

Item # 3



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

M E M O R A N D U M

**DATE:** April 04, 2003

**TO:** Montgomery County Planning Board

**FROM:** A. Malcolm Shaneman  
Development Review Division  
(301) 495-4587

**SUBJECT:** Informational Maps for Subdivision Items on the  
Planning Board's Agenda for April 10, 2003.

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Attached are copies of plan drawings for Items #03, #05, #06, and #07. These subdivision items are scheduled for Planning Board consideration on April 10, 2003. The items are further identified as follows:

Agenda Item #03 - Preliminary Plan 1-99030B  
Friendship Place (Hecht's)

Agenda Item #05 - Preliminary Plan 1-03045  
The Estates at Greenbriar Preserve

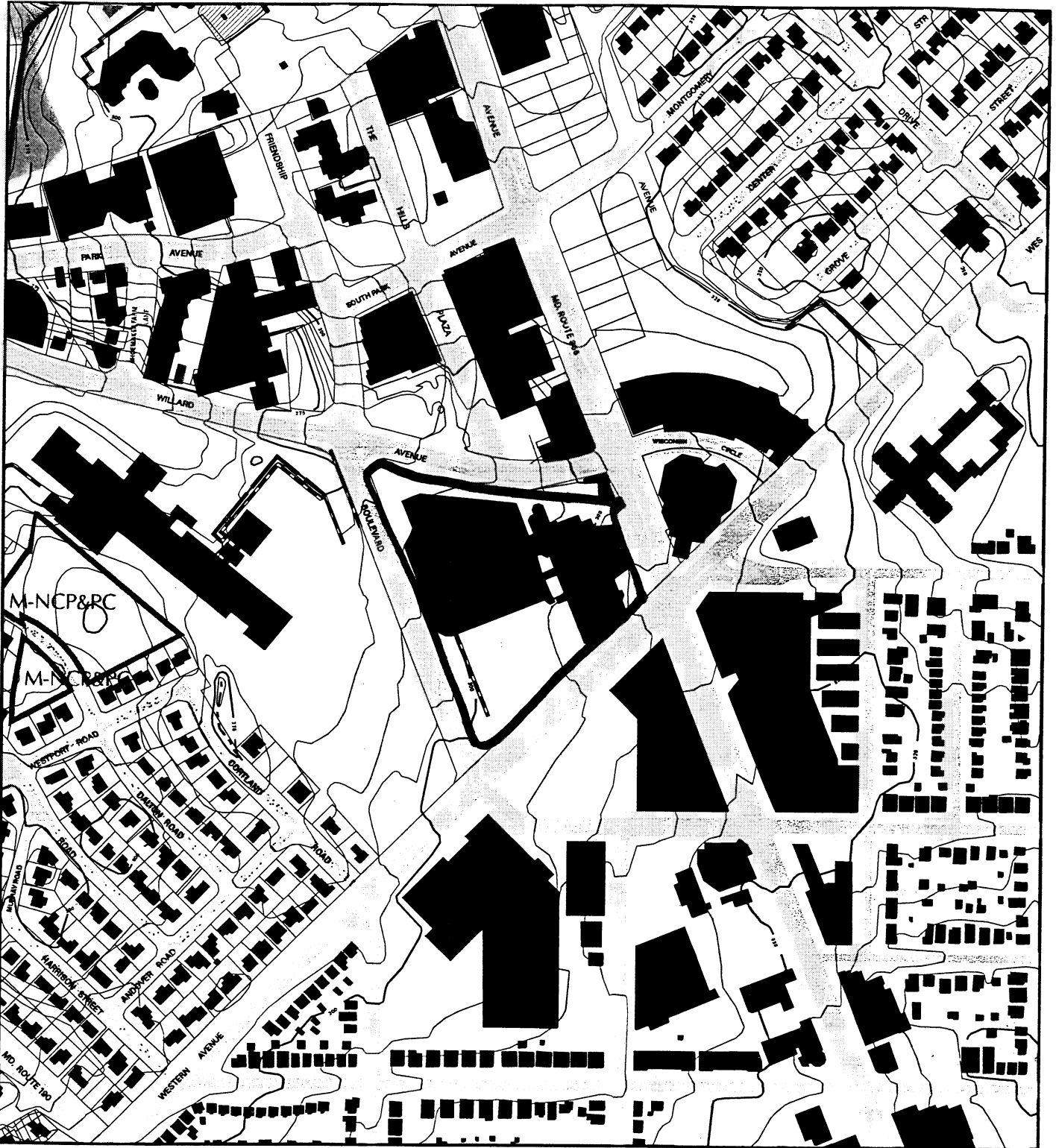
Agenda Item #06 - Preliminary Plan 1-03041  
Greenbriar Preserve

