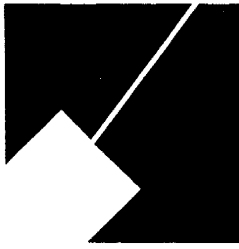


M-NCPPC



MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

8787 Georgia Avenue
Silver Spring, Maryland 20910-3760
301-495-4500, www.mncppc.org

MCPB
Item # 6
Date: 12/22/05

MEMORANDUM:

DATE: December 16, 2005

TO: Montgomery County Board of Appeals

VIA: Rose Krasnow, Chief, Development Review Division *RK*
Carlton W. Gilbert, Zoning Supervisor, Development Review *AW*
Division

FROM: Elsabett Tesfaye, Senior Planner, Development Review Division
(301) 495-1301

SUBJECT: **Development Plan Amendment No: 05-02: Commerce Bancorp, Inc.** Request for amendment of the development plan approved in Local Map Amendment G-540, to the C-T zone of Lots 7, and 23 to allow a construction of a bank facility on 0.90 acre of land consisting of three record lots, Lots 7, 22 and 23, Block H, Kensington View Subdivision located at 2907 and 2909 University Boulevard and 11107 Valley View Drive, Kensington, Maryland.

Commerce Bancorp, Inc., applicant
39,129 square feet (.90 acre), C-T Zone
1990 Sector Plan for Wheaton Central Business District and Vicinity

FILING DATE: June 1, 2005
PLANNING BOARD December 22, 2005
PUBLIC HEARING: January 6, 2006

RECOMMENDATION: **Development Plan Amendment (DPA) No: 05-02**

Staff recommends **DENIAL** of DPA-05-2 and the associated Schematic Development Plan.

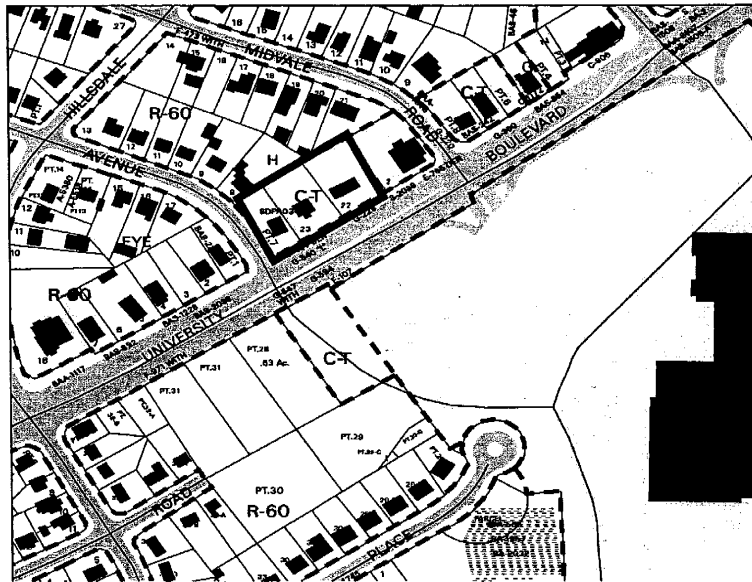
FINDINGS:

A. PROJECT SUMMARY

The applicant, Commerce Bancorp, Inc, requests an amendment to the Schematic Development Plan that was approved in Local Map Amendment G-540. The applicant is seeking the following:

1. To combine three individual lots to allow the redevelopment of the site with a bank building.
2. To remove the existing binding elements on two of the three lots and obtain approval for a new Schematic Development Plan (SDP)

The subject three lots, Lots 7, 22, and 23, would have a combined area of 39,129 square feet of land (Lot 7: 9,103 square feet, Lot 22: 15,026 square feet, and Lot 23: 15,000 square feet.) All three lots are currently improved, each with a single-family structure, and are currently being used for commercial purposes. All three lots are located in the C-T Zone. The applicant proposes to demolish all existing improvements on the three lots and redevelop the property with a single building for a commercial bank facility. The proposed building comprises 4,100 square feet of gross floor area and will have a height of 28 feet. The proposed development includes a parking lot with 26 parking spaces, three drive-through lanes and a six-foot-high board on board fence surrounding the northern and eastern lot lines of the subject property.



B. Site Description

The subject site is located on the northeast corner of the intersection of University Boulevard (MD 193) and Valley View Avenue. The property, which is

identified as Lot 7, Lot 22 and Lot 23 in the Kensington View Subdivision at 2907 West University Boulevard, 2909 West University Boulevard, and 11107 Valley View Avenue, Kensington, is rectangular in shape. It consists of three lots with a combined area of approximately 39,129 square feet (0.90 acre) of land. The property is improved with three single-family dwellings (one dwelling unit on each of the three lots) that are currently being used for commercial purposes. The property has approximately 260 feet of frontage (combined) on University Boulevard and approximately 150 feet of frontage on Valley View Avenue and has access from both streets.

C. Neighborhood Description

The neighborhood is generally defined by the northern boundary of 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 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 of the neighborhood 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 portion 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.

D. Land Use and Zoning History: The 1990 approved Sector Plan for Wheaton Central Business District and Vicinity retained the subject property in the C-T Zone (Commercial Transition). The portion of the property that is currently identified as Lot 22 was reclassified from the R-60 Zone to the C-T Zone 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 that is currently identified as Lot 7 and Lot 23 from the R-60 Zone to the C-T Zone, under the optional method of application. In 2004, the Planning Board recommended denial of Application No. DPA-03-3 for a proposed development plan amendment pertaining to Lots 7 and 23. The applicant chose not to proceed with the hearing process for DPA-03-3 beyond the Planning Board Hearing.

