



Name, Project Type, Number

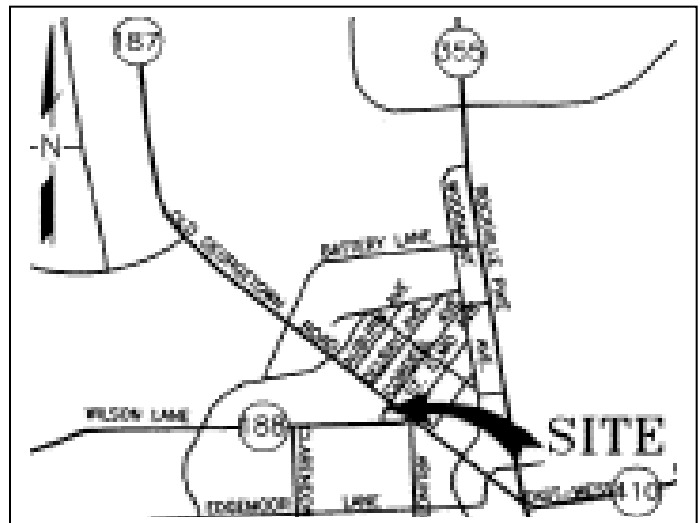
- Cathy Conlon, Supervisor - DARC, catherine.conlon@montgomeryplanning.org, 301-495-4542
- Mark Pfefferle, Acting Chief - DARC, mark.pfefferle@montgomeryplanning.org, 301-495-4730
-
-

Completed: 11/18/11

Description

Subdivision Plat No. 220110700, Battery Park Section 2

- 7818 Old Georgetown Road (MD 187), east of Cordell Avenue
- 2,572 square foot property zoned C-2 in the Bethesda CBD Sector Plan
- Request to record a part of a lot into 1 lot without a preliminary plan
- Application submitted 1/12/11



Summary

Staff recommends **approval** of a waiver to permit recordation of a plat without a preliminary plan based on practical difficulty created by the staff delay in scheduling this application for action.

- The subject part of lot was created as an ownership parcel by deed dated December 6, 1987. Although the Subdivision Regulations contain minor subdivision provisions that permit the creation of ownership lots and parcels by record plat, these provisions apply to lots, not parts of lots. As such, a plat that creates ownership lines under the minor subdivision process must contain all the land that was included in the previously recorded lot within which the ownership lines are being created.
- The subject part of lot was created after June 1, 1958, and the Subdivision Regulations do not permit post-June 1, 1958 parts of lots to be recorded by minor subdivision.
- The applicant's request for a Subdivision Regulations waiver to permit either the recordation of a part of a lot as an ownership lot, or the recordation of a post-June 1, 1958 part of a lot under minor subdivision does not include sufficient justification for a finding that practical difficulties or unusual circumstances exist which prevent full compliance with the requirement to submit a preliminary plan for approval prior to the submission of the record plat; however, there have been delays related to the processing of this request that make it unreasonable to require preliminary plan review now.

SITE AND PROJECT DESCRIPTION

The subject property consists of a part of a previously platted lot. This part was created by deed action on December 6, 1987. The original lot, lot 1 Block M, of the Battery Park Section 2 Subdivision was recorded twice by plat; first, in 1923 and then finally in 1925 as a result of a new public road alignment (see Figure 1). In the years since, the lot has been further subdivided by deed to create several separate ownership parcels. Each of these ownership parcels are parts of the original lot. The part located at the intersection of Old Georgetown Road and Cordell Avenue is the subject of this application (see Figure 2). The current owner would like to record this part of lot and create a new lot (see Figure 3). The property is 2,572 square feet in size and is zoned C-2. The property contains a 1,220 square foot building in which the owner operates a hair salon. The building will remain on the new lot and might be expanded.

