



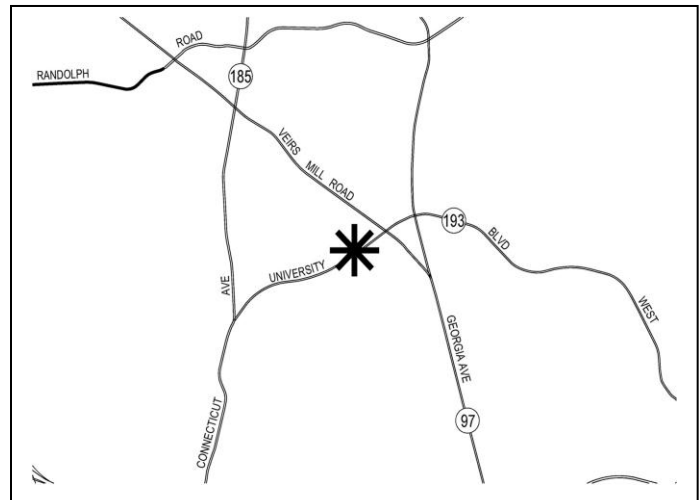
Preliminary Plan No. 120110350, Site Plan No. 820110120, BB&T Bank Kensington-Wheaton

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Memo Completed: 2/3/12

description

- Northeast corner of the intersection of University Boulevard West and Valley View Avenue;
- Zoned C-T; 0.89 acres (39,102 gross square feet);
- Three single-family detached dwellings currently on the site;
- 2011 Wheaton CBD and Vicinity Sector Plan;
- Request to assemble three (3) lots into two (2) lots for construction of a 4,080-square foot bank with a detached 4-lane drive-through canopy and 23 parking spaces;
- Applicant – BB&T Bank (Robert Loudermilk)
- Filing date: 6/16/2011



summary

- Staff recommends approval of the Preliminary and Site Plans with conditions.
- Staff has received no citizen correspondence on this Application at the time of this report. A significant amount of public input was heard during review of the development plan amendment (DPA); many of the concerns raised at that time were addressed through binding elements on the approved DPA.
- The Planning Board reviewed the DPA-05-02 on September 16, 2010 and recommended that the County Council approve the DPA with conditions and binding elements to address concerns regarding compatibility, provided that the binding elements did not conflict with subdivision and site plan regulations and requirements.

PRELIMINARY PLAN RECOMMENDATION AND CONDITIONS

Staff recommends approval of Preliminary Plan 120110350 subject to the following conditions:

1. Approval is limited to 2 lots for a 4,080 square foot bank, with a detached 4-lane drive-through canopy.
2. The applicant must satisfy the Policy Area Mobility Review (PAMR) test by contributing to the Montgomery County Department of Transportation (MCDOT) \$58,500 (\$11,700 for each of the five new peak-hour trips) for transportation infrastructure improvement(s) within the greater Kensington/Wheaton Policy Area. The PAMR payment must be made prior to issuance of any building permit.
3. The applicant must dedicate, and the record plat must reflect, the sector-plan recommended 120-foot right-of-way (60 feet from centerline) for University Boulevard West as shown on the Preliminary Plan.
4. The Applicant must dedicate, and the record plat must reflect, the required right-of-way for truncation at the corner of University Boulevard West and Valley View Avenue as shown on the Preliminary Plan.
5. The Applicant must enter into a Traffic Mitigation Agreement with the MCDOT and the Planning Board when the Wheaton CBD Traffic Management District is established.
6. The applicant must provide the following pedestrian and bicycle improvements:
 - a. An upgraded six-foot wide sidewalk with an eight-foot wide green panel along the University Boulevard West frontage and tie the relocated sidewalk into the existing adjacent sidewalk.
 - b. A five-foot wide sidewalk with a five-foot green panel along the Valley View Avenue frontage.
 - c. Five-foot wide lead-in sidewalks from University Boulevard West and Valley View Avenue.
 - d. Pedestrian handicapped ramps across the proposed curb cuts from University Boulevard West and Valley View Avenue.
 - e. Two inverted-U bike racks at each of the two bank entrances to accommodate short term bicycle parking.
7. The proposed plan must comply with the conditions of approval of the Forest Conservation Exemption letter dated December 16, 2011.
8. The Applicant must comply with the conditions of approval of the Montgomery County Fire and Rescue Service (MCFRS) letter dated December 30, 2011. These conditions may be amended by MCFRS, provided the amendments do not conflict with other conditions of the Preliminary Plan approval.
9. The Applicant must comply with the conditions of approval of the MCDOT letter dated December 9, 2011. These conditions may be amended by MCDOT, provided the amendments do not conflict with other conditions of the Preliminary Plan approval.
10. The Applicant must comply with the conditions of the Montgomery County Department of Permitting Services (MCDPS) stormwater management concept approval letter dated December 1, 2010. These conditions may be amended by MCDPS, provided the amendments do not conflict with other conditions of the Preliminary Plan approval.
11. The Applicant must satisfy provision for access and improvements as required by MCDOT prior to recordation of plat(s), as applicable.
12. The Applicant must satisfy provisions for access and improvements as required by the Maryland State Highway Administration (SHA) prior to recordation of plat(s), as applicable.

13. No clearing, grading, or recording of plats prior to certified site plan approval.
 14. The Certified Preliminary Plan must contain the following note: "Unless specifically noted on this plan drawing or in the Planning Board conditions of approval, the building footprints, building heights, on-site parking, site circulation, and sidewalks shown on the Preliminary Plan are illustrative. The final locations of buildings, structures and hardscape will be determined at the time of site plan review. Please refer to the zoning data table for development standards such as setbacks, building restriction lines, building height, and lot coverage for this lot. Other limitations for site development may also be included in the conditions of the Planning Board's approval."
 15. The Adequate Public Facilities (APF) review for the Preliminary Plan will remain valid for eighty-five (85) months from the date of mailing of the Planning Board Resolution.
 16. All necessary easements must be shown on the Record Plat.
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SITE PLAN RECOMMENDATION AND CONDITIONS

Staff recommends approval of a 4,080-square foot bank and a 1,663 square foot drive-through canopy on two lots totaling 38,505 square feet of land in the C-T Zone. All site development elements as shown on the site, landscape, and lighting plans stamped by the M-NCPPC on January 3, 2012 are required except as modified by the following conditions:

1. Development Plan Conformance
The proposed development must comply with the binding elements for Development Plan DPA-05-02 approved by the County Council on March 1, 2011, Resolution No. 17-68.
2. Preliminary Plan Conformance
The proposed development must comply with the conditions of the approved Resolution for Preliminary Plan 120110350, unless amended and approved by the Planning Board.
3. Transportation
The Applicant must provide the following pedestrian and bicycle improvements:
 - a. A six-foot wide sidewalk with an eight-foot wide green panel along the University Boulevard West frontage, tied into the recently upgraded SHA sidewalk and handicapped ramp improvements at the corner of University Boulevard West and Valley View Avenue and the existing sidewalk to the north along University Boulevard West.
 - b. A five-foot wide sidewalk with a five-foot green panel along the Valley View Avenue frontage, tied into the recently upgraded SHA sidewalk and handicapped ramp improvements at the corner of University Boulevard West and Valley View Avenue.
 - c. Five-foot wide lead-in sidewalks from University Boulevard West and Valley View Avenue.
 - d. Pedestrian handicapped ramps across the proposed curb cuts on University Boulevard West and Valley View Avenue.
 - e. Two inverted-U bike racks at each of the two bank entrances to accommodate short term bicycle parking.

4. Environment

The Applicant must provide protective measures for the off-site specimen tree – ST-2 per the approved Tree Save Plan submitted under Section 22A-6(b).

5. Maintenance

Maintenance of all on-site amenities is the responsibility of the Applicant and subsequent owner(s). This includes maintenance of paving, plantings, lighting, fencing, and bike racks.

6. Architecture

The final exterior architectural character, proportion, materials, and articulation must be substantially similar to the schematic elevations shown on Sheet 9 of 10 of the site plan, as determined by Staff.

7. Surety

Prior to issuance of first building permit within each relevant phase of development, Applicant must provide a performance bond(s) or other form of surety in accordance with Section 59-D-3.5(d) of the Montgomery County Zoning Ordinance with the following provisions:

- a. Applicant must provide a cost estimate of the materials and facilities, which, upon staff approval, will establish the initial surety amount.
- b. The amount of the bond or surety shall include plant material, on-site lighting, recreational facilities, site furniture, and entrance piers within the relevant phase of development.
- c. Prior to issuance of the first building permit, Applicant must enter into a Site Plan Surety & Maintenance Agreement with the Planning Board in a form approved by the Office of General Counsel that outlines the responsibilities of the Applicant and incorporates the cost estimate.
- d. The bond or surety shall be tied to the development program and completion of plantings and installation of particular materials and facilities covered by the surety for each phase of development will be followed by inspection and reduction of the surety.

8. 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 prior to release of any use-and-occupancy permit. Street tree planting may wait until the next growing season.
- b. On-site amenities including, but not limited to bike racks, sidewalks, and fencing must be installed prior to release of any use-and-occupancy permit.
- c. Clearing and grading must correspond to the construction phasing to minimize soil erosion and must not occur prior to approval of the Sediment Control Plan, and M-NCPPC inspections consistent with Section 110 of the Forest Conservation Regulations (COMCOR 22A.00.01.10).
- d. The development program must provide phasing for installation of on-site landscaping and lighting.
- e. The development program must provide phasing of dedications, stormwater management, sediment and erosion control, trip mitigation, and other features.

9. 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. Add height of parking lot fixtures, not to exceed 12 feet from adjacent grade.
- b. Add gross lot area and coverage to data table
- c. Spread out shade and ornamental trees along northern property line for roughly equal spacing.
- d. Remove measurement notations from property lines to buildings and parking and retain building restriction lines to reflect approved setbacks; modify parking lot setbacks to include all spaces and drive-through area as shown on the site plan and add parking restriction line; remove drive-aisle width from data table.
- e. Include the FCP exemption letter, stormwater management concept approval, development program, inspection schedule, and Site Plan resolution on the approval or cover sheet.
- f. 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".
- g. Ensure consistency of all details and layout between site plan and landscape plan.

