

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
8787 Georgia Avenue • Silver Spring, Maryland 20910-3760

MCPB
Item # 4
9/6/01

MEMORANDUM

DATE: August 30, 2001
TO: Montgomery County Planning Board
VIA: John Carter, Chief, Community-Based Planning
William Baron, Team Leader, Eastern Montgomery
County
FROM: Calvin Nelson, Jr., Eastern Montgomery County Team *CN*
REVIEW TYPE: Special Exception
PROJECT NAME: Safeway Automobile Filling Station
APPLICANT: Safeway, Inc.
CASE NUMBER: S-2476
REVIEW BASIS: Chapter 59, Zoning Ordinance
ZONE: C-1
MASTER PLAN: Cloverly
FILING DATE: April 13, 2001
PLANNING BOARD: September 6, 2001
PUBLIC HEARING: September 12, 2001

STAFF RECOMMENDATION: Denial for the following reasons:

- (1) The proposed special exception use is not consistent with the spirit, intent, goals and recommendations of the 1997 *Approved and Adopted Cloverly Master Plan*.
- (2) The proposed special exception is not in harmony with the general character of the neighborhood considering "... design, scale, bulk of any proposed new structures, intensity, character of activity, traffic, parking conditions..."
- (3) The proposed special exception use has non-inherent adverse effects on the adjacent Cloverly Town Center development.
 - a. The physical and operational characteristics associated with the proposed gas station, will not enhance the proposed street-oriented and pedestrian character of projects already approved around the subject site.
 - b. There are unusual circumstances within and surrounding the subject site such that the proposed use will have adverse effects on overall vehicular and

pedestrian circulation between the existing uses and approved development in the adjacent Cloverly Town Center.

PROPOSAL DESCRIPTION

Neighborhood Description – The site is centrally located within the Cloverly Commercial Area, defined as those commercial uses along New Hampshire Avenue and Gallaudet Avenue (north-south streets and between Bryant's Nursery Road and Briggs Chaney Road (east- west streets) (Attachment 6). In July, 2001 the Planning Board approved the Cloverly Town Center, a redevelopment plan for vacant and underutilized buildings along both sides of Cloverly Street. The Cloverly Town Center will include 34,000 square feet of retail and 28,000 square feet of office space, with streetscape features that will provide an attractive gateway to the 2.9-acre Village Green park at the eastern end of Cloverly Street.

Properties along the east side of New Hampshire Avenue north of Cloverly Street include: an off price service station; a strip shopping center; a 7-eleven store; and a Shell service station. Opposite Bryant's Nursery Road just north of the commercial zoned properties is a veterinarian clinic in a single family home, permitted by special exception. On the west side of New Hampshire Avenue are: the Cloverly Village Center (a strip shopping center) and single-family detached houses, some of which are zoned C-1 and used commercially, and some are zoned R-60. A retail /office building and the vacant Cloverly Hardware Store front the north side of Cloverly Street. On the south side of Cloverly Street are the subject site, and a small office building. This office building will be replaced with a much larger building as part of the Cloverly Town Center. The new Safeway grocery store and parking lot. are south of the site with access along Briggs Chaney Road. The Safeway store contains a Starbucks Café, bank, and pharmacy.

Site Description – The subject site, Lot N5, comprises 33,399 square feet of land located in the southeast quadrant of the intersection of New Hampshire Avenue and Cloverly Street. The property is rectangular in shape with approximately 130 feet of frontage on New Hampshire Avenue and 250 feet of frontage on Cloverly Street. The site is currently improved with a one-story, 1,750 square-foot, bank building and a parking lot with 48 parking spaces. Forty-two of the parking spaces were included in the site plan for the Safeway Grocery in order to meet the zoning requirements and will not be associated with the proposed use. The Applicant has recently planted street trees and other landscaping, public benches, and sidewalks along the south side of Cloverly Street, New Hampshire Avenue, and Briggs Chaney Road in conformance with the approved Safeway site plan (8-99004).

Elements of the Proposal – The applicant summarizes the proposed use as follows:

Safeway envisions that the Filling Station will provide a convenience to it's (sic) Grocery Store customers, and it will also accommodate the gasoline needs of other employees and customers in the Cloverly Commercial Area as well as residents of the surrounding area and commuters traveling through the area. The Filling Station will provide Safeway brand gasoline, and it is envisioned that customers will be able to utilize their Safeway saving cards for added purchasing convenience.

The Filling Station will include seven (7) pump islands, each with two (2) multipump dispenser units, totaling fourteen (14), fueling positions, and a 396 square-foot walk-in kiosk for an attendant, all located under a 5,796 square-foot canopy. There will be two (2) 20,000 gallon underground storage tanks located between the kiosk and the vending area. Other features proposed for the convenience of customers include air, water, and vacuum hoses, pay telephones, and vending machines for quick sodas and snacks. As indicated on the attached lighting plans, all lighting will be designed to illuminate the Property only and will not reflect or cause glare onto the neighboring commercial properties or the adjacent roadways.

There will be 48 parking spaces on the Property, including a van accessible handicap space. The 48 proposed parking spaces on the Property will satisfy the two (2) space requirement for the Filling Station and will continue to provide 46 parking spaces for the Grocery Store as the Property currently does per Site Plan No. 8-99004. As demonstrated on the attached Landscape Plan, the Property will be attractively landscaped with various trees positioned along the street fronts of the Property and lining the parking areas.

The Filling Station will be staffed by Safeway employees and will be open during the normal hours of the adjacent Safeway grocery store, which are currently 6:00 a.m. to 11:00 p.m., seven days a week. It is expected that there will be a maximum of two (2) employees during any given shift.

ANALYSIS

Master Plan –The Community-Based Planning Division, Eastern County Team is recommending denial of the proposed special exception on the basis that the proposed use is not consistent with the spirit, intent, goals and recommendations

of the *1997 Approved and Adopted Cloverly Master Plan*. The following are excerpts Eastern County Team's memorandum regarding the proposed special exception. The complete memorandum is attached. (Attachment 7)

"...The Approved and Adopted Cloverly Master Plan describes the potential for redevelopment and addresses the circumstances under which redevelopment could and should occur. Because different parties owned the properties, redevelopment was unlikely to occur at once. The Master Plan therefore recommended an urban design concept, Main Street, to coordinate development when it did occur. The Main Street concept developed years ago by the National Trust for Historic Preservation has been used by communities in every state to encourage cooperation between communities, commercial interests and local government in the redevelopment of commercial areas. Although application of the main street concept varies greatly in realized projects, the final product always includes a pedestrian-oriented streetscape, public gathering spaces, and commercial uses at a scale appropriate to the surrounding community.

The Main Street concept was selected because that approach was predicated on cooperation between business, community and local government in order to work. Main Street concept was also chosen because the design aspects and scale of the approach were suited to the intent of recasting existing and redevelopable properties into a street-oriented neighborhood commercial center. Since the existing Cloverly Street improved with sidewalks and street lights was reminiscent of a main street and the existing buildings were already oriented toward the street, a main street scheme could successfully incorporated the existing and new while retaining a sense of place."

"...The Cloverly Master Plan developed an overall theme of a relationship between Community and Center. The Cloverly Commercial area was recognized as the major center for Cloverly's communities. The following are quotes from the Master Plan:

Cloverly Commercial Area has served as the center of Cloverly for decades. Plan recommendations provide opportunities for the modernization and expansion of the grocery store, seek to improve the selection of goods, and increase the amount of commercial zoning provide guidance for redevelopment streetscape improvements and propose a park adjacent to the commercial area to make the center more attractive shopping and gathering place for Cloverly's residents. (p xii).

The Cloverly Commercial Area at New Hampshire Avenue and Briggs Chaney Road is the primary retail area and center of Cloverly. (p 22).

The existing grocery store is undersized by today's standards and does not adequately serve Cloverly's grocery needs. An expanded grocery can be supported in Cloverly and is recommended by this Plan. A full-service

grocery store provides important services for the community and strengthens the role of the Cloverly Commercial Area as the center of the community. (p 22).

Redevelopment of the commercial area should strengthen retail vitality and encourage its use as a public gathering place. The Plan accommodates redevelopment of commercial properties along Cloverly Street and Briggs Chaney Road, which can permit expansion of the grocery store and improve its layout. (p 23)."

The Cloverly Commercial Area contains a number of different properties most of which have access to New Hampshire Avenue. Cloverly Street, at the time of the master plan, was the only existing interior business street. The other interior street, Gallaudet Avenue, was a paper street and when constructed would form a grid with New Hampshire Avenue, Cloverly Street and Briggs Chaney Road. The Master Plan specifically recommends redevelopment along Cloverly Street as follows:

"...Encourage street oriented development along Cloverly Street to provide a walkable pedestrian friendly commercial area that encourages social gathering. Street oriented development is achieved by locating buildings close to the street with on- street parking. Sidewalks are to be enhanced with tightly spaced street trees, seating areas, special paving and lighting (p 23).

Allow the use of smaller front yard setbacks to maintain a minimum of 5 feet from the face of curb to provide a "main street" type of development (p 23)

Improve vehicular access and circulation...by providing interconnected parking lots and coordinated driveways between independently owned properties... (p 25).

Further complicating redevelopment of the commercial area was the fact that Special Projection Area and the Upper Paint Branch Environmental Overlay Zone affected a portion of the area. The Master Plan recommended that Planning Board could consider waiving the 10% imperviousness required by these regulations at the time of site plan review if Safeway (in addition to proposing a plan that conformed to the urban design goals) also agreed to best management practices that minimized to the extent possible the effects of the imperviousness on the watershed. To reduce future imperviousness, the Plan recommended acquisition of the piece of property between Safeway and Cloverly Elementary School that would serve as the Village Green and as a conservation area, since it was wholly within the Overlay Zone and SPA..." Access to the Village Green public park would be pedestrian only and would be along the sidewalks on Cloverly Street and the bikeway along Gallaudet Avenue

“...Staff prepared amendments to the Zoning Ordinance: (1) to allow reduced setbacks for “main street” development and (2) require site plan review for C-1 zoned land so that the desired characteristics of main street development could be achieved through the regulatory process. The zoning ordinance was amended accordingly.

In 1999, in conformance with the approved work program Staff prepared an urban design study, *Cloverly Town Center and Village Green* to explain in greater detail the Main Street Concept. (Attachment 8). The Planning Board, the Cloverly CAC and community associations in the Cloverly Master Plan area supported this design study. The design study and the new Master Plan were to serve as a vision and guide for the redevelopment of the Cloverly Town Center.

The Cloverly Master Plan was approved and adopted in July 1997. The zoning text amendments were approved and the Zoning Sectional Map Amendemnt (SMA) implemented in 1998. Safeway subsequently submitted a site plan for the property including a water quality plan that addressed the environmental regulations. The Planning Board approved the site plan and Safeway proceeded with construction, opening its doors in 2000. The Kramers acquired the Hines family holdings including the land designated for a park and the existing office building. M-NCPPC had been in discussion with the Hines family to purchase the land designated for parkland and finally purchased it from the Kramers. The Kramers submitted a site plan that the Board approved for retail and office development in July 2001. In recommending the Board approve these projects thus far, Staff has attempted to adhere to the spirit and intent of the master plan. The Board’s opinions for these projects describe the provision of the Main Street concept such as enhanced landscaping, street trees, seating areas, screening, sidewalks, and appropriate setbacks...”

