



**Town and Country Movers, Site Plan 820130020**



Lori Shirley, Planner Coordinator, Area 2 Division, Lori.Shirley@montgomeryplanning.org, 301-495-4557



Joshua Sloan, Planner Supervisor, Area 2 Division, Joshua.Sloan@montgomeryplanning.org, 301-495-4597

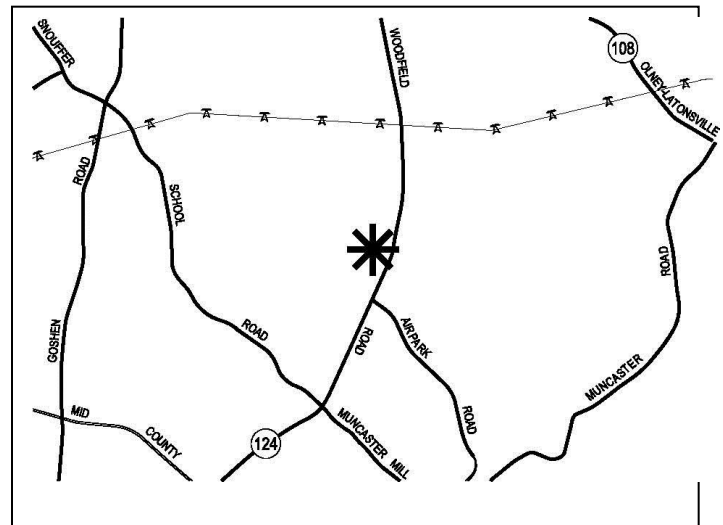


Glenn Kreger, Chief, Area 2 Division, Glenn.Kreger@montgomeryplanning.org, 301-495-4653

Completed: 2/14/13

**Description**

- Development of a new, 31,820-square foot, one-story (42-foot height), secured, gated warehouse building;
- Located at 7591 Rickenbacker Drive, Gaithersburg, MD (Lot 34, Block D), approximately 1,000 feet west of the intersection with Woodfield Road;
- On approximately 2.13 gross acres, zoned I-4, within the Gaithersburg Vicinity Master Plan area;
- Applicant: Rickenbacker Associates, LLC;
- Submitted: 8/10/12.



**Summary**

- Staff recommends **approval** of the Site Plan with conditions.
- The site's Adequate Public Facilities (APF) validity expired on October 12, 2003 (approved in Preliminary Plan No. 119910640, Montgomery County Airpark). The APF is being retested with this site plan and the Applicant must satisfy the Transportation Policy Area Review (TPAR) test by paying a recently-enacted transportation impact fee.
- The Applicant is requesting a waiver of the minimum parking requirements to provide seven on-site parking spaces instead of the required 48 spaces.
- The Site Plan includes a Final Forest Conservation Plan (FFCP) with a variance request for impacts to the critical root zone of one off-site specimen tree, which is incorporated in this approval.
- Staff has not received any correspondence from noticed parties as of the date of this report.

## **SITE PLAN RECOMMENDATION AND CONDITIONS**

Staff recommends approval of Site Plan 820130020, Town and Country Movers, for 31,820 square feet of warehouse space on the subject property. All site development elements as shown on the site, landscape, and lighting plans stamped by the M-NCPPC on February 5, 2013 are required except as modified by the following conditions:

**1. Preliminary Plan Conformance**

The development must comply with the conditions of the approved Resolution for Preliminary Plan 119910640 approved by the Planning Board Resolution dated September 17, 1991.

**2. Transportation**

- a. The Site Plan is limited to up to 31,820-square feet of a secured, gated warehouse with only drop-offs and pick-ups and no employees scheduled to work continuously on the site.
- b. The Applicant must provide adequate vehicular access to the site from the adjacent roadway network, and must satisfy the Transportation Policy Area Review (TPAR) test by paying the transportation impact fee of \$44,946.
- c. Any changes in use will require an amendment to this Site Plan and may require additional pedestrian, bicycle, or vehicular improvements.

**3. Final Forest Conservation Plan**

Prior to any demolition, clearing, or grading, the Applicant must obtain Staff approval of a Certificate of Compliance Agreement for use of an M-NCPPC-approved off-site forest mitigation bank to satisfy the reforestation requirement.

**4. Development Program**

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

- a. Street tree planting may wait until the next growing season.
- b. On-site amenities including, but not limited to, landscaping, lighting and green area amenities adjacent to the building, 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 Final Forest Conservation Plan, Sediment Control Plan, and M-NCPPC inspection and approval of all applicable environmental protection devices.
- d. The development program must provide phasing of dedications, stormwater management, sediment and erosion control, afforestation, and other features, as applicable.

**5. 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. Include the Final Forest Conservation Plan approval letter, stormwater management concept approval, development program, inspection schedule, and Resolution approving this Site Plan on the approval or cover sheet.
- b. Remove unnecessary sheets.

- c. Make corrections and clarifications to details, labeling, data tables, and schedules, as required by Staff.
- d. Ensure consistency of all details and layout between architecture, site, landscape, and forest conservation plans.
- e. Adjust the truck turn-around area to eliminate encroachment in the 50-foot parking setback.

## CONTEXT AND PROPOSAL

### Site Vicinity and Description

The subject property is located on the north side of Rickenbacker Drive (at street address 7591), between Chennault Way and Woodfield Road (MD 124), in Gaithersburg, MD. Adjoining the site on the north are existing residential uses within Edinburg Village, zoned R-MH. The remaining three sides surrounding the site have existing industrial uses within the Montgomery County Airpark Industrial Sites, all of which are zoned I-4.

The subject 2.13-acre property is identified as Lot 34, Block D, and is currently undeveloped except for a driveway apron and a gravel parking lot near Rickenbacker Drive, a perimeter chain-link fence, and hedgerow vegetation. The remainder of the property is an open lawn area with approximately 0.70-acres of forest. No specimen or significant trees exist on-site.



Vicinity Map

The property drains to the Seneca Creek watershed and is designated as Class I-P Waters by the State of Maryland. The property is not located within a 100-year floodplain or within a Special Protection Area and does not contain rare, threatened, or endangered species.

## **PROJECT DESCRIPTION**

### **Previous Approvals**

#### Preliminary Plans

Two preliminary plans are associated with the site. Preliminary Plan 119801370, Montgomery County Airpark Industrial Sites, was approved by the Planning Board in February 1985, for 537,334 square feet of light industrial space. The subdivision created Lots 26-29 on 47.9 acres on Rickenbacker Drive. Lot 29 contained 9.70 acres and it was subsequently subdivided by Preliminary Plan 119910640. This latter plan, Preliminary Plan 119910640 Montgomery County Airpark, was approved by the Planning Board in September 1991, and created Lots 33-36, Block D. Preliminary Plan 119910640's Adequate Public Facilities (APF) validity expired on October 12, 2003.

