**MEMORANDUM**

**DATE:** March 24, 2006  
**TO:** Montgomery County Planning Board  
**VIA:** Rose Krasnow, Chief, Development Review Division *RdK*  
 Carlton Gilbert, Zoning Supervisor *Clubs*  
**FROM:** Joel Gallihue, Senior Planner (301)495-2119 *JG*  
**REVIEW TYPE:** Schematic Plan of Development Amendment  
**APPLYING FOR:** Amendment to plan permitting a three-story office building or  
 a one-story restaurant/retail building to allow three attached  
 two-story townhouse office structures.

**APPLICANT:** Cornerstone Land, LLC  
**CASE NUMBER:** DPA-06-3  
**REVIEW BASIS:** Advisory to County Council Chapter 59  
**ZONE:** C-T (Commercial Transition)

**AREA:** 0.96 acres  
**LOCATION:** Germantown - Northeast quadrant of intersection of  
 Germantown Road (MD 118) & Clopper Road (MD 117)  
**MASTER PLAN:** Germantown (1996)

**FILING DATE:** November 2, 2005  
**PLANNING BOARD:** April 6, 2006  
**PUBLIC HEARING:** April 17, 2006 at Hearing Examiner

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**STAFF RECOMMENDATION:** APPROVAL of the Schematic Plan of Development Amendment, DPA-06-3.

**INTRODUCTION**

The applicant has requested a Schematic Plan Amendment to permit the development of offices in a two-story townhouse configuration of a 0.96 acre property which is zoned Commercial Transition (C-T). The lot is located in the northeast quadrant of the intersection of MD Routes 118 and 117 in Germantown. The property also fronts on Liberty Mill Road where access is

shown on the schematic plan of development.<sup>1</sup> The property is identified as two parcels, Tax Map ET33, Parcel 33 which is 20,929 square feet in area and Tax Map ET33, Parcel 114 which is 20,953 square feet in area. The two parcels total 0.96 acres in area.

The original zoning application G-717 was filed under the optional method of development which permits the applicant to limit development by binding elements on a schematic plan of development. The zoning was approved on November 14, 1995. The requested changes are a deletion of the three-story office building alternative (15,600 SF) and deletion of an alternative for a 4,600 square foot restaurant/retail development. The three-story office and the restaurant alternatives are permitted by the schematic development plan and binding elements listed on the approved plan. The proposal is to replace the three-story office building with three attached two-story office structures in a townhouse configuration. The change in form and deletion of restaurant/office are the primary changes. The maximum floor area of the new office configuration remains 15,600 SF and the maximum height remains 35'. All other binding elements will remain the same.

### **Background and History**

The following paragraphs provide a brief summary on the history of the subject property to date.

On November 14, 1995, the District Council approved Local Map Amendment (G-717) for a zoning change from the R-200 to the C-T Zone. A Schematic Plan of Development accompanied the requested zoning change and was also approved. That original schematic plan of development proposed either of the following uses for the subject site: a three-story office building or a restaurant. A copy of the technical staff report and District Council opinion for rezoning application G-717 is contained in Appendix 1.

The development options permitted by the plan were not implemented since the approval and the property has remained vacant. Cornerstone Land, LLC recently acquired the property and seeks this amendment to construct offices that are configured as two-story townhouses, because this is the type of building the company develops and they believe the form to be more compatible with adjacent residential town homes.

**Original Schematic Plan of Development** - The Commercial Transition (C-T) zone is a commercial zone which requires a schematic plan of development for optional method of development. A schematic plan of development allows an

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<sup>1</sup> Not proposed for change in this amendment.