Agenda Item #07 - Preliminary Plan 1-02038  
Goodwill Property

Attachment

VICINITY MAP FOR

# FRIENDSHIP PLACE (HECHT'S) (9-99001B) (1-99030B)



Map compiled on January 28, 2003 at 2:40 PM | Site located on base sheet no - 207NW04

### NOTICE

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Property lines are compiled by adjusting the property lines to topography created from aerial photography and should not be interpreted as actual field surveys. Planimetric features were compiled from 1:14400 scale aerial photography using stereo photogrammetric methods.

This map is created from a variety of data sources, and may not reflect the most current conditions in any one location and may not be completely accurate or up to date. All map features are approximately within five feet of their true location. This map may not be the same as a map of the same area plotted at an earlier time as the data is continuously updated. Use of this map, other than for general planning purposes is not recommended. - Copyright 1998

Key Map



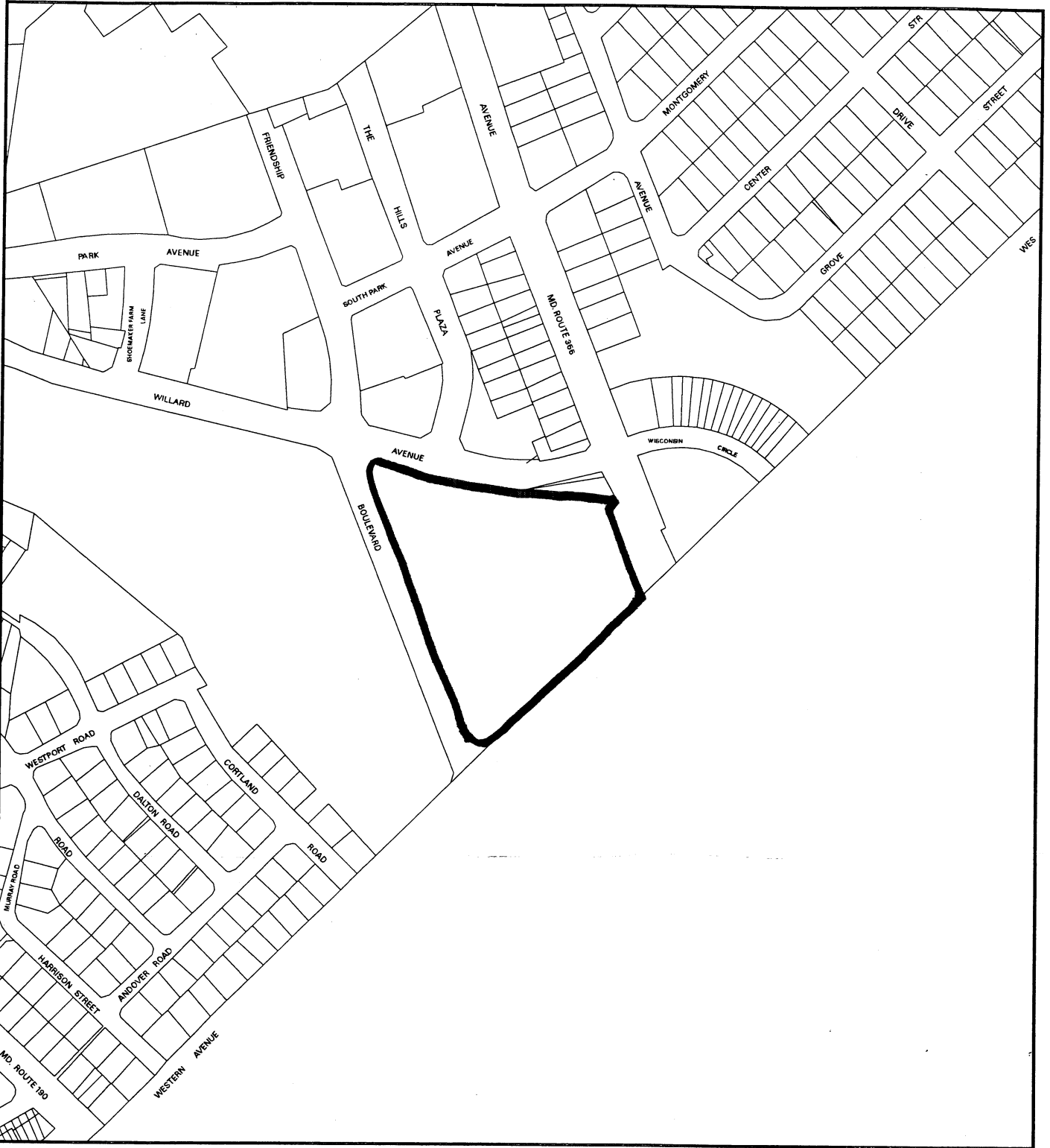
Research & Technology Center



1 : 4800

VICINITY MAP FOR

# FRIENDSHIP PLACE (HECHT'S) (9-99001B) (1-99030B)



Map compiled on October 01, 1999 at 5:30 AM | Site located on base sheet no - 207NW04

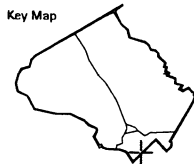
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Key Map



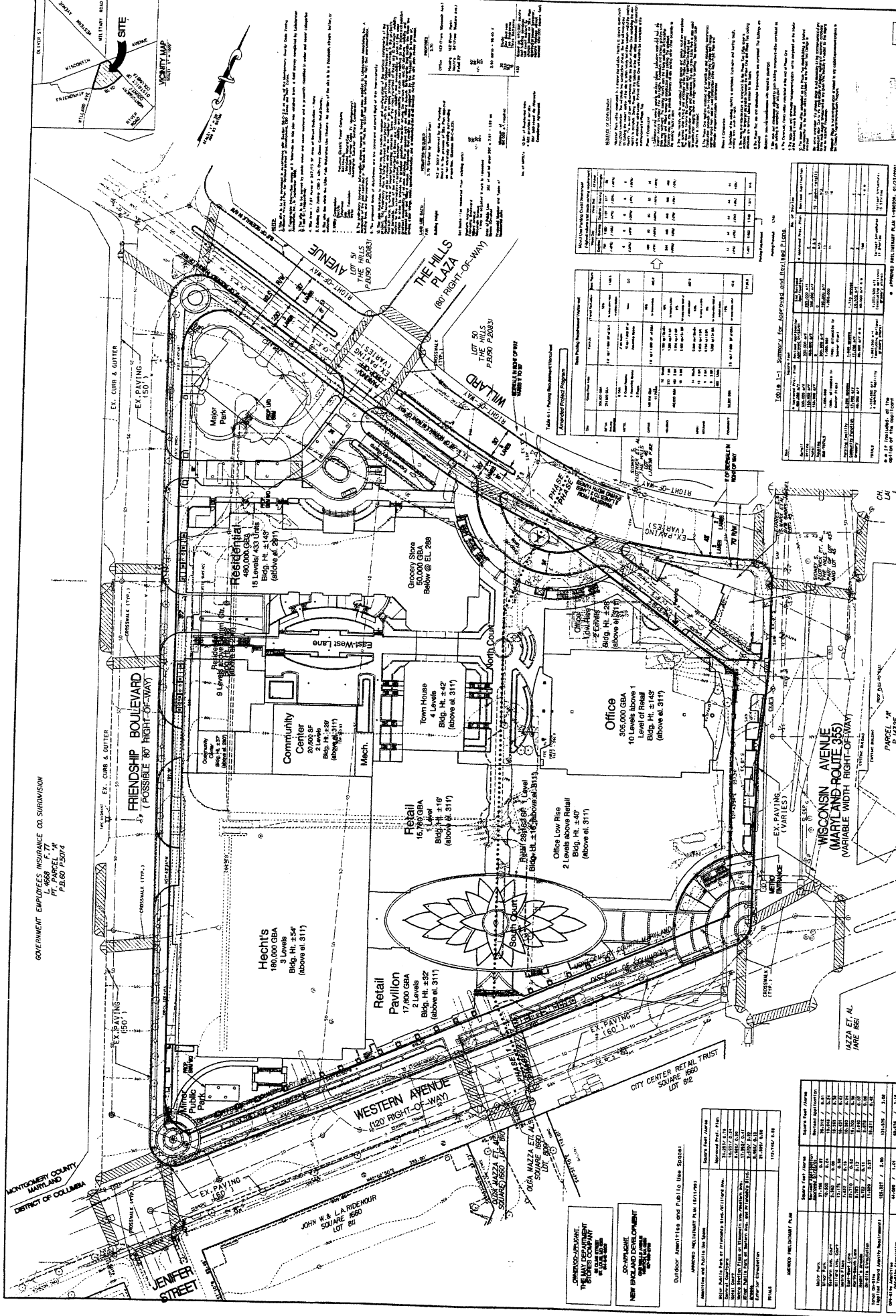
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Research & Technology Center