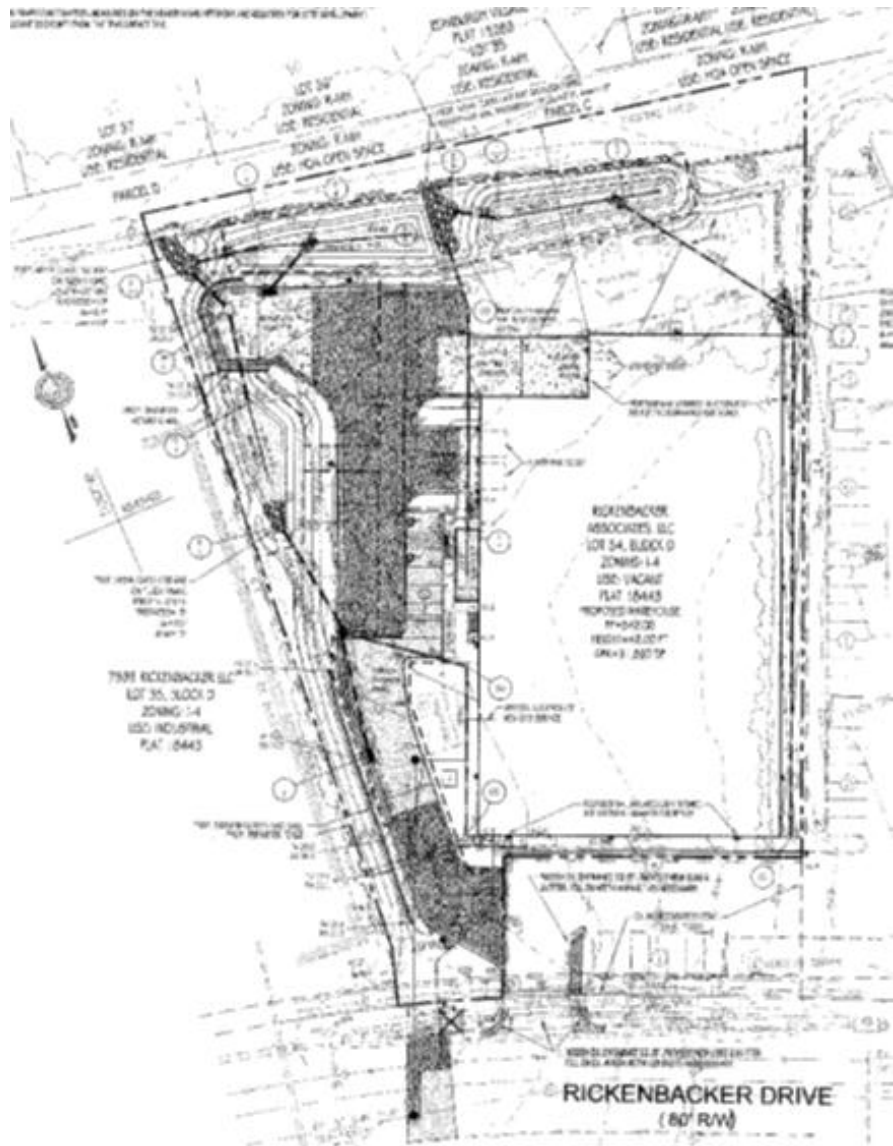
#### Site Plans

Site Plan 819851000, Montgomery County Airpark, was approved by the Planning Board in December 1985 for light industrial space for Lots 26-29. Several other adjacent properties have a development review history. To the north of the subject property, the Edinburgh neighborhood (zoned R-MH), was approved under Preliminary Plan 11981120 and Site Plan 819820270 for 349 single-family residential units. In this site plan, Parcels C and D separate the R-MH zoned lots from the rear property lines of the I-4 zoned lots including the subject Lot 34. Parcels C and D are 20-feet wide. A review of air photos finds these parcels are vegetated and function as a buffer between the two land uses. The houses in Edinburgh directly behind the subject property were built in 1986 and these rear yards are oriented toward Parcels C and D.

### **Proposal**

The Applicant is pursuing site plan approval to construct a 31,820-square foot warehouse building on Lot 34, Block D, under the property's I-4 zoning using the Standard Method of development. The warehouse use is for long and short-term storage, with employees using the facility only during pick-ups and drop-offs. The Applicant has submitted a Statement of Justification that describes the site and the proposed warehouse facility (see Attachment A).

Public water and sewer utilities are available and will serve the site. The development will be constructed in one phase and a phasing schedule is not proposed.



Site Plan

**Community Outreach**

The Applicant has complied with all submittal and noticing requirements, and Staff has not received correspondence from any community groups as of the date of this report.

## ANALYSIS AND FINDINGS

### Zoning

Site Plan 820130020 has been submitted in compliance with Section 59-C-5.3. Development Standards of the Zoning Ordinance. The proposed development is on 92,624 square feet of gross tract area zoned I-4. The Applicant is using the Standard Method in this development. The following table shows the application's conformance to the development standards of the I-4 zone:

*Table 1: Development Standards Data Table - I-4 Zone*

<b>PLAN DATA</b>	<b>Zoning Ordinance Development Standard</b>	<b>Proposed for Approval by the Site Plan</b>
<b>Maximum Height</b> (in feet)	42 ft.	42 ft.
<b>Minimum Setbacks:</b>		
Abutting residential [Sec. 59-C-5.35(a)] at the rear	100 ft. Min.	101 ft.
At the side	10 ft. Min.	10 ft.
From the road	25 ft.	77 ft.
<b>Maximum Density</b> [Sec. 59-C-5.44(c)]	1.0 FAR or 92,624sf	0.34 or 31,820sf
<b>Minimum Green Area</b> [Sec. 59-C-5.32] % of gross tract acres	20%	45%
<b>Parking</b> [Sec. 59-E 3.7 1.5 spaces/1,000sf GFA]	48	7
<b>Off-Street Parking Setback</b> [Sec. C-59-5.44(d)(1) from any residential zone	50	50 <sup>1</sup>

As shown on the submitted plans, the truck turn-around encroaches 5 feet into a 50-foot parking setback at the northwest corner of the site's parking lot. This area must be modified to eliminate encroachment into the parking setback prior to submittal of the certified site plan. Staff finds the proposed warehouse building will be compatible with the existing warehouse uses on three sides of the subject property subject to the recommended conditions.

### Parking Waiver Request

Section 59-E-3 of the Montgomery County Zoning Ordinance requires industrial/warehouse uses to provide off-street parking at a rate of one and one-half (1.5) spaces per 1,000 square feet of proposed building total floor area. The parking ratio yields 48 parking spaces for the proposed 31,820 square feet of floor area.

The Applicant requests a waiver of 41 of the required 48 parking spaces due to the unique nature of the proposed long and short-term warehouse activity described in a Parking Waiver Justification Statement (see Attachment B). The Justification Statement highlights that the proposed warehouse operations will require only 7 off-street parking spaces at this time and for this owner. The Applicant has reserved sufficient area on-site to allow future owners/tenants to expand and meet the off-street parking requirements, if necessary.

<sup>1</sup> As conditioned.

Staff supports the parking waiver request, a reduction of the required 48 parking spaces to 7 requested parking spaces, based on the unique nature of the proposed long and short-term storage, warehouse use that will be gated. Staff finds the proposed site plan, with the requested parking waiver, will meet all of the requirements of the zone under which it is being developed. Per the proposed conditions, future change in the proposed use will require a Site Plan amendment and reconsideration of parking needs for a different use.

### Landscaping and Lighting Plan

The Landscaping Plan contains a mix of three deciduous shade trees, one shrub and three native herbaceous plant species. The shade trees will be planted along the north and west sides of the site.

The Lighting Plan includes four pole-mounted metal luminaires located on the west side of the site. Eleven wall-mounted light fixtures are proposed on all four sides of the warehouse. The Lighting Plan meets the required industry standards and will be compatible with similar lighting provided by the adjacent industrial uses.





## **Building Elevations**

Building elevations show the proposed warehouse will be constructed of metal siding, a galvanized standing seam metal roof, with evergreen gutters and downspouts. The west elevation shows two loading dock areas. Each loading dock has two overhead doors. One loading dock is for tractor trailer-size trucks and the other is for smaller trucks for local pick-up and delivery.

## **Transportation**

### Vehicular Site Access Point

The vehicular site access is from Rickenbacker Drive via a driveway that is currently serving the adjoining property, 7537 Rickenbacker Drive. The Applicant has an access easement to use the adjoining property's driveway (Attachment C).

### Pedestrian Circulation

No pedestrian access is needed if the proposed land use remains a secured, gated warehouse with only truck drop-offs and pick-ups and no employees scheduled to work continuously on the site. As conditioned, the subject Site Plan satisfies the transportation APF Local Area Transportation Review (LATR) and TPAR tests and will have no adverse impact on area roadways or nearby pedestrian facilities.

### Master-Planned Roadway

Rickenbacker Drive is not listed in the 1990 *Gaithersburg Vicinity Master Plan* but functions as a business street with an 80-foot right-of-way, existing 4-foot wide sidewalk, 9-foot wide green panel, and no bikeway.

### Adequate Public Facilities Review

#### *Local Area Transportation Review*

The Applicant submitted a traffic statement printed on their revised plans dated December 20, 2012. The proposed 31,820-square feet of warehouse space would generate 10 peak-hour trips within the weekday morning peak period (6:30 to 9:30 a.m.) and 10 peak-hour trips within the evening peak period (4:00 to 7:00 p.m.). The Applicant is not required to submit a traffic study to satisfy the LATR test because the proposed development generates fewer than 30 total peak-hour trips within the weekday morning and evening peak periods.

#### *Policy Area Review*

The Applicant must satisfy APF "policy area review" test as a new development located in the Montgomery Village/Airpark Policy Area under the 2012-2016 Subdivision Staging Policy. Because the subject plan is not a subdivision plan, the Applicant must satisfy the recently-enacted TPAR test and does not have a choice between the Policy Area Mobility Review (PAMR) or TPAR test. Under the TPAR test, the transportation impact fee of \$44,946 must be paid to satisfy the "policy area review." This fee was determined based on 25% times 31,820-square feet times \$5.65 per square feet of gross floor area as an "industrial" (which includes warehouse) development.

## **Master Plan**

### Gaithersburg Vicinity Master Plan

This site is within the Montgomery County Airpark area of the 1990 Gaithersburg Vicinity Master Plan. This area has been specifically zoned I-4 to permit development of uses that will be compatible with the noise and operations of the Montgomery County Airpark. The proposed warehouse use is in conformance with the Master Plan recommendations for light industrial zoning.

## **Environment**

### Environmental Guidelines

The Town and Country Movers property is currently undeveloped, with site improvements limited to a commercial driveway apron onto Rickenbacker Drive, a gravel parking lot, and perimeter chain-link fencing. The remainder of the property is open lawn, hedgerows, and 0.70-acres of existing forest as depicted on the Natural Resource Inventory/Forest Stand Delineation (420121800) that was approved on July 17, 2012.