Figure 1. Recorded lot 1 Block M, Battery Park Section 2

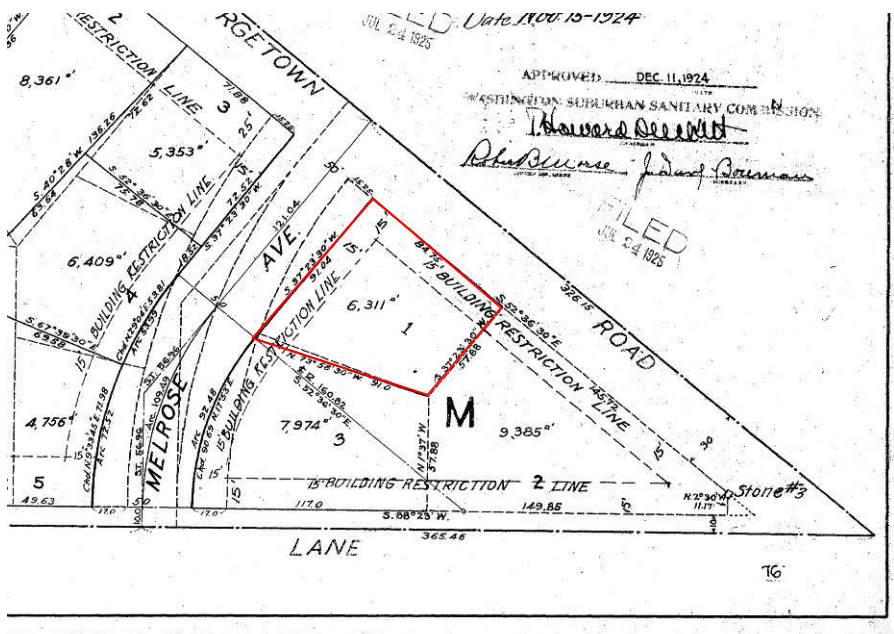


Figure 2. Subject Part of Lot 1, Block M

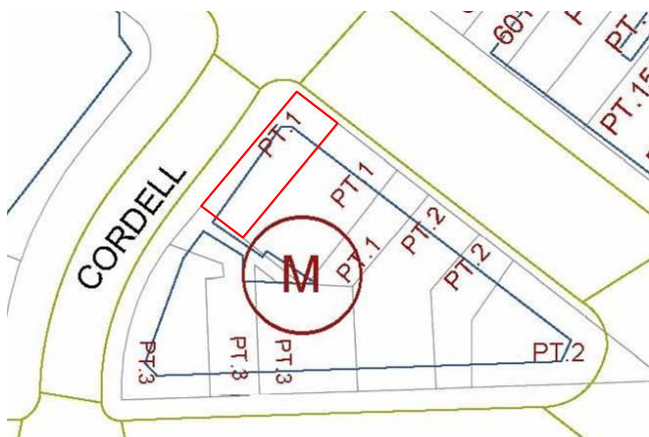
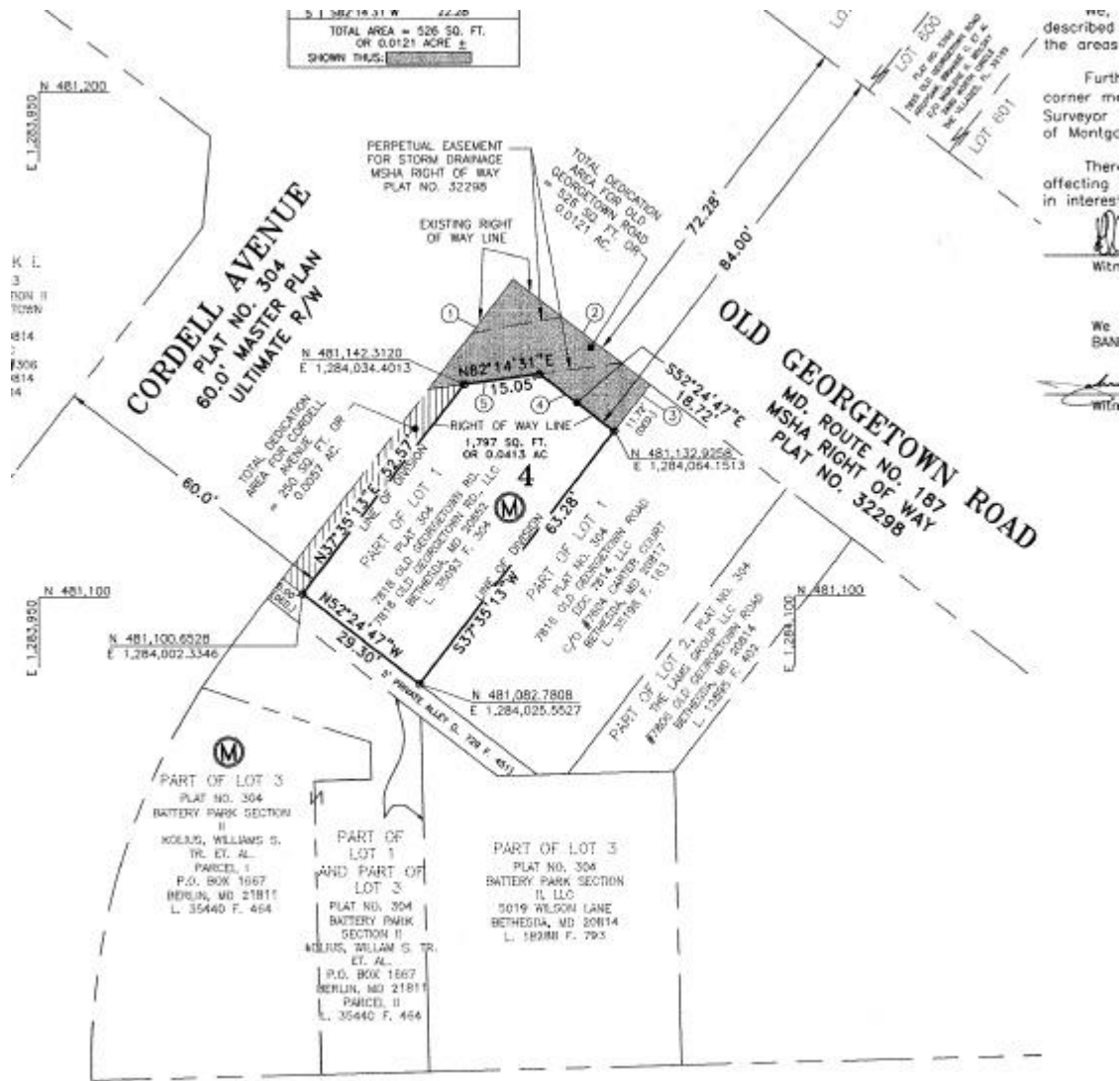


Figure 3. Proposed Record Plat for new Lot 4, Block M



CITIZEN NOTIFICATION

Staff has notified adjacent and confronting property owners as well as community groups and civic associations of this public hearing, as required.

BACKGROUND AND EXPLANATION OF WAIVER REQUEST

The Subdivision Regulations generally specify that whenever land in the county is subdivided for any purpose, a plat of such subdivision must be recorded in the land records of the county before such subdivided land is sold. Although this provision has existed since before 1950, it has not been uniformly adhered to because when deeds are filed in the land records to transfer land, there is no check to see if the transfer has been preceded by a plat. These types of deed transfers have not always been a problem because building permits could still be issued on the resulting deed parcels and parts of lots. Over the years, however, the regulations have changed and now they specify that, with certain

exceptions, the Department of Permitting Services must not approve a building permit for the construction of a dwelling or other structure, unless the dwelling or structure would be located on a lot or parcel of land which is shown on a recorded plat. They also prohibit, with certain exceptions, the issuance of a building permit for construction of a dwelling or other structure which is located on more than one lot, which crosses a lot line, which is located on the unplatted remainder of a resubdivided lot, or which is located on an outlot. As a result of these requirements, a building permit could not currently be issued for new construction (major renovation or replacement of the existing building) on this property. For this reason, the applicant wishes to record the part of lot and create a new platted lot.