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GOVERNMENT EMPLOYEES INSURANCE CO. SUBDIVISION  
 L. 5650  
 P. 1359 P. 1377  
 P. 1360 P. 1374

**Table C-1: Proposed Total Floor Area**

Building Name	Area (sq. ft.)
Hechts	1,800,000
Retail Pavilion	170,000
Retail	157,000
Office	1,050,000
Grocery Store	300,000
Community Center	500,000
Town House	400,000
Other	1,000,000
<b>Total</b>	<b>5,717,000</b>

**Table C-2: Summary of Proposed and Existing Land Use**

Use Category	Existing (sq. ft.)	Proposed (sq. ft.)
Residential	...	...
Commercial	...	...
Industrial	...	...
Public Use	...	...
Open Space	...	...

**MONUMENT COUNTY MARYLAND**

**SITE PLAN** **R. 01310A**

**WISCONSIN PLACE**  
 (FORMERLY FRIENDSHIP PLACE)  
 THE HECHTS PARCEL  
 AT THE INTERSECTION OF  
 WESTERN AVENUE AND  
 FRIENDSHIP AVENUE,  
 MONUMENT COUNTY, MARYLAND

**Table C-3: Summary of Proposed and Existing Land Use (Continued)**

Use Category	Existing (sq. ft.)	Proposed (sq. ft.)
...	...	...
...	...	...

**MONUMENT COUNTY MARYLAND**

**DEPARTMENT OF PUBLIC WORKS**

**APPROVED PRELIMINARY PLAN 1-18890A-01/21/2008**

**DATE OF APPROVAL: 01/21/2008**

**APPROVED BY: [Signature]**

**PROJECT NO.: [Number]**

**MONUMENT COUNTY MARYLAND**  
 DETROIT OF COLUMBIA

Item	Description	Quantity	Unit Price	Total
...	...	...	...	...
...	...	...	...	...
...	...	...	...	...
...	...	...	...	...
...	...	...	...	...
...	...	...	...	...
...	...	...	...	...
...	...	...	...	...
...	...	...	...	...
...	...	...	...	...
...	...	...	...	...

**LOIEDERMAN SOLTZES ASSOCIATES**

3010 ...  
 ...  
 ...

DATE OF APPROVAL: 01/21/2008  
 APPROVED BY: [Signature]

**Table C-4: Summary of Proposed and Existing Land Use (Continued)**

Use Category	Existing (sq. ft.)	Proposed (sq. ft.)
...	...	...
...	...	...

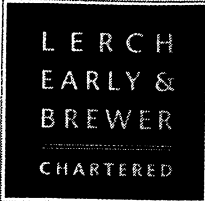
**LOIEDERMAN SOLTZES ASSOCIATES**

3010 ...  
 ...  
 ...