E. Development Plan Amendment

The applicant, Commerce Bancorp, Inc., seeks to amend the approved Development Plan and to revise the Schematic Development Plan (SDP) for Lots 7 and 23 and redevelop all three (Lots 7, 22 and 23) with a new bank building. The applicant's pre hearing submission states the following:

The subject development plan amendment seeks redevelopment of all three subdivided lots with a newly constructed branch bank, totaling 4,100 square feet of gross floor area. Under the subject amendment, the applicant seeks to replace the existing binding elements with new, more stringent limitations, and obtain approval of a new Schematic Development Plan. The new SDP shows one building, 28 feet in height, consisting of 4,100 square feet of gross floor area, three (3) drive-through lanes located on the northwest side of the building, 26 parking spaces, a six foot high screening fence surrounding the northern and eastern lot lines of the development and landscaping. The existing access point off Valley View Drive would be upgraded and maintained, with an additional access point sited on Lot 22, for right-turn ingress and egress only.

The applicant is proposing to amend the existing recorded covenants with new covenants for the subject development in accordance with the following binding elements chart, which is also shown on the submitted SDP. Furthermore, the applicant proposes to extend these development limitations to Lot 22, which is presently not subject to a schematic development plan or a declaration of covenants.

BINDING ELEMENTS		
Standard	Permitted / Required	Proposed
1. Land Use	See Section 59-C-4.2	Bank and Financial Institution
2. Floor Area Ratio	0.5	0.105
3. Building Coverage	35%	10.48%
4. Green Area	10%	26.48%
5. Building Height	35'	28'

Staff is of the opinion that the Binding Elements Table shown above (as proposed by the applicant) should be revised for the purposes of clarity and specificity. The Development standards listed under General Notes on the site plan should be placed in a table where those items that are binding elements should be identified as such.

In addition to the development plan (schematic plan) amendment, the subject proposal is also subject to the review and approval of a Preliminary Plan of Subdivision and Site Plan by the Planning Board

As noted, Application G-540 was approved in 1987 to allow the reclassification of Lots 7 and 23 from the R-60 zone to The C-T Zone. The Application was approved with an associated SDP that limited the scope and intensity of developments on the property by restricting the use of the two lots to the existing structures. The 1987 approved SDP included the following language:

The applicant intends to limit the use of the land under the C-T Zone to the existing structures, with improvements. 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 in 59-C-4.302 (B), (C) and (D) of the Montgomery County Zoning Ordinance.

A declaration of covenants, conditions and restrictions were recorded in conjunction with the Zoning Classification that restricted the redevelopment of Lots 7 and 23 to the existing structures. The applicant's statement indicates that Article III of the declaration provided that the covenant "may be amended by the declarant, its successors, or assigns, to conform to any modification in the schematic development plan approved by Maryland National Capital Park & Planning Commission or other appropriate governmental agency." In conjunction with this application, the applicant is proposing a new Declaration of Covenants.

F. ANALYSIS

Master Plan:

Upon reviewing the proposal for Master Plan consistency, the Community Based Planning Division has offered the following comments:

The propose project is located at the northeast corner of University Boulevard and Valley View Avenue. It is within the 1990 Sector Plan for Wheaton Central Business District and Vicinity, which has general and specific recommendations and comments for the area on the north side of University Boulevard between East Avenue and Valley View Avenue. Community-Based staff believes that the proposed amendment is not consistent with the goals and objectives of the Sector Plan.

One of the Plan's general goals is to "preserve and protect the existing residential communities adjoining to the Wheaton business area. (Page 2, PLAN SUMMARY). Also, on page 4, INTRODUCTION, one of the recommendations is that *"new development be channeled to preserve and protect existing communities from adverse impacts and undesirable non-residential intrusion resulting from commercial growth, the placement and operation of Metro related facilities, and other public and private land use decisions."*

The more specific comments and recommendation are contained in LAND USE AND ZONING Chapter under Office Land Use on page 33. The Plan states:

"In addition to new office development within the Metro Center, office development is recommended north of Blueridge Avenue, on the northern frontage of University Boulevard between East Avenue and Valley View Avenue, and on the east side of Amherst Avenue south of university Boulevard."

It further states:

"The Plan indicates office use for the University Boulevard frontage between East Avenue and Valley View Avenue. The remaining residential structures front on a major artery with associated traffic noise and air pollution. The residential sensitivity of these problems is indicated by the deterioration of a number of the homes. The conversion of these houses to offices would tend to stabilize this frontage area and provide a buffer to the existing single-family community to the north. Future development should be similar in scale to the existing conversions that have taken place in the block between East Avenue and Valley View Avenue. This type of development is also recommended on Amherst Drive adjacent to the Central Business District."

The Plan also refers to this area under the Residential Land Use section on page 35. It states:

"The single-family areas to the north and west of the Central Business District are stable residential areas which have shown some signs of deterioration due, in part, to speculation about commercial rezoning. It is recommended that the existing single-family character of these areas be reaffirmed."