The Subdivision Regulations specify a process for creating new lots that includes approval of a preliminary plan followed by approval of a record plat. In certain minor subdivision instances, the preliminary plan step may be skipped and only a record plat needs to be approved. The applicant is requesting that this proposed plat be approved under either of two current minor subdivisions. The first is minor subdivision 50-35A(a)(3) which permits creation of a lot from a part of lot that was created prior to June 1, 1958, and states:

- (3) Consolidation of Two or More Lots or a Part of a lot into One Lot. Consolidating more than one lot into a single lot is permitted under the minor subdivision procedure provided:
 - a. Any conditions applicable to the original subdivision remain in full force and effect and the number of trips generated on the new lot do not exceed those permitted for the original lots or as limited by an Adequate Public Facilities agreement.
 - b. Any consolidation involving a part of a lot may occur under the minor subdivision process if the part of a lot was created by deed recorded prior to June 1, 1958.

The applicant acknowledges that this provision does not apply in this case unless the Planning Board grants a waiver of the requirement that the part of lot was created prior to June 1, 1958.

The second provision, which the applicant believes is applicable to the existing part of lot, is minor subdivision 50-35A(a)(4) which permits creation of internal lots within an existing commercial, industrial or multi-family residential lot to reflect a change in ownership, deed, mortgage or lease line. It states:

- (4) Further Subdivision of a Commercial, Industrial or Multi-Family Residential Lot to Reflect a Change in Ownership, Deed, Mortgage or Lease Line. The creation of deed, mortgage or lease line within a commercial, industrial or multi-family residential lot (*emphasis added*) does not require the approval of a new subdivision plan. At the owner's discretion, the creation or deletion of internal lots to reflect a new deed, mortgage or lease line may be platted under the minor subdivision procedure. All prior conditions of approval for the original subdivision remain in full force and effect and the number of trips generated on any new lot will not exceed those permitted for the original lot or as limited by an Adequate Public Facilities agreement. Any necessary cross-easements, covenants or other deed restrictions necessary to perpetuate previous approvals must be executed prior to recording the record plat.

In a justification statement and follow-up email (Attachment A), the applicant's representative notes that this provision has been used repeatedly on a prospective basis where an owner wants to create or document separate ownership lots within a record lot for financing purposes or for conveyance as well as construction of multiple buildings. He does not believe, however, that the provision should be applied exclusively in this manner. Instead, he argues that it can be applied to an ownership parcel that was created during the time when a building permit could be issued for the parcel, even if all of the original lot is not included in the new record plat. In this particular case, the applicant representative believes it would be appropriate to apply it that way because, when combined, the existing gross floor areas of the buildings that have been constructed on all the existing parts of lots that fall within the original Lot 1 do not exceed what could be built under the standard requirements of the C-2 zone.

In staff's opinion, the minor subdivision provision is correctly applied only in the situation in which there is an existing lot within which the ownership lots are being created. It happens that in this case the deed parcels that were created don't contain buildings that are larger than what would be permitted by the zone for their particular size, but that is not always the case. In zones where more than one building may be constructed on a lot, there is no requirement that such a building be limited by the square footage it covers. Therefore, it is critical that all the land that is included in the original lot be included in a plat that will permit ownership transfer of the buildings. This is the main reason staff does not think this minor subdivision applies to this case, but it should also be noted that: 1) this part of lot was not created during the time in which a building permit could have been issued for the resulting parcel, and 2) the area within at least one of the parcels created from Lot 1 also includes area from the previously recorded Lot 3, Block M.

ANALYSIS OF A WAIVER FOR THIS APPLICATION

The Planning Board has the authority to grant a waiver pursuant to Section 50-38(a)(1) of the Subdivision Regulations provided certain findings can be made. The section states:

"The Board may grant a waiver from the requirements of this Chapter upon a determination that practical difficulties or unusual circumstances exist that prevent full compliance with the requirements from being achieved, and that the waiver is: 1) the minimum necessary to provide relief from the requirements; 2) not inconsistent with the purposes and objectives of the General Plan; and 3) not adverse to the public interest."

Applicant's Position

In the event the Board does not agree with the use of the minor subdivision (4) in this case, the property owners' representative requests that the Planning Board waive the requirement that the property proceed through the preliminary plan process because they believe this situation meets the purpose and intent of the minor subdivision provisions. This conclusion is based on the fact that the existing structure lawfully exists, has been transferred many times, and will not change as a direct result of this application. As such, the applicant believes the lengthy and costly preliminary plan approval process is not justified for this application. The applicant believes that going through minor subdivision is the most efficient process for all parties concerned, is not inconsistent with the purposes and objectives of the General Plan, and is not adverse to the public interest.

Staff Position

The applicant's waiver request is based on the justification that the time and expense involved in preliminary plan review for this case would constitute a practical difficulty that prevents achieving full compliance with the requirement. This justification is not sufficient. Although time and expense are associated with the review of a preliminary plan, these factors alone do not prevent one from being submitted. Instead, granting a waiver should be based on a finding that having to commit either time or money would create a hardship that is unique to this case. The applicant has not provided evidence to support such a finding, but, staff believes there are unique circumstances in this case that do support it. Namely, staff acknowledges that we delayed scheduling a discussion of this waiver request with the Board pending completion of the review of the submitted record plat. Our reasoning was that if we did that, the plat could be approved at the same time as the Board ultimately acted upon the waiver. We also thought that, although we had significant doubts about how a waiver could be granted, additional time might give us an opportunity to find some appropriate ground.

