speech: 1.800.735.2258 Statewide Toll Free

Street Address: 707 North Calvert Street • Baltimore, Maryland 21202 • Phone: 410-545-0300 • www.marylandroads.com