On page 46, the Plan has specific recommendations regarding C-T zoning along the University Boulevard frontage at this location. The proposed Zoning Plan recommends:

"C-T zoning (low-intensity office development) for the northern frontage of University Boulevard between East Avenue and Valley View Avenue, and the south frontage of University Boulevard adjacent to Wheaton Plaza on those parcels where this zoning does not currently exist. A number of single-family structures along University Boulevard have already been converted to nonresidential uses. While some of the existing houses are large enough to lend themselves to office conversion, a number of properties would be better developed as new low-intensity office development. New development should be limited to existing lots and should be discouraged on assemblage of more than one lot. Conversion, where appropriate, and low intensity new development are encouraged to buffer existing single-family residences from adverse effects associated with major traffic arteries."

It appears that the guiding principle for the master plan's comments and recommendations for the two blocks on the north side of University Boulevard between East Avenue and Valley View Avenue is that of a development pattern that would best provide an appropriate transition between the Wheaton CBD to the east and the adjoining residential community to the west and south along University Boulevard. The Sector Plan's preference is for existing houses to be converted to low-intensity office uses pursuant to C-T zoning. The Plan recognizes that it may not always be feasible to convert existing single-family structures to commercial uses. Where new development is to take place, the Plan recommends that it be similar in character and visual appearance to the current single-family houses along the north side of University Boulevard in the two blocks between East Avenue and Valle View Avenue. The vision of the

Sector Plan for these two blocks can be described as a series of individual structures, new or converted, that would be compatible in scale and intensity with the adjoining residential structures to the north, and therefore serve as an appropriate transition between the more intense CBD and the surrounding residential community. New developments most consistent with the Plan's vision would be those that "mimic" the appearance of residential structures, primarily single-family detached houses or townhouses.

The building form of the proposed development, a drive-through structure surrounded by parking with minimal buffer along the residential properties in the rear is not the type of transitional, low-intensity office development recommended for this location in the master plan. The proposed development, even though small in total square footage, will be a single-story commercial structure surrounded by parking and will create a sharp break rather than a transition between residential and commercial uses along this corridor. It would assemble three lots into one, specifically discouraged by the Sector Plan primarily because, staff believes, it would lead to a building form that would be against the idea of a series of structures that are residential in appearance but may contain commercial uses permitted in a C-T zone.

Based on the guidance in the Sector Plan and the analysis described in this memo, staff believes that the proposed development is not consistent with the goals and recommendations of the 1990 Wheaton CBD Sector Plan.

G. Community Concerns: There is fervent opposition to the subject application from the community. There have been meetings and on-going communication with the applicant and the Kensington View Community association. However, the two parties have not been able to reach an agreement concerning the proposed development. The major concerns identified by the community include the following:

- The application does not satisfy the language and intent of the Sector Plan.
- The proposed bank is a high intensity business and as such, not consistent with the purposes of the C-T Zone which was intended to provide sites for low-intensity commercial buildings. Activities at the proposed Commerce Bank will be much more intense than those of the other established banks with several branches within the County.
- The proposed minimum setback for the drive through service at the rear portion of the building is less than adequate to minimize impacts on the adjacent residential property from the noise and fumes of idling cars.
- The volume of traffic, particularly at peak hours, cannot be accommodated at this site. There is not enough stacking space on Valley View Avenue to accommodate the neighborhood traffic, the traffic that would be exiting

onto the street leaving the drive through lane, and the traffic that would be turning east on University Boulevard leaving the bank.

- H. **Other Agencies:** By a letter dated December 14, 2005, the Wheaton Redevelopment Advisory Committee (WRAC) voiced its support to the proposed development: The Committee offered the following comments:



“...This site is located at the western gateway into the downtown Wheaton and we believe that the proposed bank would be a significant improvement over the three deteriorated, detached homes currently located on the three lots involved in the application. These buildings are a community eyesore and have been used in the past for purposes that have been detrimental to the welfare of the Wheaton Community.

“The adjacent residential community has expressed concerns about the density and intensity of the proposed use, possible adverse traffic effects, and possible air pollution caused by vehicles waiting to use the drive-in facilities. After discussing these issues in light of the applicant’s land use plan, and description of overall traffic and circulation, we conclude that the proposed bank is appropriate, **provided that the applicant can address the community’s concerns to the satisfaction of the Planning Board and the County Council.**

While we recognize that the subject site is located just outside of the urban district boundary, we are concerned that its gateway location is important to the Wheaton Urban District and to the County’s continuing efforts to revitalize the downtown area. Thank you for the opportunity to comment on this zoning application.”

I. Required Findings for Approval of a DPA

Pursuant to Section 59-D-1.61, before approving an application for classification in any of these zones, the District Council must consider whether the application, including the development plan, fulfills the purposes and requirements in Article 59-C for the zone. In so doing, the District Council must make the following specific findings, in addition to any other findings, which may be necessary and appropriate to evaluate the proposed reclassification:

- (a) **The zone applied for substantially complies with the use and density indicated by the master plan or sector plan, and does not conflict with the general plan, the county capital improvements program, or other applicable county plans and policies.**

Staff is of the opinion that the proposed redevelopment of the subject property, including the assemblage of the three record lots, contradicts the use and density specifications of the 1990 Sector Plan for the Wheaton Central Business District and Vicinity. Specifically, the proposal conflicts with the following goals and recommendations of the Sector Plan:

- *To preserve and protect the existing residential communities adjoining the Wheaton business area. (Page 2, PLAN SUMMARY - goal).*
- *"the General Plan recommends that new development be channeled to preserve and protect existing communities from adverse impacts and undesirable non-residential intrusion resulting from commercial growth, the placement and operation of Metro related facilities, and other public and private land use decisions." (page 4, INTRODUCTION - recommendation)*
- *"The Plan indicates office use for the University Boulevard frontage between East Avenue and Valley View Avenue. The remaining residential structures front on a major artery with associated traffic noise and air pollution. The residential sensitivity of these problems is indicated by the deterioration of a number of the homes. The conversion of these houses to offices would tend to stabilize this frontage area and provide a buffer to the existing single-family community to the north. Future development should be similar in scale to the existing conversions that have taken place in the block between East Avenue and Valley View Avenue. This type of*

development is also recommended on Amherst Drive adjacent to the Central Business District." (page 33)

- *"The single-family areas to the north and west of the Central Business District are stable residential areas which have shown some signs of deterioration due, in part, to speculation about commercial rezoning. It is recommended that the existing single-family character of these areas be reaffirmed."*(Residential Land Use section, page 35, referring to the single-family areas to the north and west of the Central Business District).
- *C-T zoning (low-intensity office development) for the northern frontage of University Boulevard between East Avenue and Valley View Avenue, and the south frontage of University Boulevard adjacent to Wheaton Plaza on those parcels where this zoning does not currently exist. A number of single-family structures along University Boulevard have already been converted to nonresidential uses. While some of the existing houses are large enough to lend themselves to office conversion, a number of properties would be better developed as new low-intensity office development. New development should be limited to existing lots and should be discouraged on assemblage of more than one lot. Conversion, where appropriate, and low intensity new development are encouraged to buffer existing single-family residences from adverse effects associated with major traffic arteries."* (page 46)

Citing the text, "...a number of properties would be better developed as new low-intensity office development." (page 46), the applicant contends that "the Sector Plan does not argue for retention of existing structures in this corridor." However, it should be noted that the Sector Plan also states, *"the General Plan recommends that new development be channeled to preserve and protect existing communities from adverse impacts and undesirable non-residential intrusion resulting from commercial growth, the placement and operation of Metro related facilities, and other public and private land use decisions."*

Admittedly, the proposed 4,100 Square-foot bank building is not excessively large in size and scale given its proposed placement on the relatively large (.90 acre) piece of land. However, the fact remains that the proposed design, architectural features and other elements of the overall development as well as the proposed assemblage of the already developed record lots are in direct contradiction to the Sector Plan's specific recommendation for the subject area which states, "Future

development should be similar in scale to the existing conversions that have taken place in the block between East Avenue and Valley View Avenue”

The proposed development is not only dissimilar to the existing conversions, but with the proposed demolishing of the existing structures and consolidating the three lots, it entirely changes the character of the block. As such, the proposed development would end up complementing the commercial and service uses to the south rather than serving as a transition and a buffer between the intense commercial development to the south and the residential development to the north.

Staff is in agreement with the analysis of the Community Based Planning staff that states, “ The vision of the Sector Plan for these two blocks can be described as a series of individual structures, new or converted, that would be compatible in scale and intensity with the adjoining residential structures to the north, and therefore serve as an appropriate transition between the more intense CBD and the surrounding residential community. New developments most consistent with the Plan's vision would be those that "mimic" the appearance of residential structures, primarily single-family detached houses or townhouses.”

With respect to assemblage of lot, the Sector Plan clearly states, “New development should be limited to existing lots and should be discouraged on assemblage of more than one lot. ”By calling for assemblage of three lots, the proposed development contradicts the sector plan’s recommendation. The applicant contends that the 1990 Sector Plan replicates language that was used in the 1978 Wheaton Sector Plan and therefore, the 1990 Sector Plan’s recommendations are based on conditions and assumptions formulated more than 27 years ago and as such, are beyond their anticipated life span. Staff disagrees with the applicant’s conclusion regarding the effectiveness and applicability of the recommendations contained in the 1990 Sector Plan. All indications are that the changes that have taken place in the plan area since 1990 were anticipated in the 1990 Sector Plan.

Although a Master Plan, by its nature, serves as a guidance document that may allow some flexibility in interpretation of the language it contains, it is important to note that the Zoning Ordinance does require a substantial compliance with the Master Plan to support approval of a DPA. In the case of the subject application, substantial compliance is not demonstrated; rather, it is apparent that there is a substantial impairment to the goals, recommendations and intent of the Sector Plan.

- (b) That the proposed development would comply with the purposes, standards, and regulations of the zone as set forth in article 59-C,**

would provide for the maximum safety, convenience, and amenity of the residents of the development and would be compatible with adjacent development.

Pursuant to Section 59-C-4.301, 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 1978 Wheaton Central Business District Sector Plan recommended C-T Zoning for the subject lots. The portion of the property that is currently identified as Lot 22 was reclassified from the R-60 Zone to C-T Zone 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 that is currently identified as Part of Lot 7 and Lot 23 from R-60 Zone to the C-T Zone under the optional method of application. The 1990 approved Sector Plan for Wheaton Central Business District and Vicinity retained the subject property in the C-T Zone (the development restriction on Lots 7 and 23 were also retained). The 1990 Sector Plan states, "New development should

be limited to existing lots and should be discouraged on assemblage of more than one lot". The plan also specifies that "Conversion, where appropriate, and low intensity new development are encouraged to buffer existing single-family residences from adverse effects associated with major traffic arteries." (page 46)

In support of the proposed amendment, the applicant states the following:

The proposed use of the subject site for a bank/financial institution is a single modest structure, in conjunction with specific site features, that will serve as an appropriate transitional use that will buffer the existing one-family residential neighborhoods located to the north and west of the site from the core commercial/business district of downtown Wheaton and the Westfield Shopping Center. The placement of the proposed building (sited in the center of the property) along with enhanced landscaping and screening measures (that will surround the northern and eastern boundaries of the property), will serve as a buffer between the adjacent single-family uses to the north and the intense C-2 zoned uses south of the subject site. Moreover, as the westernmost "gateway" to the Wheaton downtown area, the architectural style of the proposed building (as shown on the concept drawings included as part of the application) is compatible and appropriate (especially with adequate landscaping and screening as proposed), that will serve to attractively distinguish the bank from the residential neighborhood while not detracting from the character of that neighborhood."