The property site drains to the Seneca Creek watershed and is designated as Class I-P Waters by the State of Maryland. This property is not located within 100-year floodplain or within Special Protection Area and does not contain rare, threatened, or endangered species. No specimen or significant trees that are 25-inches DBH or greater are located on-site. One specimen tree (30-inches and greater DBH) is located adjacent to the northern property boundary of the site.

### Final Forest Conservation Plan

This property is subject to the Montgomery County Forest Conservation Law (Chapter 22A of the County Code), and a Final Forest Conservation Plan ("FFCP") has been submitted for Planning Board approval (Attachment D). The FFCP proposes the removal of 0.70-acres of forest that requires a total of 0.74-acres of reforestation. The Applicant proposes to meet this requirement by planting landscape trees for a total of 0.044-acres, retaining a stand of trees for 0.036-acres of landscape credit, and purchasing 0.67-acres in an off-site forest conservation bank.

### Forest Conservation Variance

Section 22A-12(b)(3) of Montgomery County Forest Conservation Law provides criteria that identify certain individual trees as high priority for retention and protection. Any impact to these trees, including removal of the subject tree or disturbance within the tree's critical root zone (CRZ) requires a variance. An applicant for a variance must provide certain written information in support of the required findings in accordance with Section 22A-21 of the Forest Conservation Law. The law requires no impact to trees that: measure 30-inches or greater, diameter at breast height (DBH); are part of a historic site or designated with a historic structure; are designated as a national, State, or County champion tree; are at least 75 percent of the diameter of the current State champion tree of that species; or trees, shrubs, or plants that are designated as Federal or State rare, threatened, or endangered species.

The Applicant submitted a variance request on December 5, 2012 for the impact to a specimen tree as depicted on the attached FFCP (Attachment E). The Applicant is requesting a variance to impact 11% of the critical root zone of a 36.3-inch DBH black cherry (*Prunus serotina*) that is considered high priority for retention under Section 22A-12(b) (3) of the County Forest Conservation Law.

## Unwarranted Hardship Basis

As per Section 22A-21, a variance may only be granted if the Planning Board finds that leaving the requested trees in an undisturbed state would result in unwarranted hardship. The proposed development is in accordance with both the intent and recommendation of the 1990 Gaithersburg Vicinity Master Plan and the I-4 zone. The Applicant is proposing the construction of a warehouse, parking, and stormwater facilities that retain a stand of trees along the northeastern boundary of the site. This stand of trees will act as a buffer between the development and the specimen tree. The Applicant is also proposing tree protection measures to ensure the survival of the specimen tree. Working within the constraints of the existing lot, the Applicant has minimized the proposed impacts to 11% of the critical root zone surrounding the specimen tree. Therefore, Staff concurs that the Applicant has a sufficient unwarranted hardship to consider a variance request.

Section 22A-21 of the County Forest Conservation Law sets forth the findings that must be made by the Planning Board or Planning Director, as appropriate, in order for a variance to be granted. Staff has made the following determinations in the review of the variance request and the proposed forest conservation plan:

**Variance Findings** – Staff has made the following determination based on the required findings that granting of the requested variance:

1. *Will not confer on the applicant a special privilege that would be denied to other applicants.*

Granting the variance will not confer a special privilege on the Applicant as this property is an industrial flag lot in the Montgomery County Industrial Airpark. The property is setback 70-feet from the right-of-way for Rickenbacker Drive and an industrial warehouse is proposed for this site that is similar in use as the adjacent properties. Due to the constraints of the property, it is Staff's opinion, that granting the variance will not confer a special privilege to the Applicant.

2. *Is not based on conditions or circumstances which are the result of the actions by the applicant.*

Staff concurs that the requested variance is based on proposed development density and the site conditions, rather than on conditions or circumstances which are the result of actions by the Applicant.

3. *Is not based on a condition relating to land or building use, either permitted or non-conforming, on a neighborhood property.*

Staff concurs that the requested variance is a result of the proposed site design and layout on the subject property and not as a result of land or building use on a neighboring property.

4. *Will not violate State water quality standards or cause measurable degradation in water quality.*

Because the proposed project will only impact approximately 11% of the critical root zone surrounding the specimen tree, the specimen tree will not be removed. In addition, the specimen tree is located adjacent to a retained tree stand that will buffer the tree from the proposed development and provide additional surface stabilization. The specimen tree is not located in an environmental buffer or within a Special Protection Area. Therefore, Staff concurs that the project will not violate State water quality standards or cause measurable degradation in water quality.

**Mitigation for Trees Subject to the Variance Provisions** – Only 11% of the critical root zone of one specimen tree will be impacted as a result of the proposed development. Because this specimen tree will not be removed and tree protection measures will be implemented on-site to protect this tree, Staff does not recommend any additional mitigation for this impact.

**County Arborist’s Recommendation on the Variance** – In accordance with Montgomery County Code Section 22A-21(c), the Planning Department is required to refer a copy of the variance request to the County Arborist in the Montgomery County Department of Environmental Protection for a recommendation prior to acting on the request. The request was forwarded to the County Arborist on December 20, 2012 (Attachment E). On January 18, 2013, the County Arborist issued her recommendations on the variance request and recommended the variance be approved with mitigation (Attachment F).

**Variance Recommendation** – Staff recommends that the variance be granted.

Stormwater Management

DPS issued a letter accepting the Stormwater Management Concept for the Town and Country Movers site on October 11, 2012 (Attachment G). The stormwater management concept proposes to meet required stormwater management goals via the use of micro biofiltration and proposed porous pavement.

Recommendation

This plan is in compliance with M-NCPPC’s *Environmental Guidelines*. Staff recommends that the Planning Board approve the Final Forest Conservation Plan with one condition.

**FINDINGS**

In accordance with Section 59-D-3.4. Action by the Planning Board, in reaching its decision the following findings must be made:

*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.*

A development plan, diagrammatic plan, or schematic development plan with binding elements are not associated with the subject property.

*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 approval under Chapter 56.*

The Site Plan meets the requirements of the Montgomery County Zoning Ordinance for the I-4 zone, using the Standard Method of development as shown on the Data Table, above, subject to the recommended conditions of approval.

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

Staff finds the proposed building location, landscaping, vehicular circulation system are adequate, safe, and efficient, subject to the recommended conditions of approval. The proposed warehouse use is unique in that, it will be enclosed with a gate, and the facility will be used for long and short-term storage, with 2 to 3 employees at the site only during pick-ups and drop-offs. The proposed landscaping will mostly be located along the site's north and west property lines. Additional landscaping at the north property line will enhance the existing vegetation in Parcels C and D of the Edinburgh site, an area that functions as a vegetative buffer. Furthermore, the warehouse will be located in compliance with required building setbacks (i.e., the rear building setback is 100 feet, 101 feet is proposed). In the event that the secured, gated 31,820-square foot warehouse use changes, the Applicants or any successor must satisfy the Planning Board via a site plan amendment to demonstrate that the pedestrian and vehicular circulation is adequate, safe, and efficient per Section 59-D-3.4(c)(3).

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

The proposed warehouse use is compatible on three sides of the subject property because these properties are developed similarly with industrial warehouses. The adjoining property to the north, the Edinburgh neighborhood, is developed with single-family residential units. At the common property line between the two land uses, Parcels C and D are parallel to this property line. These 20-foot wide parcels have existing vegetation that will be augmented by additional landscaping along the northern property line of the subject site. These vegetated parcels function as a buffer. The Montgomery County Zoning Ordinance recognizes the I-4 zone is appropriate as a transitional industrial zone.

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

Staff finds the Site Plan is in compliance with the *Environmental Guidelines*, Chapter 22A of the Montgomery County Forest Conservation Law. Based on a review by the Department of Permitting Services Review Staff, the stormwater management concept for the site is acceptable. The stormwater management concept proposes to meet required stormwater management goals via the use of micro biofiltration and proposed porous pavement.

LS:ha: N:\Area 2 Division\Shirley, Lori\820130020 Town & Country Movers\Town and Country Movers Final Staff Report

#### **ATTACHMENTS**

- A. Applicant's Statement of Justification (Site Plan)
- B. Applicant's Statement of Justification (Parking Waiver)
- C. Ingress/Egress Easement
- D. Final Forest Conservation Plan (FFCP)
- E. Applicant's Variance request
- F. County Arborist's Recommendation
- G. Agency approval letters

**STATEMENT OF JUSTIFICATION**  
**FOR TOWN & COUNTRY MOVERS**  
**SITE PLAN NO. 820130020**

**I. INTRODUCTION**

Applicant, Rickenbacker Associates, LLC is the property owner of 2.13 acres, known as Lot 34, Block D, located at 7591 Rickenbacker Drive, Gaithersburg, Maryland 20879 (the "Property"). The Property is classified in the I-4 (Industrial) zone, and is subject to standard development regulations to allow a 31,820-square-foot warehouse facility on the Property. In accordance with the applicable provisions of Chapter 50 of the Montgomery County Code, 2004, as amended (the "Subdivision Regulations"), Rickenbacker Associates, LLC submits this site plan application for approval of a 31,820-square-foot warehouse use on the recorded lot ("Application"). Rickenbacker Associates, LLC respectfully requests that the Planning Board grant approval of the Application described in more detail below.