Based on our direction, the applicant has spent a considerable amount of time completing the plat review process which, in this case, was extended by issues related to determining the appropriate road dedication for the site; and, since resolving those issues, the case has also been delayed by our inability to get the report done and schedule a hearing. In staff's opinion, these delays constitute a situation that is unique to this case. In this case, there are practical difficulties associated with the applicant having to start over with a preliminary plan review at this point. Therefore, staff recommends that the Board grant a waiver of the requirement to do a preliminary plan for this case and approve the record plat. We believe this waiver is the minimum necessary to provide relief in this case. It is also not inconsistent with the purposes and objectives of the General Plan, and not adverse to the public interest because the recorded lot will meet all necessary subdivision and zoning requirements.

In conclusion, staff recommends approval of a waiver to permit recordation of the plat without prior approval of a preliminary plan based on the fact that there are circumstances unique to this case which result in practical difficulties that make it unreasonable to require the applicant to submit a preliminary plan.

ATTACHMENTS

Attachment A – Applicants' justification statement
Attachment B – Record Plat

**STATEMENT OF JUSTIFICATION
7818 OLD GEORGETOWN ROAD
REQUEST FOR APPROVAL OF MINOR SUBDIVISION AND/OR
WAIVER OF SUBDIVISION REGULATIONS**

BACKGROUND INFORMATION

7818 Old Georgetown Road, LLC, owns a small, developed property on Old Georgetown Road in downtown Bethesda. The parcel is only 2,572 square feet in size and has on it, a small building of 1,220 square feet in which the owner operates a hair salon. The building was built in approximately 1933. Originally, the block in which it is located was subdivided into three record lots by a plat approved in 1922 (Section No. 2, Battery Park, Plat Book No. 2, Plat No. 260). The dedication for right-of-way then was changed by a revision plat approved in 1924 (Plat Book No. 4, Plat No. 304). Still later, a dedication plat creating various sub lots on the block was recorded in 1929 (Plat No. 397). The ownership interests in the block, however, do not coincide with the platted lot lines.

Although the subject property is not itself a single record lot, it is and has been separately owned for years and holds a separate tax account number. In fact, for an unknown number of years, the entire block has consisted of a number of individual sub parcels with separate deeds and separate ownership. Over the years, these various properties have been transferred and the buildings on them have been improved or expanded. Most recently, the building at the eastern end of the block was completely renovated with two floors added to the top of it. Renovation of a building at the western end of the block is now underway.

The purpose of this application is to seek the most expeditious and cost effective approval by the Planning Board of a record plat for the subject ownership parcel, created previously by deed. More specifically, the owner requests approval of this request as a minor subdivision under

Section 50-35A(a)(4) (Further Subdivision of a Commercial Lot to Reflect a Change in Ownership) including to the extent necessary, a waiver under Section 50-38 of the requirements for a Preliminary Plan application under Sections 50-34 and 50-35, to enable the property to be platted under the minor subdivision process.

MINOR SUBDIVISION REQUEST

Prior to 1985, it was customary for commercial properties including parts of record lots in urban areas like Bethesda to be conveyed by deed. There was no requirement to resubdivide the property by plat in order to obtain a building permit as reflected by the many buildings that exist in this block and in Bethesda. Section 50-20 was amended in 1985 to require that any proposed structures for which a building permit was being sought had "to be located on a lot or parcel of land which is shown on a plat recorded in the plat books of the County...." There is however, no requirement for generally replatting a property that already exists, and existing buildings like the subject one may continue indefinitely. Similarly, properties that consist of parts of record lots due to right-of-way acquisition under eminent domain also are allowed to continue without the need for resubdivision. For years, in areas like downtown Bethesda, there also have been circumstances where one or more commercial buildings have been constructed on a lot and either separately financed or conveyed to different individuals. These circumstances also have been allowed to remain. Traditionally, where such a property owner required a confirmation of the permissibility of this condition for financing purposes or for conveying the part of a record lot, the Planning Board would approve a waiver of the subdivision regulations. This allowed construction of buildings on parts of lots and/or financing/conveyance of them without the need for resubdivision.

In 1997, the Planning Board amended its Subdivision Regulations in an effort to codify procedures for dealing with these circumstances. Ordinance No. 13-57 (Subdivision Regulation

Amendment 96-5) created a minor subdivision process to streamline the process and allow applicants to proceed directly to a record plat thereby avoiding the extensive costs and delays of a full Preliminary Plan application in circumstances such as these. One of the prescribed circumstances is defined at Section 50-35A(a)(4) as "Further Subdivision of a Commercial, Industrial or Multi-family Residential Lot to Reflect a Change in Ownership, Deed, Mortgage or Lease Line." This allows for the conveyance of portions of a record lot and the creation or deletion of internal lots to reflect separate deeds. Where this condition exists, the property may be replatted under the minor subdivision process. This minor subdivision process has been used repeatedly on a prospective basis where an owner wants to create or document separate ownership lots within a record lot for financing purposes or for conveyance as well as construction of multiple buildings. The provision is unclear whether it applies exclusively to the prospective creation of such ownership lots or also allows platting of such lots that have been created previously, so long as they meet all applicable requirements of the Zoning Ordinance.