“...Staff believes that a new gas station along Cloverly Street is contrary to the Main Street concept. The intent of the master plan in recommending redevelopment of the Cloverly Commercial Area was to encourage the improvement of undersized and outdated stores and maintain the texture and feel of the neighborhood commercial area through a street-oriented concept.

Gas stations have historically been located along heavily traveled roads and provided some auto services and more recently convenience stores. The applicant has made the argument that the “...gas station use is appropriate because of the busy highway nature of the intersection of Cloverly Street and New Hampshire Avenue. There is a gasoline filling station already on the north corner and the addition of another on the south corner will round out the auto-oriented character of the intersection.”

Staff notes that the proposed gas station does not have direct access to New Hampshire Avenue or Briggs Chaney Road, the heavily traveled highways, but

rather to Cloverly Street. The applicant clearly does not understand that the intent of the master plan is to provide a street-oriented development since they state that their project will enhance the area by developing auto-oriented development. The applicant's conclusion that there already exists an auto-oriented character because of the existing gas station does not acknowledge the intent of the master plan to redevelop with street-oriented businesses.

The proposed gas station is not a building. The proposed structure is composed of a canopy, pumps, and kiosk; these objects will not provide a continuous façade of the street-oriented buildings that the Planning Board has already approved. The location of the proposed gas station along Cloverly Street opposite an existing gas station does not add variety to the uses within the Cloverly Shopping Center and does not either conform to the Main Street image that the master plan recommended or to the intent of the Planning Board when they approved the Cloverly Town Center and the new Safeway Grocery Store. This gas station is the wrong use in the wrong place..."

Transportation – Transportation Planning staff states that the "Cloverly Policy Area has a remaining staging ceiling capacity of negative 49 jobs as of July 31, 2001, under the FY 01 Annual Growth Policy. However, a ...kiosk of 396 square feet is proposed to replace the existing 1,751.5 square foot bank, The reduced square footage would result in a decrease from seven jobs to one job." Discussion of the Local Area Transportation Review (LATR) and Policy Area Review/Staging Ceiling Condition analysis related to this subject special exception application is contained in the attached Transportation Planning, see Attachment 9.

The State Highway Administration (SHA) concurred with the findings found in the applicant's Traffic Impact Analysis Report, prepared by The Traffic Group, Inc. (Attachment 10)

Environmental – The Environmental Planning Division provides the following information regarding the site:

- (1) The subject property has been granted an exemption to the forest conservation law since the property is less than one acre.
- (2) There are no significant trees on the site, therefore a tree save plan will not be necessary.
- (3) This site is in the Bryant's Nursery Tributary of the Northwest Branch watershed. The applicant will be expected to provide full water quality and quantity control to protect the integrity of the Northwest Branch watershed.

Urban Design - Buildings: The nature of the proposed use is not associated with a building. None of the proposed structures: a canopy, kiosks or pump station has bulk or mass as a building does. These structures cannot by their very nature provide bulk or mass to give definition along a street. In comparison, the existing bank building's front façade faces Cloverly Street, provides definition

along the street, and provides direct pedestrian access from Cloverly Street uninterrupted by parking spaces. (Attachment 11)

Circulation: The proposed use requires multiple points of vehicular entry in order to efficiently access the pumping stations. The layout proposed two curb cuts along the south side of Cloverly Street, neither of which line up with the proposed and existing curb cuts on the north side for the existing gas station and the Cloverly Town Center Project .This is contrary to the intent of the master plan quoted earlier, which recommended coordinated driveways between independently owned properties. The total curb cuts along Cloverly Streets with this proposed use, the existing gas station, and the Cloverly Town Center project will total four on the south side and three on the north side. Since the curb cuts are so many and not aligned, it will be impossible to provide a continuous row of street trees, street lights and any other streetscape features to create a pedestrian scale streetscape. These conditions are driven by circulation requirements of a gas station and the failure of the Applicant and the owners of the adjacent Cloverly Town Center to accommodate each other's needs during their respective and independent previous development approvals. Although Planning Board in their review and attempted to improve access and parking problems, this proposed use will exacerbate the situation, not enhance it.

Three curb cuts are proposed along the interior drive aisle for the Safeway store. This interior aisle, does not have parking along it, is wider than the other aisles, and has sidewalks on one side and handicapped pedestrian access on the other. This is the only and, therefore, the main entrance to the grocery store along New Hampshire Avenue. Anyone shopping at the center and getting gas will have to drive across this aisle. After getting their gas they would use Cloverly Street to access New Hampshire Avenue. There will be a lot more turning movements as drivers try to negotiate between the parking lots. This will add to the automobile conflicts along Cloverly Street at a location that was specifically recommended to be pedestrian friendly. This use will also create additional activity across the main drive aisle for the grocery store, which that will not enhance the existing circulation. Squeezing a gas station between two developments will have adverse impacts on the surrounding development .

Subdivision – The Development Review Division notes that according to Section 50-20B of the Subdivision Regulations, “a building permit may not be approved for the construction of any new structure that is located on the unplatted remainder of a resubdivided lot. Therefore, prior to release of any building permits, the applicant will be required to get Preliminary Plan approval and record a new plat in the land records pursuant to Chapter 50 of the Subdivision Regulations.”

Compliance with Specific and General Special Exception Provisions

Sec.59-G-1.2. Conditions for granting.

59-G-1.2.1. Standard for evaluation.

A special exception must not be granted absent the findings required by this Article. In making these findings, the Board of Appeals, Hearing Examiner, or District Council, as the case may be, must consider the inherent and non-inherent adverse effects of the use on nearby properties and the general neighborhood at the proposed location, irrespective of adverse effects the use might have if established elsewhere in the zone. Inherent adverse effects are the physical and operational characteristics necessarily associated with the particular use, regardless of its physical size or scale of operations. Inherent adverse effects alone are not a sufficient basis for denial of a special exception. Non-inherent adverse effects are physical and operational characteristics not necessarily associated with the particular use, or adverse effects created by unusual characteristics of the site. Non-inherent adverse effects, alone or in conjunction with inherent adverse effects, are a sufficient basis to deny a special exception.

Staff finds that the queuing of vehicles, fumes from idling vehicles and the circulation required for this gas station to operate efficiently will have non-inherent adverse effects on the pedestrian friendly, street-oriented, neighborhood commercial area and village green that has been recently approved for the adjacent and surrounding properties. The unusual physical characteristics of the site as described in the Urban Design section, require a layout and automobile circulation plan that will have non-inherent adverse impacts on surrounding development.

59-G-1.21. General conditions.

A special exception may be granted when the Board, the Hearing Examiner, or the District Council, as the case may be, finds from a preponderance of the evidence of record that the proposed use:

- (1) Is a permissible special exception in the zone.

The use is permissible in the C-1 Zone.

- (2) Complies with the standards and requirements set forth for the use in Division 59-G-2. The fact that a proposed use complies with all specific standards and requirements to grant a special exception does not create a presumption that the use is compatible with nearby properties and, in itself, is not sufficient to require a special exception to be granted.

The proposed gas station complies with the standards and requirements set forth in Division 59-G-2.

(3) Will be consistent with the general plan for the physical development of the District, including any master plan adopted by the commission. Any decision to grant or deny special exception must be consistent with any recommendation in an approved and adopted master plan regarding the appropriateness of a special exception at a particular location. If the Planning Board or the Board's technical staff in its report on a special exception concludes that granting a particular special exception at a particular location would be inconsistent with the land use objectives of the applicable master plan, a decision to grant the special exception must include specific findings as to master plan consistency.

Staff finds that this new gas station is not consistent with the "Main Street" concept recommended in the approved and adopted master plan. The intent of the master plan in recommending redevelopment of the Cloverly Commercial Area was to encourage the improvement of undersized and outdated stores and maintain the texture and feel of the neighborhood commercial area through pedestrian friendly, street-orientated development.

(4) Will be in harmony with the general character of the neighborhood considering population density, design, scale and bulk of any proposed new structures, intensity and character of activity, traffic and parking conditions and number of similar uses.

The basic architectural features of the proposed gas station are a canopy, gas pumps and a kiosk. These structures cannot by their very nature provide the desired street-oriented and building-defined streetscape that has been approved along Cloverly Street. Staff finds that the proposed development is not in harmony with the immediately surrounding development

(5) Will not be detrimental to the use, peaceful enjoyment, economic value or development of surrounding properties or the general neighborhood at the subject site, irrespective of any adverse effects the use might have if established elsewhere in the zone.

The proposed use will have a detrimental effect on the overall circulation between the Cloverly Town Center and the Safeway grocery store.

(6) Will cause no objectionable noise, vibrations, fumes, odors, dust, illumination, glare, or physical activity at the subject site, irrespective of any adverse effects the use might have if established elsewhere in the zone.

The proposed use will cause objectionable odors and physical activity as already described. The Environmental Division believes that the proposed lighting is excessive. The lighting plan indicates a maximum of 63.8 footcandles and a minimum of 25 footcandles under the canopy. " The light intensity should be ... a maximum of 30-foot candles per square foot. This is consistent with guidelines developed by the Illuminating Engineering Society of North America (IESNA) for gasoline stations with bright surroundings (non-rural).

(7) Will not, when evaluated in conjunction with existing and approved special exceptions in any neighboring one-family residential area, increase the number, intensity, or scope of special exception uses sufficiently to affect the area adversely or alter the predominantly residential nature of the area. Special exception uses that are consistent with the recommendations of a master or sector plan do not alter the nature of an area.

Not applicable, the surrounding area is commercial, not residential in nature.

(8) Will not adversely affect the health, safety, security, morals or general welfare of residents, visitors or workers in the area at the subject site, irrespective of any adverse effects the use might have if established elsewhere in the zone.

The proposed special exception will not cause any of these effects.

(9) Will be served by adequate public services and facilities including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage and other public facilities.

(i) If the special exception use requires approval of a preliminary plan of subdivision the adequacy of public facilities must be determined by the Planning Board at the time of subdivision review. In that case, subdivision approval must be included as a condition of the special exception.

Although the subject property was included in a record plat, it appears that that record plat has been superseded by a second record plat that included some but not all of the subject property. Therefore, the property is considered a remainder and will have to be rerecorded through the subdivision process prior to issuance of any building permits. Since some of the property is and will continue to be used for parking associated with the Safeway Grocery Store, the Applicant will have to amend the approved Preliminary Plan No.1-98001 and amend Site Plan No.8-99004, Safeway at Cloverly if there are any changes to the current approvals.

59-G-1.24. Neighborhood need.