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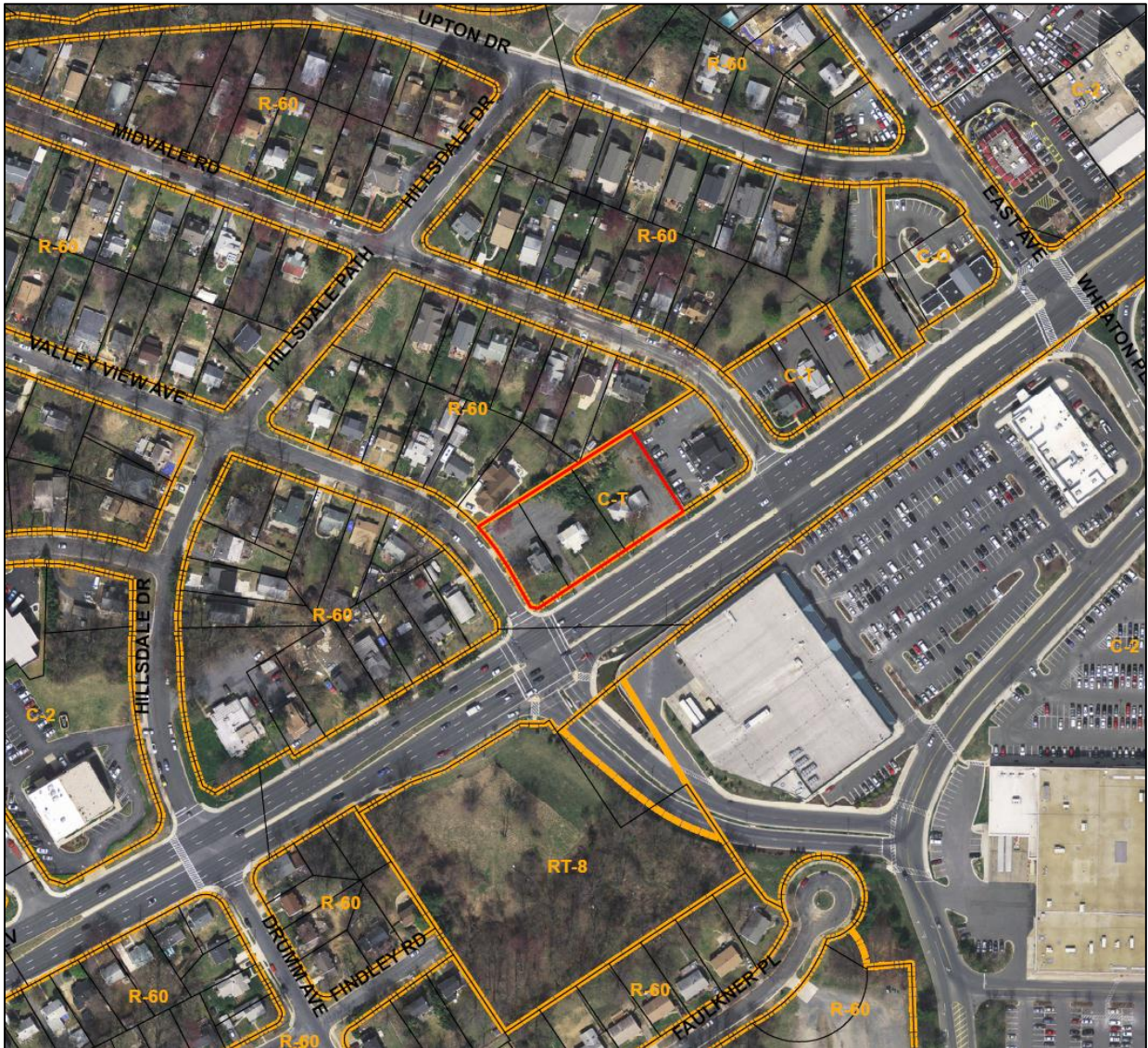
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SECTION 1: CONTEXT AND PROPOSAL

SITE DESCRIPTION

Site Vicinity

The C-T zoned subject properties are located in the northeast quadrant of the intersection of University Boulevard West and Valley View Avenue and comprise a total area of 38,505 square feet. The site is adjacent to an R-60-zoned residential community to the north and west, and confronts commercial uses to the east and south (Westfield Mall). The Wheaton Central Business District, with numerous commercial and residential uses, is located within ¼ mile, and the Metrorail Station is located within ½ mile of the site.



Vicinity Map

Site Analysis

The existing three lots are currently improved with single family detached dwellings, and two large gravel parking lots, and minimal landscaping. The site is generally flat, and has no stormwater management facilities. The site contains no forest, streams, wetlands, or environmental buffers.



Site Aerial View

PROJECT DESCRIPTION

Previous Approvals

Existing Lot 22 was reclassified from the R-60 Zone to the C-T Zone in 1980 by Schematic Development Plan (SDP) G-229. On August 3, 1987, the County Council approved SDP G-540 with some development restrictions to allow the reclassification of existing Lots 7 and 23 from the R-60 Zone to the C-T Zone.

In 2004, the Planning Board recommended denial of a Development Plan Amendment DPA-03-3 for development on Lots 7 and 23. The Applicant chose not to proceed with the hearing process after the Planning Board hearing.

In 2005, the Applicant sought approval of a new amendment, DPA 05-2, for redevelopment of all three lots (Lots 7, 23 and 22) for a bank totaling 4,100 square feet of gross floor area. The Planning Board, again, recommended that the County Council deny the application. The Applicant requested a postponement of the public hearing to make modifications resulting in a layout similar to the one now proposed and ultimately received a recommendation of approval with conditions by the Planning Board on September 16, 2010 and approval of DPA 05-2 by the County Council on March 1, 2011 (Attachment A – Resolution No. 17-68).

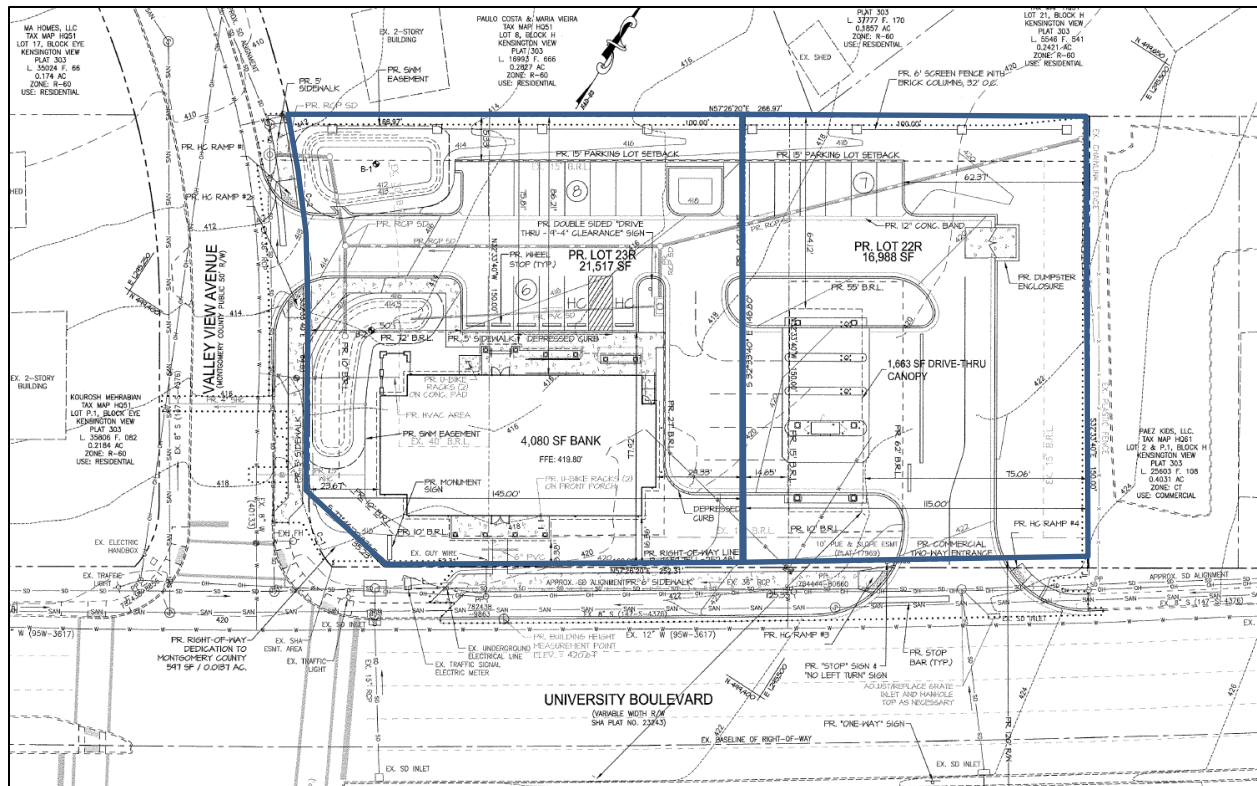
Development Plan Amendment DPA 05-2 was approved for a maximum 4,080-square foot bank building with a 1,663-square foot, detached canopy drive-through with four lanes and a bypass. The approval is subject to approval of a Preliminary and Site Plan and three binding elements:

1. Uses Permitted – Bank/Financial Institution (Drive-Through Canopy)
2. Any building or structure must have pitched roofs and be residential in character/style.
3. Running the entire length of the northern boundary of the Subject property, there will be no other land use than a green space, at least 15' wide, as a buffer to screen the parking/paved area on the Subject Property. Within this green space, which is marked on the SDP, there will be no improvements installed except landscaping, a 6-foot high screen fence, light poles/fixtures, surface drainage facilities and any other features approved/required at the time of Site Plan review.

Proposal

Subdivision

The subdivision plan will allow consolidation of three lots into two lots; provide dedication of right-of-way for truncation between University Boulevard West and Valley View Avenue; and provide dedication along the entire frontage of University Boulevard West resulting in a 120-foot right-of-way. The consolidation of three lots into two was approved conceptually by DPA 05-2 as shown on the Preliminary Plan. Access points are proposed on Valley View Avenue and University Boulevard West.



Preliminary Plan

Building

The proposed development differs little from the approved Development Plan that was reviewed by the Planning Board in September of 2010. The Applicant requests to build a 4,080 square foot bank with a 1,663-square foot detached canopy. The bank façade will have pitched roofs, residentially-scaled windows, dormers, and materials in order to comply with the binding elements approved with DPA 05-2. The canopy will have materials and a style similar to the bank building. Maximum building heights are limited to 23 feet for the bank and 17 feet for the canopy.