Staff does not agree with the applicant's justification for the proposed development. Design, visual and audible impacts and overall compatibility with the adjacent residential development are all concerns. The proposed consolidation of the three lots and the replacement of the existing three residential structures with a single bank building with an inflexible prototype design, will negatively impact the cohesiveness of existing as well as future development of the C-T zoned properties in the block. Consequently, the intended purpose of the C-T zoned properties to provide an appropriate transition between one-family residential areas and high-intensity commercial development will be obliterated.

Section 59-C4302 through 59-C-307 of the Zoning Ordinance set the development standards of the C-T Zone, including building coverage, height, floor area, setback, green area and parking.

Section 59-C-4.302: New construction, re-use of existing building, remodeling, and reconstruction.

The following provisions apply:

- (a) For new construction, a building permit can be issued only on a lot with a minimum front lot line of 100 feet on a public street. For this purpose, "new construction" does not include either remodeling an existing structure or reconstruction as the result of fire or other catastrophe, as regulated in paragraphs (c) and (d), below.
- (b) For commercial re-use of a building existing at the time the C-T zone is granted, a use- and-occupancy permit can be issued only after site plan approval as set forth in division 59-D-3, whether or not there is remodeling of the structure or redesign of the lot.
- (c) For remodeling of a building existing at the time the C-T zone is granted, the board may, at the time of site plan approval, approve an expansion of the gross floor area of the building, provided the increase:
 - (1) Is compatible with neighboring residential and commercial uses; and
 - (2) Does not exceed 40 percent.
- (d) For reconstruction of a building damaged by fire or other catastrophe, the board may, at the time of site plan approval, approve an expansion not exceeding 10 percent of the gross floor area of the building as it existed prior to the damage, provided the increase:
 - (1) Is compatible with neighboring residential and commercial uses;
 - (2) Does not exceed a 40 percent increase in the gross floor area of the building, if any, as it existed at the time the C-T zone was granted; and
 - (3) Is not subject to the special regulations of section 59-C-4.308 below.

59-C-4.303: Building coverage and building height.

The maximum percentage of coverage by buildings and accessory structures, and the maximum building height at any point, shall be as follows:

	<u>Coverage</u>	<u>Height</u>
(a) On a lot with an area of less than 12,000 square feet	30 percent	24 feet
(b) On a lot with an area of 12,000 square feet or more.	35 percent	35 feet

59-C-4.304: Floor area.

The gross floor area of all buildings on a lot must not exceed FAR 0.5, except as provided in the special regulations of section 59-C-4.308.

59-C-4.305: Setbacks.

All buildings must be set back from lot lines at least as follows:

- (a) From any street right-of-way as shown on a master plan-10 feet.
- (b) From any other lot line:
 - (1) If the building has windows or apertures providing light, access, or ventilation to a space intended to be occupied for commercial or residential purposes that faces that lot line-15 feet, except as provided in subparagraph (3) below.
 - (2) If the adjoining lot is in a residential zone and is not recommended for commercial or industrial zoning on a master plan-15 feet, except as provided in subparagraph (3) below.
 - (3) For a building existing at the time the C-T zone is granted, the Board may approve a setback of less than 15 feet, provided the smaller setback is not less than the setback existing at the time of rezoning.
 - (4) In all other cases, no building setback is required.

59-C-4.306. Green area.

Green area must constitute at least 10 percent of the area of the lot.

59-C-4.307. Parking.

- (a) All parking in accord with the requirements of article 59-E must be provided on site or on a nearby property in the C-T zone with one exception.
- (b) The exception is a property in a parking lot district, as defined in chapter 60 of this Code, that has been designated on an approved and adopted master or sector plan as one that may utilize public parking facilities to satisfy the requirements of article 59-E.
- (c) All properties in a parking lot district that are not designated as prescribed in paragraph (b) above would be required to provide their parking on site and therefore may apply for an exemption to the parking district tax, pursuant to chapter 60.