**II. BACKGROUND**

Town and Country Movers currently operate out of 7650 Rickenbacker Drive, along the same street from the proposed site at 7591 Rickenbacker Drive. The nature of business includes moving services, as well as short and long term storage space. The majority of operations will continue to function within the 7650 site. The 7591 site will allow for storage expansion, as standard warehouse space is being proposed on that property. The gross square footage of the proposed warehouse building is 31,820 S.F. The applicant intends to provide seven (7) off-street parking spaces, as the seven spaces will adequately meet their commercial needs for parking. A waiver from the full parking requirement is being requested as part of this application.

**III. EXISTING CONDITIONS AND SURROUNDING AREA**

The Property is currently undeveloped, with site improvements limited to a commercial driveway apron onto Rickenbacker Drive, a gravel parking lot, and perimeter chain-link fencing. The remainder of the Property is an open lawn area and approximately 0.70 acres of forested area. No significant trees exist on-site.

The Property is located on the north side of Georgia Avenue. Immediately to the north is Edinburgh Village Homeowners Association (Parcels C & D), and to the south is Montgomery County Airpark Industrial Suites (Lot 7, Block H), zoned R-MH and I-4 respectively. CLM Air Park Associates LLC (Lot 33, Block D), also Zoned I-4, exists immediately to the east of the site. To the west, exists 7595 Rickenbacker LLC (Lot 35, Block D), also zoned I-4.

**IV. PROPOSED SITE PLAN**

Town and Country Movers desires to construct on the Property a warehouse facility for short and long term storage. The Site Plan and Application propose the construction of a new

building, one story in height and containing approximately 31,820 square feet of gross floor area, a 7-space surface parking lot, located to the west of the building, and related and necessary ancillary uses typical for a development of this type. The Property will be sufficiently landscaped, while a portion of the existing forested area at the rear of the lot will be maintained. Site lighting will be provided in a manner consistent with adjacent properties in the Airpark.

Access to the Property will be via Rickenbacker Drive. The Property will share the Rickenbacker Drive curb cut that currently exists for adjacent Lot 33, directly to the east, thereby limiting the number of curb cuts to Rickenbacker Drive consistent with Maryland State Highway Administration policy. A traffic impact study is not required for this site, as the Property has already been recorded as part of the (subdivision) process (Preliminary Plan #1-91064).

## **V. COMPLIANCE WITH SUBDIVISION REGULATIONS**

### **A. Use**

The proposed use is warehouse, and is permitted in the I-4 zone by standard development methods.

### **B. Wells and septic systems**

Not applicable, as public water and sewer is available to the site.

### **C. Staging Schedule**

The proposed project will be constructed in one phase; therefore, no staging schedule is required.

### **D. Sediment Control**

Rickenbacker Associates, LLC will comply with all applicable Montgomery County requirements.

### **E. Adequate Public Facilities**

Public facilities including transportation, water and sewage facilities, police, and fire and health services are adequate to support the proposed development. No schools will be impacted by the application. All major utilities necessary to service the proposed use are immediately available and adequate.

### **F. Forest Conservation**

The Application will satisfy the requirements of Chapter 22A as shown on the Preliminary Forest Conservation Plan ("PFCP").

**G. Water Quality**

As shown on the approved Concept Stormwater Management Plan, a comprehensive stormwater management program is proposed as part of the Application that will comply with all applicable laws, regulations and guidelines (including Environmental Site Design to the Maximum Extent Practicable). Environmental Site Design techniques include a total of three surface and one planter box micro-bioretenion facilities as well as permeable pavement.

**VI. CONCLUSION**

Town and Country Movers respectfully requests that the Planning Board grant approval of this Application. As explained above and in the plans submitted with this Application, the proposed Site Plan satisfies the findings that the Planning Board must make in approving a Site Plan application under the Subdivision Regulations.

I hereby certify that the information set forth herein is true, complete and correct to the best of my knowledge, information and belief.

By: Jason D. Staley  
Jason D. Staley, P.E.

Date: 10/10/12



**PARKING WAIVER JUSTIFICATION STATEMENT**  
**TOWN & COUNTRY MOVERS**

**I. BACKGROUND**

A. Introduction

The following is relative to our request for a waiver from the number of parking spaces, required in Article 59-E-3 of the Montgomery County Zoning Ordinance for warehouse use. The subject property is comprised of Lot 34, Block D; located at 7591 Rickenbacker Drive, Gaithersburg, Maryland 20879 and consists of 2.13 acres. The site is currently a vacant, gravel lot slated for commercial/industrial development.

B. Proposed Use

Town and Country Movers currently operate out of 7650 Rickenbacker Drive, along the same street from the proposed site at 7591 Rickenbacker Drive. The nature of business includes moving services, as well as short and long term storage space. The majority of operations will continue to function within the 7650 site. The 7591 site will allow for storage expansion, as standard warehouse space is being proposed on that property. The gross square footage of the proposed warehouse building is 31,820 S.F. The applicant intends to provide seven (7) off-street parking spaces, as the seven spaces will adequately meets their commercial needs for parking.

C. Required Parking

Pursuant to Article 59-E-3, properties slated for warehouse use are required to provide off-street parking at a rate of one and one-half (1.5) spaces per 1,000 square feet of the proposed buildings total floor area. Following that criterion yields a parking requirement of forty eight (48) off-street spaces for the proposed 31,820 S.F. of floor area.

**II. REQUEST AND JUSTIFICATION FOR WAIVER OF REQUIRED PARKING**

The Owner respectfully requests a waiver for relief from the number of off-street parking spaces required in Article 59-E-3 of the Montgomery County Zoning Ordinance, based upon the justification made herein. Due to the nature of business that is proposed on-site, the number of off-street parking spaces provided, as shown on the enclosed site plan, will sufficiently meet the parking demands for the proposed storage facility. It has been determined that normal operations for the proposed warehouse storage facility will require only seven (7) off-street parking spaces at this time and for this tenant; however, provisions have been made for any potential future tenants. The applicant has reserved sufficient area on-site to allow future tenants to expand and meet the off-street parking requirements at that time, as necessary. This area has been dashed in on the site plan, using lighter line weight and is designated as "future parking". This will allow the property to remain marketable to future, prospective buyers and ensure that the property is not devalued.

Thus, the reduction of paving, to align with the proposed use on-site reduces the stormwater runoff from that additional impervious surface. Reprieve from the full parking requirement will allow the applicant to provide full management of the Environmental Site Design (ESD) volume for stormwater under the new Maryland Department of Environment guidelines.

### **III. CONCLUSION**

Based on the findings stated above, the applicant believes that a reduction of off-street parking spaces will allow for a reduction of impervious area. The applicant has demonstrated that the reserve areas will meet potential future tenant demands for the required forty eight (48) parking spaces; however, for now the need for more than seven (7) off-street parking spaces is not required by the end-user.

Prepared By: Jason D. Staley, P.E.  
McLaren Engineering Group  
601 East Pratt Street, Suite 302  
Baltimore, Maryland 21202

Date: August 7, 2012

S-7826 (S/L)  
LIBER  
FOFI.

FOLIO TAX I.D. NO. 1-9-2523114

0010161 580

CTIC

**DECLARATION OF EASEMENTS,  
COVENANTS AND RESTRICTIONS**

THIS DECLARATION OF EASEMENTS, COVENANTS AND RESTRICTIONS (this "Declaration") is made this 29<sup>th</sup> day of January 1992 by and between (i) Zarpas No. 2 Limited Partnership, a Maryland limited partnership (the "Declarant"), and (ii) R. E. Scott of 711 High Street, Des Moines, Iowa 50309 (the "Trustee" for and on behalf of Principal Mutual Life Insurance Company (the "Lender")).

FILED  
LETITIA SKELTON  
CLERK'S OFFICE  
MONTGOMERY COUNTY

FILED  
FEB-4 P 3:42:5

**RECITALS**

A. The Declarant is the owner of certain real property (the "Property") located in Montgomery County, State of Maryland, more particularly described as Lot 29, Block D, as delineated on a plat of subdivision entitled "Lots 26 thru 29, Block D and Lot 7, Block H, Montgomery County Airpark Industrial Sites", as recorded among the Land Records of Montgomery County, Maryland in Plat Book 133 as Plat 15437.

B. The Property is in the process of being subdivided into four (4) separate record lots, proposed Lots 33, 34, 35 and 36, as shown on that certain Preliminary Subdivision Plan by Macris, Hendricks and Witmer, P.A., dated May 13, 1991.