In addition to the findings required in section 59-G-1.21 and division 59-G-2, the following special exceptions may only be granted when the board, the hearing examiner or the district council, as the case may be, finds from a preponderance of the evidence of record that, for the public convenience and service, a need exists for the proposed use for service to the population in the general neighborhood, considering the present availability of such uses to that neighborhood:

(1) Automobile filling station.

The Research Division has reviewed the applicant's analysis of need and has concluded that "The Applicant's analysis shows market need for another Cloverly automobile filling station. If constructed the applicant's station will fit into the overall retail environment already existing on New Hampshire Avenue in Cloverly. It will bring an additional brand of gasoline to the area and could expand price options. It will be competing with other nearby stations (two existing and one proposed) and with those stations found on major commuter paths to the south of Cloverly. However, all of the commonly used measures used to determine potential demand for gasoline sales indicate that another filling station can be supported in Cloverly" (see Attachment 12).

Sec. 59-G-2.06. Automobile filling stations.

(a) An automobile filling station may be permitted, upon a finding, in addition to findings required in division 59-G-1, that:

(1) The use will not constitute a nuisance because of noise, fumes, odors or physical activity in the location proposed.

The use will constitute a nuisance because of noise, fumes, odors and physical activity.

(2) The use at the proposed location will not create a traffic hazard or traffic nuisance because of its location in relation to similar uses, necessity of turning movements in relation to its access to public roads or intersections, or its location in relation to other buildings or proposed buildings on or near the site and the traffic pattern from such buildings, or by reason of its location near a vehicular or pedestrian entrance or crossing to a public or private school, park, playground or hospital, or other public use or place of public assembly.

One of the Cloverly Commercial Area recommendations is to improve vehicular access and circulation by providing interconnected parking lots and coordinated driveways between independently owned properties. The proposed plan does not provide aligned interconnections between the Safeway grocery and Cloverly Street. Vehicular access is prohibited from going through the parking area on the eastern end of the site to Cloverly Street. This results in a poorer circulation pattern than currently exists.

(3) The use at the proposed location will not adversely affect nor retard the logical development of the general neighborhood or of the industrial or commercial zone in which the station is proposed, considering service required, population, character, density and number of similar uses.

Staff finds that the proposed filling station will adversely affect and retard the logical development of the general neighborhood.

(b) In addition, the following requirements must be complied with:

(1) When such use abuts a residential zone or institutional premises not recommended for reclassification to commercial or industrial zone on an adopted master plan and is not effectively screened by a natural terrain feature, the use shall be screened by a solid wall or a substantial, sightly, solid fence, not less than 5 feet in height, together with a 3-foot planting strip on the outside of such wall or fence, planted in shrubs and evergreens. Location, maintenance, vehicle sight distance provisions and advertising pertaining to screening shall be as provided for in article 59-E. Screening shall not be required on street frontage.

Not applicable.

(2) Product displays, parked vehicles and other obstructions which adversely affect visibility at intersections or to station driveways are prohibited.

There are no displays or other obstructions that would adversely affect visibility.

(3) Lighting is not to reflect or cause glare into any residential zone.

There will be no effect on a residential zone.

(4) When such use occupies a corner lot, the ingress or egress driveways shall be located at least 20 feet from the intersection of the front and side street lines of the lot as defined in section 59-A-2.1, and such driveways shall not exceed 30 feet in width; provided, that in areas where no master plan of highways has been adopted, the street line shall be considered to be at least 40 feet from the center line of any abutting street or highway.

The proposed use complies with this condition. The driveway access off Cloverly Street is located 35 feet from its intersection with New Hampshire Avenue and the driveway access off Safeway's ingress/egress driveway is located 34 feet from its intersection with New Hampshire Avenue. Both driveway widths are 30 feet wide.

(5) Gasoline pumps or other service appliances shall be located on the lot at least 10 feet behind the building line; and all service storage or similar activities in connection with such use shall be conducted entirely within the building. There shall be at least 20 feet between driveways on each street, and all driveways shall be perpendicular to the curb or street line.

The proposed use complies with this condition. The gasoline pumps are located a minimum of 17 feet from the building line. There will be no service storage associated with the use.

(6) Light automobile repair work may be done at an automobile filling station; provided, that no major repairs, spray paint operation or body or fender repair is permitted.

No automobile repair work is proposed under this application.

(7) Vehicles shall not be parked so as to overhang the public right-of-way.

The parking spaces are set back so that no vehicles will overhang the public right-of-way.

(8) In a C-1 zone, an automobile, light truck and light trailer rental, as defined in section 59-G-2.07, and in a C-2 zone, an automobile, truck and trailer rental lot, as defined in section 59-G-2.09, may be permitted as a part of the special exception, subject to the provisions set forth for such uses in this section. In addition, a car wash with up to 2 bays may be allowed as an accessory use as part of the special exception.

Not applicable.

59-G-1.22. Additional requirements.

(a) The Board, the Hearing Examiner, or the District Council, as the case may be, may add to the specific provisions contained in this Article, any others necessary to protect nearby properties and the general neighborhood.

(b) Pursuant to guidance by the Planning Board, the Board, the Hearing Examiner, or the District Council, as the case may be, may require a special exception to comply with the provisions of Division 59-D-3, "Site Plan," if:

(1) The property is in a zone requiring site plan approval or

(2) The property is not in a zone requiring site plan approval, but the Planning Board has indicated that site plan review is necessary to regulate the impact of the special exception on surrounding uses because of disparity in bulk or scale, the nature of the use, or other significant factors.

Section 59-C341.2 of the Zoning Ordinance requires site plan review where development or redevelopment of any portion of land zoned C-1 where C-1 zoning is in excess of 15 acres at one location. The subject property is part of an area where C-1 zoning exceeds 15 acres and is therefore subject to the requirements of Section 59-. D.3, Site Plan Review.

CONCLUSION – Staff recommends denial of this special exception request for a gas station use at this location because:

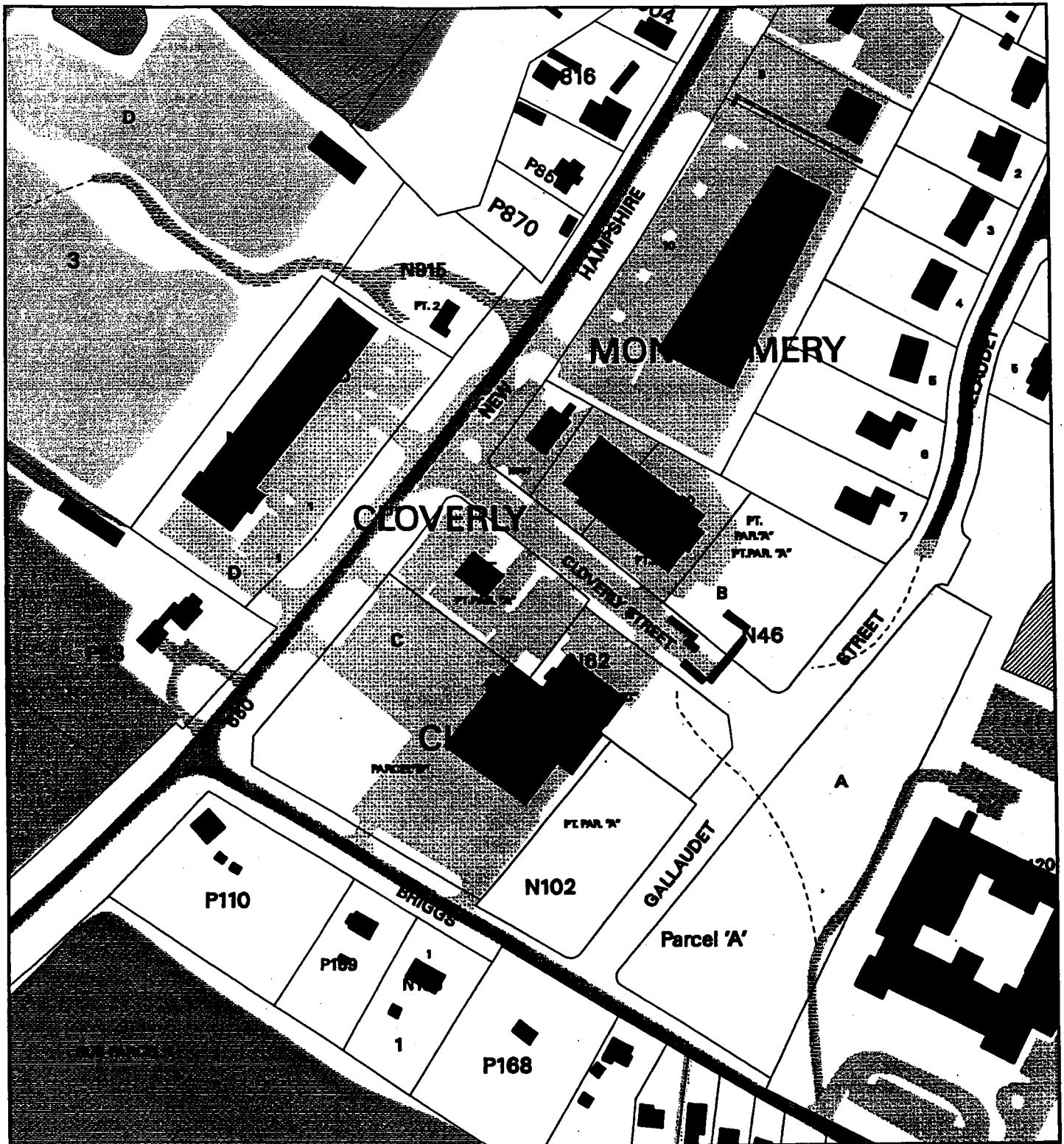
- (1) The proposed use is not consistent with the spirit, intent, goals and recommendations of the 1997 *Approved and Adopted Cloverly Master Plan*.
- (2) The proposed use is not in harmony with the general character of the neighborhood considering "... design, scale, bulk of any proposed new structures, intensity, character of activity, traffic, parking conditions..."
- (3) The proposed use will have non-inherent adverse effects on the adjacent Cloverly Town Center development
 - a - The physical and operational characteristics associated with the proposed gas station, will not enhance the proposed street-oriented and pedestrian character of projects already approved around the subject site.
 - b. - There are unusual circumstances within and surrounding the subject site such that the proposed use will have adverse effects on overall vehicular and pedestrian circulation between the existing uses and approved development in the adjacent Cloverly Town Center.