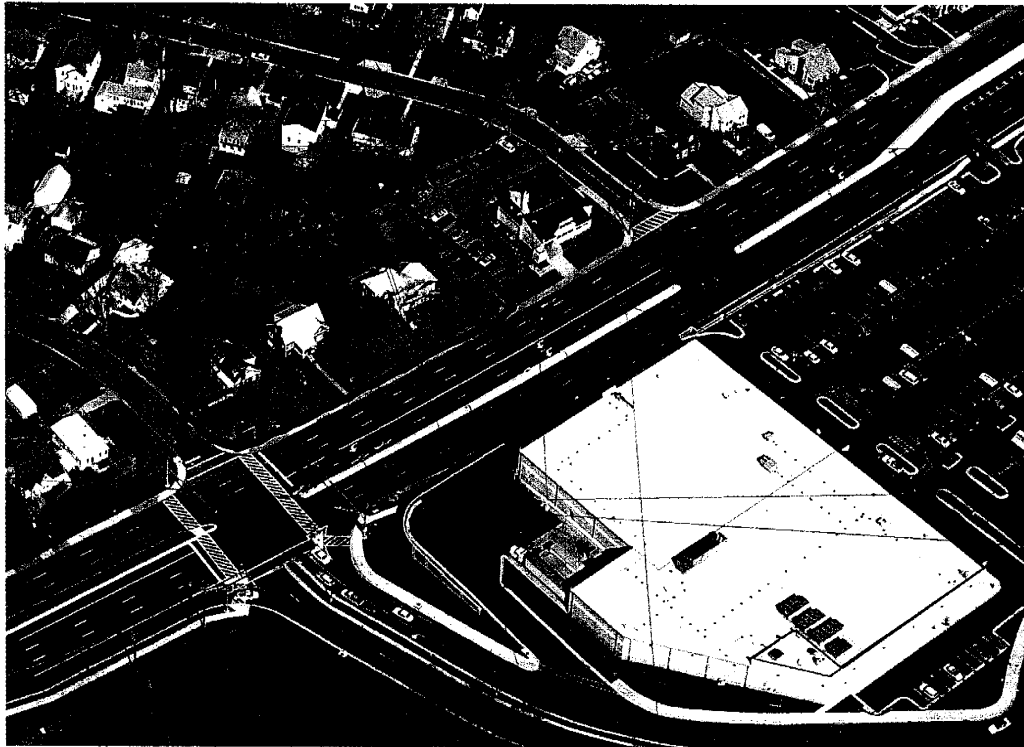
The following table summarizes the development standards for the C-T Zone and the proposal's compliance with the standards:

Current Development Standards: C-T Zones	Required/ Allowed	Proposed/ Existing	Compliance
Minimum Lot Area		39,129 SF (.90 AC) Gross	YES
Maximum Building Height	35 FT	28 FT	YES
Maximum Floor Area	.05	.105	YES
Minimum Building Setback:			
❖ Front Setback (University Blvd.)	10 FT	38 FT to Canopy	YES
❖ Front Setback (Valley view Ave.)	10	90.4 FT	YES
❖ Side Setback (residential property)	15 FT	18.9 FT	YES
❖ Side Setback	15 FT	93.5 FT	YES
Maximum Building Coverage	35%	10.11%	Yes
Minimum Green area	10%	26.58%	Yes
Parking Spaces: 1 Space/ 1,000 SF of floor area	35	36	Yes

As shown above, the proposed development conforms to all applicable current development standards of the C-T Zone. However, staff has some

concerns regarding the adequacy of the setback from the adjoining residential properties to the north. The building (the canopy over the drive-through-lanes) is set back 18.9 feet from the property line and the drive through-lanes, and the western driveway access are located 13.6 feet from the property line. The proposal provides for landscaping and a six-foot-high board on board fence along the property line. However, given the nature of the use and its location adjacent residential development, a much wider setback and a deeper landscape buffer would be needed to screen the residential properties from potential noise and fume impacts. The community has voiced a legitimate concern regarding fume and noise impacts from vehicles using the three drive-through lanes. Their concern merits serious consideration and requires mitigating measures above and beyond what is proposed by the subject proposal.

The subject application is subject to preliminary site plan review of subdivision for the proposed consolidation of the three lots.



- (c) **That the proposed internal vehicular and pedestrian circulation systems and points of external access are safe, adequate, and efficient.**

The applicant maintains that the proposed development adequately satisfies this requirement. The Transportation Planning Staff has reviewed

the applicant's Traffic Impact Study that was submitted with the subject application for compliance with adequate public facilities (APF) requirements.

The findings of the Transportation Planning staff indicate that the proposed development would operate at acceptable levels in terms of queuing on the southbound approach of Valley View Avenue at the University Boulevard. Moreover, the Critical Lane Volume (CLV) for both weekday peak-hours in all traffic conditions at nearby intersection would be within congestion/CLV standards for the Wheaton Central Business District Policy area at the five nearby intersections. The Transportation Planning staff findings do not indicate that there will be a negative traffic impact from the proposed two access points (One curb cut each on Valley View Avenue and University Boulevard). The State Highway Administration (SHA) has indicated (see attached letter from SHA) that access to the property is subject to a permit from SHA for one (1) right in/right out commercial entrance along MD 193 (University Boulevard).

The Transportation Planning staff has identified a couple of problems with regard to internal vehicular circulation. The staff has recommended removal of one of the drive-thru lanes to allow a creation of a bypass lane, and a delineation of the proposed two-way aisle on the eastern most parking area into a one-way drive aisle.

Analysis and Recommendation of the Transportation Planning Section

Vehicular Access Points

The existing access points serving the three existing buildings are two curb cuts from University Boulevard and one curb cut from Valley View Avenue. These curb cuts would be closed and replaced with two following site access points:

1. An access point from University Boulevard that is restricted to right-turns-in and right-turns-out only because of the raised median along University Boulevard. This access point is set back the maximum distance or approximately 195 feet east of the signalized intersection with Valley View Avenue/Wheaton Plaza access. Westbound traffic along University Boulevard can easily enter and leave the site through this access point.
2. A full-movement access point from Valley View Avenue that is set back the maximum distance of approximately 120 feet to the north of the signalized intersection with University Boulevard. Eastbound traffic along University Boulevard entering this site must turn left onto Valley View Avenue and then turn right into the site from this access point. Leaving the site, these motorists turn left onto Valley View Avenue and then another left turn at University Boulevard to continue traveling eastbound.