A second provision allows the conversion of part of a record lot into a record lot if the part of the lot was created by a deed recorded prior to June 1, 1958. We are not sure why the date of June 1, 1958 is included there. Presumably, it is because of some change to the Zoning Ordinance or Subdivision Regulations that occurred on that date. Unfortunately, although records indicate this building was built in 1933, we have not been able to find a deed in the land records reflecting its individual ownership prior to 1958. Nevertheless, that date appears irrelevant for purposes of this case. The building conforms with all applicable requirements of the Zoning Ordinance and other provisions of the Subdivision Regulations and was constructed lawfully many years ago. The owner also possesses a valid Certificate of Use and Occupancy. In any respect, the ability to plat an existing commercial property by the Minor Subdivision process

for pre-1958 lots, supports the propriety of doing so here, under Section 50-35A and the waiver request set forth herein.

WAIVER REQUEST UNDER SECTION 50-38

There are both unusual circumstances and practical difficulties that support this request. As noted, this is a block zoned for commercial use (C-2 zoning) that has been developed in this capacity for many years. Not only has the parcel that is the subject of this request existed in its present configuration for many years, but it has been conveyed multiple times over that period of time. As discussed above, it closely, if not precisely, fits within one or more of the circumstances specifically defined in the Subdivision Regulations for allowing a minor subdivision. To the extent those provisions are read more narrowly so as to not include this specific instance, a waiver is appropriate.

Additionally, there are practical reasons for allowing the waiver and the minor subdivision approval. The small business owner is seeking to expedite approval for refinancing purposes. The Preliminary Plan of Subdivision process could take six months or more conflicting with that objective. Additionally, the full Preliminary Plan of Subdivision process is geared towards addressing many issues not relevant to this property. That process looks at environmental issues in terms of the propriety of developing a piece of property but this one is already developed. In fact, it, like the entire block, is developed in an urban configuration where there are no trees, streams, or other natural resources to be evaluated. The block is a mix of commercial buildings, built with party walls, fronting on the sidewalks along Old Georgetown Road, Wilson Lane and Cordell Avenue. With respect to other purposes of the Subdivision Regulations, there is no need to coordinate this property with the construction of new roads given

that none are planned in this area, there is no need to reserve land for schools or public buildings and certainly no need to avoid "scattered or premature subdivision or development of land." In short, the purposes of the Subdivision Regulations really do not apply other than the possible exception of the goal of having platted lots reflect actual ownership. That objective can be achieved through the minor subdivision process.

In the longer term, the owner recognizes that any future expansion (such as the addition of one or more floors to the building as was done at the other end of the block) will require review of all applicable APFO issues under Section 8-31 of the County Code.

Finally, allowing Applicant to follow the minor subdivision process in this situation is the minimum necessary to provide relief. It will allow recordation of a plat to reflect existing circumstances without requiring the costs and delays of a full resubdivision. It also is not inconsistent with the purposes and objectives of the general Plan. To the contrary, the Sector Plan allows not only the existing development but renovations and/or redevelopment consistent with the standards of the C-2 zone. It is in a METRO Station area where the County is interested in encouraging such reinvestment. There also will be no adverse impact on the public interest. This is a small business attempting to grow and this would enable him to do so in the most efficient, cost effective and expeditious manner possible. The public interest supports this.

COMPLIANCE WITH ZONING ORDINANCE AND SECTOR PLAN

In terms of this minor subdivision, Park and Planning Commission Staff have asked for the dedication of additional right-of-way along both Old Georgetown Road and Cordell Avenue. The Bethesda CBD Sector Plan does not call for any widening of either road, but does propose

expanding the right-of-way on Cordell Avenue to sixty feet and expanding the right-of-way on Old Georgetown Road to the point where the existing building lines are located. Therefore, as part of the minor subdivision process, the property owner will dedicate an additional five feet of right-of-way along Cordell Avenue and 11.66 feet along Old Georgetown Road, extending the right-of-way to the front building line of the existing building on the subject property. The C-2 Zone specifies that a setback from the right-of-way is not required when a "mainstreet" type of development is recommended in a master or sector plan. In this case, the Master Plan recognizes that existing buildings on the north side of Old Georgetown Road have no setback from the right-of-way and it calls for the right-of-way on the south side to be expanded up to the face of the buildings along that side of the road in order to maintain the "mainstreet" condition for retail stores fronting on the sidewalks. It also recognizes the urban design objective of buildings fronting directly on Cordell Avenue as well. As such, with the approval of this minor subdivision and the dedication of the additional right-of-way requested in the Bethesda CBD Sector Plan, these buildings will fall within the "mainstreet" setback requirement of Section 59-C-4.353 and the approval of the subject record plat will reflect this.

Conlon, Catherine

From: Titman, Dorothy R. [drtitman@lercheary.com] on behalf of Harris, Robert R. [rrharris@lercheary.com]
Sent: Tuesday, November 01, 2011 11:53 AM
To: Conlon, Catherine
Cc: cgarzonh@yahoo.com
Subject: ON BEHALF OF ROBERT HARRIS/7818 Old Georgetown Road, LLC (Record Plat No. 220110700)

Follow Up Flag: Follow up
Flag Status: Flagged

Cathy, thanks again for bringing to the attention of the Planning Board on October 20 the value of amendments to the Minor Subdivision process. As you, Steve Orens and I all explained, the objective in 1997 of simplifying the subdivision process for certain subdivisions that do not require a Preliminary Plan approval has been effective to a degree. Unfortunately, the process does not incorporate all of the various circumstances where a minor subdivision is appropriate. We believe this case is one of those situations.