ATTACHMENTS

1. Vicinity Map
2. Adjoining Properties
3. Site Plan
4. Landscape Plan
5. Elevations
6. Cloverly Commercial Area
7. Community-Based Planning memo dated 8/27/01
8. Cloverly Town Center and Village Green (copies for Planning Board only)
9. Transportation Planning memo dated 8/23/01
10. State Highway Administration memo dated 6/28/01
11. Transportation Network – Proposed Cloverly Street
12. Research & Technology Center memo dated 8/24/01
13. Stonegate Citizens Association memo dated 8/27/01
14. Cloverly Citizens Advisory Committee memo dated 8/29/01

SAFETYWAY GAS STATION - S-2476

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Map compiled on August 28, 2001 at 10:31 AM | Site located on base sheet no - 220NE01

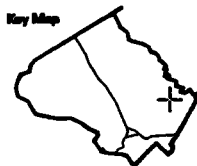
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Key Map



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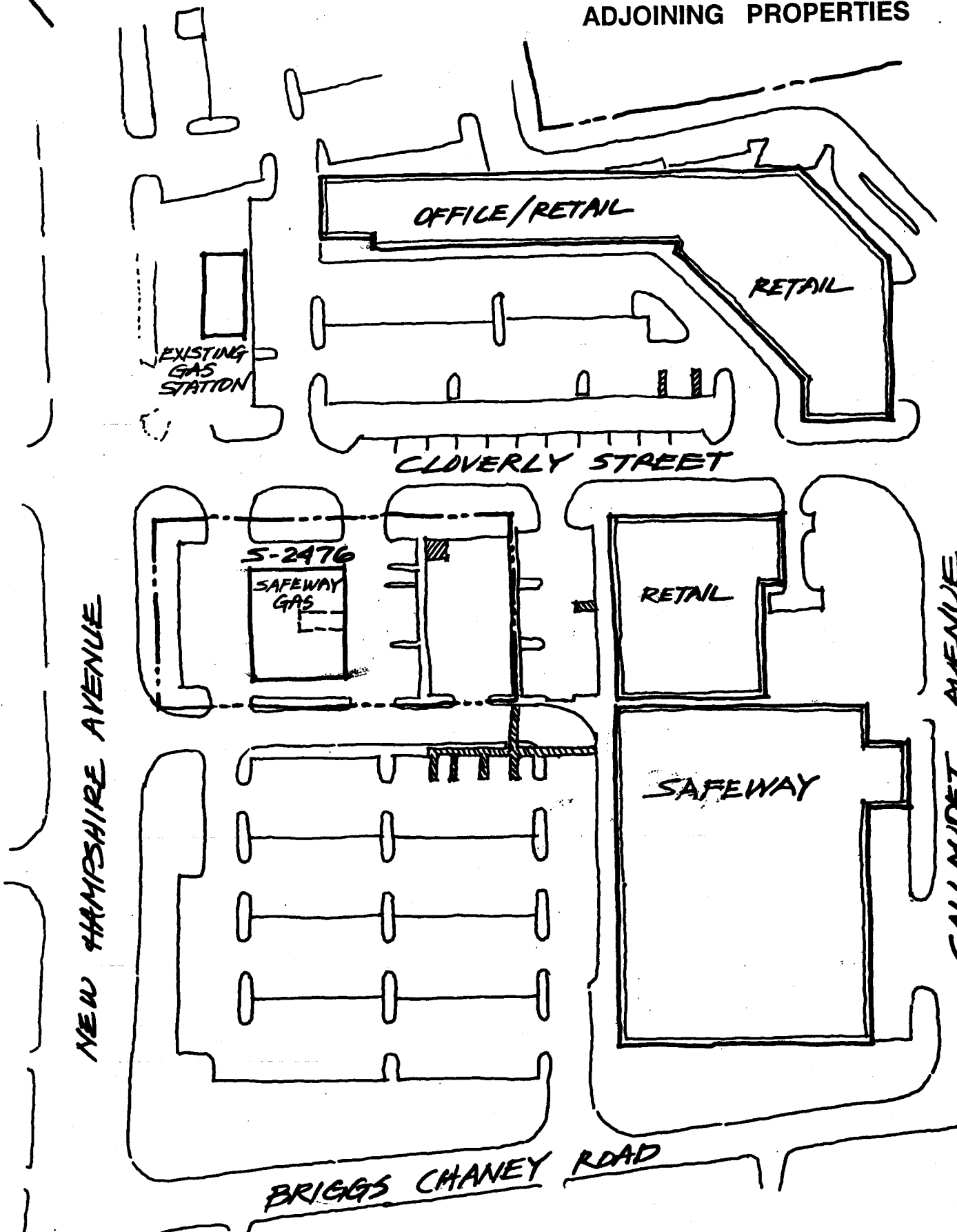


Research & Engineering Center

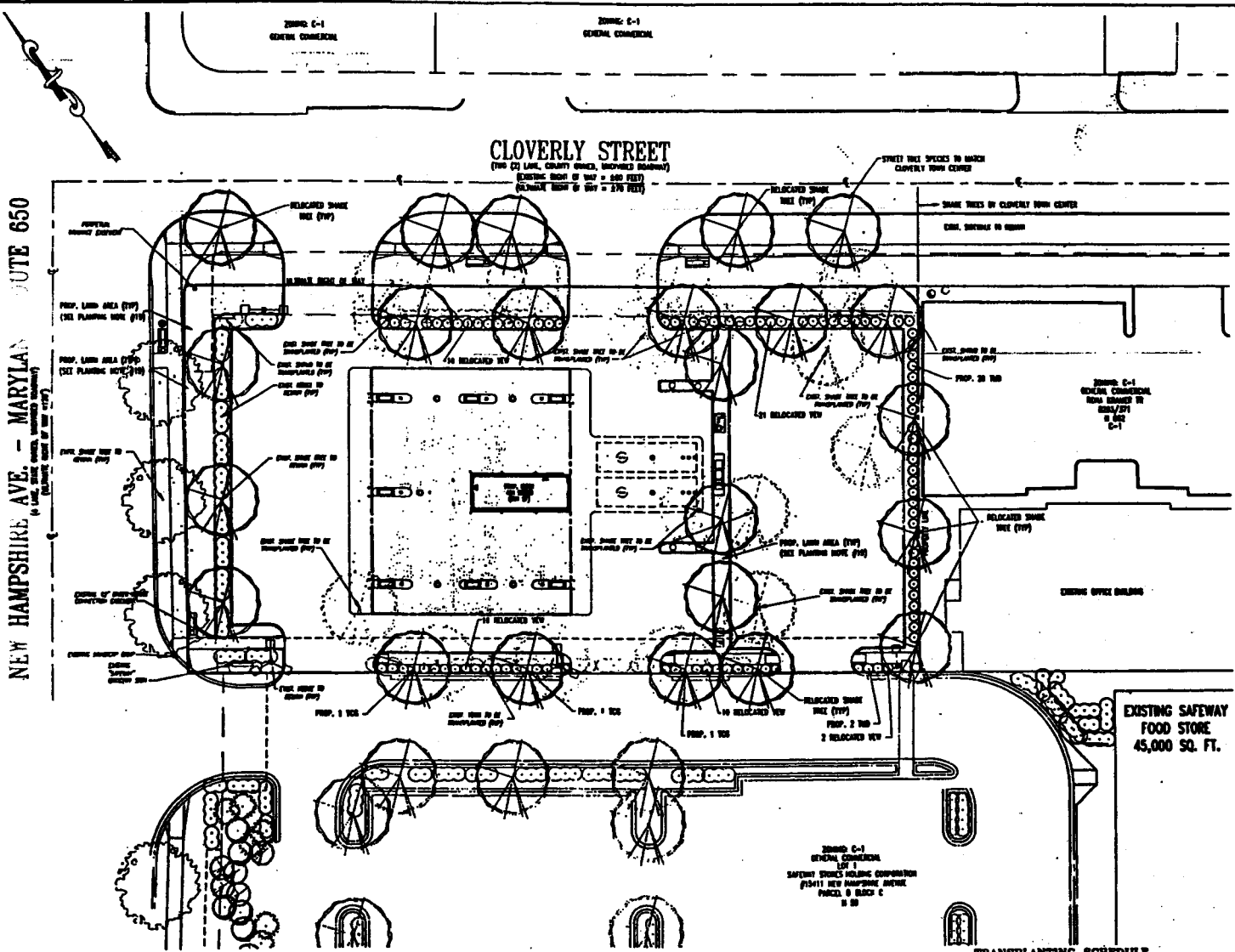


1:2400

ADJOINING PROPERTIES



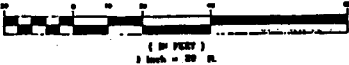
LANDSCAPE PLAN



TRANSPLANTING NOTES

CONTRACTOR TO STOCKPILE AND PROTECT ALL TRANSPLANT MATERIAL UNTIL IT IS TIME TO REPLANT. PLANTS SHALL BE MAINTAINED BY WATERING, FERTILIZING, PRUNING AND ANY OTHER METHODS TO KEEP PLANTS IN HEALTHY CONDITION. ALL TRANSPLANTS ARE GUARANTEED FOR A PERIOD OF ONE YEAR FROM FINAL COMPLETION. ANY TRANSPLANTS THAT DIE DURING THAT PERIOD WILL BE REPLACED TO THE CORRECT SIZE AND SPECIES AT THE CONTRACTOR'S EXPENSE.

GRAPHIC SCALE



TRANSPLANTING SCHEDULE

KEY	TRANSPLANT (HT)	QUANTITY	REMARKS
1	17'	17	SHANK TREES
2	10'	10	SHANK TREES
3	10'	10	SHANK TREES

COMPLIANCE CHART

NO.	DESCRIPTION	REQUIREMENT	COMPLIANCE
1
2
3

SEEDING SPECIFICATIONS

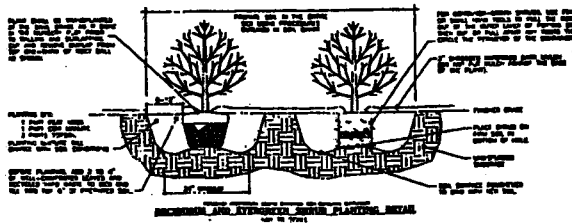
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2. SEEDING METHOD: ...

3. WATERING: ...

4. FERTILIZATION: ...

5. PROTECTION: ...

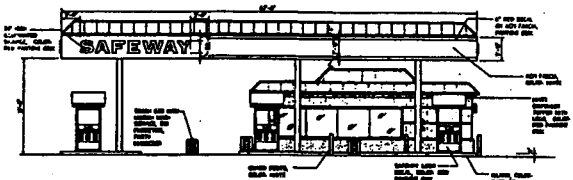


GENERAL RANGE OF SOIL MODIFICATION A TOLERANCE FOR EXISTING SOIL CONDITIONS

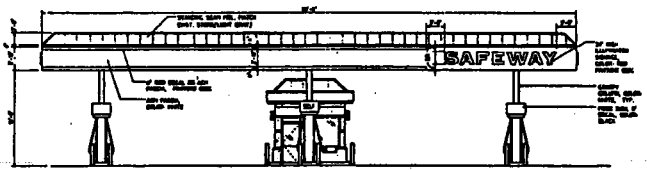
DEPTH	SOIL MODIFICATION	TOLERANCE
0-12 IN.
12-24 IN.
24-36 IN.