C. The Declarant desires to subject that portion of proposed Lots 33 and 34 (individually a "Lot", and collectively, the "Lots") described in Exhibit 1 and depicted in the cross-hatched areas in Exhibit 2 to the easements, covenants and restrictions set forth below, in order to provide the Lots with a means of ingress and egress to the public roadway currently known as Rickenbacker Drive and to protect the value and desirability of the Lots.

D. The Trustee is the trustee under that certain Deed of Trust, Security Agreement and Assignment of Rents affecting the Property, which was granted by the Declarant on May 26, 1988 and which was recorded among the Land Records of Montgomery County on May 27, 1988, in Liber 8290 at Folio 828 ("Deed of Trust"). The Lender is the holder of the promissory note secured by the Deed of Trust. The Trustee and Lender are joining in this Declaration for the purpose of subordinating the Deed of Trust to the legal operation and effect of this Declaration.

0380LHD9.0G

RETURN TO:  
COMMERCIAL SETTLEMENTS, INC.  
1413 K STREET, N.W.  
SUITE 1200  
WASHINGTON D.C. 20005

**DECLARATION**

NOW, THEREFORE, the Declarant, the Trustee and the Lender, hereby declare that the Lots shall be held, sold, and conveyed subject to the easements, covenants and restrictions set forth below.

1. **Easement.** The Declarant hereby grants, conveys, and establishes an exclusive permanent easement for the benefit of (i) the Declarant and all other current or future record holders of fee simple title to any of the Lots or any portions thereof (collectively, the "Lot Owners") (the Declarant and the Lot Owners are hereinafter sometimes referred to as the "Owners"), (ii) their tenants, subtenants, agents, servants, employees, invitees, licensees, and guests, and (iii) all present and future mortgagees of any of the Owners, including the Lender, and all present and future trustees, including the Trustee, and beneficiaries under any deed of trust constituting a lien on Lot 33 or 34 (collectively the "Secured Parties"), for the purpose of permitting vehicles and pedestrians to travel over and across certain paved portions shown by cross-hatching on Exhibit 2 hereto (the "Easement Area"), in order to provide a means of access, ingress, egress, and passage between the Lots and the public roadway currently known as Rickenbacker Drive.

2. **Maintenance; Contribution to Maintenance Costs.**

(a) The Declarant covenants at its sole cost and expense to provide the initial pavement and improvement of the Easement Area in accordance with all applicable standards imposed thereon by Montgomery County, Maryland. Thereafter, the Declarant, or another Lot Owner or third party as mutually agreed to by all of the Lot Owners (the "Maintenance Party"), shall maintain, or cause to be maintained, in first-class condition and repair, the Easement Area. First-class condition and repair means that all paved portions of the Easement Area shall be kept and maintained in a good, safe, and clean condition; that the Easement Area shall be kept free and clear of any obstacles, obstructions, debris, surface water, snow and ice, to the extent practicable; that any potholes that develop or asphalt paving that deteriorates will be repaired or repaved in a first-class manner as quickly after such condition develops as practicable; that all directional signs, if any, shall be kept distinct and legible; and that all lighting poles and fixtures installed for the benefit of the Easement Area will be properly maintained. All costs of such maintenance, including, without limitation, any cost of employing a person or entity as the Maintenance Party and the cost of any legal or other action taken to enforce the provisions of this paragraph 2 (the "Maintenance Costs") shall be shared by all Owners of the Lots in the following ratio: (i) the Owners of Lot 33 shall bear one-half (1/2) of the Maintenance Costs; and (ii) the Owners of Lot 34 shall bear one-half (1/2) of

0380LHD9.0G

- 2 -

the Maintenance Costs. Each Owner shall pay its share of the Maintenance Costs within thirty (30) days after receiving notice from the Maintenance Party specifying the Maintenance Costs and such Owner's share thereof.

(b) A lien under the Maryland Contract Lien Act (the "Act") is hereby established upon each Lot in an amount equal to the share of Maintenance Costs allocated to the Owner of such Lot hereunder. The Maintenance Party shall have the right to commence an action under the Act against an Owner who has not paid its portion of the Maintenance Costs within the time provided for such payment (the "Defaulting Owner"), but not until the Defaulting Owner has been given ten (10) days' written notice of such Maintenance Party's intention to file such an action. Any such lien shall be subordinate to the lien of any mortgage, deed of trust, or other security instrument created with respect to the specific Lot prior to the time any action is filed in a court of appropriate jurisdiction to enforce the lien created herein under the Act.

(c) The Owners will not erect any buildings, barricades, fences, dividers, or obstructions of any sort which would interfere with or prevent the use and enjoyment of the Easement Area for the intended purposes.

3. Insurance. Each Owner shall maintain, at its own cost and expense, a comprehensive general liability insurance policy, providing insurance coverage against all claims or losses arising from the use and enjoyment of the Easement Area, including, but not limited to, claims or losses involving death, bodily injury, and/or property damage. Each policy shall name all of the Owners and the Secured Parties as additional insureds, as their interests may appear, shall contain a waiver of subrogation provision for the benefit of all of the Owners and the Secured Parties, and shall provide that the policy may not be terminated or cancelled unless each of the Owners and the Secured Parties is given at least thirty (30) days' prior written notice of the proposed termination or cancellation. The minimum amount of each policy, and the form and content of each policy, shall be mutually agreed to by the Owners; provided that the amount and type of coverage shall not be less than One Million Dollars (\$1,000,000) for personal injury and One Hundred Thousand Dollars (\$100,000) for property damage, per occurrence, or any greater amount previously agreed to by the Owners.

4. Indemnification. Each Owner shall indemnify, defend, and hold harmless all of the other Owners from any loss, claim, damage, liability or expense (including personal injury, death, and property damage) arising from such Owner's violation of any of the provisions of this Declaration, or from the willful or negligent act or omission of such Owner, or its tenants, subtenants, agents, servants, or employees, in connection with the

0380LHD9.0G

- 3 -

use, enjoyment, maintenance, operation, or condition of the Easement Area; provided that no Owner shall be entitled to indemnification hereunder if such Owner's violation of any of the provisions of this Declaration, or the willful or negligent act or omission of such Owner, or its tenants, subtenants, agents, servants, or employees, was a contributing cause of such Owner's loss, claim, damage, liability or expense.

5. Appurtenant to Land. It is the Declarant's intent that the easements, covenants and restrictions created by this Declaration shall be appurtenant to the Lots, and shall be deemed to be covenants running with the land in perpetuity. All rights to use the Easement Area and other rights created by this Declaration shall inure to the benefit of the Lots, and to the benefit of any present or future Owners thereof and any Secured Parties claiming through such Owners (as long as they remain Owners), without any need for a specific conveyance of, or reference to, this Declaration in any subsequent instrument. All covenants, restrictions and charges, placed upon the Lots shall continue as a servitude thereon, binding upon all present and future parties with an interest in the Lots, whether or not a specific conveyance of, or reference to, this Declaration is made in any subsequent instrument. Insofar as all of the Lots are benefited by the terms and provisions of this Declaration, all of the Lots shall be deemed to be dominant estates, and insofar as all of the Lots are burdened by the terms and provisions of this Declaration, all of the Lots shall be deemed to be servient estates.

6. Assignment. Each Owner shall have the right to assign its rights or obligations in this Declaration only as collateral security to a Secured Party with a lien upon such Owner's Lot or Lots, as the case may be, or together with the contemporaneous conveyance of a fee interest in such Lot or Lots. Upon the conveyance by an Owner of all of its right, title, and interest in any Lot, such conveying Owner shall have no liability for any obligations with respect to such Lot arising under this Declaration after such conveyance, it being understood that any such obligations arising after such conveyance shall be binding upon such conveying Owner's assignee or grantee. If a Secured Party (or its successors or assigns) terminates an Owner's interest in a Lot and takes title thereto, pursuant to any foreclosure action or deed in lieu thereof, such Secured Party (or successors or assigns) shall succeed to all of such Owner's rights and obligations hereunder.

7. Dedication. Nothing contained in this Declaration shall be deemed to be a gift or dedication of any portion of the Property, or any interest therein, to the general public, or to any governmental or quasi-governmental body, or for any public purpose.

0380LHD9.0G

- 4 -

8. Reservation of Rights.

(a) Subject to the approval of any of the Secured Parties, the Declarant shall have the right to grant any easement or right-of-way, under or over the Easement Area, to any governmental or quasi-governmental authority or public utility, for the purpose of dedicating public roads and sidewalks, of providing sewer, water, gas, or electric service to the Lots, or of providing any other public benefit or service to the Lots.

(b) Subject to the approval of any of the Secured Parties, any Owner shall have the right to subdivide or resubdivide such Owner's Lot provided that nothing in any such subdivision or resubdivision shall interfere with the use and enjoyment of the Easement Area.