Internal Vehicular Circulation

The drive-through windows are located along the north side of the site and are accessed from one-way queuing lanes to the east of the drive-through windows.

The applicant proposes two-way drive aisles on the east, south and west sides of the site to access the on-site parking spaces. The driveway approximately 80 feet to the east of the Valley View Avenue access point is a two-way drive aisle that serves as the westbound exit from the drive-through windows and as the access to the on-site parking spaces. The internal vehicular circulation should be improved as described in Recommendations No. 2 and 3 above for more efficient traffic flow within the site.

Pedestrian and Bicycle Facilities

The proposed development plan amendment would upgrade the existing sidewalk along University Boulevard that is now located at the curb. It will be reconstructed to a five-foot-wide sidewalk set back ten feet from the curb. Along the property frontage of Valley View Avenue, a four-foot-wide sidewalk that is set back eight feet from the curb is proposed where there is no sidewalk at this time. A lead-in sidewalk is proposed from University Boulevard, but none from Valley View Avenue (refer to Recommendation No. 5). Pedestrian crosswalks exist across University Boulevard at the signalized intersection with Valley View Avenue/Wheaton Plaza access. No sector-planned bikeways are recommended along this segment of University Boulevard. The pedestrian facilities will be improved with the proposed and recommended improvements.

Available Transit and Metrorail Service

Ride-On routes 6 and 34 and Metrobus routes L-7 and L-8 operate along this segment of University Boulevard. Transit service is not available on the residential street of Valley View Avenue. The site is located approximately 375 feet northwest of the Wheaton Metrorail Station.

Montgomery County Master-Planned Roadways and Bikeways

In accordance with the Comprehensive Amendment to the Sector Plan for the Wheaton Central Business District and Vicinity, University Boulevard is designated as a major highway, M-19, with a recommended minimum right-of-way width of 120 feet. Right-of-way has been dedicated for 59.4 feet from the centerline of University Boulevard. An additional 0.6 foot of right-of-way would be required at preliminary plan for the sector-planned recommended 60 feet from the centerline of University Boulevard (refer to Recommendation No. 4a). Valley View Avenue is a tertiary residential street with a 50-foot-wide right-of-way that is not listed in the Sector Plan.

Vehicular Access to and from the Local Kensington View Streets

The section of the Kensington View community adjacent to the subject site has access primarily from University Boulevard at three intersections -- West Avenue, Hillside Drive, and Valley View Avenue. All three streets terminate at dead ends. The only connection to an adjacent community is via Geiger Avenue from West Avenue. The disadvantages and advantages of each intersection with University Boulevard are as follows:

At the intersection with West Avenue, only right-turns-in and right-turns-out are permitted for westbound traffic because of the median along University Boulevard that prevents left turn movements by eastbound traffic.

- The intersection with Hillsdale Drive is a full-movement intersection, but is not signalized. Thus, left turns for eastbound traffic can be difficult onto Hillsdale Drive and from Hillsdale Drive to travel eastbound on University Boulevard.

- The intersection with Valley View Avenue is a full-movement intersection and it is signalized. Thus this intersection provides the only access to University Boulevard where motorists can easily turn left into and out of this community.

Queuing Analysis on the Southbound Approach of Valley View Avenue at University Boulevard

Because Valley View Avenue is the only access point to turn left into and from the adjacent Kensington View community, a queuing analysis on the southbound approach of Valley View Avenue at University Boulevard was performed. Using the existing traffic, as well as projected traffic from the bank, the queue were calculated as follows:

- During the weekday morning peak hour within the peak period (6:30 to 9:30 a.m.), 17 queuing vehicles were projected that would require a stacking lane of about 35 feet.

- During the weekday evening peak hour within the peak period (4:00 to 7:00 p.m.), 68 queuing vehicles were projected that would require a stacking lane of 102 feet.

The calculated queue lengths are less than the 120-foot distance between the stop line at the southbound intersection approach and the proposed access point from Valley View Avenue. The queue is relatively short during the weekday morning peak hours because the peak hours of the community leaving their homes to travel to work would be between 6:30 a.m. to 9:30 p.m., but banks tend not to open until 10 a.m.

Site-Generated Vehicular Trips

A 4,100-square-foot drive-in bank would generate 58 total peak-hour trips during the weekday morning peak period and 154 total peak-hour trips during the weekday evening peak period. A traffic study was required to satisfy Local Area Transportation Review because proposed land use generates 30 or more total peak-hour trips during the weekday morning and evening peak hours.

Total trips include new, pass-by, and diverted trips. Pass-by and diverted trips are those whose primary origins and destinations are for purposes other than using this bank. Using data for the percentage of pass-by and diverted trips published by the Institute of Transportation Engineers, the proposed bank with drive-through windows would generate 31 new peak-hour trips during the weekday morning peak period and 82 new peak-hour trips during the evening peak period.

Comparison of the Proposed and Existing Land Uses

If the three residential structures on the three lots were used as general office in the CT zone, the site-generated vehicular trips would be as follows:

Lot No.	Address	Square Foot	Weekday Peak-Hour	
			Morning	Evening
Part of Lot 7	11107 Valley View Avenue	1,116	1	3
Lot 23	2909 West University Blvd.	1,459	2	3
Lot 22	2907 West University Blvd.	1,901	3	4
Total		4,476	6	10

The weekday peak-hour trips generated by 4,476-square feet of general office use are much less than the number of trips generated by the proposed bank.