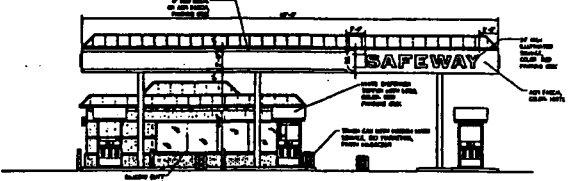
ELEVATIONS



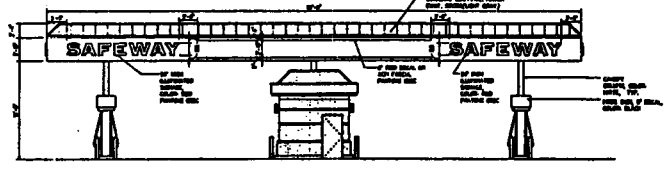
1 | NORTH SIDE ELEVATION FROM PROP. PARKING AREA/NEW HAMPSHIRE AVE.



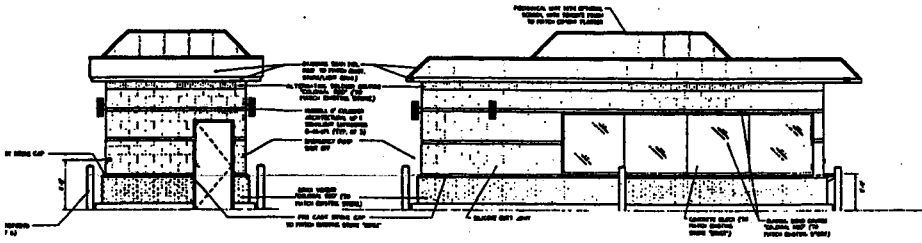
2 | WEST SIDE ELEVATION FROM NEW HAMPSHIRE AVE.



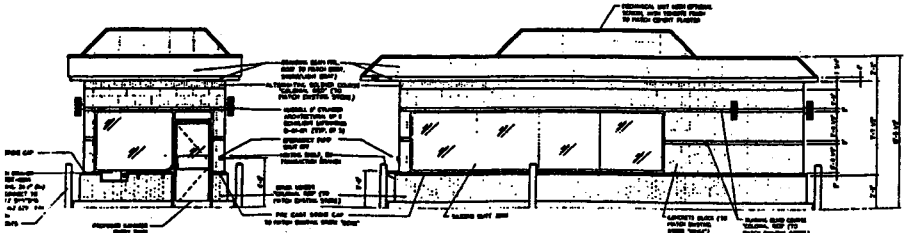
3 | SOUTH SIDE ELEVATION FROM CLOVERLY STREET



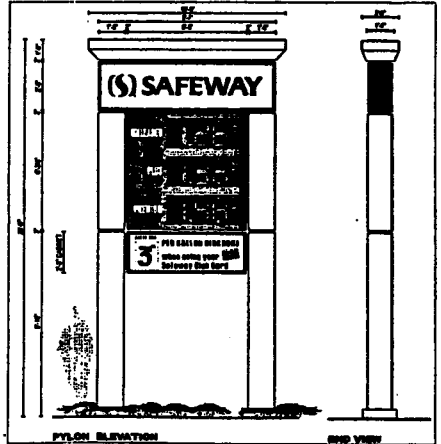
4 | EAST SIDE ELEVATION FROM PROP. GROCERY STORE/CLOVERLY ST.



5 | NORTH SIDE ELEVATION FROM PROP. GROCERY STORE & CLOVERLY STREET



6 | SOUTH SIDE ELEVATION FROM PROP. PARKING AREA & NEW HAMPSHIRE AVE



© "SAFeway"
FREESTANDING
I.D. SIGN
N.T.S.
AREA = 120.7 SF +/-
HEIGHT = 20'

A.J. VOLANTH
ARCHITECT

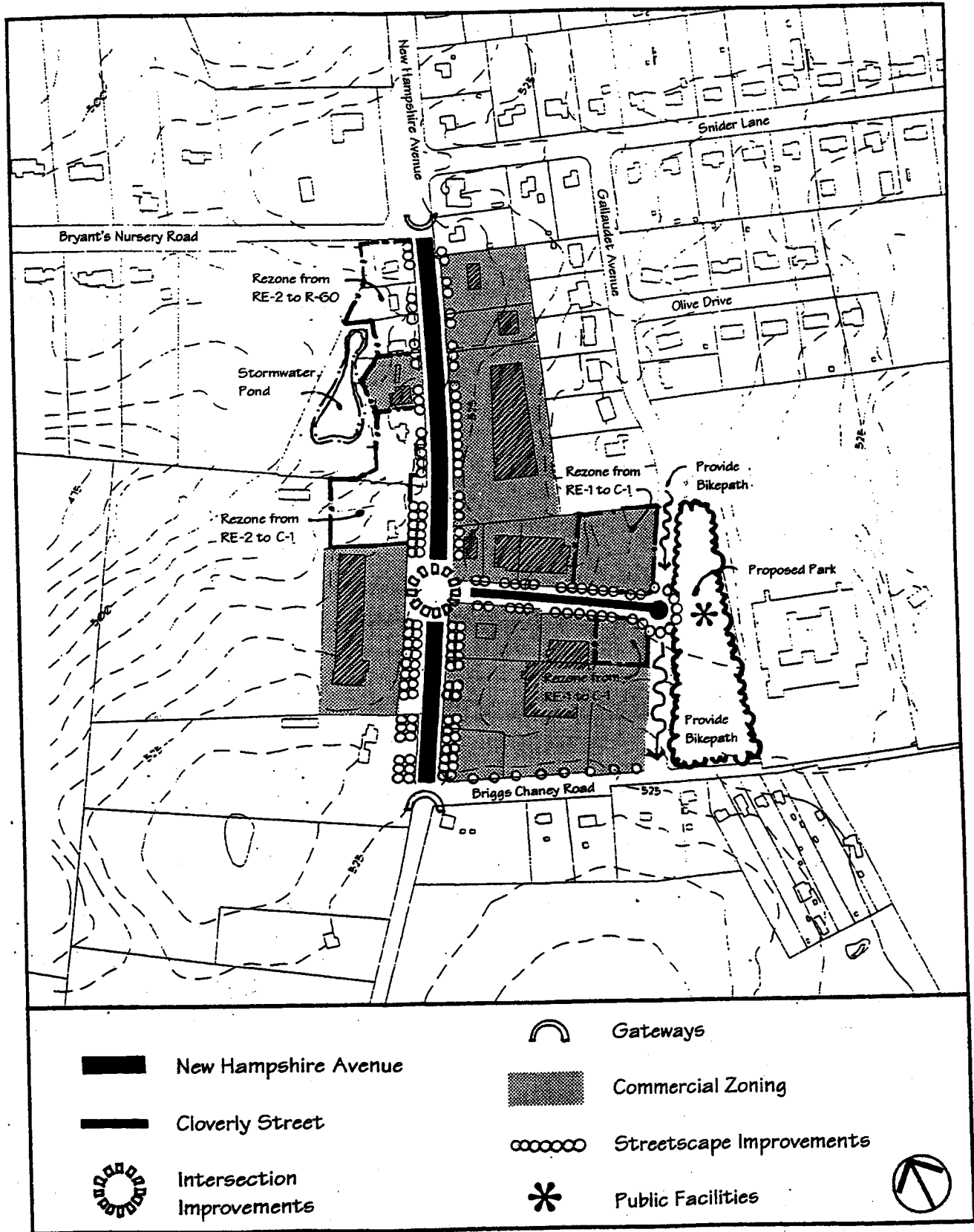
D.M. DUKE
ARCHITECT

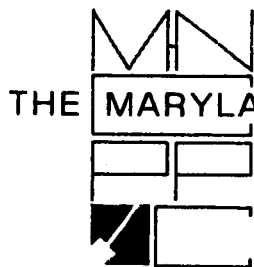
BOHLER
ENGINEERING, P.C.

PROPOSED SAFEWAY GROCERY STORE, NEW HAMPSHIRE AVE. & CLOVERLY ST.

CLOVERLY COMMERCIAL AREA

FIGURE 12





August 27, 2001

Memorandum

To: Calvin Nelson, Jr.
Community Based Planning
Eastern County

From: William Barrow
Piera Weiss
Community Based Planning
Eastern County Team

Subject: S-2476 – Safeway Gas Station

Staff Recommendation:

DENIAL on the basis that the proposed use is not consistent with the spirit, intent, goals and recommendations of the 1997 *Approved and Adopted Cloverly Master Plan*

Background:

The Cloverly Commercial Area is located at the intersection of Briggs Chaney Road and New Hampshire Avenue. There is an interior street, Cloverly Street that was built in the 1960s to business street standards. Existing development along the north side of Cloverly Street in 1993 included a gas station, a restaurant, hardware store and the grocery store, and a small office building and bank on the south side. The businesses, except for the grocery store and the gas station, had access to Cloverly Street only.

Prior to 1993, the Hines Family, who owned the Cloverly Hardware Store and other properties adjacent to the Safeway Property, and the Safeway Corporation jointly filed a zoning case requesting additional zoning to allow for expansion of the grocery store and redevelopment of the Hines Family's holdings. The bank and gas station were not party to the zoning case. The zoning cases were still pending at the time the Cloverly Master Plan began. Typically a master plan process includes resolution of pending zoning cases in anticipation of the comprehensive zoning action (SMA) that occurs after a master plan is approved and adopted and therefore the Cloverly Master Plan was to address the concerns and issues regarding the redevelopment of these properties.

The Cloverly Master Plan and the Main Street Concept

In 1993 the Planning Board appointed 19 citizens in the Cloverly Community to the Citizens Advisory Committee to work alongside staff, businesses, and fellow citizens to provide input into the planning process for Cloverly Master Plan, especially the redevelopment of the Cloverly Commercial Area.

After many meetings and review of alternative designs proposed by staff and the property owners, the CAC supported proposed redevelopment. The Approved and Adopted Cloverly Master Plan describes the potential for redevelopment and addresses the circumstances under which redevelopment could and should occur. Because different parties owned the properties, redevelopment was unlikely to occur at once. The Master Plan therefore recommended an urban design concept, Main Street, to coordinate development when it did occur. The Main Street concept was developed years ago by the National Trust for Historic Preservation has been used by communities in every state to encourage cooperation between communities, commercial interests and local government in the redevelopment of commercial areas. Although application of the main street concept varies greatly in realized projects, the final product always includes a pedestrian-oriented streetscape, public gathering spaces, and commercial uses at a scale appropriate to the surrounding community.

The Main Street concept was selected because that approach was predicated on cooperation between business, community and local government in order to work. Main Street concept was also chosen the inherent design aspects and scale of the approach were suited to the intent of recasting existing and redevelopable properties into a street-oriented neighborhood commercial center. Since the existing Cloverly Street was improved with sidewalks and streetlights was reminiscent of a main street. The existing buildings were already oriented toward the street so a main street scheme could successfully incorporated the existing and new while retaining a sense of place.