As you are aware, we have submitted both the record plat (my client reminds me he submitted it last December) and, pursuant to Staff suggestions, in April, submitted a waiver request, not to avoid the record plat process, but to allow use of the Minor Subdivision process to record the plat. We remain anxious to take this matter to the Planning Board for approval. I was very comforted by the comments of each of the Planning Board members on this topic. I believe they understand the value of an abbreviated process in cases like this, and the importance of finding ways in general to streamline regulatory processes. We hope to have Staff's support for the Minor Subdivision and the waiver request based on the Planning Board's October 20 comments, including its confirmation that the waiver process should remain because there are various unknown situations where a Minor Subdivision might be appropriate but not expressly identified in the regulations.

I may not have explained the circumstance of this particular case clearly enough to the Board October 20, so I want to provide additional facts for you to consider and possibly to include in your Staff Report. I will be available to discuss the circumstances in greater detail when this matter goes to the Planning Board.

The subject property is a small (2,572 sq. ft) parcel that is part of Lot 1, Section 2, Battery Park Subdivision, that was platted in 1922. The entire block was platted as Lots 1, 2 and 3. At that time, the subdivision process was simply the submission of a plat, equivalent to the current Minor Subdivision process, and there were no conditions placed on the property through the subdivision. Instead, subject to any limits under the Zoning Ordinance the property owner has been able to use the property for any uses permitted under the Zoning Ordinance and to develop it to the density allowed by the existing zone.

Over the years since the 1922 plat, seven buildings have been built on the 3 lots within the block and there are seven separate owners of those buildings. Lot 1 itself has three buildings on it, each of which is under separate ownership. Our client owns one of them. Today, the owner of this part of Lot 1 operates a hair salon on it and is interested in recording a plat for his property. His request to record a plat for this property was driven by a change in the Subdivision Regulations adopted in 1985. Since 1985, the Subdivision Regulations generally require buildings to be on a record lot, not part of a lot as was always allowed until then. That new requirement has implications for refinancing, conveyance and for the issuance of building permits. In the subject case, the owner filed the plat last year in order to meet requirements for refinancing

his property. Recent changes in lending requirements require a more detailed zoning analysis and this analysis revealed that the building is on part of a record lot and that the Subdivision Regulations require it to be on a recorded lot. The owner's loan has been delayed due to this.

The overarching objective of this Subdivision Regulation change in 1985 was to have buildings located on record lots, not unrecorded parcels or parts of record lots. This owner is willing to do that but has a problem going through the lengthy Preliminary Plan process, particularly given that he has been attempting to obtain a plat now for nearly a year. He is not creating a new parcel but rather replatting one that has existed for decades. Although we have argued that this request fits within the parameters of Paragraph 4 of the Minor Subdivision Regulations, (Further Subdivision of a Commercial Lot to Reflect a Change in Ownership) Staff has concluded that it does not fit precisely within those provisions. Ironically, if the parcel were not already under separate ownership, and the owner were interested in creating a sub parcel for financing or conveyance purposes in the future, that appears to be a situation that would fit within the paragraph. Applying the Minor Subdivision process for a prospective platting, but not allowing it to be applied to a property that predated the 1985 regulatory change by many years, seems to make no sense. Even more confusing is that the regulations allow Minor Subdivision approvals to convert an outlot into a lot (paragraph 2). Why shouldn't a part of a lot be eligible as well so long as the same conditions are met? Any property that predates the 1985 regulatory change should be eligible for Minor Subdivision approval of a record plat to bring it into conformity so long as it meets these requirements and conforms with zoning standards. This case presents such a circumstance in that the parcel long predates the 1985 change and it conforms with all applicable zoning and subdivision requirements. The owner did not create the situation of an unplatted part of a lot; others did it long ago and did so in complete conformance with the law. This owner wants to address the situation under the current law but, in the meantime, his refinancing of the property has been stalled. He should be allowed to plat the property in the most expeditious manner possible to bring it into compliance with the current subdivision regulations.

As the Board is aware, there now is a proposal to amend the Minor Subdivision process to allow it to be used for more properties. We believe situations such as this one should be included in those changes but that is uncertain at this time and, in any respect, would not be accomplished for 4 – 6 months, leaving this owner in a predicament not of his doing for nearly 1½ years.

Finally, you have asked for information to help you confirm that a separate plat for the subject property will not lead to a situation in which either this property or either the other properties that comprise Lot 1 is over built under the Zoning Ordinance. (In this respect, I assume you mean Lot 1 that is the subject of this record plat, rather than the other two lots on the block, although the comments I offer here would apply to them as well). The bottom line is that I have reviewed the land records to confirm both the size of the sub parcels that make up Lot 1 as well as the Gross Floor Area of the buildings on this Lot. The conclusion is that each property is developed well under the allowable FAR under the C-2 zone of 1.5 and each meets the zoning standards. More specifically, there are three properties associated with Lot 1: 7818 Old Georgetown Road with 2,572 square feet of land, 7816 Old Georgetown Road with 2,541 square feet of land and 7812 Old Georgetown Road, with 1,061 square feet of land. The respective building sizes on these properties are 1,220 square feet, 1,857 square feet and 768 square feet. As you can see, each, when viewed independently, conforms with the density allowances of the C-2 zone such that the independent platting of 7818 Old Georgetown Road will not affect their conformity.

The bottom line is that this case involves a small business owner who is trying to plat an existing, separately owned parcel. It is "minor" in every sense of the word. To the extent a waiver is required to use the Minor Subdivision process, the waiver is the most effective method to achieve the intended results.

LAND DEDICATED TO THE STATE OF MARYLAND FOR THE PURPOSES OF A PUBLIC ROAD		
1	N37°35'13"E	27.57'
2	S52°24'47"E	34.30'
3	S37°35'13"W	11.72'
4	N52°24'47"W	18.72'
5	S82°14'31"W	22.28'
TOTAL AREA = 526 SQ. FT. OR 0.0121 ACRE ±		
SHOWN THUS: [Hatched Pattern]		

PLAT NO.