FRONT ELEVATION (UNIVERSITY BLVD. ELEVATION)



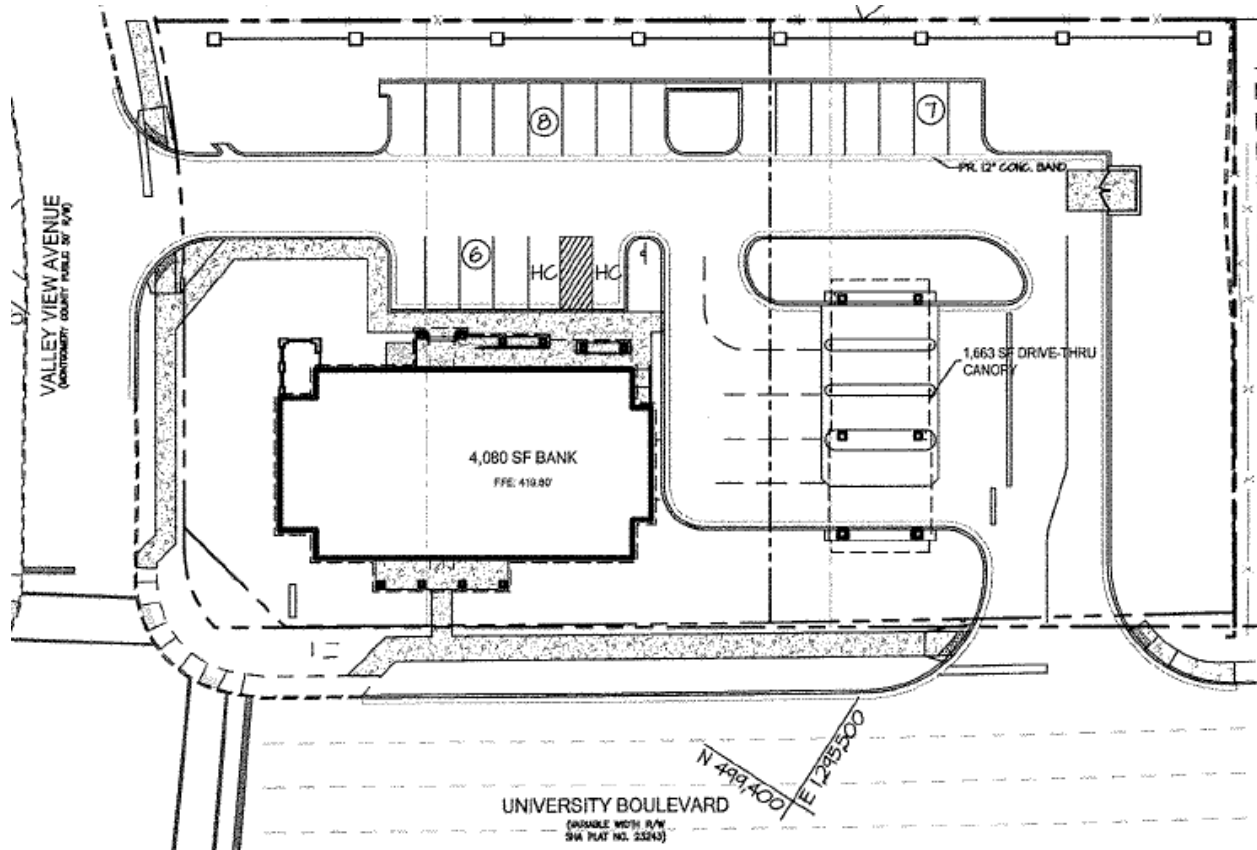
DRIVE-THRU ELEVATION (SIDE)

Elevations of the Bank and Drive-Through Canopy from University Boulevard West

Circulation

Vehicles can access the site from either Valley View Avenue or University Boulevard West, the latter restricted to right-in/right-out movements. Sidewalks will be provided along the frontage of the building on each road with the main pedestrian entry set roughly near the middle of the proposed bank along the University Boulevard West frontage. A secondary pedestrian access is provided from the parking lot with a sidewalk connection from Valley View Avenue. Recent SHA improvements to the handicapped ramps and signal boxes at the corner of Valley View Avenue and University Boulevard West prevent the Applicant from being able to provide the full upgraded streetscape treatment along the entire right-of-way frontages.

Parking is provided for 21 vehicles, two of them for handicapped visitors. The drive-through will accommodate four service lanes and one by-pass lane. Permeable paving is being used for most of the parking spaces. Bicycle racks will accommodate four bikes at each entrance, providing space for a total of eight bikes.

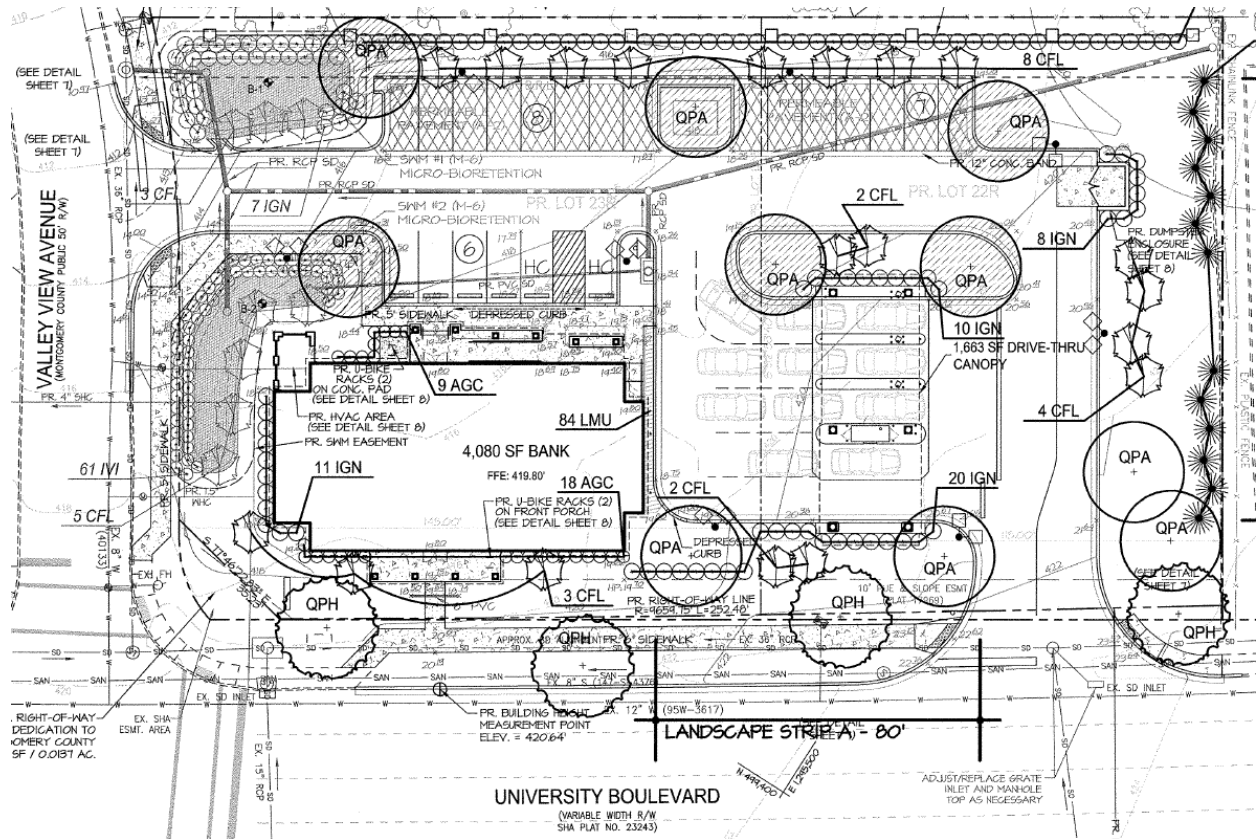


Site Plan

Landscape and Lighting

Landscaping is concentrated primarily along the property lines to provide a visual buffer between the bank and the adjacent buildings. The buffer must be at least 15 feet (from the property line to the parking lot). Screening will be provided within the buffer along the residential property to the northwest, and will contain a wood slat fence with brick columns, shrubs, and trees. Along the property line to the northeast, evergreen, shade, and ornamental trees will be planted. The area between the drive-through lanes and University Boulevard West will be planted with an evergreen hedge as required by the parking regulations as well as ornamental and shade trees. The southwest corner of the site near the entrance from Valley View Avenue will be predominantly used for stormwater management and will be planted accordingly.

Lighting fixtures will be 12 feet tall using full cut-off fixtures that will minimize illumination levels along the property lines. Fixtures within the canopy will be housed flush with the ceiling to minimize glare beyond the drive-through area.



Landscape Plan

COMMUNITY OUTREACH

The Applicant has complied with all submittal and noticing requirements. The concerns at the time of the approved DPA were from the residential neighborhood to the north of the Subject Properties. The nearby residents were concerned about noise, queuing, lighting, and maintaining the residential character of the neighborhood. The binding elements were drafted to address the community’s concerns. In addition to the binding elements, the Hearing Examiner also requested the Applicant to provide some form of landscaping along the property line between the two proposed lots.

SECTION 2: PRELIMINARY PLAN REVIEW

TRANSPORTATION

Site Location and Vehicular Site Access Points

The site is located in the northeast corner of the intersection of University Boulevard West and Valley View Avenue. The proposal would replace the two existing curb cuts from University Boulevard West with one vehicular access point limited to right-turns-in and right-turns-out only. It would also modify the existing access from Valley View Avenue and continue to permit all turning movements in and out of the site.

On-Site and Off-Site Circulation

Internal circulation is adequate with two-way drive aisles to access the on-site parking and the four drive-through windows. The drive-through windows are designed with an on-site queuing capacity of 12 total vehicles and a by-pass lane around the drive-through windows. The traffic circulation leaving the drive-through windows is designed to encourage these vehicles to turn right out of the site onto westbound University Boulevard West and minimize bank generated traffic exiting onto Valley View Avenue.

It is anticipated that off-site circulation to and from the bank site will occur almost entirely to and from University Boulevard West with the minimal local traffic traveling to and from the residential communities to the north. It appears that only local traffic would travel to and from the north on Valley View Avenue. Use of Valley View Avenue between University Boulevard West and Connecticut Avenue (MD 185) is possible but non-local traffic would have to travel over $\frac{3}{4}$ of a mile and take a very circuitous route involving turns onto seven different local residential streets to get from University Boulevard West to Connecticut Avenue.

Transportation Demand Management

A traffic mitigation agreement is recommended because the subject site is located in the Wheaton CBD Policy Area. The 2011 *Wheaton CBD and Vicinity Sector Plan* recommends a 30 percent non-auto driver mode share goal for employees.

Public Transit Service

The Wheaton Metrorail Station is located at a walking distance of approximately $\frac{1}{2}$ mile from the proposed bank. In addition, local bus service is available along University Boulevard West via Ride-On route 33. Existing bus stops are located near the adjacent intersection of University Boulevard West and Valley View Avenue/Westfield Wheaton Mall access driveway.

Sector-Planned Roadway and Bikeway

In accordance with the 1990 and the 2011 *Wheaton CBD and Vicinity Sector Plan*, University Boulevard West is designated as a six-lane divided major highway, M-19, with a recommended 120-foot right-of-way. The applicant is proposing to dedicate up to three feet of right-of-way along the site frontage for a total of 120 feet from the opposite right-of-way line and the required truncation on the northeast corner of University Boulevard West and Valley View Avenue.

Valley View Avenue is a tertiary residential street with a 50-foot wide right-of-way that is not designated as a Sector Plan network street in the Sector Plan. The Sector Plan recommends a signed shared roadway (on road bikeway), LB-5, along Valley View Avenue.