Congestion Levels at nearby Intersections

Based on the results of the traffic study, the table below shows the resulting critical lane volume (CLV) values for the existing, background, and total traffic conditions. The background traffic condition included the existing traffic plus the traffic generated by nearby approved, but unbuilt developments.

Intersection	Weekday Peak-Hour	Traffic Condition		
		Existing	Background	Total
University Boulevard & East Avenue-Wheaton Plaza	Morning	539	629	634
	Evening	623	922	933
University Boulevard & Valley View Avenue-Wheaton Plaza	Morning	404	417	440
	Evening	746	752	797
University Boulevard & Hillsdale Drive	Morning	423	436	437
	Evening	542	548	552
University Boulevard & Site Access	Morning	This access point does not currently exist.		409
	Evening	This access point does not currently exist.		441
Valley View Avenue & Site Access	Morning	This access point does not currently exist.		22
	Evening	This access point does not currently exist.		95

For both weekday peak-hours in all traffic conditions, the CLV values do not exceed the congestion/CLV standard of 1,800 for the Wheaton Central Business District Policy Area at the five intersections.

Recommendation

1. Limit the development plan amendment to replace the three residential buildings with a branch bank of up to 4,100 square feet with up to three drive-through windows and a 24-hour walk-up ATM.
2. Remove one of the drive-through lanes to provide for a bypass lane around the stacking/queuing lanes at the drive-through windows.
3. Delineate the vehicular path along the most easterly side of the parking area to a one-way circulation in to access the drive-through lanes so that there are no conflicts with parking maneuvers and to provide additional area for queuing purposes.
4. Dedicate at the time of preliminary plan:
 - a. An additional 0.6 foot of right-of-way for the sector-planned recommended 60-feet from the centerline of University Boulevard (MD 193).
 - b. Right-of-way for a standard 25-foot truncation at the corner of University Boulevard and Valley View Avenue.
5. Provide a four-foot-wide lead-in sidewalk from Valley View Avenue at the access vehicular point.

- (d) **That by its design, by minimizing grading and by other means, the proposed development would tend to prevent erosion of the soil and to preserve natural vegetation and other natural features of the site. Any applicable requirements for forest conservation under Chapter 22A and for water resource protection under Chapter 19 also must be satisfied. The district council may require more detailed findings on these matters by the planning board at the time of site plan approval as provided in division 59-D-3.**

Upon reviewing the proposal for compliance with environmental related requirements, the Environmental Planning Staff has offered the following comments:

This site has flat slopes, no forest, and no specimen trees beyond fair condition. The site is mostly impervious with the exception of small front yards along University Boulevard. There are three single-family houses used commercially with parking lots in the rear and on the east side. This plan proposes to remove the existing houses and replace them with one commercial structure. The proposed plan slightly increases the amount of imperviousness with the construction of the new structure. Stormwater management will likely consist of water quality control measures only due to the small increase in imperviousness.

Forest Conservation

A Natural Resource Inventory Forest Stand Delineation has been approved for this site. A Forest Conservation Plan (FCP) exemption has been granted because this is a small property with an activity occurring on a tract less than or equal to 1.5 acres in size where there is no existing forest and afforestation requirements would be less than 10,000 square feet, and no specimen or champion trees will be disturbed. There is one specimen tree in poor condition on this property. A Tree Save Plan is not needed.

Environmental Guidelines

This site is not located within a Special Protection Area or Primary Management Area. There are no streams, floodplains, steep slopes, wetlands or environmental buffers encumbering the site.

Stormwater Management

An approved Stormwater Management Concept for this plan will be required prior to Site Plan approval. Since the increase in runoff generated by the proposed plan will likely be less than that required by DPS for water quantity control, a waiver for water quantity will probably be issued. Structural quality control, however, will be required.

Water Quality

This site is located in the Kensington Heights Branch subwatershed of the Lower Rock Creek watershed. The Lower Rock Creek is a Use I stream suitable for water contact recreation and fishing. The Little Kensington Heights Branch subwatershed has poor stream conditions and fair habitat conditions. The subwatershed is in the Watershed Restoration Area management category designated by the Countywide Stream Protection Strategy (CSPS). This designation is applied in older heavily developed areas of the County with long established impacts on the environment. Streams in these areas have been degraded from uncontrolled runoff. After a recent study, the Department of Environmental Protection has prioritized stream restoration projects in Rock Creek.

- (e) **That any documents showing the ownership and method of assuring perpetual maintenance of any areas intended to be used for recreational or other common or quasi-public purposes are adequate and sufficient.**

The applicant indicated that there are no areas intended for recreation or other common quasi-public purposes.

Conclusion

Staff finds that the subject proposal fails to meet the requirements of Section 59-D-1.61(a) and (b), two of the four required tests for approval of a DPA. Staff is of the

opinion that the proposed development would contradict the goals, objectives and intent of the approved Sector Plan. Moreover, the proposal does not fulfill the purposes of the C-T Zone as specified under Section 59-C-4.301, in that it would not provide "an appropriate transition between a one-family residential area and high-intensity commercial development". Based on the foregoing analysis, staff recommends DENIAL of Development Plan Amendment Application NO. DPA-05-2 and the associated Schematic Development Plan.