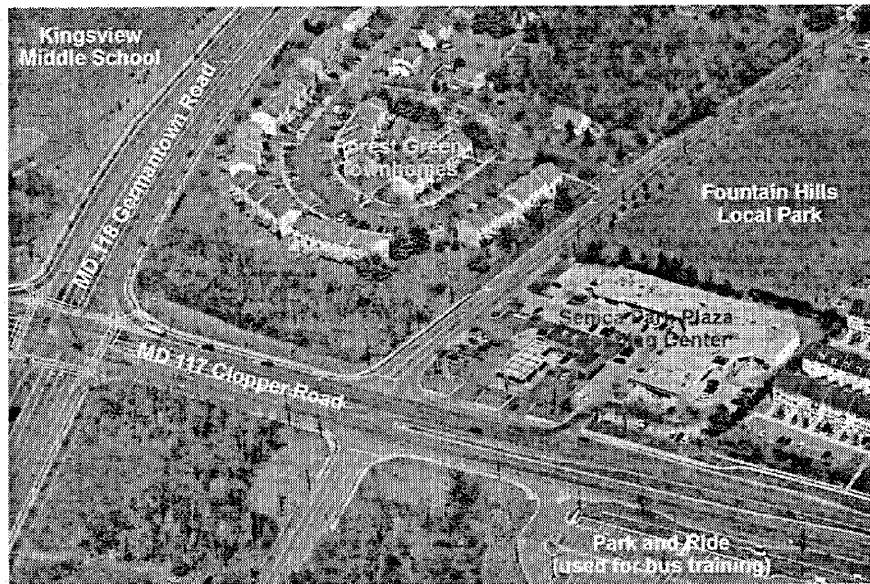
alternative manner of applying for a local map amendment which permits an applicant to restrict development standards, stage development or limit uses provided in the C-T zone to the recommendations contained in the relevant master or sector plan.

**Schematic Plan of Development Amendment** – The subject schematic plan of development amendment focuses on changing the configuration of the office building and eliminating the restaurant/retail option. The office is changed from a three-story building to a two-story townhouse configuration.

**A. Site Description of the Property:** The subject site contains a total of 41,880 square feet (0.96 acres), and approximately 113 feet of road frontage on Germantown Road (MD 118), approximately 216 feet of road frontage on Clopper Road (MD 117), and approximately 96 feet of frontage on Liberty Mill Road. The property is rectangular in shape with truncations at both the intersections of Germantown and Clopper and Liberty Mill Road and Clopper. About two thirds of the site are forested. Power lines bisect the site northwest to southeast. No buildings exist on the site at this time. On site visits to the property accumulations of litter could be observed in the site.

**B. Surrounding Area:**

Definition: In a floating zone application, the surrounding area is less rigidly defined than in a Euclidean zone application. In general, definition of the surrounding area takes into account those areas that are most directly affected by the proposed development. In the subject amendment application, staff retains the definition of the surrounding area from the original zoning case which is to be generally bounded by the MARC Railway line to the north which will be the northern terminus of MD 118, Great Seneca Highway and Germantown-Darnestown Road (below Old Germantown Park) to the east, MD 118 above Clopper Road and Schaeffer Road below Clopper Road to the west, and the northern boundary of South Germantown Recreational Park to the south.



Immediately to the rear (the north) is the existing Forest Green townhouse community in the RT-8 Zone, and beyond it, up to the railroad line are existing single family residential uses in the RT 12.5 and R-200 Zones. Both are part of the Germantown Estates Community. There are also institutional uses in the area.

To the northeast of the intersection of existing MD 118 and MD 117 are a service station and the Seneca Park Plaza shopping center in the C-1 zone. Seneca Park Plaza is a small, local community shopping center with access to MD 118 and Clopper Road. Beyond the shopping center, extending from MD 118 to Great Seneca Highway and toward the railroad, is a an area designated in the Germantown Master Plan, for residential uses in the R-200 TDR zone. Development in the area includes townhouses, condominiums and single-family dwellings in the Fountain Hills Development and the Fountain Hills Local Park.

The southeast quadrant of the intersection is vacant. Southwest of the site are designated for residential uses in the plan and R-200/TDR zoned. In this area, Trinity United Methodist Church is nearest to the subject site and located between immediately south of MD 117 Road between Scheaffer Road and MD 118. The land further west on the south side of Clopper Road is vacant and zoned R-200 and R-200/ TDR. The Master Plan recommends mixed residential and retail uses through the R-200/TDR and the R-200/PD-11 zones for this area.

To the west of the site is MD118. This is the designated boundary of the neighborhood, and is also the boundary between Clopper Village and Kingsview Village. West of the subject site and west of MD 118, in the Kingsview Village area, is a parcel owned by Montgomery County Public Schools that is the location of Kingsview Middle School and the Germantown Community Center.

**C. Intended Use, Development Standards and Approval Procedure:**

The subject application is an amendment to a previously approved schematic plan of development. A two-story townhouse office configuration is proposed. Based on the previous approval, the site could contain either a three-story office building or a restaurant. These alternatives are proposed for deletion. This subject schematic plan amendment will need to be approved by the District Council. Limitations in the zone are made by covenants per the requirement of 59-H-2.5. The following table is from Article I of the draft covenants submitted with the proposed schematic development plan amendment, and it presents the restrictions proposed with reference to what was approved with the original zoning proposal.