Pedestrian and Bicycle Facilities

The existing sidewalks are as follows:

1. Six-foot wide sidewalks along both sides of University Boulevard West. A green panel separates the sidewalk from the curb only along the south side in front of the Westfield Wheaton Mall.
2. An eight-foot wide sidewalk only along the east side of the access driveway for the Westfield Wheaton Mall.

Sidewalks do not exist along Valley View Avenue. The applicant proposes to provide five-foot wide sidewalks along Valley View Avenue, lead-in sidewalks, pedestrian handicapped ramps, and bike racks.

Local Area Transportation Review (LATR)

The table below shows the number of peak-hour trips generated by the proposed bank during the weekday morning peak period (6:30 to 9:30 a.m.) and the evening peak period (4:00 to 7:00 p.m.). Total trips include pass-by, diverted, and new trips. Pass-by and diverted trips are those trips to the bank that are already on the road and on the way to/from other origins or destinations.

<i>Land Use</i>	<i>Square Footage or No. of Units</i>	<i>Peak-Hour Trips</i>			
		<i>Morning</i>		<i>Evening</i>	
		<i>Total</i>	<i>New</i>	<i>Total</i>	<i>New</i>
Proposed Bank with Drive-Through Windows	4,080	52	52	108	57
Existing Single-Family Detached Units	Three	3	3	3	3
Net Increase in Site-Generated Trips	-----	49	49	105	54

The applicant submitted a traffic study to satisfy the LATR test because the proposed bank generates 30 or more peak-hour trips within the weekday morning and evening peak periods. The table below shows the calculated Critical Lane Volume (CLV) values from the traffic study at the analyzed intersections for the following traffic conditions:

1. Existing: Existing traffic conditions as they exist now.
2. Background: The existing condition plus the trips generated from approved but un-built nearby developments.
3. Total: The background condition plus the site-generated trips.

Analyzed Intersection	Weekday Peak Hour	CLV Congestion Standard	Traffic Condition		
			Existing	Background	Total
University Boulevard West and Newport Mill Road/Lexington Street	Morning	1,600	783	789	791
	Evening		759	774	783
University Boulevard West and Valley View Avenue/Shopping Center Access Driveway	Morning	1,800	360	365	401
	Evening		722	738	772
University Boulevard West and East Avenue/ Shopping Center Access Driveway	Morning	1,800	587	591	597
	Evening		814	830	835
Valley View Avenue and Site Access	Morning	1,800	These new curb cuts do not exist as the bank has yet to be approved and built.		345
	Evening				334
University Boulevard West and Site Access	Morning	1,800			46
	Evening				69

The CLV values at all analyzed intersections in all traffic conditions are less than their congestion standard and, thus, the LATR test is satisfied.

Queuing on southbound Valley View Avenue

The queuing on Valley View Avenue is adequate between the proposed bank curb cut from Valley View Avenue and University Boulevard West. The existing and bank-generated traffic would result in a maximum queue of three vehicles per traffic signal cycle on the southbound leg of Valley View Avenue approaching the intersection with University Boulevard West. Seventy five (75) feet are needed to store three vehicles, and there are 125 feet available between the proposed bank curb cut from Valley View Avenue and University Boulevard West, which is more than adequate to accommodate three vehicles.

Policy Area Mobility Review (PAMR)

The PAMR test requires the applicant to mitigate five (10% of the 54) new peak-hour trips generated by the proposed bank within the weekday morning and evening peak periods. To satisfy the PAMR test, the applicant will contribute \$11,700 per trip for a total of \$58,500 (for five new trips) towards transportation infrastructure improvements within the greater Kensington/Wheaton Policy Area.

Other Public Facilities and Services

Other public facilities and services are available and will be adequate to serve the proposed bank. The site is served by public water and sewer. Gas, electric, and telecommunications services are also available to serve the property. Police stations, firehouses, schools, and health services are currently operating within the standards set by the effective Growth Policy Resolution. The application has been reviewed and approved by the Montgomery County Fire and Rescue Service (MCFRS), which has determined that the property has adequate access for emergency vehicles.

ENVIRONMENT

Environmental Guidelines

Staff approved a Simplified Natural Resource Inventory/Forest Stand Delineation (NRI/FSD #42012079E) on December 16, 2011. The 0.8977-acre site contains no forest, streams, wetlands, or environmental buffers. The property is within the Kensington Heights Branch of the Rock Creek watershed – a Use I watershed. The proposed project does not have any proposed activities within any streams, wetlands, or environmental buffers and is in compliance with the Environmental Guidelines.

Forest Conservation

This property is subject to the Chapter 22A, Montgomery County Forest Conservation Law. However, this property is exempt from the requirements of submitting a Forest Conservation Plan per 42012079E, approved on December 16, 2011 (Attachment B – FCP Exemption letter), under Section 22A-5(s)(2). This exemption was granted because the proposed activity occurs on a tract of land less than 1 acre in size that will: clear no more than 20,000 square feet of forest; and the afforestation requirements are not in excess of 10,000 square feet. However, since the plan proposes to clear a specimen tree, a Tree Save Plan is required per Section 22A-6(b). Any changes from the approved exemption request may constitute grounds to rescind or amend any approval actions taken and to take appropriate enforcement actions. If there are any subsequent modifications planned to the approved plan, a separate amendment must be submitted to M-NCPPC for review and approval prior to those activities occurring.

Tree Save

Per Section 22A-6(b), the Applicant submitted a Tree Save Plan in conjunction with the Preliminary Plan and Site Plan. There is one specimen tree on the subject property – ST-1 (35" Box Elder in poor condition). This tree will be removed as a consequence of the proposed development due to its location on lot P7. The tree is surrounded by existing development and demolition will cause significant damage to the Critical Root Zone (CRZ). That area will be used as a stormwater management facility in the proposed plan.

One off-site specimen tree – ST-2 (40" Silver Maple in good condition) will be affected by the proposed development. Approximately 15% of this tree's CRZ will be affected by the proposed development. Tree protection measures are shown on the Tree Save Plan and should provide adequate protection for this tree.

Stormwater Management

The Department of Permitting Services approved a Stormwater Management Concept Plan on December 1, 2010. The plan proposes to meet Environmental Site Design through the use of two micro-bioretenion facilities and permeable pavement.

Therefore, based on the analysis above Staff finds the plan meets the Environmental Guidelines and Forest Conservation Law.

MASTER PLAN

The proposed project was submitted before the new Wheaton CBD and Vicinity Sector Plan was approved by the County Council on November 29, 2011. The Sectional Map Amendment that will implement the zoning recommended by the Sector Plan has not been approved as of the date of this staff report. Therefore, the C-T zone is still applicable and, even if the new zoning was in effect, the approved development plan would be grandfathered.

Staff has reviewed this plan, however, against the (what was then pending) 2011 Wheaton CBD and Vicinity Sector Plan. Added language in the County Council Resolution states that, “it is critical that new uses adjacent to, or across the street from, the existing houses [in the abutting neighborhood] are carefully designed to be compatible in scale and character with the existing residential development” (Attachment C – Page 7 of Resolution No.17-313). This recommendation is consistent with the binding elements of the approved DPA. Further language on page 52 of the Sector Plan (Attachment D) supports “low-intensity office or residential development” and the community supported this use during the DPA hearings as meeting the intent of this language.

The recommended zoning for the Subject Property is CRN1.0 C0.25 R1.0 H45. The proposed development meets the density, height, and development standards of the recommended zone. The drive-through is allowed through site-plan review, but requires additional screening. As mentioned, though, the Development Plan would be a grandfathered use and the new zoning is not in effect as of the date of this report.

As reflected in the architectural drawings provided as part of the relevant Site Plan, the Applicant has designed the proposed bank in a way that meets the Sector Plan objectives and DPA binding elements to preserve the scale and character of the existing residential development. The bank is modest in size, and the façade will be constructed in a way to make the bank appear as a single-family dwelling that has been converted to commercial use.

Therefore, staff finds the proposed development is in substantial conformance with the Sector Plan.

COMPLIANCE WITH ZONING ORDINANCE AND SUBDIVISION REGULATIONS

Staff has reviewed the application for compliance with Chapter 50 of the Montgomery County Code, the Subdivision Regulations. The application meets the requirement and standards of all applicable sections. Access and public facilities will be adequate to support the proposed lots, density, and use. The size, width, shape, and orientation of the proposed lots are appropriate for this type of subdivision.

Staff has also reviewed the proposed subdivision for compliance with the dimensional requirements of the C-T Zone as specified in the Zoning Ordinance. The proposed development meets all dimensional requirements in that zone, as detailed in Section 3: Site Plan Review of this report. Finally, the application has been reviewed by other applicable County agencies, all of whom have recommended approval of the plan (Attachment E).

SECTION 3: SITE PLAN REVIEW

DEVELOPMENT STANDARDS

The subject properties were rezoned to the C-T Zone, Commercial Transitional, by Local Map Amendments G-540 and G-229 and are subject to Schematic Development Plan Amendment DPA 05-2. The intent of the C-T zone is to “provide sites for low-intensity commercial buildings which, singly or in groups, will provide an appropriate transition between one-family residential areas and high-intensity commercial development”. (Sec. 59-C-4.301) The following table shows the application’s conformance to the development standards of the zone and the approved Development Plan.

Data Table for the C-T Zone for Lots of 12,000sf or More					
Development Standard	Required/ Allowed	Approved by DPA 05-2		Proposed	
		Lot 23R	Lot 22R	Lot 23R	Lot 22R
Gross Lot Area (sf)	n/a	n/a	n/a	21,799	17,303
Max Density (FAR)	0.50	0.20	0.13	0.19	0.10
Max Height (feet)	35	25	20	23	17
Max Coverage (%)	35	20	13	19	10
Min Green Area (%)	10	35	40	37	47
Min. Building Setbacks (feet)					
Front (University Blvd)	10	10	10	10 ¹	10
Front (Valley View Ave)	10	10	n/a	10	n/a
Side (Residential)	15	72	55	72	55
Side (Commercial)	0	n/s	62	n/a	62
Internal (Commercial)	0	26.5	15	27	15
Min. Parking Setbacks (feet)²					
Front (University Blvd)	10	78.67		15	
Front (Valley View Ave)	10	51.13		48	
Side (Residential)	10	15.33		15	
Side (Commercial)	4	45.37		22	
Internal (Commercial)	0	0		0	
Parking (spaces)³					
Vehicle	12	23		21 (2 handicapped accessible)	
Bicycle	n/a	n/a		8	
Parking Landscape Area (%)					
	5	n/a		10.6	

¹ The roofed porch extends 1.62' into the front setback as allowed under Sec. 59-B-3.1.

² Setbacks were measured to proposed parking spaces and did not include drive-through lanes, which should be considered as part of the parking lot, but the parking setbacks were not established as binding elements in the DPA. The spaces and drive-through layout remain at the same locations in the site plan.