DATE OF APPROVAL: 01/21/2008  
 APPROVED BY: [Signature]

#3

4-10-03



ATTORNEYS

STEVEN A. ROBINS  
DIRECT 301.657.0747  
SAROBINS@LERCHEARLY.COM

April 4, 2003

**BY HAND DELIVERY**

The Honorable Derick Berlage, Chairman  
and Members of the Montgomery County Planning Board  
Maryland-National Capital Park and Planning Commission  
8787 Georgia Avenue  
Silver Spring, Maryland 20910

Re: Preliminary Plan of Subdivision Application No. 1-99030 B for the  
Hecht's Site - Wisconsin Place/Waiver Request Pursuant to Section  
50-38 of the Montgomery County Subdivision Regulations

Dear Mr. Berlage and Members of the Planning Board:

On behalf of New England Development and The May Department Stores Company (collectively, the **Applicant**), we submitted an amendment to the already approved Preliminary Plan of Subdivision Application No. 1-99030 R, approved by the Planning Board by opinion dated January 23, 2001, for the eight acre Hecht's site located at the intersection of Wisconsin Avenue and Western Avenue in Friendship Heights (the **Property**). The amendment is known as Preliminary Plan No. 1-99030 B.

Our team has been focusing on financing, marketing, architectural and construction related issues since the Planning Board approved the Site Plan and revised Project Plan and Preliminary Plan. Condition Number 11 of the prior approval of the preliminary plan reads as follows, "Prior to recordation of the property, Applicant and technical staff to make a final determination of the total number and configuration of lots on the property. These lot(s) shall be reflected on the final plat(s) to be recorded among the land records." This condition was included as part of the approval because the development needs to contain one or more lots in order to satisfy potential investor and financing needs for separately identifiable collateral. Since our approval, we know that The May Department Stores Company will own the lot that will house the new Hecht's department store and the remainder of the Property may be divided in one or more lots, including a lot for the office building (with some ground floor retail), a lot for the residential development and community center and a lot for some of the retail. Of course, as recognized by Condition Number 11, the exact location of these internal lot lines is to be determined prior to Record Plat.



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The Honorable Derick Berlage and  
Members of the Planning Board  
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In any event, as our planning has progressed it has become apparent that it will not be possible to create the required number of lots on the Property without calling into question Section 50-20(b) of the Montgomery County Subdivision Regulations (the "Regulations"). As a result of this effort, and after meeting with M-NCPPC's Technical Staff and Counsel, we all concluded that it would be prudent to request a waiver, pursuant to Section 50-38 of the Regulations, from Section 50-20 (b) of the Regulations.

Section 50-20 (b) states that, "A building permit may not be approved for the construction of a dwelling or other structure, except those strictly for agricultural use, which is located on more than one (1) lot, which crosses a lot line, which is located on the unplatted remainder of a resubdivided lot, or which is located on an outlot, except as follows . . ." The amendment that the Board will consider reintroduces a full sized grocery store that already had been approved by the Board as part of the prior approval. The grocery store is positioned in such a way where it is placed underneath a portion of the residential development and underneath a portion of the commercial/office development. This is the logical location on the Property where the grocery store can be placed that, from an architectural and design point of view, works in conjunction with the underground parking garage and also provides pedestrian access off of Willard Avenue (which is very important in activating Willard Avenue). However, as the Applicant needs to provide for a separate lot for the residential development the location of the grocery store creates a situation where a building or structure would of necessity be located on more than one lot and cross a lot line. This is but one example of the need for a waiver from Section 50-20 (b) of the Regulations. Another potential example may be the covered arcades that are part of the pedestrian system within the amenity and public use space.

As part of the prior approval, we had discussed another situation with Technical Staff and M-NCPPC's Legal Counsel regarding whether the Regulations would permit the underground parking structure to be able to cross lot lines. M-NCPPC's Office of the General Counsel issued a letter indicating that Section 50-20(b)(3) of the Regulations could be interpreted to permit the garage within the development to cross lot lines. Section 50-20(b)(3) reads:



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A building permit may be approved for an aboveground or an underground public facility or amenity that crosses the vertical plane of any lot line, as projected below grade, if shown on a CBD Zone Project Plan for optional method development, approved in accordance with the procedures of Division 59-D-2 of the Montgomery County Code; or if shown on a Development Plan approved in accordance with the procedures of Division 59-D-1 of the Montgomery County Code.