Land Use	Approved Schematic Plan of Development	Proposed Amendment to Schematic Plan of Development	Change
Site Area (acres)	*0.96 (41,881 SF)	*0.96(41,881 SF)	No change.
Minimum Frontage (feet)	100	*552	No change.
Maximum Coverage	35% (14,658 SF)	*Rest/Retail: 11% (4,800) *Office: 12% (5,200 SF)	*Office 18.6% (7,800 SF)
Building Height	35 feet	*Rest/Retail: one story *Office: <35 feet	*Office: 35 feet max.
Floor Area Ratio	.5 (20,904 SF)	*Rest/Retail: 0.11 (4,800 SF) *Office: 0.372 (15,600)	*Office: 0.394 (15,600 SF)
Green Area	10% (4,188 SF)	*Rest/Retail: 32% (13,599 SF) *Office: 32% (13,000sf)	39.4% (16,540 SF)
Parking	Rest: 25/1000 SF of patron area (1880 SF = 47 spaces) Retail 3/1000 SF (1400 = 5) Office 3/1000 gsf (47)	Either use, 52 w/ 3 handicap spaces	52 w/ 3 handicap spaces

DPA 06-3  
Attachment

<p><b>Building Setbacks</b> Front All other</p>	<p>10 ft 15 ft</p>	<p>Either use 52 ft 20 ft</p>	<p>Office 52 ft. 20 ft.</p>
<p><b>Use</b></p>		<p>Either a single level restaurant/retail building (3,400 SF rest &amp; 1,400 SF retail) or an office building. If office, use may be located in more than one building within setback areas</p>	<p>General Office</p>
<p><b>Other Binding Elements</b></p>		<ol style="list-style-type: none"> <li>1. 6' high sight-tight fence along rear property line unless otherwise prohibited or relocated by Montgomery County Planning Board at Site Plan Review.</li> <li>2. Existing trees will be retained in all rear setback areas subject to final engineering of building.</li> <li>3. 3. Additional tree planting (Leyland cypress or equal) will be planted on adjacent townhouse HOA property (double row @ 15' off center) as shown on plan</li> </ol>	<p>No change</p>

**Note:**  
\*Indicates binding element.

Other approvals for the tract would include a preliminary plan by the Planning Board. Site plan approval will also be required and will need to be in accordance with the approved Schematic Plan of Development.

**D. Zoning History:**

1. Local Map Amendment:  
G-717 (11/14/95) R-200 to C-T Zone
  
2. Comprehensive Zoning  
1980 SMA G-652 reconfirmed R-200 zone.  
1976 SMA F-996 reconfirmed R-200 zone.  
1974 SMA F- 939 R-200 Zone reconfirmed  
1973 RR Zone name changed to R-200 by text amendment.  
1958 County-wide Comprehensive Zoning: R-R (R-200) Zone mapped..

**E. Master Plan Recommendation:**

1. Land Use: Transitional from residential to commercial
2. Zoning: C-T using optional method of development.

**F. Public Facilities:**

1. Water and Sewer Service: The subject property is in Water Category W-1 and Sewer Category S-3.
  
2. Schools: School capacity analysis is not applicable for a non-residential use and development proposal.

3. Roads:

Clopper Road: Clopper Road MD-117 is classified as a major highway with a variable right-of-way width of 120 to 150' feet per the Germantown Master Plan.

Germantown Road: Germantown Road MD-118 is classified as a major highway with a variable right-of-way width of 120 to 150' feet per the Germantown Master Plan.

**ANALYSIS**

**59-C-4.301. Objectives and purpose.**

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 area is designated for the C-T zone on the approved Germantown Master Plan.*

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.

**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.

*There is no existing structure. The front lot line exceeds 100 feet on a public street.*

- (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.

*Not a commercial re-use.*

- (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.



*Not a remodeling of a building existing at the time the C-T zone was granted. The property is vacant.*

- (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.

*Not applicable. This is not a reconstruction. The property is vacant.*

**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:

**Coverage Height**

- (a) On a lot with an area of less than 12,000 square feet. 30 percent (coverage) 24 feet (height).
- (b) On a lot with an area of 12,000 square feet or more. 35 percent (coverage) 35 feet (height).