³ Parking spaces were not established as a binding element in the DPA.

FINDINGS

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

The Site Plan is subject to the binding elements of Development Plan Amendment DPA 05-2:

1. Uses Permitted – Bank/Financial Institution (Drive-Through Canopy)
2. Any building or structure must have pitched roofs and be residential in character/style.
3. Running the entire length of the northern boundary of the Subject property, there will be no other land use than a green space, at least 15' wide, as a buffer to screen the parking/paved area on the Subject Property. Within this green space, which is marked on the SDP, there will be no improvements installed except landscaping, a 6-foot high screen fence, light poles/fixtures, surface drainage facilities and any other features approved/required at the time of Site Plan review.

The site plan conforms to each of these binding elements. The use and building styles conform to the approved illustrative schematic development plan and the 15-foot wide buffer has been provided and is well planted and contains the required fence.

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 proposed site plan will provide a low-intensity commercial use that meets the purpose of the C-T zone. The development meets or exceeds all development standards as shown on the data table above. In each case, regarding density, height, coverage, green area, and parking the proposed development exceeds minimum requirements and is less than any allowed maximum restrictions. Regarding setbacks, the proposed structures and parking areas meet or exceed the minimum setbacks of the C-T Zone.

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

Because of the specific requirements of the DPA, the buildings and structures have been reviewed to ensure conformance to the previous approval. The building is adequately situated on the proposed corner lot with direct pedestrian access to the building from both Valley View Avenue and University Boulevard West, similar in layout to a detached house with driveways to the side and parking behind, ensuring safe and efficient use by employees and patrons.

- b. Open Spaces

Open spaces are appropriately located on the subject site. Green area generally serves as a “front yard”, creating a layout similar to a detached house, and as buffer areas along the side yards to screen parking. This arrangement of yard area and planting buffers is an adequate, safe, and efficient use of the space around the building and parking footprints.

c. Landscaping and Lighting

Landscaping and lighting are used in several ways. Landscaping is provided along the street to provide comfort for pedestrians; within stormwater facilities to create naturalistic water recharge areas; as a buffer between properties; and to provide shade over parking areas. Lighting is used to illuminate parking and pedestrian areas, but uses shorter fixtures to minimize light spill and glare. The landscape and lighting plan is an adequate, safe, and efficient use of plant material and lighting fixtures to respond to the context.

d. Recreation Facilities

No recreation facilities are required by the proposed development.

e. Pedestrian and Vehicular Circulation Systems

Vehicular circulation is limited to two access points to minimize conflicts with pedestrians along the fronting sidewalks. Each of the access points are set as far from the intersection of Valley View Avenue and University Boulevard West as practical, the latter only allowing right-in/right-out movements. Parking is provided to the side and behind the buildings and the drive-through lanes are situated such that pedestrians do not have to cross any lanes to access the bank or parking.

Pedestrian circulation simply allows comfortable and safe access from each edge of the site, along the frontage, and to the bank from each fronting sidewalk. Bicycle racks are provided at each entrance in a safe, well-lit area for employees and patrons. The pedestrian and vehicular circulation systems are adequate, safe, and efficient and the direct connections to the larger network are obvious and direct.

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

The low-intensity commercial use is compatible and appropriate as a transition between the confronting and adjacent commercial uses and the residential neighborhood. The height and density of the structures are less than what would be allowed if these were detached houses and, while the buildings do not offer much visual or noise buffering themselves, community testimony at the time of the local map amendment hearings supported the proposed bank and drive-through over other permitted uses.

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

a. Forest Conservation

This property is subject to the Chapter 22A, Montgomery County Forest Conservation Law, but is exempt from the requirements of submitting a Forest Conservation Plan per NRI/FSD 42012079E, approved on December 16, 2011, under Section 22A-5(s)(2). This exemption was granted because the proposed activity occurs on a tract of land less than 1 acre in size that will clear no more than 20,000 square feet of forest and the afforestation requirements are not in excess of 10,000 square feet. Because the plan proposes to clear a specimen tree, a Tree Save Plan is required per Section 22A-6(b).

b. Stormwater Management

The Department of Permitting Services approved a Stormwater Management Concept Plan on December 1, 2010. The concept consists of meeting Environmental Site Design through the use of two micro-bioretenion facilities and permeable pavement.

ATTACHMENTS:

- A. Resolution DPA-05-02
- B. Forest Conservation Exemption Letter
- C. Page 7 of Resolution No.17-313D – Wheaton CBD and Vicinity Sector Plan
- D. Page 51-52 – Wheaton CBD and Vicinity Sector Plan
- E. Agency Approvals

Resolution No.: 17-68
Introduced: March 1, 2011
Adopted: March 1, 2011

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION
OF THE MARYLAND-WASHINGTON REGIONAL DISTRICT
IN MONTGOMERY COUNTY**

By: District Council

SUBJECT: APPLICATION DPA 05-2 FOR SCHEMATIC DEVELOPMENT PLAN AMENDMENT of G-540, previously approved by the District Council on August 3, 1987, and G-229, approved by the District Council on June 10, 1980; Jody Kline, Esquire, and Soo Lee-Cho, Esquire, Attorneys for the Applicant, Branch Banking and Trust Company; OPINION AND RESOLUTION ON APPLICATION; Tax Account Nos. 13-01026853, 13-02893234 and 13-02893223

OPINION

The case was filed by the original Applicant, Commerce Bancorp, Inc., on June 1, 2005. A hearing was scheduled for January 6, 2006, but was postponed at the former Applicant's request, followed by a long period of inactivity. New documents and plans were submitted on January 8, 2010, amending the application (Exhibit 44) to change the Applicant from Commerce Bancorp, Inc. to the present Applicant, Branch Banking & Trust Company (BB&T), and to revise the proposed Schematic Development Plan Amendment (SDPA). BB&T is the lessee of the site (Exhibit 47(a)). The owner, Lillianne Tran Duong, consents to the application (Exhibit 46).

The Subject Property is located at 11107 Valley View Avenue and 2907 - 2909 University Boulevard, which is in the northeastern quadrant of the intersection of West University Boulevard (MD 193) and Valley View Avenue, in Kensington, Maryland. The site contains 39,102 square feet of land in the C-T (commercial-transitional) Zone and consists of three subdivided lots - Lot 7, Lot 22 and Lot 23, on which three vacant and deteriorating buildings are located. Applicant proposes to construct a 4,080-square foot, 25-foot high bank building, plus four drive-through lanes, which would be under a 1,663-square foot, 16.5-foot high, detached canopy.

Lots 7 and 23 were re-zoned from R-60 to C-T Zone by Local Map Amendment G-540, approved by the District Council on August 3, 1987, under the optional method of rezoning. The Schematic Development Plan (SDP) and covenants (Exhibit 8) which Applicant seeks to amend have a binding element that restricts the use of Lots 7 and 23 to "utilizing the existing structures with improvements for C-T use." Absent approval of the requested SDPA, the existing SDP would prevent construction of the proposed bank building.

Lot 22 had been previously zoned C-T by LMA G-229 on June 10, 1980, but that was not done under the optional method of development and, therefore, is not subject to any binding

elements at present.¹ However, it is proposed by BB&T in DPA-05-2 that Lot 22, along with Lots 7 and 23, be made subject to revised binding elements under the optional method of development, and redeveloped in accordance with the revised SDPA (Exhibit 94(a)).

The Schematic Development Plan Amendment (Exhibit 94(a)) would also require corresponding amendments to the binding elements set forth in the exiting covenants (Exhibit 8). To accomplish this change, revised covenants have been executed and filed in the record (Exhibit 100(a)). Those revised covenants will be filed in the land records of Montgomery County, pursuant to the requirements of Zoning Ordinance §59-H-2.54(d).

The application for the SDPA was reviewed by the Technical Staff of the Maryland-National Capital Park and Planning Commission (M-NCPPC), and in a report dated September 3, 2010, Staff recommended disapproval (Exhibit 68). Staff felt that the proposed development would conflict with the goals of the 1990 Sector Plan for Wheaton Central Business District and Vicinity and would not fulfill the purpose of the C-T Zone. The Montgomery County Planning Board ("Planning Board") disagreed with its Technical Staff. The Planning Board considered the application on September 16, 2010, and voted unanimously to recommend approval, but with revisions to Applicant's proposed binding elements, as stated in the Board's memorandum dated September 22, 2010 (Exhibit 74). The Planning Board recommended adding binding elements for setbacks and a maximum floor area ratio (FAR) for the smaller proposed lot (Lot 1B). The Board also recommended a condition relating to the rear property line. The Applicant agreed to those changes, and they are embodied in the revised SDPA.

Prior to the hearing, the SDPA was opposed by the Kensington View Civic Association (Exhibits 65 and 69). However, by the date of the hearing, Kensington View (KVCA) changed its mind and supported the application. Tr. 5 and Exhibits 76 and 97. Pre-hearing letters in support were also filed by the adjoining owner of a single-family residence (Exhibit 71(a)); by the Wheaton Urban District Advisory Committee (Exhibit 71(b)); and by the Wheaton Redevelopment Advisory Committee (Exhibit 71(c)).

The property was posted as required (Exhibit 77), and notice of the hearing was mailed by the Applicant (Exhibit 78). A public hearing began, as scheduled, on September 24, 2010, and it resumed on December 6, 2010, after the final SDPA (Exhibit 94(a)) was filed.² In addition to Applicant's four witnesses, two witnesses from the Kensington View Civic Association testified in support of the proposal. There were no opposition witnesses. The record ultimately closed on January 4, 2011, following receipt of revised covenants (Exhibit 100(a)) and comments by the parties.

On February 3, 2011, the Hearing Examiner filed his Report and Recommendation, recommending approval of the schematic development plan amendment, based on his conclusion that the proposed SDPA would be consistent with the purpose and regulations of the C-T Zone, compatible with surrounding development and in the public interest. Based on its review of the entire record, the District Council finds that the application does meet the standards required for approval of the requested schematic development plan amendment, for the reasons set forth by the Hearing Examiner. To avoid unnecessary detail in this Resolution, the Hearing Examiner's Report and Recommendation is incorporated herein by reference and his findings and conclusions are hereby adopted.

¹ The Hearing Examiner took official notice of the record in the rezoning cases, LMA Nos. G-229 and G-540. Tr. 9.

² Although the hearing resumed on December 6, 2010, there was no testimony taken on that date.

Technical Staff provided the following zoning history of the subject site (Exhibit 38, p. 8):

The site was placed in the R-60 Zone when the zone was enacted and mapped in the 1954 Regional District Zoning. The 1958 County-Wide Comprehensive Zoning confirmed the R-60 zoning of the site. The portion of the property that is currently identified as Lot 22 was reclassified from the R-60 Zone to the C-T Zone (Commercial Transitional) in 1980 by Application No. G-229. On August 3, 1987, the District Council approved Application G-540 with some development restrictions to allow the reclassification of the property currently identified as Lot 7 and Lot 23 from the R-60 Zone to the C-T Zone. The 1990 approved Sector Plan for Wheaton Central Business District and Vicinity retained the subject property in the C-T Zone . . . with [the aforementioned] restriction. . . .

