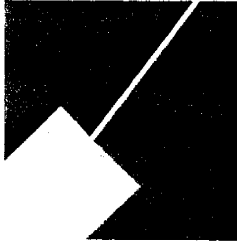


M-NCPPC



MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

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

Agenda Date: October 19, 2006
Item #11
Reconsideration Request

**OFFICE OF
THE GENERAL COUNSEL**

(301) 495-4646
FAX (301) 495-2173

October 13, 2006

REQUEST FOR RECONSIDERATION

MEMORANDUM

TO: Montgomery County Planning Board

VIA: Debra Yerg Daniel, Associate General Counsel
301.495.4646
DYD (TAB)

FROM: Tariq El-Baba, Associate General Counsel
301.495.4646
TAB

RE: Reconsideration Request For Long Branch Medical Building
Preliminary Plan No. 120060240
Site Plan No. 820060080

I. BACKGROUND

Actions Sought To Be Reconsidered:

- Preliminary Plan No. 120060240 and Site Plan No. 820060080.
- Date of Hearings: March 9, 2006
 - Action Taken: Approval of Preliminary Plan and Site Plan

Parties Seeking Reconsideration:

Sligo Branview Community Association, Mary Cogan, Susan Lucas, John S. Fitzgerald, Enga de Almeida, Diane Millard, Joseph Fisher, P. Eitzen, Wanderly Calderon, M. Perlman, Richard A. Gollub, Rita Clark-Gollub, Catherine Shields, and Stephen Schulze (collectively referred to hereinafter as the "Requesters").

Planning Board Votes

Motions to approve the Preliminary and Site Plans made by Commissioner Bryant, seconded by Commissioner Robinson.

Commissioners Berlage, Bryant, and Robinson voting in favor of the motions. Commissioner Wellington voting against the motions. Commissioner Perdue necessarily absent.

II. BASES FOR RECONSIDERATION

Grounds for reconsideration, as specified in the Planning Board's Rules of Procedure, are as follows:

1. A clear showing that the action of the Board did not conform to relevant law or its rules of procedure; or
2. Evidence indicating that certain pertinent and significant information relevant to the Board's decision was not presented at the public hearing before the Board or otherwise contained in the record, together with a statement detailing why such information was not timely presented; or
3. Such other appropriate compelling basis as determined by the Board.

The Planning Board, in its sole discretion, is responsible for determining if the grounds stated in support of the reconsideration request are sufficient to merit reconsideration.

III. RECOMMENDATION

In legal staff's opinion, there is no legal deficiency in the Planning Board's actions in approving the Preliminary and Site Plans that requires reconsideration. However, if the Planning Board determines that the reconsideration request demonstrates that any one of the above-enumerated grounds has been met, the Board may grant the request.

IV. ATTACHMENTS

Attachment One: Reconsideration Request Letter, dated October 5, 2006

Attachment Two: Applicant's Opposition Reconsideration Request, dated October 12, 2006

Attachment Three: Preliminary Plan Staff Report, dated February 24, 2006

Attachment Four: Site Plan Staff Report, dated February 21, 2006

Attachment Five: Preliminary Plan Opinion, dated September 26, 2006

Attachment Six: Site Plan Resolution, dated September 28, 2006

Attachment Seven: Montgomery County Board of Appeals Opinion, dated September 18, 2006¹

W:\TAB\ReconsiderationRequests\LongBranch\memo.10-12-06.final.doc

¹ At the hearings, Counsel to Requesters had requested that the Planning Board postpone any decision on the Plans pending a decision by the Montgomery County Board of Appeals on the contested issue of the classification of the proposed building. The Board proceeded with its consideration of the Plans, having decided that it is within the Planning Board's authority to determine adequacy of parking through its site plan process. Attachment Seven is the Board of Appeals Opinion in that case. The Applicant cites to that decision in its Opposition to the Reconsideration Request.