"The Main Street program is designed to improve all aspects of the downtown or central business district, producing both tangible and intangible benefits. Improving economic management, strengthening public participation, and making downtown a fun place to visit are as critical to Main Street's future as recruiting new businesses, rehabilitating buildings, and expanding parking. ...It has earned national recognition as a practical strategy appropriately scaled to a community's local resources and conditions. And because it is a locally driven program, all initiative stems from local issues and concerns." (Source: National Trust For Historic Preservation – Main Street Program)

"While commercial district revitalization can be addressed in many ways, the underlying premise of the Main Street approach ...advocates a return to community self-reliance, empowerment, and the rebuilding of commercial districts based on its traditional assets: unique architecture, personal service, local ownership, and a sense of community." (Source: New Hampshire Main Street Program)

The Cloverly Master Plan developed an overall theme of the relationship between Community and Center. The Cloverly Commercial area was recognized as the major

center for Cloverly communities. The following language has been excerpted from Master Plan.

“Cloverly Commercial Area has served as the center of Cloverly for decades. Plan recommendations provide opportunities for the modernization and expansion of the grocery store, seek to improve the selection of goods, and increase the amount of commercial zoning provide guidance for redevelopment streetscape improvements and propose a park adjacent to the commercial area to make the center more attractive shopping and gathering place for Cloverly’s residents. (p xii)

“The Cloverly Commercial Area at New Hampshire Avenue and Briggs Chaney Road is the primary retail area and center of Cloverly. (p 22)

“The existing grocery store is undersized by today’s standards and does not adequately serve Cloverly’s grocery needs. An expanded grocery can be supported in Cloverly and is recommended by this Plan. A full-service grocery store [provides important services for the community and strengthens the role of the Cloverly Commercial Area as the center of the community. (p 22)

“Redevelopment of the commercial area should strengthen retail vitality and encourage its use as a public gathering place. The Plan accommodates redevelopment of commercial properties along Cloverly Street and Briggs Chaney Road, which can permit expansion of the grocery store and improve its layout. (p 23)

The Master Plan recommends redevelopment as follows:

“Encourage street oriented development along Cloverly Street to provide a walkable pedestrian friendly commercial area that encourages social gathering. Street oriented development is achieved by locating buildings close to the street with on- street parking. Sidewalks are to be enhanced with tightly spaced street trees, seating areas, special paving and lighting... (p 23)

“Allow the use of smaller front yard setbacks to maintain a minimum of 5 feet from the face of curb to provide a “main street” type of development (p 23)

“Improve vehicular access and circulation...by providing interconnected parking lots and coordinated driveways between independently owned properties... (p 25)

Further complicating redevelopment of the commercial area was the fact that Special Projection Area and the Upper Paint Branch Environmental Overlay Zone affected a portion of area. The Master Plan recommended that Planning Board could consider waiving the 10% imperviousness required by these regulations at the time of site plan review if Safeway in addition to proposing a plan that conformed to the urban design goals also agreed to best management practices and a design that minimized to the extent possible the effects of the imperviousness on the watershed. To reduce future imperviousness, the Plan recommended acquisition of the piece of property between

Safeway and Cloverly Elementary School that would serve as the Village Green and as a conservation area, since it was wholly within the Overlay Zone and SPA.

Staff prepared amendments to the Zoning Ordinance: (1) to allow reduced setbacks for "main street" development and (2) require site plan review for C-1 zoned land so that the desired characteristics of main street development could be achieved through the regulatory process. The zoning ordinance was amended accordingly.

In 1999, in conformance with the approved work program Staff prepared an urban design study, *Cloverly Town Center and Village Green Urban Design* to explain in greater detail the Main Street Concept. (Attachment 2). The Planning Board, the Cloverly CAC and community associations in the Cloverly Master Plan area supported this design study. The design study and the new Master Plan were to serve as a vision and guide for the redevelopment of the Cloverly Town Center.

Development Process

The Cloverly Master Plan was approved and adopted in July 1997. The zoning text amendments were approved and the SMA implemented in 1998. Safeway subsequently submitted a site plan for the property including a water quality plan that addressed the environmental regulations. The Planning Board approved the site plan and Safeway proceeded with construction, opening its doors in 2000. The Kramers acquired the Hines family holdings including the land designated for a park and the existing office building. M-NCPPC had been in discussion with the Hines family to purchase the land designated for parkland and finally purchased from the Kramers. The Kramers submitted a site plan that the Board approved for retail and office development in July 2001. In recommending the Board approve these projects thus far, Staff has attempted to adhere to the spirit and intent of the master plan. The Board's Opinions for these projects describe the provision of the main street concept such as enhanced landscaping, street trees, seating areas, screening, sidewalks, and appropriate setbacks.

Special Exception Request for a Gas Station

Safeway Corporation acquired the existing bank property and has submitted request for special exception for a gas station on the bank site.

Community-based Staff has been asked to make a recommendation on the special exception request to the Development Review Staff specifically addressing whether or not the proposed use is consistent with the master plan as required by Section 59-G-1.21. (3)

The question before the Board is whether or not a gas station along Cloverly Street, Cloverly's "Main Street," meets the intent of the master plan. Staff believes that a new gas station along Cloverly Street is not in keeping with the Main Street concept. The intent of the master plan in recommending redevelopment of the Cloverly Commercial Area was to encourage the improvement of undersized and outdated stores and maintain the texture and feel of the neighborhood commercial area through a street-oriented concept.

Gas stations have historically been located along heavily traveled roads and provided some auto services and more recently convenience stores. The applicant has made the argument that the "...gas station use is appropriate because of the busy highway nature of the intersection of Cloverly Street and New Hampshire Avenue. There is a gasoline filling station already on the north corner and the addition of another on the south corner will round out the auto-oriented character of the intersection."

Staff notes that the proposed gas station does not have direct access to New Hampshire Avenue or Briggs Chaney Road, the heavily traveled highways, but rather to Cloverly Street. The applicant clearly does not understand that the intent of the master plan is to provide a street-oriented development since they state that their project will enhance the area by developing auto-oriented development. The applicant's conclusion that there already exists an auto-oriented character because of the existing gas station does not acknowledge the intent of the master plan to redevelop with street-oriented businesses.

The proposed gas station is not a building. The proposed structure is composed of a canopy, pumps, and kiosk; these objects will not provide a continuous façade for the street-oriented buildings that the Planning Board has already approved. The location of proposed gas station along Cloverly Street opposite an existing gas station does not add variety to the uses within the Cloverly Shopping Center and does not conform to the Main Street image that the master plan recommended and to the intent of the Planning Board when they approved the Cloverly Town Center and the new Safeway Grocery Store. This gas station is the wrong use in the wrong place.

Community-Based Planning Staff therefore recommends **DENIAL** of this special exception request for a seventeen pump gas station. We believe that this use at this location is inconsistent with the spirit, intent and recommendations for the Cloverly Town Center contained in the Approved and Adopted Cloverly Master Plan.

8

**Note: ATTACHMENT 8 – Cloverly Town Center and Village Green
(copies in Planning Board packet only)**



August 23, 2001

MEMORANDUM

TO: Calvin Nelson, Jr., Planner
Community-Based Planning Division

VIA: Daniel K. Hardy, Supervisor
Transportation Planning *for*

FROM: Ed Axler, Coordinator *EA*
Transportation Planning

SUBJECT: Special Exception Case No. S-2476
Safeway Gas Station
Cloverly Policy Area

This memorandum is Transportation Planning staff's adequate public facilities (APF) review of the subject special exception case for an automobile filling station, which would replace the existing BBT bank with two drive-through windows on Lot N5.

RECOMMENDATIONS

Transportation Planning staff recommends the following conditions as part of the Transportation APF review if the Board of Appeals approves this special exception case:

1. Limit the land use on Lot N5 to:
 - a. An automobile filling station with 14 pumping positions and no convenience store, car wash, or service bays.
 - b. A separate parking area to serve the adjoining Safeway with 26 parking spaces.
2. Coordinate with the adjoining property to the east, Cloverly Town Center, regarding connecting sidewalks with landscaping and Cloverly Street grading.
3. Revise Preliminary Plan No. 1-98001 and amend Site Plan No. 8-99004, Safeway at Cloverly, to reflect the different land use on Lot N5.

DISCUSSION

Site Location, Accesses, and Circulation

The site is located in the southeastern quadrant of New Hampshire Avenue (MD 650) and Cloverly Street. The site has two accesses from Cloverly Street and two accesses from the adjoining Safeway parking area.

The vehicular and pedestrian circulation was adequately considered on the Special Exception Site Plan. Vehicles can easily access the fuel pumps via the 30-foot, two-way drive-aisles, which connect the Safeway parking area and Cloverly Street and are located on both sides of the fueling area. Besides the existing five-foot sidewalks along New Hampshire Avenue, four-foot sidewalks are proposed along the southern (or Safeway parking area) and northern (or Cloverly Street) property line of Lot N5.

Related Previous Planning Board Actions

The following were previously related Planning Board actions on the adjacent sites:

1. Preliminary Plan No. 1-98001 and Site Plan No. 8-99004, Safeway at Cloverly, were approved on October 29, 1998, for 45,400 square feet of a grocery store on Lot 1 and the existing bank on Lot N5.
2. Preliminary Plan No. 1-99051 and Site Plan No. 8-01001, Cloverly Town Center, were approved on June 21, 2001, under the *Annual Growth Policy's* Alternative Review Procedure for Expedited Development Approval. Preliminary Plan No. 1-99051 was approved for 28,000 square feet of general office use and 34,000 square feet of general retail use, which replaced the existing 1,500 square feet of general office use and 17,500 square feet of general retail use.

Master Plan Roadways and Bikeways

According to the *Cloverly Master Plan*, the nearby master-planned roadways and bikeways are as follows:

1. Cloverly Street is designated as a commercial business district street, B-2, with a 70-foot right-of-way.
2. New Hampshire Avenue is designated as a major road, M-12, with a 120-foot right-of-way **south** of Cloverly Street and a 100-foot right-of-way **north** of Cloverly Street with a Class II bikeway, PB-23.

Local Area Transportation Review

The applicant submitted a traffic study, dated April 3, 2001, to analyze the traffic impact of the special exception use with the original proposal for 16 pumping positions (now reduced to 14 positions). The difference in the site-generated traffic between existing bank with drive-through windows use and proposed special exception use is shown in the table

below for the morning peak period (7:00 to 9:00 a.m.) and the evening peak period (4:00 to 6:00 p.m.).

Land Use	Peak-Hour Trips					
	New		Pass-by-Diverted		Total	
	Morning	Evening	Morning	Evening	Morning	Evening
Proposed Replacement Auto Filling Station with 14 pumping positions (and no service bays or convenience store)	24	31	134	178	158	209
Existing Bank with drive-through Windows	6	24	16	72	22	96
Increase in Peak-Hour Trips	18	7	118	106	136	113

The site-generated traffic was based on trip-generation rates in *the Local Area Transportation Review Guidelines* for the automobile filling station and the Institute of Transportation Engineers' *Trip Generation Report* for the existing bank. A new trip is where the primary purpose is to buy fuel for their vehicle. A pass-by trip and diverted trip are where buying fuel is a secondary purpose, which occurs along the way to another primary destination.