The subject property is located in the northeastern quadrant of the intersection of West University Boulevard (MD 193) and Valley View Avenue, in Kensington, Maryland. The site contains 39,102 square feet of land in the C-T (commercial-transitional) Zone. The property consists of three subdivided lots - Lot 7, Lot 22 and Lot 23, and is improved with three single-family dwellings (one dwelling unit on each of the three lots) that are currently vacant and in a deteriorated condition. Tr. 40. The property has approximately 260 feet of frontage (combined) on University Boulevard and approximately 150 feet of frontage on Valley View Avenue, and it may be accessed from both streets, according to Technical Staff. Exhibit 68, p. 4.

The surrounding area must be identified in a floating zone case so that compatibility can be evaluated properly. The "surrounding area" is defined less rigidly in connection with a floating zone application than in evaluating a Euclidean zone application. In general, the definition of the surrounding area takes into account those areas that would be most directly affected by the proposed development. In the present case, Technical Staff recommended designating the surrounding area as generally defined by the Kensington View Subdivision to the north, Veirs Mill Road to the east, the Westfield Shopping Town Wheaton (Wheaton Plaza) to the south, and Hillsdale Drive and Drumm Avenue to the west. The Applicant agreed with this definition, as did the Hearing Examiner.

Technical Staff described existing development within the surrounding area as follows (Exhibit 68, p. 4):

. . . The subject neighborhood is characterized by a mixture of commercial and residential uses. The northern portion of the neighborhood is residentially developed with single-family dwellings in the R-60 Zone. The western portion is also residentially developed in the R-60 Zone with a concentration of special exception uses that are housed in some of the single-family structures north of University Boulevard. The eastern and southern portions of the neighborhood are commercially developed in the C-2 and C-O Zones. Westfield Shopping Town Wheaton, a regional shopping center, is located south of the site and directly across University Boulevard in the C-2 Zone. Properties west of the Shopping Center are residentially developed in the R-60 Zone.

Judy Higgins, who testified on behalf of the Kensington View Civic Association (KVCA), stated that Kensington View is a small community of approximately 160 homes of varying size

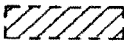
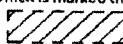
and age and architecture styles. According to Ms. Higgins, the subdivision has eight roads total, and all of those roads dead end at County property. Tr. 102. Both she and Applicant's land planner, Joe Davis, described the subject site as a gateway to the community. Tr. 85 and 103.

The subject Schematic Development Plan amendment seeks approval to raze the existing improvements and redevelop the entire site with a newly constructed branch bank building, a detached drive-thru facility, four drive-thru lanes, one bypass lane and associated surface parking. To do so, the three existing lots are proposed to be re-subdivided into two lots, consisting of a 21,799 square-foot corner lot (Proposed Lot 1A) and a 17,303 square-foot interior lot (Proposed Lot 1B), as shown on the submitted SDP. The new Schematic Development Plan would apply to all three lots (7, 22, and 23) and would replace the existing binding elements with new, more specific limitations.

The new SDP (Exhibit 94(a)) shows one building, a maximum of 25 feet in height, consisting of 4,080 square feet of gross floor area; four drive-thru lanes and a bypass lane with a 1,663 square foot, detached canopy located to the east of the building; 23 parking spaces; and a new six foot high screening fence along the northern lot line of the development. There will be a 15 foot wide landscaped area to the rear of the site, in addition to the aforementioned screening fence, and it is marked on the SDP by the diagonal hatch marks to designate that it is required by one of the binding elements. The Binding Elements are specified on the SDP and in the covenants in a table reproduced below.

These binding elements remove and replace the exiting binding element which restricts development on the site. The existing binding elements included the following restrictive language (Exhibit 8, p.2):

So long as the aforesaid property is zoned C-T, pursuant to the Zoning Ordinance for Montgomery County, Maryland, the use of the land on the aforesaid property will be limited to utilizing the existing structures with improvements for C-T use.

CATEGORY	PERMITTED /REQUIRED	BINDING ELEMENT	
		PROPOSED - LOT 1A	PROPOSED - LOT 1B
LAND USE	SEE SEC. 59-C-4.2(e) FOR C-T ZONE	1. Uses Permitted - Bank/Financial Institution 2. Any building or structure must have pitched roofs and be residential in character/style. 3. Running the entire length of the northern boundary of the Subject Property, there will be no other land use than a green space, at least 15' wide, as a buffer to screen the parking/paved area on the Subject Property. Within this green space, which is marked thusly on the SDP  there will be no improvements installed except landscaping, a 6 foot high screen fence, light poles/fixtures, surface drainage facilities and any other features approved/required at the time of Site Plan review.	1. Uses Permitted - Bank/Financial Institution (Drive-Thru Canopy) 2. Any building or structure must have pitched roofs and be residential in character/style. 3. Running the entire length of the northern boundary of the Subject Property, there will be no other land use than a green space, at least 15' wide, as a buffer to screen the parking/paved area on the Subject Property. Within this green space, which is marked thusly on the SDP  there will be no improvements installed except landscaping, a 6 foot high screen fence, light poles/fixtures, surface drainage facilities and any other features approved/required at the time of Site Plan review.
MAX. FLOOR AREA RATIO	0.5	0.2	0.13
MAX. BUILDING COVERAGE	35%	20%	13%
MAX. BUILDING HEIGHT	35'	25'	20'
MIN. GREEN AREA	10%	35%	40%
MIN. BUILDING SETBACKS			
FRONT SETBACK (UNIVERSITY BLVD.)	10'	10'	10'
FRONT SETBACK (VALLEY VIEW AVE.)	10'	10'	N/A
SIDE SETBACK (RESIDENTIAL ZONE-NORTH)	15'	72'	55'
SIDE SETBACK (COMMERCIAL ZONE-EAST)	15'	N/A	62'
FROM PROPOSED LOT LINE	15'	26.5'	15'

The development of the subject property in the C-T Zone is limited to the re-use, remodeling or reconstruction of the two buildings existing on the site at the time the C-T Zoning is granted as provided, Section 59-C-4-3.02 (B), (C) (D) of the Zoning Ordinance of Montgomery County . . .

In addition to removing the quoted restriction, the new binding elements would impose new development limits which would extend to the entire site, inclusive of the land area that comprises current Lot 22, which is presently not subject to a schematic development plan or a declaration of covenants.

The legal effect of the covenants is to obligate any future owner of the property to comply with the binding elements specified in the covenants. Thus, the optional method allows an applicant to specify elements of its proposal that the community, reviewing agencies and the District Council can rely on as legally binding commitments. Illustrative elements of the SDP or the SDPA may be changed during site plan review, but the binding elements cannot be changed without a separate application to the District Council for a schematic development plan amendment.

The usual language in such covenants requires that they remain in effect until the property is rezoned or they are amended by the Council or invalidated by a court. At the request of the KVCA, Applicant added the following language to the covenants (Exhibit 100(a), p. 4):

In the event that the Property is zoned to a zoning classification other than the C-T zone, the restrictions on development provided herein shall remain in force and effect to the extent permitted by law; otherwise they shall terminate and have no further force and effect.

These binding elements were designed to keep the location, scale and size of the proposed structures compatible with other properties in the immediate area and to ensure appropriate screening of the site. They were amended, at the suggestion of the Planning Board (Exhibit 74), to address the concerns that had led the Technical Staff to recommend disapproval of the SDPA (Exhibit 68).

The District Council finds that the proposed Binding Elements will achieve the desired end of keeping the location, scale and size of the proposed structures compatible with other properties in the immediate area and will ensure appropriate screening of the site.

A floating zone is a flexible device that allows a legislative body to establish a district for a particular category of land use, with regulations specific to that use, without attaching that district to particular pieces of property. Individual property owners may seek to have property reclassified to a floating zone by demonstrating to the Council that the proposed development will be consistent with the purpose and regulations of the proposed zone and compatible with the surrounding development, as required by the case law, *Aubinoe v. Lewis*, 250 Md. 645, 244 A.2d 879 (1967). Any zone must also be consistent with a coordinated and systematic development of the regional district and in the public interest, as required by the *Regional District Act, Maryland-National Capital Park and Planning Commission Article (Art. 28), Md. Code Ann., § 7-110*.

These are the standards that were applied in 1980 when part of the subject site was rezoned to the C-T floating zone by LMA No. G-229, and in 1987, when the remainder of the site was rezoned to C-T by LMA G-540. The Schematic Development Plan Amendment proposed now must be evaluated under these same standards.

The C-T Zone contains a post-zoning review process, subdivision and site plan review, that generally delegates to the Planning Board the details of site specific issues such as building location, stormwater control, vehicular and pedestrian routes, landscaping and screening. We turn now to the three areas of Council review discussed above – the purposes and requirements of the applicable zone, compatibility with land uses in the surrounding area and relationship to the public interest.

Purpose Clause of the C-T Zone

The purpose clause for the C-T Zone, Zoning Ordinance §59-C-4.301, provides:

The purpose of the C-T zone is to provide sites for low-intensity commercial buildings which, singly or in groups, will provide an appropriate transition between one-family residential areas and high-intensity commercial development. The C-T zone is intended to constitute a margin of limited width at the border between a commercial area and a one-family residential area. For that reason, the C-T zone can only be applied:

- (a) In areas designated for the C-T zone on adopted and approved master or sector plans; or*
- (b) On property so located that it is between and adjoining or separated only by a street, highway, or utility right-of-way from both of the following uses:*
 - (1) Existing or proposed one-family residential uses; and*
 - (2) Existing high-intensity commercial uses. As used herein, the term "high-intensity commercial use" refers to any commercial or central business district development with an existing height that is greater than 40 feet. The term "high-intensity commercial use" does not include development in the C-1 zone.*

The fact that an application complies with all specific requirements and purposes set forth herein shall not be deemed to create a presumption that the application is, in fact, compatible with surrounding land uses, and, in itself, shall not be sufficient to require the granting of an application.

The Technical Staff felt that the application would not provide the kind of “*transition between one-family residential areas and high-intensity commercial development*” that is the general purpose of the zone. Staff reached this conclusion because the SDP calls for tearing down the three existing residential structures and replacing them with a single bank and parking lot. It would also consolidate and resubdivide the three existing lots into two lots. In Staff’s opinion, that would change the cohesiveness of existing as well as future development of the C-T zoned properties in the block. Exhibit 68, p. 13.

The Planning Board disagreed with its Staff (Exhibit 74, p. 1):

The Planning Board found that the application is consistent with the purposes of the Commercial, Transitional (C-T) Zone and it satisfies all relevant standards of the C-T Zone.