CHEN, WALSH, TECLER & MCCABE, LLJ

ATTORNEYS AT LAW

200A MONROE STREET

SUITE 300

ROCKVILLE, MARYLAND 20850

(301) 279-9500

FAX: (301) 294-5195

ATTACHMENT ONE

JOHN BURGESS WALSH, JR.
WILLIAM JAMES CHEN, JR.*
KENNETH B. TECLER*
JOHN F. MCCABE, JR.*

*ALSO ADMITTED IN THE
DISTRICT OF COLUMBIA

1-800-229-9510

October 5, 2006

RECEIVED
1319
OCT 05 2006

Royce Hanson, Chair and Members of
The Montgomery County Planning Board
8787 Georgia Avenue
Silver Spring, Maryland 20910

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

RE: Preliminary Plan No. 120060240 (formerly 1-06024)
Site Plan No. 820060080 (formerly 8-06008)
Long Branch Medical Building

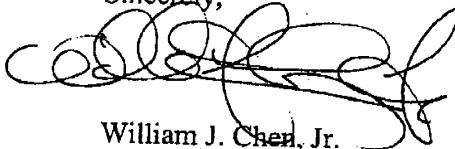
Dear Dr. Hanson and Board Members:

This letter is submitted on behalf of the Sligo Branview Community Association, Mary Cogan, Susan Lucas, John S. Fitzgerald, Enga de Almeida, Diane Millard, Joseph Fisher, P. Eitzen, Wanderly Calderon, M. Perlman, Richard A. Gollub, Rita Clark-Gollub, Catherine Shields, and Stephen Schulze to ask reconsideration of the Boards' opinion of September 26, 2006, approving Preliminary Plan No. 120060240, and its resolution of September 28, 2006, approving Site Plan No. 82006080 for the project known as the Long Branch Medical Building.

Submitted with this letter is a letter from Rose Crenca, Co-Chair of the Zoning Committee of the Sligo-Branview Community Association. That letter states the grounds for my clients' request for reconsideration.

It is respectfully submitted that the Board should reconsider its actions as to the aforesaid plans and deny the said plans.

Sincerely,



William J. Chen, Jr.

WJC:emw
Enclosure

cc: Cathy Conlon, M-NCPPC
Richard Weaver, M-NCPPC
Robert R. Harris, Esq.
Stacy Silber, Esq.

Sligo-Branview Community Association
108 East Schuyler Road
Silver Spring, MD 20901

October 5, 2006

Montgomery County Planning Board
8787 Georgia Avenue
Silver Spring, MD 20910

Re: Preliminary Plan No. 120060240 (formerly 1-06024),
Site Plan No. 820060080 (formerly 8-06008),
Long Branch Medical Building

Dear Dr. Hanson and Board Members:

This letter is submitted to request that the Planning Board reconsider its opinion of September 26, 2006, approving Preliminary Plan No. 120060240, and its resolution of September 28, 2006, approving Site Plan No. 820060080 for the project known as the Long Branch Medical Building (hereafter "Subject Property").

There are several reasons why the Board's actions on the Preliminary Plan No. 120060240 and Site Plan No. 820060080 should be reconsidered. The following summarize those reasons.

**A. The Subject Property is not eligible for development
or any use other than its current use for off-street parking.**

At the time of the Board's hearing on these plans it was contended that the Subject Property has long been used to satisfy the off-street parking requirements for the existing commercial development located on the same block which is known as the Flower Avenue Shopping Center. That development, like the Subject Property, fronts onto Flower Avenue between Piney Branch Road and Arliss Street. Since the Board's hearing we have been able to obtain a copy of the plot plan for the aforesaid commercial development, and a copy of that plan submitted with this letter.

We understand that the plot plan was approved as part of the construction of a new department store building with 7,650 square feet of sales area in 1954. That new building is

clearly depicted on the plot plan and is part of the Flower Avenue Shopping Center. The plot plan also shows the other Flower Avenue Shopping Center commercial development that existed on the block in 1950. The new building was to be constructed in an area that previously had been used for off-street parking for the shopping center. At the time of the construction of the new department store Arliss Street had not yet been built and, therefore, the plan only depicts Flower Avenue and Piney Branch Road. The Subject Property is highlighted and you will readily see that it is used for part of the off-street parking for the commercial development. The Subject Property remains in that use today. Arliss Street is the area which abuts the Subject Property on its northern side which is identified as "Parcel 8." There are no known approvals or other records which change or relieve the status of the Subject Property as to its use to satisfy, in part, the off-street parking requirements for the Flower Avenue Shopping Center.

In short, it is clear that the Subject Property is used to satisfy the off-street parking requirements for commercial development on the same block. In that circumstance, the Subject Property cannot be utilized for any other use unless the applicant demonstrates that there is a new location to which the parking spaces on the Subject Property have been lawfully re-located. Furthermore, the foregoing use of the Subject Property also demonstrates that the proposed development fails to comply with the off-street parking requirements of the Montgomery County Zoning Ordinance because, aside from the erroneous parking calculations that the applicant has submitted (through the letter of February 15, 2006, from the Department of Permitting Services), the calculations fail to take into account the existing parking spaces on the Subject Property. As noted, those spaces are required for the Flower Avenue Shopping Center and, therefore, have to be included in any count of required parking spaces for development of the Subject Property.