The congestion levels at nearby intersections were analyzed in the submitted traffic study and included the approved Cloverly Town Center as one of the background developments. The calculated critical lane volume (CLV) is shown in the table below during the morning and evening peak periods and for the existing, background, and total traffic conditions.

Intersection	Peak Hour	Traffic Condition		
		Existing	Background	Total
New Hampshire Avenue and Norwood Road	Morning	1,064	1,184	1,187
	Evening	1,013	1,266	1,268
New Hampshire Avenue and Briggs Chaney Road	Morning	775	824*	823*
	Evening	961	1,100*	1,072*
New Hampshire Avenue and Site Access	Morning	-----	-----	772
	Evening	-----	-----	759

The CLV values at all three intersections were less than the congestion standard (CLV of 1,525 within the Cloverly Policy Area). At the intersection of New Hampshire Avenue and Briggs Chaney Road, the asterisk indicates that the CLV in the background traffic condition is higher than in the total traffic condition. The reason is because the pass-by and diverted trips were redistributed from the peak-direction to the non-peak direction.

Policy Area Review/Staging Ceiling Condition

The Cloverly Policy Area has remaining staging ceiling capacity of a negative 49 jobs as of July 31, 2001, under the *FY 01 Annual Growth Policy*. However, a smaller kiosk of 396 square feet is proposed to replace the existing 1,751.5-square-foot bank. The standard used for Policy Area Review is to apply by the multiplier of 400 square feet per job for automobile filling stations and 250 square feet per job for the bank. Thus, the reduced square footage would result in a decrease from seven jobs to one job.

EA:cmd

cc: Mary Goodman
Wes Guckert
Anne C. Martin
Malcolm Shaneman
Ronald C. Welke

SPEX S-2476 Safeway Gas Station.doc



Maryland Department of Transportation
State Highway Administration

(10) *Calvin Ed.*
Parris N. Glendening
Governor
John D. Porcari *J.D.P.*
Secretary
Parker F. Williams
Administrator

June 28, 2001

Mr. Ronald Welke
Transportation Coordinator
M-NCPPC
8787 Georgia Avenue
Silver Spring, Maryland 20910

Re: Montgomery County
MD 650 File
Cloverly Gasoline Station
3-24-76

Dear Mr. Welke:

Enclosed are State Highway Administration's (SHA) comments on the review of the Traffic Impact Analysis Report by The Traffic Group, Inc. dated April 3, 2001 that was prepared for the proposed Gasoline Station adjacent to the existing Safeway Store in Montgomery County, Maryland. The comments and conclusions are as follows:

- Access to the 16-pump Gasoline Station is proposed from two (2) access driveways on Cloverly Street and two (2) access points from the adjacent Safeway Store (County access only).
- The traffic consultant determined that the proposed development will not cause any studied intersection to exceed the congestion standard with the Cloverly Policy Area.

In conclusion, SHA concurs with the report findings. If you have any questions or comments regarding the enclosed, please contact Larry Green at (410) 995-0090.

Very truly yours,

Kenneth A. McDonald, Jr.
Kenneth A. McDonald, Jr., Chief
Engineering Access Permits Division

TRANSPORTATION PLANNING DIVISION
THE MARYLAND NATIONAL CAPITAL
PARK AND PLANNING COMMISSION
RECEIVED
JUL 03 2001
SILVER SPRING, MD

- cc: Greg Cooke – SHA Engineering Access Permits Division
Ed Axler – M-NCPPC Montgomery County
Larry Green – Daniel Consultants, Inc.
Majid Shakib – SHA District 3 Traffic Engineering
Joseph Finkle – SHA Travel Forecasting Section
William Richardson – SHA Traffic Development & Support Division
Wes Guckert – The Traffic Group, Inc.

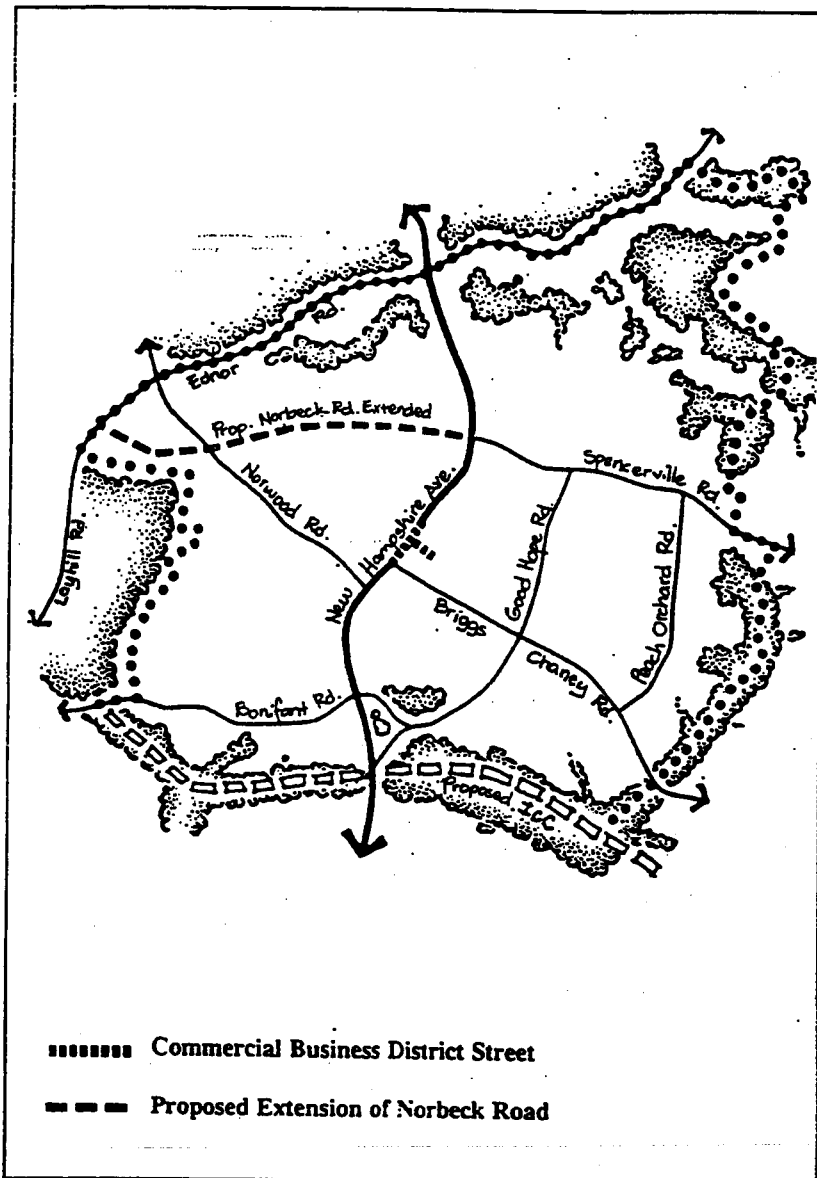
My telephone number is _____

Maryland Relay Service for Impaired Hearing or Speech
1-800-735-2258 Statewide Toll Free

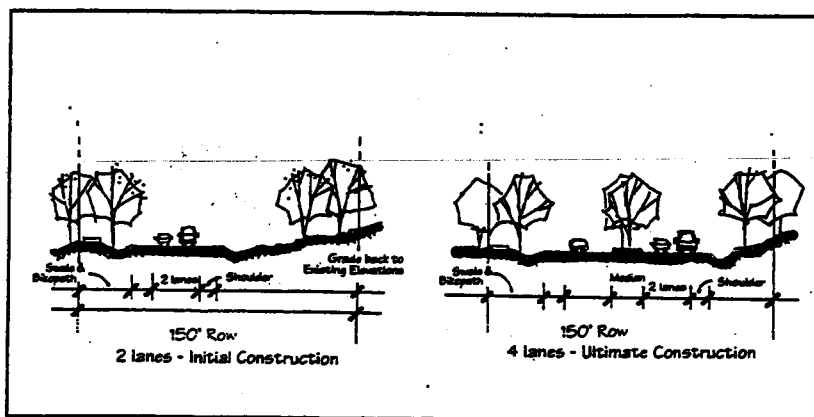
Mailing Address: P.O. Box 717 • Baltimore, MD 21203-0717
Street Address: 707 North Calvert Street • Baltimore, Maryland 21202

TRANSPORTATION NETWORK

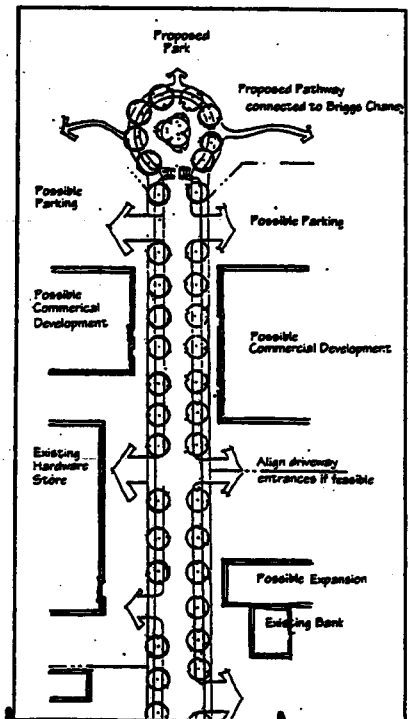
FIGURE 2



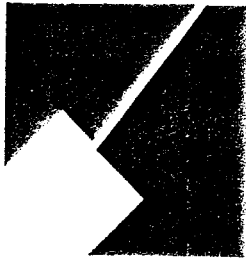
Bike Path



Proposed Cross-Sections for Norbeck Road



Proposed Cloverly Street



TO: Calvin Nelson
Planner Coordinator
Community Based Planning Division

VIA: Frederick R. Peacock, Master Researcher/Mentor *F.R.P.*
Research & Technology Center

FROM: Gary Goodwin, Research Coordinator *GG*
Research & Technology Center

Date: August 24, 2001

RE: Safeway Gas Station – Automobile Filling Station Proof of Need
Analysis - 15421 New Hampshire Avenue, Cloverly, MD

Findings: Applicant's analysis shows market need for another Cloverly
automobile filling station

Introduction

Research & Technology Center staff has reviewed the proof of need analysis for a Safeway Gas Station (Exhibit J) at 15421 New Hampshire Avenue, Cloverly. We conducted this review to determine if the applicant's report complied with Montgomery County Zoning Ordinance (59-G-1.24), which requires an applicant to prove neighborhood need when seeking a special exception for an automobile filling station.¹

Staff reviewed the applicant's proof of need analysis, conducted a field visit to the applicant's proposed site and surrounding areas, and met with Community Based Planning staff to gain additional information on the dynamics of the Cloverly area.

¹ Montgomery County Zoning Ordinance (59-G-1.24) states "...special exceptions may only be granted when the board, the hearing examiner or the district council, as the case may be, finds from a preponderance of the evidence of record that, for the public convenience and service, a need exists for the proposed use for service to the population in the general neighborhood, considering the present availability of such uses to that neighborhood..."