The District Council agrees with the Planning Board’s finding. With the addition of the previously discussed binding elements, the proposed development should serve precisely the goal articulated in the C-T Zone’s purpose clause. The proposed bank will indisputably be a “*low-intensity commercial building,*” and the District Council finds that it will “*provide an appropriate*

transition between one-family residential areas [i.e., Kensington View] and high-intensity commercial development [i.e., Wheaton Plaza].”

Moreover, the SDPA satisfies both of the alternative criteria specified in subsections (a) and (b) of the purpose clause. The site is in an area “*designated for the C-T zone on adopted and approved master or sector plans,*” since the 1990 Wheaton Sector Plan specifically recommends the site for the existing C-T Zone. It thus meets criterion (a). It meets criterion (b) because the property is located between existing one-family residential uses [i.e., Kensington View] and existing high-intensity commercial uses [i.e., Wheaton Plaza].

Based on this record, the District Council finds that the proposal, as limited by its binding elements, conforms with the C-T Zone’s purpose clause.

Regulations (i.e., Development Standards) of the C-T Zone

The regulations of the C-T Zone are provided in Zoning Ordinance §§59-C-4.302 to 4.309. Most of the development standards for the C-T Zone were set forth in a Binding Elements Table on the revised SDPA (Exhibit 94(a)), which is reproduced above. As shown in that chart, the development standards Applicant has committed to in binding elements are well within the requirements of the C-T Zone.

For example, the Binding Elements restrict the bank height to 25 feet and the canopy height to 20 feet, although a 35 foot height is permitted in the C-T Zone. The Binding Elements also restrict floor area ratio (FAR) to 0.2 for the bank building and 0.13 for the canopy, although an FAR of 0.5 is permitted in the C-T Zone. Similarly, the building coverage on Lot 1A is limited to 20% and on Lot 1B to 13%, although a building coverage of 35% is permitted in the C-T Zone. There will also be a minimum Green Area of 35% on Lot 1A and 40% on Lot 1B, although the C-T Zone specifies a minimum Green Area of only 10%. The Binding Elements also restrict setbacks and many other aspects of the proposed development. The revised Binding Elements were approved by Technical Staff in a post-hearing review. Exhibit 92(a).

Applicant’s proposal also more than meets the minimum of 12 parking space required for the site (by providing 23 spaces), and the lot frontage exceeds the minimum of 100 feet called for in Zoning Ordinance §59-C-4.302(a). The property has approximately 260 feet of frontage on University Boulevard and approximately 150 feet of frontage on Valley View Avenue. Exhibit 68, p. 4.

Based on the entire record, the District Council finds that the proposed development meets the purposes and requirements of the C-T Zone, and that the proposed development’s binding elements will permit the Planning Board flexibility to approve a design at site plan review which will meet all applicable standards.

Compatibility

Compatibility was discussed in Part III.E. of the Hearing Examiner’s report. Based on the record discussed there and on the above analysis of the applicable purpose clause, the District Council finds that the proposed use would be compatible with the surrounding area, and that the SDPA, as currently proposed, is appropriate at this stage of review, and capable, under its binding elements, of producing a project compatible with its surrounding development. The Planning Board will also evaluate compatibility at site plan review.

Public Interest

Maryland law requires that zoning powers be exercised in the public interest. As stated in the State Zoning Enabling Act applicable to Montgomery County, all zoning power must be exercised:

... with the purposes of guiding and accomplishing a coordinated, comprehensive, adjusted, and systematic development of the regional district, ... and [for] the protection and promotion of the health, safety, morals, comfort, and welfare of the inhabitants of the regional district." [Regional District Act, Maryland-National Capital Park and Planning Commission Article (Art. 28), Md. Code Ann., § 7-110].

Factors which are usually considered in determining the public interest include Master Plan conformity, the recommendations of the Planning Board and its staff, any adverse impact on public facilities or the environment, and factors such as provision of affordable housing.

1. Master Plan Conformity, Technical Staff and the Planning Board:

As discussed in the Hearing Examiner's report, Technical Staff recommended disapproval, but the Planning Board disagreed and found that the proposed development, as limited by the binding elements, is appropriate and consistent with the Sector Plan. Exhibit 74. The Sector Plan recommends retaining the C-T Zoning that already exists on the site (Zoning Map on p. 47 of the Sector Plan) and recommends an office land use for the site (Land Use Map on p. 28 of the Sector Plan). The text of the Sector plan also recommends low-intensity new development on the site to buffer existing single-family residences from adverse effects associated with major traffic arteries and nearby commercial development. For the reasons discussed in Part III. E. of the Hearing Examiner's report, the District Council finds that the proposed SDPA is consistent with the Sector Plan for Wheaton Central Business District and Vicinity, approved and adopted in 1990.

2. Public Facilities and the Environment:

The Transportation Planning staff reviewed the SDPA and found that it meets all requirements of Local Area Transportation Review and Policy Area Mobility Review, as discussed in Part III. D. 3. c. of the Hearing Examiner's report. The record also supports the conclusion that other public facilities will not be adversely affected by the proposed use.

Environmental issues were discussed in Part III. D. 4 of the Hearing Examiner's report. As mentioned there, a Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) has been approved for the subject property, and Environmental Planning Staff found no environmental issues. A stormwater management concept plan has not yet been approved for the site, but that step will be required at subdivision.

One other factor bears mentioning in connection with the public interest. The evidence in this case is that the subject site is now "improved" with three vacant homes, which are in a deteriorated condition. Tr. 40. The record indicates that Applicant's proposed building will create a much improved gateway to the community. Tr. 85 and 103. The District Council concludes, as did the community, that that would be in the public interest.

In sum, the District Council finds that the proposed use will not adversely affect surrounding development, will be consistent with the goals of the Sector Plan, will provide a useful service to the community and will not adversely affect public facilities or the environment.

The District Council therefore concludes that its approval would be in the public interest and appropriate for the comprehensive and systematic development of the County.

Conclusions

Based on the foregoing analysis and after a thorough review of the entire record, the District Council reaches the following conclusions with respect to DPA 05-2:

1. That the requested SDPA complies with the purpose clause and the development standards of the C-T Zone;
2. That the requested SDPA will be compatible with existing and planned land uses in the surrounding area; and
3. That the requested SDPA bears sufficient relationship to the public interest to justify its approval.


For these reasons and because granting the instant SDPA application would aid in the accomplishment of a coordinated, comprehensive, adjusted and systematic development of the Maryland-Washington Regional District, the application will be granted in the manner set forth below.

Action

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District located in Montgomery County, Maryland approves the following resolution:

Schematic Development Plan Amendment DPA 05-2, seeking to amend the Schematic Development Plan and Covenants approved by the Council on August 3, 1987, in Local Map Amendment G-540, and to amend LMA G-229, approved by the District Council on June 10, 1980, for a combined total of 39,102 square feet of land consisting of Lots 7, 22, and 23, located at 11107 Valley View Avenue, and 2907 - 2909 University Boulevard, Kensington, Maryland, is **approved** subject to the specifications and requirements of the Schematic Development Plan Amendment, Exhibit 94(a); provided that the Applicant submits to the Hearing Examiner for certification a reproducible original and three copies of the Schematic Development Plan Amendment within 10 days of approval, in accordance with §59-D-1.64 of the Zoning Ordinance; and that the Declaration of Covenants (Exhibit 100(a)) is filed in the County land records in accordance with § 59-H-2.54 of the Zoning Ordinance.

This is a correct copy of Council action.



Linda M. Lauer, Clerk of the Council

Attachment B



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

December 16, 2011

Robert Loudermilk
BB&T Bank
1097 Redwood Drive
Waynesboro, PA 17268

RE: Forest Conservation Plan Exemption
Plan number 42012079E
BB&T Bank Wheaton / Kensington

Dear Mr. Loudermilk:

Staff has reviewed the request to be exempt from submitting a forest conservation plan for the proposed project at 2907 W. University Blvd. The proposed activity qualifies for an exemption under Sections 22A-5(s)(2) because it is an activity occurring on a tract less than 1 acre that will not:

- (1) clear more than 20,000 square feet of forest;
- (2) have afforestation requirements in excess of 10,000 square feet

Because the applicant proposes to remove a specimen tree, the plan is not eligible under 22A-5(s)(2) alone. The applicant has provided a tree save plan as required by 22A-6(b).

Based on the information submitted on December 6, 2011, the request for exemption from the requirement to submit a forest conservation plan is confirmed.

Any changes from the approved exemption request may constitute grounds to rescind or amend any approval actions taken and to take appropriate enforcement actions. If there are any subsequent modifications planned to the approved plan, a separate amendment must be submitted to M-NCPPC for review and approval prior to those activities occurring.

If you have any questions regarding these actions, please feel free to contact me at 301-495-2189 or amy.lindsey@montgomeryplanning.org.

Sincerely,

12/16/2011

X

A handwritten signature in black ink, appearing to read 'Amy Lindsey', written over a horizontal line.

Signed by: Amy.Lindsey@montgomeryplanning.org
Amy Lindsey
Environmental Planner, Area 2

CC: NRI/FSD #42012079E
Courtney Galiber, Morris & Ritchie Associates, Inc.

existing buffer area. Also consider additional shared use path connections through the buffer to the neighboring community.

- No structures should be allowed within the buffer zone. For areas outside the buffer zone, within 200 feet from the southern property line along the ring road, limit building height to a maximum of 45 feet, to create a compatible transition.

Page 50, add language at the end of the first paragraph as follows:

The district will continue to be primarily residential with office and retail along the two major roads. No change in zoning is recommended for the existing, single-family residential area, and it is critical that new uses adjacent to, or across the street from, existing houses are carefully designed to be compatible in scale and character with the existing residential development.

Page 50, replace Veirs Mill Road in the first sentence of the third bullet with University Boulevard as follows:

- Rezone Lot 24 along [Veirs Mill Road] University Boulevard from C-2 to CR 5.0, C 4.5, R 4.5, H 130. ...

Page 51, correct existing zoning map to show all R-60 properties on Veirs Mill Road (as shown on map on page 36).

Page 52, Blocks B2, G, and H, delete the fourth sentence in the first paragraph:

[Three of the lots next to Valley View Avenue are vacant.]

Page 52, Blocks B2, G, and H, modify the bullets after the two paragraphs as follows:

- [Rezone parcels 1 and 7, and lots 23, and 22 on Block H and lots 6, 7, and 8 on Block G from C-T to CRN 1.5: C 0.5, R 1.5, H 45.]
- [Rezone parcel 5 on Block G from R-60 to CRN 1.5: C 0.5, R 1.5, H 45.]
- Rezone parcel 7 and lots 22 and 23 on Block H from C-T to CRN 1.0, C 0.25, R 1.0, H 45.
- Rezone Parcel 1 on Block H, and lots 6, 7, and 8 on Block G from C-T to CRN 1.0, C 0.5, R 1.0, H 45.
- Rezone parcel 5 on Block G from R-60 to CRN 1.0, C 0.5, R 1.0, H 45.
- Rezone lots 29 and 28, and parcels 3 and 4 on Block G from C-O to CRN 1.5, C 0.5, R 1.5, H 45.
- Rezone lots 2 and 9 on Block B2 from C-O and C-T to CRN 1.5, C 0.5, R 1.5, H 45.