9. Further Assurances. Declarant and every Owner shall from time to time execute and deliver such instruments of further assurance or confirmation, in recordable form if appropriate, as may be reasonably requested by any Owner to perfect, complete and confirm the easements, covenants, and restrictions created or contained in this Declaration.

10. Amendment. Except as provided in Paragraph 8 above and Paragraph 11 below, this Declaration may be expanded, modified or amended only with the consent of all of the Owners and the Secured Parties.

11. Notices. Any notices or other communications required by this Declaration shall be in writing, and shall be either delivered in person, or sent by certified mail, postage prepaid, return receipt requested, or sent by Federal Express or similar overnight delivery service, at the following addresses: (i) if to the Declarant, at 133 Defense Highway, Suite 214, Annapolis, Maryland 21401, (ii) if to an Owner, at the address to which notices of real property tax assessments and real property tax bills are sent; and (iii) if to a Secured Party, at the address specified in the Deed of Trust or other recorded instrument for notices to such Secured Party, provided that if no such address is specified therein, no notice to such Secured Party shall be required under this Declaration. The Declarant may change the address to which its notices are to be sent by recording among the Land Records of Montgomery County, Maryland a supplement to this Declaration indicating such new address, which need be executed only by the Declarant.

12. Interpretation; Severability. Where appropriate, the use of any singular term shall be deemed to mean the plural of such term, and vice versa, and the use of any particular gender with respect to a pronoun shall be deemed to mean the male, female, or neuter version of such pronoun, as the case may be. If any clause, sentence, or other portion of this Declaration

0380LHD9.0G

shall become illegal, null and void, or unenforceable for any reason, the remaining provisions of this Declaration shall remain in full force and effect.

13. Anti-Merger. There shall be no merger of the easement created by this Declaration with the fee estate in any or all of the Lots by reason of the fact that, at any time, the same person or entity may own or hold (a) the fee simple estate in any Lot and (b) the fee simple estate in any other Lot.

14. Exhibits. Exhibits 1 through 2 referred to herein as being attached hereto as an exhibit or otherwise designated herein as an exhibit hereto are hereby made a part hereof.

IN WITNESS WHEREOF, the Declarant, the Trustee, and the Lender have executed this Declaration of Easements, Covenants and Restrictions on the date first set forth above.

**DECLARANT:**

ZARPAS NO. 2 LIMITED PARTNERSHIP,  
a Maryland limited partnership

By: Samuel N. Zarpas (SEAL)  
Samuel N. Zarpas, General Partner

**WITNESS:**

JERRY R. O'CONNOR  
JERRY R. O'CONNOR

**TRUSTEE:**

R. E. Scott (SEAL)  
R. E. Scott

**WITNESS:**

Jamie L. Downing  
Jamie L. Downing

**LENDER:**

PRINCIPAL MUTUAL LIFE INSURANCE COMPANY

**ATTEST:**

KURT D. SCHAEFFER  
KURT D. SCHAEFFER, Secretary

TIMOTHY MINTON  
[Corporate Seal], Secretary  
TIMOTHY MINTON

By: Ronald B. Franklin  
Name: Ronald B. Franklin  
Title: Director & Secretary  
Commercial Real Estate Trust Administration

By: A. L. NEVIN  
Name: A. L. NEVIN  
Title: Assistant Director & Secretary  
Commercial Real Estate Trust

0380LHD9.0G



LIBER

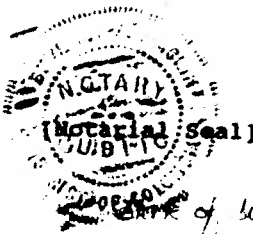
FOLIO

0010161 586

Washington, D.C. } SS:

I, Beverly A. Maglio, a notary public in and for the aforesaid jurisdiction, do hereby certify that Samuel N. Zarpas, in his capacity as General Partner of Zarpas No. 2 Limited Partnership (the "Partnership"), party to a certain Declaration of Easements, Covenants and Restrictions, dated the 30 day of January, 1992 (the "Declaration"), and hereto annexed, personally appeared before me in said jurisdiction, the said person being personally well known to me as (or provided by the oath of credible witnesses to be) the person who executed the Declaration, and acknowledged the same to be the act and deed of the Partnership.

GIVEN under my hand and seal this 30<sup>th</sup> day of January, 1992.



Beverly A. Maglio  
Notary Public

Beverly A. Maglio  
Notary Public, District of Columbia  
My Commission Expires Sept. 14, 1994

My Commission expires: \_\_\_\_\_

of Montgomery }  
County of Montgomery } SS:

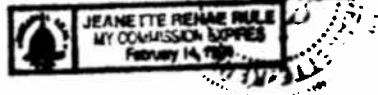
I, Jeanette Renae Rule, a notary public in and for the aforesaid jurisdiction, do hereby certify that R. E. Scott, party (as trustee) to a certain Declaration of Easements, Covenants and Restrictions, dated the 21<sup>st</sup> day of January, 1992 (the "Declaration"), and hereto annexed, personally appeared before me in said jurisdiction, the said person being personally well known to me as (or provided by the oath of credible witnesses to be) the person who executed the Declaration, and acknowledged the same to be his act and deed as trustee.

GIVEN under my hand and seal this 21<sup>st</sup> day of January, 1992.

[Notarial Seal]

Jeanette Renae Rule  
Notary Public

My Commission expires: \_\_\_\_\_



0380LHD9.0G

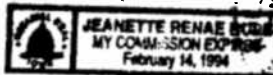
- 7 -

LIBER FOLIO  
0010161 587

STATE OF IOWA )  
 ) SS  
COUNTY OF POLK )

On this 29<sup>th</sup> day of January, 19 92 before me,  
Notary Public in and for said County, personally appeared Franklin  
Franklin and D.R. Vernal to me  
personally know to be the identical persons whose names are subscribed to  
the instrument as officers for the grantor herein named, who being each by  
me duly sworn did say that they are the Director & Secretary  
and Asst. Director & Secretary respectively, of PRINCIPAL MUTUAL LIFE  
INSURANCE COMPANY, a corporation, and that the seal affixed to the said  
instrument is the seal of said Corporation, and that said instrument was  
signed and sealed on behalf of the said Corporation by authority of its  
Board of Directors, and the aforesaid officers each acknowledged the  
execution of said instrument to be the voluntary act and deed of said  
Corporation, by it and by of each of them voluntarily executed.

Jeanette Renae Bork  
Notary Public in and for Polk County, Iowa



DECLARANT:  
ZARPAS NO 2 LIMITED PARTNERSHIP  
3005 FRIENDS ROAD  
ANNAPOLIS, MD. 21401

TRUSTEE:  
R. E. SCOTT  
711 HIGH ST  
DES MOINES, IOWA 50309

TITLE INSURER: N/A

PROPERTY ADDRESS:  
RICKENBACKER DRIVE  
GAITHERSBURG, MD.