Review of Proof of Need Analysis

The applicant's analysis utilizes several methods commonly employed by real estate market analysts. Most of these methods use industry-wide data or historical sales trends at the County level to approximate likely sales potential at the local level. Review of these methods and the applicant's calculations show no remarkable errors, omissions, misinterpretations, or mischaracterizations. Calculations show a potential market for additional filling stations within the neighborhood area.

Field Observations

The proposed filling station would be part of an established retail cluster lining the east and west sides of New Hampshire Avenue from the intersection of New Hampshire Avenue and Briggs Chaney Road to New Hampshire Avenue and Bryants Nursery Road. The majority of the commercial space is occupied by neighborhood shopping establishments such as a supermarket, a dry cleaner, restaurants, a convenience store, a hair salon, and a florist. The attached map shows the location of the applicant's site within this cluster.

Also shown on the map are two existing filling stations situated about 200 and 900 feet from the proposed site, and on the same side of New Hampshire Avenue. Cloverly Auto Care is immediately adjacent to the applicant; farther to the north is a Shell service station. Not shown is an existing but closed service station about one mile from applicant's site at the intersection of New Hampshire Avenue and Route 198/Spencerville Road (northeast quadrant). Exxon had sought and received a special exception on this site but has let it lapse. The consultant's report and this memo assumes that at some point this site will be developed as a gasoline filling station.

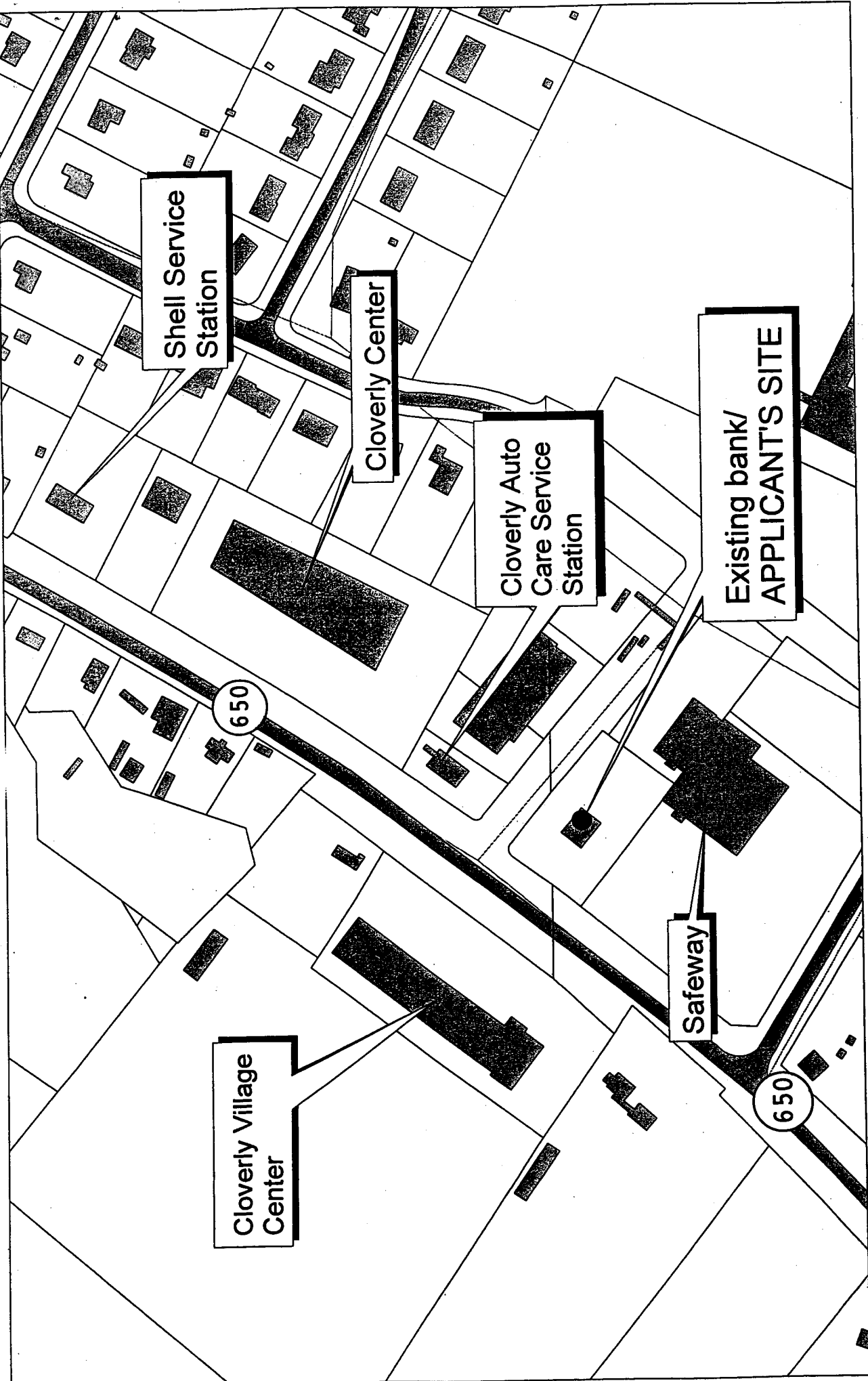
The consultant's report is based on the economic characteristics of the area surrounding the Safeway site (see page 3, map 1, Giegerich & Associates report). This area matches closely the geography of what MNCPPC Community Based Planning Division staff considers to be the Cloverly neighborhood. As was noted earlier, special exceptions for filling stations require that proposed stations meet neighborhood need. Although some special exception applicants define sales areas well beyond that which could be considered the applicable neighborhood, this is not the case here.

To the south of the Safeway site but beyond the neighborhood area are more filling stations. The first is found at about 1.8 miles near the intersection of New Hampshire and Cape May Road (west side of New Hampshire). Three more stations (Excel and two Exxons) are located at the intersection of New Hampshire Avenue and Randolph Road (2.4 miles from the applicant's site).

Some applicants also depend heavily upon sales produced not by neighborhood residents but by commuters. In this case, unmet market support from the neighborhood is \$3.2 million, 15 percent greater than what the petroleum industry sets as a sales target for the type of station the applicant is proposing, a high volume, "pumper one" station.

Conclusion

If constructed, the applicant's station will fit into the overall retail environment already existing on New Hampshire Avenue in Cloverly. It will bring an additional brand of gasoline to the area and could expand price options. It will be competing with three other nearby stations (two existing and one proposed) and with those stations found on major commuter paths to the south of Cloverly. However, all of the commonly used measures used to determine potential demand for gasoline sales indicate that another filling station can be supported in Cloverly.



**Applicant's Site & Immediate Vicinity
Cloverly, Maryland**

Source: Research & Technology Center, M-NCPPC.

Stonegate Citizens Association
Silver Spring, Maryland 20904

13

August 27, 2001

Mr. Arthur Holmes, Chairman
Montgomery County Planning Board
8787 Georgia Avenue
Silver Spring, Md., 20910

RECEIVED
AUG 29 2001

Re: Safeway Gasoline Special Exception Case No. S-2476

OFFICE OF THE CHAIRMAN
THE MARYLAND NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

Dear Mr. Holmes:

The citizens of the Greater Stonegate Area in Cloverly are opposed to the construction of a gasoline station on the Safeway property at the intersection of Cloverly Street and New Hampshire Avenue in the Cloverly commercial area.

This over-sized facility clearly violates the intent and spirit of the Cloverly Master Plan which was recently approved and adopted. The Master Plan for Cloverly is unambiguous and it embraces a specific concept for the future of our area, said concept being characterized by low density suburban/rural aspects in both our residential and commercial segments.

No one in our area could ever have imagined that the Safeway Corporation would spring a gasoline station on us in this manner. It is believed to be informative that the Safeway advocates never mentioned the possibility of a 14 pump gas station when we supported their efforts for waivers without which they never could have built their food store.

We believe that it is an incontrovertible fact that an enormous amount of congestion would be generated by this facility and that the congestion would be exacerbated by the Cloverly Town Center whose construction is imminent.

Additionally, the families who live in Stonegate question whether or not a fourteen pump gas station is needed, particularly on this site. There are some seven conveniently located gas stations on New Hampshire Avenue between Randolph Road and the Shell station which is located two doors north of the proposed station. It should be borne in mind that currently there is a popular gas station and auto repair shop located at this same intersection.

The subject application for Special Exception was an agenda item at the last Stonegate Citizens Association meeting. The issue was discussed; a vote was taken and the community voted against the application, the voluminous needs analysis document notwithstanding.

In summary, we recognize that we lack the intellectual acumen and legal expertise attendant to the very able Safeway representatives. However, we know that in the aftermath of the ultimate decision in this case, we will still have to live in Cloverly. Thus we believe that the overall visual impact of this congestion producing

facility would ever stand as a permanent violation of the vision that we have for our commercial area.

Accordingly, the citizens of the Greater Stonegate area believe that the Special Exception application identified as Case No. S-2476 should be denied.

Respectfully Submitted,

Bruce W. Dunkins
Bruce W. Dunkins, Chairman
Legislative & Zoning Comm.
Stonegate Citizens Assn.
15204 Middlegate Road
Silver Spring, Md., 20905

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12510 Prosperity Drive, Suite 150
Silver Spring, Maryland 20904
August 29, 2001

Mr. Donald Spence, Chair
Montgomery County Board of Appeals
100 Maryland Avenue
Rockville, Maryland 20850

Re: Special Exception No. S2476, Petition of Safeway, Inc. for
an automobile filling station at its Cloverly location


Dear Mr. Spence:

The Cloverly Master Plan Citizens Advisory Committee (CAC) met to discuss Safeway's application for a gas station at its Cloverly location. I am writing to inform you that we voted unanimously to oppose it.

The CAC spent nearly 5 years writing the Cloverly Master Plan, which was adopted just four years ago. We continue to meet to discuss master plan issues, in an effort to ensure proper implementation of the plan; we are dismayed to find that developers, lawyers, and even occasionally representatives of the various County agencies are reinterpreting the plan to suit themselves.

When the Board of Appeals holds a hearing on this special exception request, we will be there to present information that challenges the need for an automobile filling station at this location. More importantly, we will be there to explain why this proposal egregiously violates the trust of the community and the spirit and intent of the Cloverly Master Plan.

Sincerely,



L. Edward O'Hara, Jr., Chair
Cloverly Master Plan CAC

Cc:
Arthur Holmes, Chair
Montgomery County Planning Board

C. Robert Dalrymple - Linowes and Blocher
Anne C. Martin - Linowes and Blocher

Kenneth A. Hornbeck, Project Manager - Safeway, Inc
Michael Bessire, Division President - Safeway, Inc
Howard Beckford, Marketing Manager - Safeway, Inc
Hank Comminiello, Retail Operations Manager - Safeway, Inc
Greg Ten Eyck, Direct of Public Affairs - Safeway, Inc
Janice Studds, District Manager - Safeway, Inc.