Page 53, Block F, add language at the end of the first paragraph as follows:

The Plan recommends rezoning the car dealership property to create higher and denser mixed-use development (office or residential) near the corner of Veirs Mill Road and University Boulevard. A through-block connection between Veirs Mill Road and East Avenue is desirable at this location (see also text under Pedestrian Circulation, first bullet on page 62). For properties recommended for CRN zoning along the East Avenue

Figure 5 Kensington View/Wheaton Hills District—Existing and Proposed Zoning



Block B

Block B contains surface parking, office, and retail uses. The western edge of the block is owned by Lindsay Ford and is currently used to park cars.

- Rezone Parcels 3, 4, 5, and 6 mid-block along Veirs Mill Road from C-2 to CR 3.0, C 2.5, R 2.5, H 100 to encourage assemblage for a mixed-use residential development.
- Rezone Parcel 1 from C-2 to CRN 1.5, C 0.5, R 1.5, H 45 as a transition to the single-family residential neighborhood to the north.
- Rezone Parcels C, E, 10 and 13, lot 14, and Outlot B from C-2 to CR 5.0, C 4.5, R 4.5, H 130. These lots are located across Veirs Mill Road from the Ambassador Building site at the intersection of Veirs Mill Road and University Boulevard and across from Core District Block E. The proposed rezoning is consistent with the zoning on the Ambassador Building site at this important location and encourages assemblage for an office or residential mixed-use development with ground floor retail.

Blocks B2, G, and H

These blocks contain mostly single-family houses. Blocks H and G have frontage along University Boulevard while Block B2 has a small frontage on Veirs Mill Road. The University Boulevard frontage of Blocks H and G is zoned C-T, except one property on Block G zoned R-60, and the corner lots on Block G zoned C-O. Most of the existing structures along University Boulevard contain commercial uses. Three of the lots next to Valley View Avenue are vacant. All of these are small lots and back onto houses in the adjacent single-family neighborhood.

While some of the existing houses are large enough for office conversion, a number of properties would be better redeveloped as new, low-intensity office or residential development. Residential or professional office townhouses would be more compatible with the adjoining single-family properties on all of these transitional sites. Where appropriate, new, low-intensity development is encouraged to buffer existing single-family residences from adverse effects associated with major traffic arteries.

- Rezone Parcels 1 and 7, and lots 23 and 22 on Block H and lots 6, 7 and 8 on Block G, from C-T to CRN 1.5, C 0.5, R 1.5, H 45.
- Rezone Parcel 5 on Block G from R-60 to CRN 1.5, C 0.5, R 1.5, H 45.
- Rezone lots 29 and 28, and Parcels 3 and 4 on Block G from C-O to CRN 1.5, C 0.5, R 1.5, H 45.
- Rezone lots 2 and 9 on Block B2 from C-O and C-T to CRN 1.5, C 0.5, R 1.5, H 45.



FIRE MARSHAL COMMENTS

DATE: 30-Dec-11
TO: Courtney Galiber - cgaliber@mrakta.com
Morris & Ritchie Associates, Inc
FROM: Marie LaBaw
RE: BB&T - Wheaton/Kensington
120110350 820110120

PLAN APPROVED

1. Review based only upon information contained on the plan submitted 30-Dec-11 .Review and approval does not cover unsatisfactory installation resulting from errors, omissions, or failure to clearly indicate conditions on this plan.
2. Correction of unsatisfactory installation will be required upon inspection and service of notice of violation to a party responsible for the property.



DEPARTMENT OF TRANSPORTATION

Isiah Leggett
County Executive

Arthur Holmes, Jr.
Director

December 9, 2011

Mr. Michael Brown, Urban Designer
Area 2 Planning Division
The Maryland-National Capital
Park & Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910-3760

RE: Preliminary Plan #120110350
BB&T Bank Wheaton

Dear Mr. Brown:

We have completed our review of the amended preliminary plan dated October 10, 2011. An earlier version of this plan was reviewed by the Development Review Committee at its meeting on July 25, 2011. We recommend approval of the plan subject to the following comments:

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

1. Right of way dedication for University Blvd (MD 193) per the Master Plan and Valley View Road as necessary. Also provide truncation at the intersection of the aforementioned roads.
2. Grant necessary slope and drainage easements. Slope easements are to be determined by study or set at the building restriction line.
3. Access and improvements along University Blvd (MD 193) as required by the Maryland State Highway Administration.
4. The sight distances study for the entrance on Valley View Avenue has been accepted. A copy of the accepted Sight Distances Evaluation certification form is enclosed for your information and reference.
5. In accordance with Section 49-33(e) of the Montgomery County Code, sidewalks are required to serve the proposed subdivision. Sidewalks are to be provided along the site frontage on Valley View Road according to associated MCDOT standard street section. We support approval of the proposal to setback the sidewalk on University Blvd (MD 193).

Division of Traffic Engineering and Operations

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



6. The parking layout plan will be reviewed by the Department of Permitting Services at the site plan or building permit stage, whichever comes first. To facilitate their review, that plan should delineate and dimension the proposed on-site travel lanes, parking spaces, curb radii, handicap parking spaces and access facilities, and sidewalks. The applicant may wish to contact Mr. Sam Farhadi of that Department at (240) 777-6320 to discuss the parking lot design.
7. Where perpendicular parking spaces border a sidewalk, a two (2) foot vehicle overhang is assumed. The applicant should either provide a seven (7) foot wide sidewalk or wheelstops within those parking spaces.
8. The owner will be required to submit a recorded covenant for the operation and maintenance of private streets, storm drain systems, and/or open space areas prior to MCDPS approval of the record plat. The deed reference for this document is to be provided on the record plat.
9. Relocation of utilities along the site frontage to accommodate the required roadway improvements shall be the responsibility of the applicant.
10. If the proposed development will alter any existing street lights, signing, and/or pavement markings, please contact Mr. Dan Sanayi of our Traffic Engineering Design and Operation Section at (240) 777-2190 for proper executing procedures. All costs associated with such relocations shall be the responsibility of the applicant.
11. If the proposed development will alter or impact any existing County maintained transportation system management component (i.e., traffic signals, signal poles, handboxes, surveillance cameras, etc.) or communication component (i.e., traffic signal interconnect, fiber optic lines, etc.), please contact Mr. Bruce Mangum of our Traffic Management Team at (240) 777-2190 for proper executing procedures. All costs associated with such relocations shall be the responsibility of the applicant.
12. Trees in the County rights of way - species and spacing to be in accordance with the applicable DOT standards. Tree planting within the public right of way must be coordinated with Mr. Brett Linkletter with Division of Highway Services, Tree Maintenance Section. Mr. Linkletter may be contacted at (240) 777-7651.
13. If the applicant is required to install Wheaton CBD streetscaping amenities along the site frontages – prior to approval of the record plat by DPS, execute and record a Declaration of Covenants (for Maintenance and Liability) or enter into an agreement with the Wheaton Urban District for the maintenance of those items.
14. Permit and bond will be required as a prerequisite to DPS approval of the record plat. The permit will include, but not necessarily be limited to, the following improvements:
 - A. Five (5) foot wide concrete sidewalk and handicap ramps, storm drainage and appurtenances, and street trees along Valley View Road site frontage.

Mr. Michael Brown
Preliminary Plan 120110350
December 9, 2011
Page 3

- B. Developer shall provide street lights in accordance with the specifications, requirements, and standards prescribed by the Traffic Engineering and Operations Division.

Thank you for the opportunity to review this preliminary plan. If you have any questions or comments regarding this letter, please contact me at greg.leck@montgomerycountymd.gov or at (240) 777-2197.

Sincerely,



Gregory M. Leck, P.E. Manager
Development Review Team

m:/subdivision/gm/docs/PP/120110350, BB&T Bank Wheaton, FINAL.doc

Enclosure (1)

cc: Robert Loudermilk; BB&T Bank
Lilian Nguyen Duong
Courtney Galiber; Morris & Ritchie Associates, Inc.
Emily Dean; Morris & Ritchie Associates, Inc.
Soo Lee-Cho; Miller, Miller & Canby
Khalid Afzal; MNCPPC Area 2
Ed Axler; MNCPPC Area 2
Cathy Conlon; MNCPPC DARC
Scott Newill; MSHA AMD
Preliminary Plans Note Book
Preliminary Plan Folder

cc-e: Sam Farhadi; DPS RWPR
Dan Sanayi; DOT DTEO
Bruce Mangum; DOT DTEO



RECEIVED DEC 04 2010

DEPARTMENT OF PERMITTING SERVICES

Isiah Leggett
County Executive

Carla Reid
Director

December 1, 2010

Kerri Knighten
Morris & Ritchie Associates, Inc.
14280 Park Center Drive, Suite A
Laurel, MD 20707

Re: Stormwater Management **CONCEPT** Request
for BB&T Bank
Preliminary Plan #: Pending
SM File #: 237886
Tract Size/Zone: 0.8977 Ac./C-T
Total Concept Area: 1.07 Ac.
Lots/Block: P7, 22, 23/ H
Watershed: Lower Rock Creek

Dear Ms. Knighten:

Based on a review by the Department of Permitting Services Review Staff, the stormwater management concept for the above mentioned site is **acceptable**. The stormwater management concept consists of meeting Environmental Site Design through the use of two micro-bioretenion facilities and permeable pavement.

The following **items** 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 easements and covenants for all the ESD facilities, including the flow splitter (I-11).

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.

255 Rockville Pike, 2nd Floor • Rockville, Maryland 20850 • 240-777-6300 • 240-777-6256 TTY
www.montgomerycountymd.gov

montgomerycountymd.gov/311




240-773-3556 TTY

This letter must appear on the sediment control/stormwater management plan at its initial submittal. The concept approval is based on all stormwater management structures being located outside of the Public Utility Easement, the Public Improvement Easement, and the Public Right of Way unless specifically approved on the concept plan. Any divergence from the information provided to this office; or additional information received during the development process; or a change in an applicable Executive Regulation may constitute grounds to rescind or amend any approval actions taken, and to reevaluate the site for additional or amended stormwater management requirements. If there are subsequent additions or modifications to the development, a separate concept request shall be required.

If you have any questions regarding these actions, please feel free to contact David Kuykendall at 240-777-6332.

Sincerely,



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

RRB:lla CN237886 BB&T Bank.DWK

cc: C. Conlon
M. Pfefferle
SM File # 237886

QN -Onsite; Acres: 1.07
QL - Onsite; Acres: 1.07
Recharge is provided