*This lot has an area of 12,000 square feet or more. The maximum coverage will be 18.6% where the maximum permitted is 35%. The maximum height will be 35 feet, which is the maximum permitted.*

**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.

*The maximum floor area ratio will be 0.394, less than the 0.5 floor area ratio permitted.*

**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.

*The front building setback will be 52 feet and all other setbacks will be 20 feet by binding element and more stringent than permitted by the above.*

**59-C-4.306. Green area.**

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

*The amendment increases green area for the development to 39.4 % where as previous binding element limitations were 32%. Both plans and elements well exceed the minimum 10% permitted by standard.*

**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.

*Parking is provided in accordance with this section.*

- (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.

*Not applicable as the site is not in a parking lot district.*

- (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.

*Not applicable as the site is not in a parking lot district.*

**59-C-4.308. Special regulations.**

- (a) Where an otherwise lawful structure or development exists or has received site plan approval in the C-T zone on April 1, 1986, this structure or development is not a nonconforming use and may be continued, if it remains

an otherwise lawful use. If damaged, the structure may be rebuilt, repaired and/or reconstructed, subject to the following provisions ...

*Not applicable. No existing structures.*

- (b) Development in accord with a schematic development plan and covenants recorded prior to April 1, 1986, pursuant to the provisions of section 59-H-2.5, titled "Contents of Optional Method of Application-Local Map Amendments," is lawful, even though development in accord with that plan would not comply with the standards prescribed by sections 59-C-4.303, 59-C-4.304 and 59-C-4.307 above. Such development is not a nonconforming use and is subject to the provisions regarding an existing structure set forth in paragraph (a) above.

*Not applicable. This property is not subject to such a plan and covenants recorded prior to April 1, 1986.*

**B. Compatibility:** As approved by the District Council in the original rezoning application, the C-T zone on the property proposed alternative uses that were deemed compatible with the surrounding area. The restaurant/retail or three-story office building has been deleted from the Schematic Plan and is being replaced with two-story townhouse style office units. The access and orientation of the building and parking is changed little. The primary change is the form of the office and the deletion of the restaurant/retail alternative. Advantages to eliminating this restaurant/retail alternative are lower activity in the evening and a use that does not generate food waste or odors. The change is anticipated to have little or no traffic impact. Thus, under the submitted schematic plan of development amendment, the proposed use and location continue to achieve compatibility with the surrounding area.

**C. Compliance with the Master Plan:** The Approved and Adopted Germantown Master Plan (1996) is the guiding document for planning the project. As described earlier in this report, the proposed Schematic Plan of Development Amendment includes the following revisions to the approved Schematic Plan:

- Deleting the restaurant/retail option.
- Revising a proposed three-story office (35') to a two-story townhouse office configuration (35')

These proposed revisions, included in the proposed Schematic Plan of Development Amendment, conform to the guidelines in the Germantown Master Plan. The following paragraphs discuss the Master Plan conformance.

The Master Plan recommends a commercial transition at this location with transitional uses found in the C-T zone, provided compatibility can be

accomplished. The proposed amendment is consistent with the plan, and the change to townhouse form is considered to be an improvement to compatibility.

**E. Environmental** – This site is not located within a Special Protection Area or Primary Management Area. There are no streams, floodplain, steep slopes, wetlands or environmental buffers encumbering the site. An NRI/FSD has been approved for this site. Given the small size of the site and proposed development, Forest Conservation regulation under Chapter 22A of the Montgomery County Code will likely apply at the preliminary plan phase. An approved Stormwater Management Concept for this plan will be required prior to Site Plan approval. Water and Sewer service were found to be adequate with the original zoning and the proposed change is not significant with respect to usage. Given the proximity to highways, noise analysis will be expected in subsequent review.

**F. Transportation** The Transportation Planning Division staff has reviewed the subject Schematic Plan of Development Amendment application and recommends its approval. The transportation technical analysis is included as Appendix 3.

**G. Citizens Comments** - To date, staff has received no comments from the surrounding community on the subject amendment.

**Conclusion** – Upon review of the Schematic Plan of Development Amendment, staff concludes that it is in compliance with the recommendation of the Germantown Master Plan (1996) and is consistent with the purpose of the C-T Zone. For these reasons, staff recommends approval of Schematic Plan of Development Amendment (DPA-06-3) dated November 2005.

**Attachments:**

1. Vicinity Map
2. Current SDP
3. Proposed SDP
4. Elevations
5. Community Based Planning Memorandum dated March 23, 2006
6. Transportation Planning Memorandum dated March 16, 2006
7. Environmental Planning Memorandum dated February 2, 2006