OWNER'S CERTIFICATE

We, 7818 Old Georgetown Road, LLC, owners of the property shown and described hereon, hereby adopt this plan of resubdivision; and further dedicate the areas shown for public street use.

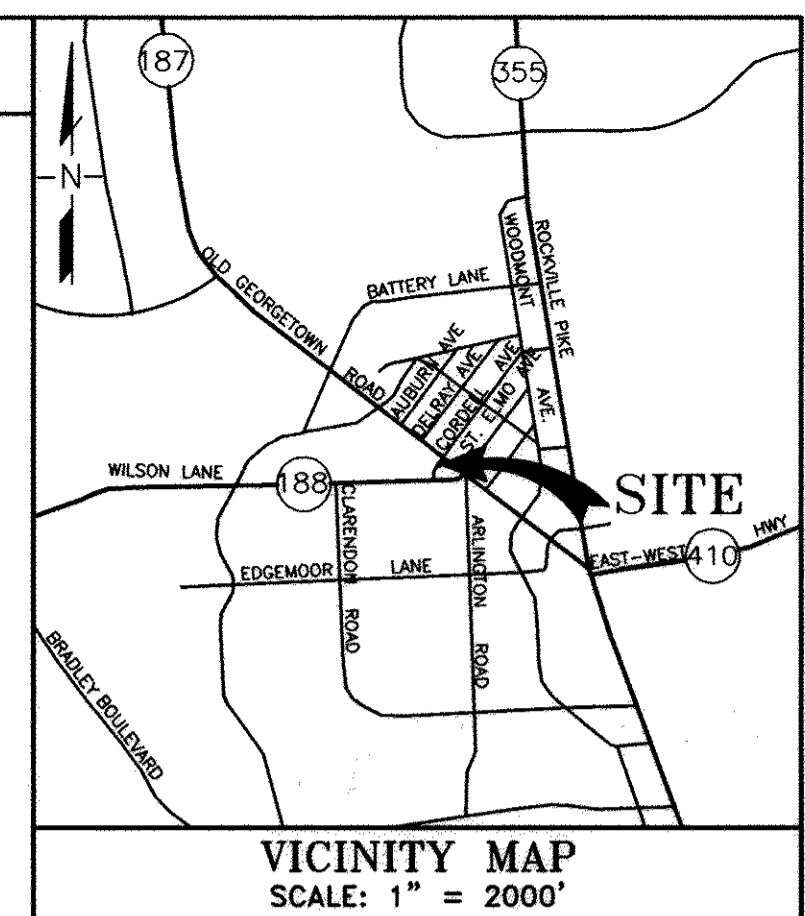
Further, we, our successors, or assigns will cause permanent property corner markers shown thus (—●—) to be set by a registered Maryland Land Surveyor in accordance with section 50-24(e)(2) of the subdivision regulations of Montgomery County, Maryland.

There are no suits, actions—at-law, leases, liens, mortgages or trusts affecting the property shown hereon, except a certain mortgage and the party in interest thereto has below indicated its assent.

Witness *[Signature]* Date 5/27/2011 *[Signature]*
 Carlos Garzon
 (Managing Member 7818 Old Georgetown Road, LLC)

We hereby assent to this plan of subdivision:
 BANK OF AMERICA
 Witness *[Signature]* SVP Date 6/9/11
 Bank of America - Signature

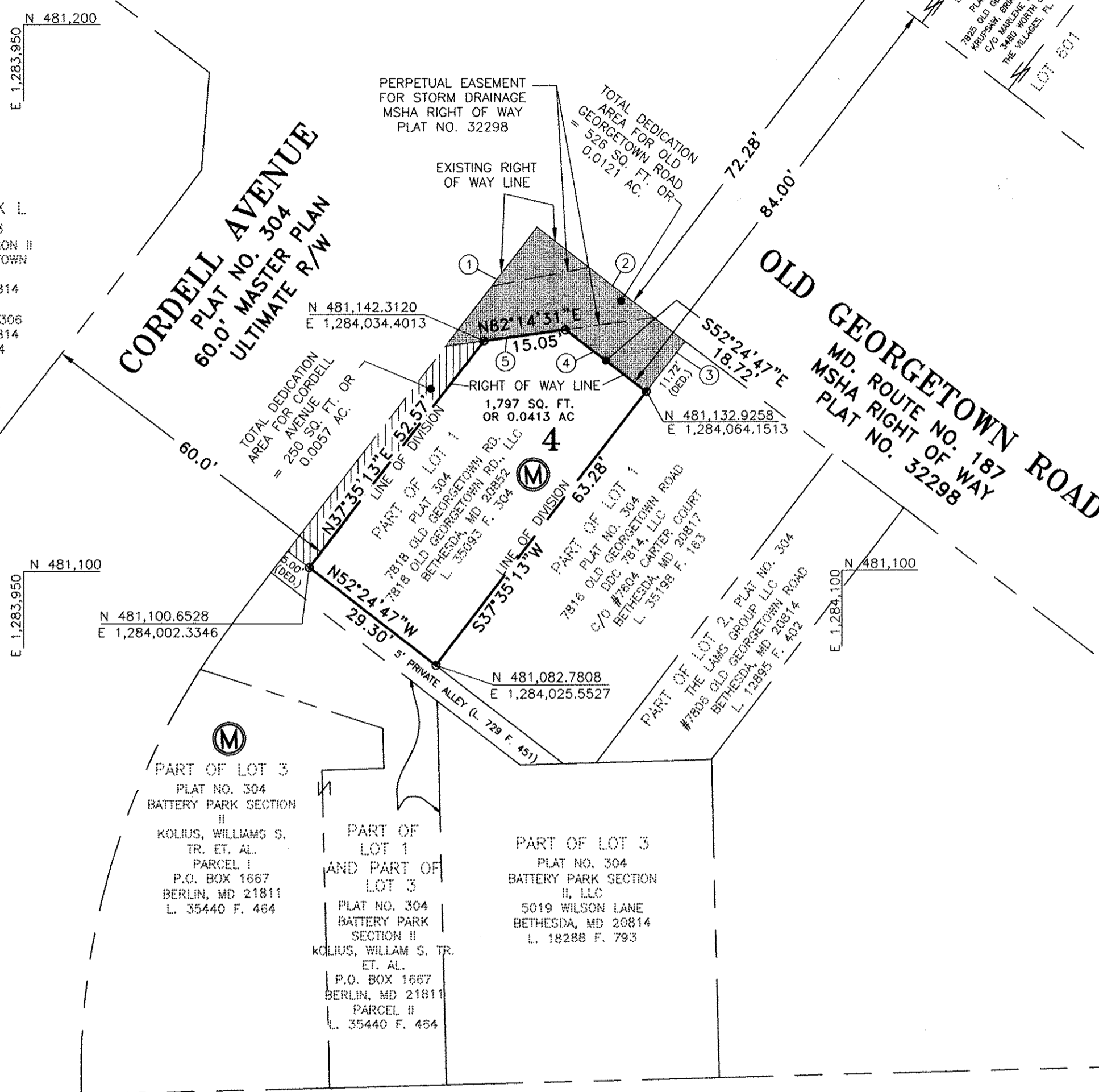
[Signature]
 TAMMY PATEL VP. CLIENT MANAGER
 Print Name and Title