## Exhibit 1

## Description of Ingress and Egress

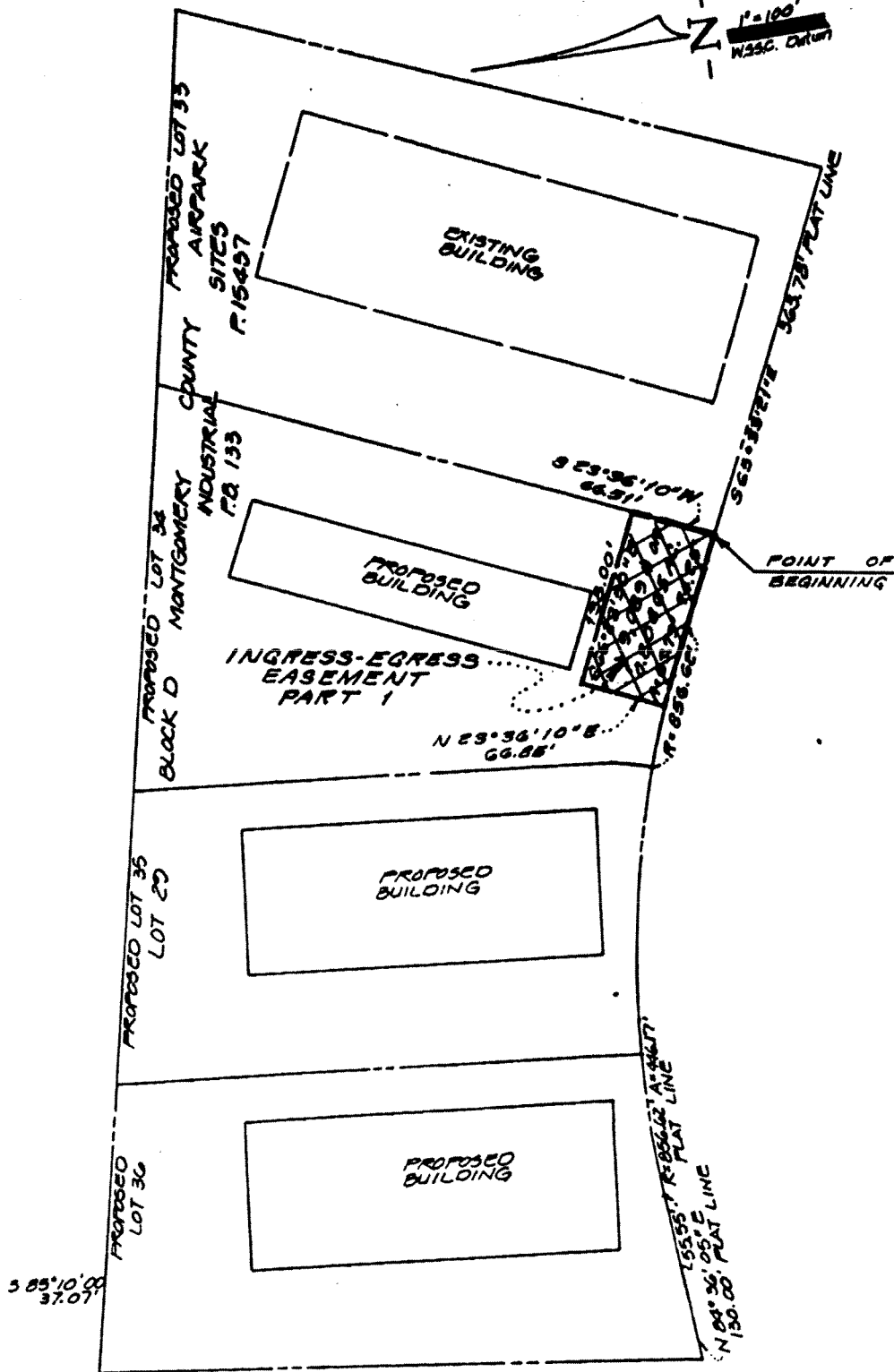
Being a parcel of land, located in Election District No. 1 of Montgomery County, Maryland, being hereinafter described in, through, over and across the property conveyed by Samuel N. Zarpas to Zarpas No. 2 Limited Partnership by deed dated November 19, 1985 and recorded among said Land Records in Liber 6937 at Folio 379 and also being part of Lot 29, Block D, as delineated on a plat of subdivision entitled "Lots 26 thru 29, Block D and Lot 7, Block H, MONTGOMERY COUNTY AIRPARK INDUSTRIAL SITES" as recorded among said Land Records in Plat Book 133 at Plat No. 15437 and being more particularly described by Macris, Hendricks and Glascock, P.A. in the Washington Suburban Sanitary Commission Datum as follows:

Beginning for said parcel of land at a point on and 74.25 feet from the end of the southerly or North 65°33'21" West, 363.78 foot line of said Lot 29, Block D, said point also being on the northerly right of way line of Rickenbacker Drive (80' r/w), then binding with part of said Lot 29, Block D and part of the northerly right of way line of Rickenbacker Drive

1. North 65°33'21" West, 74.25 feet to a point, then
2. 63.79 feet along the arc of a curve to the left, having a radius of 856.62 feet and a chord bearing and distance of North 67°41'20" West, 63.77 feet to a point, then leaving the northerly right of line of Rickenbacker Drive and the limits of Lot 29, Block D to cross and include part of Lot 29, Block D
3. North 23°36'10" East, 66.85 feet to a point, then
4. South 66°23'50" East, 138.00 feet to a point, then
5. South 23°36'10" East, 66.51 feet to the point of beginning; containing a computed area of 9,089 square feet or 0.20865 of an acre of land.

80-154  
D006G1.JR  
1/16/92

EXHIBIT 2



SKETCH  
 INGRESS - EGRESS EASEMENT  
 FOR PROPOSED LOTS 33-34, BLOCK D  
 MONTGOMERY COUNTY AIRPARK INDUSTRIAL SITES  
 MONTGOMERY COUNTY, MARYLAND  
 Scale: 1" = 100' November, 1991





bridge, highway & rail engineering  
entertainment engineering  
subaqueous investigation  
civil & site engineering  
structural design  
marine facilities  
geotechnics  
surveying  
forensics

December 5, 2012

Montgomery County Planning Department  
Area 2 Planning Division  
8787 Georgia Avenue  
Silver Spring, Maryland 20910

Attn: Ms. Lynn S. Knaggs, Senior Planner

Hand-Delivered w/ Variance Submittal

Re: Town and Country Movers  
7650 Rickenbacker Drive, Gaithersburg, MD 20879  
Variance Request, Critical Root Zone Impact  
Site Plan No. 820130020  
MEG File No. 111915

Dear Ms. Knaggs:

On behalf of our client, Rickenbacker Associates, LLC, we are requesting a variance to Section 22A-12(b) Retention (3) (C). The following trees, shrubs, plants and specific areas are priority for retention and protection and must be left in an undisturbed condition, unless the Planning Board or Planning Director, as appropriate, finds that the applicant qualified for a variance. It further states that retention is for "Any tree with a diameter, measured at 4.5 feet above the ground, of 30 or more."

The specimen tree was identified as a Black Cherry, *Prunus serotina*, with a 36.3" DBH on the NRI/FSD #42012/800 approved on July 17, 2012. It is an offsite tree at the northern end of the property. A copy of the plan and approved letter is submitted for your convenience.

The disturbance to the critical root zone is 11% of the total root zone. Grading for the bioretention area is proposed at the rear of the property, resulting in an 11% cut of the root zone. Root pruning to a depth of 12" is proposed to occur prior to construction. The root pruning will help ease the stress on the specimen tree. A combination super silt fence/tree protection fence will protect the remaining 89% of the critical root zone, where no disturbance is proposed.

Offices: New York, Maryland, Florida, Connecticut, California

Licensed in:

Alabama • Arizona • Arkansas • California • Colorado • Connecticut • Delaware • District of Columbia • Florida • Georgia • Hawaii • Idaho • Illinois • Indiana • Kansas • Kentucky • Louisiana • Maine • Maryland • Massachusetts • Michigan • Minnesota • Mississippi • Missouri • Nebraska • Nevada • New Hampshire • New Jersey • New Mexico • New York • North Carolina • Ohio • Oklahoma • Oregon • Pennsylvania • Rhode Island • South Carolina • Tennessee • Texas • Trinidad & Tobago • Utah • USVI • Vermont • Virginia • Washington • West Virginia • Wisconsin • Wyoming

**M. G. McLAREN, P.C.**

601 F. Pratt Street, Suite 302

Baltimore, MD 21202

Phone (410) 243-8787

Fax (410) 243-4956

e-mail: [mgmclaren@mgmclaren.com](mailto:mgmclaren@mgmclaren.com)

On the web: [www.mgmclaren.com](http://www.mgmclaren.com)

We are addressing the variance requirements as follows:

**1. Describe the special conditions peculiar to the property which would cause the unwarranted hardship.**

The property is an industrial flag lot in the Montgomery County Industrial Airpark. The property is setback 70' from the right of way for Rickenbacker Drive. The depth of our clients' property is less than the adjacent properties. The use of the adjacent properties is similar, industrial warehousing in the 1 – 4 zone.

The reduced depth of the property forced the proposed warehouse and parking to extend to the northern edge of the property. An unwarranted hardship would be placed on the applicant if the 11% disturbance to the specimen tree critical root zone was not granted.

**2. Describe how the enforcement of this chapter will deprive the landowner of rights commonly enjoyed by others in similar areas.**

All of the properties in the area are industrial office/warehouses. Rickenbacker Associates proposes placing a similar structure on their lot. The adjacent buildings are  $\pm 245'$  in length (west property) and  $356'$  in length (east property). The building proposed is a shorter building,  $\pm 235'$  in length. The proposed building is 10' less in length than the west side building and 121' less in length than the east side building.

If Rickenbacker Associates are not allowed to site their warehouse, they will be deprived of rights commonly enjoyed by others in the Montgomery County Airport Industrial sites.

**3. Verify that State water quality standards will not be violated and the measurable degradation in water quality will not occur as a result of granting the variance.**

The variance is requested because the grading for a storm water facility/bioretention facility affects 11% of the specimen tree. The bioretention facility will capture  $\pm 50\%$  of the roof drainage from the proposed warehouse. The proposed bioretention area with plantings will insure that State water quality standards will not be violated, nor will there be any measurable degradation in water quality. Montgomery County approved the storm water concept #245170 on October 4, 2012 for this property.

**4. Provide any other information appropriate to support the request.**

As stated previously, root pruning of the Black Cherry specimen will ease the stress of the proposed cut in grading. Typically, a tree can be disturbed in 30% of the critical root zone. This specimen tree will only be disturbed in 11% of its critical root zone. Furthermore, the proposed grading for the bioretention area will remove the invasive garlic mustard, a herbaceous plant, which is prevalent in this area. Native plant material suitable for bioretention will replace the invasive garlic mustard plant.