We certainly appreciate that interpretation and it has enabled us to continue with our planning efforts. However, based upon an increasingly difficult financing climate and since we are seeking approval of the above referenced waiver from Section 50-20(b) of the Regulations, we think it is prudent to include the treatment of the garage as part of this waiver request. Given the conservative nature of financing sources, particularly given the magnitude of this development, it would be very helpful to be able to buttress this interpretation with a definitive Board Resolution on this issue. Thus, we would respectfully request that the treatment of the underground garage (*i.e.*, its ability to cross lot lines) also be included as part of this waiver request.

Section 50-38(a)(1) of the Regulations permits the Board to grant a waiver from the requirements of Chapter 50, "upon a determination that practical difficulties or unusual circumstances exist that prevent full compliance with the requirements from being achieved, and that the waiver is " 1) the minimum necessary to provide relief from the requirements; 2) not inconsistent with the purposes and objectives of the General Plan; and 3) not adverse to the public interest." The practical difficulties or unusual circumstances associated with dividing the Property into a number of lots, without having a building or structure cross a lot line, is apparent. The Property is located in an urban environment that is envisioned to contain a significant mixed-use development. The Sector Plan recommends that retail, office, residential, amenities and community and open space all be located on the Property. The Sector Plan also strongly encourages (as does the prior Planning Board approvals) the inclusion of the grocery store. Furthermore, the Sector Plan envisions that the grocery store will be predominantly located



The Honorable Derick Berlage and  
Members of the Planning Board

April 4, 2003

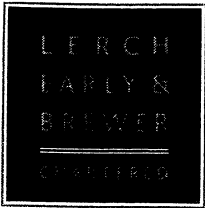
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below grade (the Sector Plan also envisions that parking on the Property will be underground). In addition, mixed-use development requires components to be developed utilizing various sources of equity and debt financing, each of which requires separately identifiable security. As a result of this unique situation, it would not be possible to comply with the requirement that building(s) or structure(s) cannot cross lot lines. The waiver, if granted, would be the minimum necessary to accommodate the Applicant's ability to create separate lots for financing, ownership and design arrangements. The waiver would also avoid an undesirable situation of creating a multitude of irregularly shaped lots.

Finally, the granting of this waiver would not jeopardize the conditions of approval for the Preliminary Plan, Project Plan or Site Plan and will serve the public-interest. Notwithstanding the use of internal lot lines, the Property will be operated under a typical reciprocal easement agreement ("REA") imposing common rules and regulations on the entire development and making each lot fully subject to the conditions of approval set forth by the Planning Board. The use of the REA will serve to tie together all the lots so that, in effect, the development will be operated, in all material respects, as a single lot even though technically divided into several lots. The waiver would not, in any way, be inconsistent with the purposes and objectives of the General Plan. In fact, the waiver, if granted, would further the purposes and objectives of the General Plan and the Sector Plan by accommodating ownership structure and governance issues that ultimately would assist in the Applicant's ability to obtain financing and to construct the development. As a result, the waiver would be in the public interest.

We would suggest that the waiver, if approved by the Board, be integrated into the prior Condition Number 11 and this Condition be modified so that it reads: "Prior to recordation of the Property, the Applicant and technical staff will be able to make a final determination of the total number and configuration of lots on the Property. Pursuant to the waiver of Section 50-20 (b) of the Subdivision Regulations hereby granted by the Board, structures on the Property identified as the underground garage and grocery store, as well as covered pedestrian arcades, shall be permitted to cross lot lines and be located on more than one lot. These lot(s) shall be reflected on the final plat(s) to be recorded among the land records." It is our understanding,





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pursuant to the Regulations, that the Board would issue a Resolution reflecting the approval of the waiver if it is granted.

We would like to point out that, should the Board grant this requested waiver, the Applicant still would be required to meet building code, health laws and other ordinances and regulations of the County.

We very much appreciate the Board's consideration regarding this matter. We believe that this request is technical in nature and will not, in any way, violate other provisions of law, the General Plan or be contrary to the public interest. We certainly will be available at the hearing to address any questions or comments the Board may have regarding the waiver request.

Best regards.

Sincerely,

Steven A. Robins

cc: David Gilmore  
A. Malcolm Shaneman  
Michele Rosenfeld, Esquire  
Michael Ma  
Mary Beth O'Quinn  
Development Team

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