LOT 23, BLOCK L
 PLAT NO. 15023
 BATTERY PARK SECTION II
 7830 OLD GEORGETOWN ROAD
 BETHESDA, MD 20814
 BETHESDA, LLC
 4416 WEST HWY #306
 BETHESDA, MD 20814
 L. 20647 F. 324

CORDELL AVENUE
 PLAT NO. 304
 60.0' MASTER PLAN
 ULTIMATE R/W

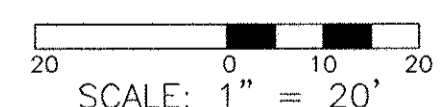
OLD GEORGETOWN ROAD
 MD. ROUTE NO. 187
 MSHA RIGHT OF WAY
 PLAT NO. 32298



NOTES

- All the terms, conditions, agreements, limitations and requirements associated with any preliminary plan, site plan, project plan or other plan allowing development of this property, approved by the Montgomery County Planning Board are intended to survive and not be extinguished by the recordation of this plat, unless expressly contemplated by the plan as approved. The official public files for any such plan are maintained by the Planning Board and available for public review during normal business hours.
- This plat conforms with the requirements of Minor Subdivision approvals contained in Section 50-35A of Montgomery County, Maryland, Subdivision Regulations, being Chapter 50 of the County Code. This plat involves the conversion of part of a lot into a lot in accordance with Section 50-35A(a)(3) and the terms and conditions of the Montgomery County Planning Board Resolution No.
- This Subdivision Record Plat is not intended to show every matter affecting the ownership and use, nor every matter restricting the ownership and use of this property. The Subdivision Record Plat is not intended to replace an examination of title or to depict or note all matters affecting title.
- The Zoning is C-2.
- All existing and any future development on this property is subject to the standards under C-2 Zone classification.
- Tax Map HN122 WSSC Sheet No. 209NW05
- For Public Water and Sewer systems only.
- Lot 4, Block M shown hereon is limited to 1,222 square feet of retail use unless otherwise modified through an Adequate Public Facilities Review by the Montgomery County Planning Board, if required, subsequent to the recordation of this plat.

WILSON LANE
 MD. ROUTE NO. 188
 WIDTH VARIES



SURVEYOR'S CERTIFICATE

I hereby certify that the plan shown hereon is correct to the best of my professional knowledge, information and belief; that it is a resubdivision of all of the land conveyed to 7818 Old Georgetown Road, LLC, from Marie Sutherland, individually and as Primary Trustee of the Marie Sutherland Trust by Deed dated November 26, 2007 and recorded among the Land Records of Montgomery County, Maryland in Liber 35093 at Folio 304, said land known as Part of Lot 1, Block M in a subdivision known as "Battery Park"- Section 2, Montgomery County, Maryland, as per plat recorded in Plat No. 304 of said Land Records; and that the total area included in the plat is 2,572 square feet or 0.0591 acre of land of which 776 square feet or 0.0178 acre is dedicated to public use for street purposes.

5/27/11
 Date
[Signature]
 Charles T. Grimsley
 Professional Land Surveyor
 Maryland No. 21392

**SUBDIVISION RECORD PLAT
 BATTERY PARK
 SECTION 2**

LOT 4, BLOCK M
 A RESUBDIVISION OF
 PART OF LOT 1, BLOCK M
 PLAT NO. 304
 LIBER 35093 FOLIO 304
 7TH ELECTION DISTRICT
 MONTGOMERY COUNTY, MARYLAND
 SCALE 1" = 20' MAY, 2011

DEPARTMENT OF PERMITTING SERVICES
 MONTGOMERY COUNTY, MARYLAND

APPROVED ON: _____
 DIRECTOR: _____

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

DATE: _____

CHAIRMAN: _____ ASST. SECRETARY-TREASURER: _____

MNCPPC RECORD FILE NO.: _____

LANDMARK ENGINEERING, INC.
 6110 EXECUTIVE BLVD, SUITE 110 PHONE: (301) 230-5881
 ROCKVILLE, MARYLAND 20852 FAX: (301) 230-5884
 CONSULTING ENGINEERS PLANNERS SURVEYORS