M. G. McLAREN, P.C.

If we may be of any further assistance in this matter, please contact our office.

Very truly yours,

The Office of  
**McLaren Engineering Group**  
M.G. McLaren, P.C.



Claire L. Williams, RLA #557  
Landscape Architect

CLW/dec

P:\Proj111\111915 Montgomery Airpark T C Movers\3. Correspondence (Ltrs,Emails,Trans,Faxes,Telecons,Memos)\Letters\Sent\Ltr26-  
L.Knaggs-Variance Request-2012-12-05.doc





## DEPARTMENT OF ENVIRONMENTAL PROTECTION

Isiah Leggett  
County Executive

Robert G. Hoyt  
Director

January 18, 2013

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

RE: Town & Country Movers, DAIC 820130020, NRI/FSD application accepted on 5/23/2012

Dear Ms. Carrier:

The County Attorney's Office has advised that Montgomery County Code Section 22A-12(b)(3) applies to any application required under Chapter 22A submitted after October 1, 2009. Accordingly, given that the application for the above referenced request was submitted after that date and must comply with Chapter 22A, and the Montgomery County Planning Department ("Planning Department") has completed all review required under applicable law, I am providing the following recommendation pertaining to this request for a variance.

Section 22A-21(d) of the Forest Conservation Law states that a variance must not be granted if granting the request:

1. Will confer on the applicant a special privilege that would be denied to other applicants;
2. Is based on conditions or circumstances which are the result of the actions by the applicant;
3. Arises from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property; or
4. Will violate State water quality standards or cause measurable degradation in water quality.

Applying the above conditions to the plan submitted by the applicant, I make the following findings as the result of my review:

1. The granting of a variance in this case would not confer a special privilege on this applicant that would be denied other applicants as long as the same criteria are applied in each case. Therefore, the variance can be granted under this criterion.
2. Based on a discussion on March 19, 2010 between representatives of the County, the Planning Department, and the Maryland Department of Natural Resources Forest Service, the disturbance of trees, or other vegetation, as a result of development activity is not, in and of itself, is not interpreted as a condition or circumstance that is the result of the actions by the applicant. Therefore, the variance can be granted under this criterion, as long as appropriate mitigation is provided for the resources disturbed.

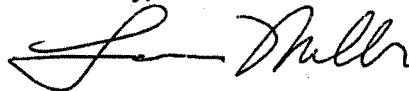
3. The disturbance of trees, or other vegetation, by the applicant does not arise from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property. Therefore, the variance can be granted under this criterion.
4. The disturbance of trees, or other vegetation, by the applicant will not result in a violation of State water quality standards or cause measurable degradation in water quality. Therefore, the variance can be granted under this criterion.

Therefore, I recommend a finding by the Planning Board that this applicant qualifies for a variance conditioned upon the applicant mitigating for the loss of resources due to removal or disturbance to trees, and other vegetation, subject to the law based on the limits of disturbance (LOD) recommended during the review by the Planning Department. In the case of removal, the entire area of the critical root zone (CRZ) should be included in mitigation calculations regardless of the location of the CRZ (i.e., even that portion of the CRZ located on an adjacent property). When trees are disturbed, any area within the CRZ where the roots are severed, compacted, etc., such that the roots are not functioning as they were before the disturbance must be mitigated. Exceptions should not be allowed for trees in poor or hazardous condition because the loss of CRZ eliminates the future potential of the area to support a tree or provide stormwater management. Tree protection techniques implemented according to industry standards, such as trimming branches or installing temporary mulch mats to limit soil compaction during construction without permanently reducing the critical root zone, are acceptable mitigation to limit disturbance. Techniques such as root pruning should be used to improve survival rates of impacted trees but they should not be considered mitigation for the permanent loss of critical root zone. I recommend requiring mitigation based on the number of square feet of the critical root zone lost or disturbed. The mitigation can be met using any currently acceptable method under Chapter 22A of the Montgomery County Code.

In the event that revisions to the LOD are approved by the Planning Department, the mitigation requirements outlined above should apply to the removal or disturbance to the CRZ of all trees subject to the law as a result of the revised LOD.

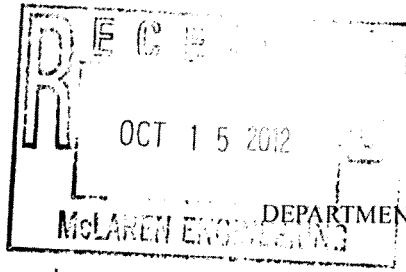
If you have any questions, please do not hesitate to contact me directly.

Sincerely,



Laura Miller  
County Arborist

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



DEPARTMENT OF PERMITTING SERVICES

Isiah Leggett  
County Executive

Diane R. Schwartz Jones  
Director

111915  
R. Brush-PVM

October 11, 2012

Mr. Pete Mellits  
McLaren Engineering Group  
601 East Pratt Street, Suite 302  
Baltimore MD 21202

Re: Stormwater Management **CONCEPT** Request  
for Town & Country Movers  
Preliminary Plan #: 1-91064  
SM File #: 245170  
Tract Size/Zone: 2.13/1-4  
Total Concept Area: 2.13ac  
Lots/Block: 34/D  
Parcel(s): NA  
Watershed: Seneca Creek

Dear Mr. Mellits:

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 proposes to meet required stormwater management goals via the use of micro biofiltration and proposed porous pavement.

The following **item(s)/condition(s)** will need to be addressed **during/prior to** 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.

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

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

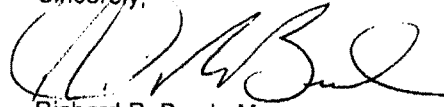
This letter must appear on the sediment control/stormwater management plan at its initial submittal. The concept approval is based on all stormwater management structures being located outside of the Public Utility Easement, the Public Improvement Easement, and the Public Right of Way unless specifically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

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

[www.montgomerycountymd.gov](http://www.montgomerycountymd.gov)

If you have any questions regarding these actions, please feel free to contact Thomas Weadon at 240-777-6309.

Sincerely,



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

RRB: tla CN 245170

cc: C. Conlon  
SM File # 245170

ESD Acres:	2.13ac
STRUCTURAL Acres:	N/A
WAIVED Acres:	N/A

**Shirley, Lori**

---

**From:** Stecher, Patrick <pSteche@wsscwater.com>  
**Sent:** Wednesday, December 19, 2012 3:47 PM  
**To:** Shirley, Lori  
**Cc:** Jason D. Staley  
**Subject:** Site Plan No. 820130020 - Town & Country Movers

In regard to the Town & Country Movers Property, Site Plan # 820130020 please be advised that the applicant and engineer have adequately addressed WSSC's Development Review Committee comments from the DRC Meeting Date of November 9, 1012. All remaining WSSC-related items will be evaluated and resolved at the time of detailed engineering plan and permit review. Contact me immediately if you have any comments or questions. Thanks

Patrick Stecher  
DPM II  
Development Services Group  
Phone (301) 206-8757  
Email [pSteche@wsscwater.com](mailto:pSteche@wsscwater.com)

Lori



**Washington  
Gas**

Virginia Construction Replacement & Support  
6801 Industrial Road  
Springfield, Virginia 22151

January 2, 2013

Mr. Patrick Butler  
Montgomery County Planning Department  
Area 2 Planning Team  
8787 Georgia Avenue  
Silver Spring, Maryland 20910

RE: Town and Country Movers  
Project No.: 820130020  
WGL BCA# 99763  
ENE# 122611.04

Dear Mr. Butler,

Our consultant, **EN Engineering**, has completed a review of the Town and Country Movers Lot 34, Block D plans, dated October 5, 2012. After the review, it has been determined that there are existing Washington Gas Facilities within your project limits.

We have enclosed the current Washington Gas GIS map and asbuilts of our existing facilities for your record and distribution.

Should you have any questions, you may contact **Erica High** at:

**EN Engineering (ENE)**  
808 Landmark Drive – Suite 217  
Quarterfield Center  
Glen Burnie, Maryland 21061  
Office (443) 577-3864  
Fax (410) 787-0476  
**ehigh@enengineering.com**

If you have any further questions or concerns you may contact me by phone at: (703) 750-5816, or by Email at **MBowens@washgas.com**

Sincerely,

A handwritten signature in cursive script that reads "Mayauda Bowens".

Mayauda Bowens  
System Replacement Engineer



---

---

## FIRE MARSHAL COMMENTS

---

---

**DATE:** 06-Feb-13  
**TO:** Jason Staley - JStaley@MGMcLaren.com  
McLaren Engineering Group  
**FROM:** Marie LaBaw  
**RE:** Town and Country Movers  
820130020

---

### PLAN APPROVED

1. Review based only upon information contained on the plan submitted 06-Feb-13 .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.