B. The classification of the proposed building is incorrect, and, therefore, the required parking calculations are incorrect.

The Sligo-Branview community has contended that the classification of the Long Branch Medical Building as an "office, general office, and professional building or similar use" by the Department of Permitting Services for the purpose of calculating off-street parking requirements is erroneous. The proposed building must be considered to be a "clinic" or "medical office building" or "medical or dental clinic," which would require 279 parking spaces for a 55,800 sq. ft. building. See § 59-E-3.75, entitled "Schedule of Requirements", for "Medical or dental clinic". The proposed development is woefully short of required off-street parking spaces.

1. The Board's site plan opinion is based on : "Staff's opinion" of a non-existent distinction between a "clinic" and a "medical building" instead of the applicable definitions section of the Zoning Ordinance (Sec. 59-A.2.1).

The Board's opinion asserts that the definition of a "clinic" is different from that of a

"medical building." It opines that clinics have only examining rooms and that other services such as an imaging center, ambulatory surgery center, and primary care doctors' offices are not clinic services. ***However, clinics, medical buildings, medical and dental buildings are the same thing and have the same parking requirements. The terms are used interchangeably.***

- Under "clinic" Sec. 59-A-2.1 of the Zoning Ordinance states: "See 'medical or dental clinic'."
- Under "Medical office building" the Zoning Ordinance states: "See 'medical or dental clinic'."
- Under "Medical or dental clinic" the Zoning Ordinance states: "Any building or group of buildings occupied by 3 or more medical practitioners and related services for the purpose of providing health services to people on an outpatient basis."
- A "Medical practitioner" is defined as "A licensed physician, surgeon, dentist, osteopath, chiropractor or optometrist."

Even if the proposed building were determined to be "Office, professional, nonresidential" and calculations were made under Sec. 59-E-3.7, the number of parking spaces required would be the same as the number required for a medical building/clinic because the Schedule of Requirements states: "Five parking spaces for each 1,000 square feet of gross floor area used by medical practitioners and 2.5 parking spaces for each 1,000 square feet of gross floor area used by all other professionals."

In the Site Plan opinion, it is stated: "...Staff asserted at the Hearing that the term 'clinic,' as defined in the Code, refers to the more traditional concept of a medical facility filled with examination rooms that generates a large and steady flow of foot traffic and thereby necessitates, for instance, a greater parking allowance. Agreeing that the proposed facility does not fit the traditional definition of a clinic, the Board notes the changing nature of outpatient medical care, including an ever-greater emphasis on the efficient provision of services, and that similar facilities exist in the region that also cannot easily be categorized as clinics." Site Plan opinion, p. 15.

It is erroneous to state that the proposed building does not fit the traditional definition of a clinic and that similar facilities cannot be easily categorized. Clinics, like the proposed Long Branch Medical Building, are categorized in the databases of the Research Department of the M-NCPPC, the Board of Appeals, and the Maryland State Department of Assessments and Taxation records. Pursuant to those authorities the Long Branch Medical Building would be coded as a medical clinic.

Also, the changing nature of outpatient medicare care is that traditional "hospital services" are being moved to outpatient services. For instance, x-ray and other imaging

techniques (MRIs, CTs, etc.), certain minor surgeries, colonoscopies, etc. have been inpatient or in-hospital services, but now are outpatient services. These services are provided through clinics or medical office buildings.

Staff interpretation (Site Plan Opinion page 12) notwithstanding, it is disingenuous to contend that some of the proposed activities in the building are not medical uses. Having several different medical uses does not constitute "a mix of uses." All uses are medical or health uses. All press releases from the Washington Adventist Hospital ("WAH"), presentations to County Council committees and the full Council, and presentations made to various community groups, as well as documents in the preliminary plan and site plan files, other documents, and the applicant's testimony at the March 9 public hearing describe The Long Branch Medical Building as providing healthcare services on an outpatient basis. Indeed, the name of the project is Long Branch *Medical* Building.

Further, the discussion about "mix of uses" is not only irrelevant, it proves the community's point that *more* parking will be needed. If a patient stays in the building longer because he or she is recovering from anesthesia in the ambulatory surgery center, for instance, it does not follow that no other patients are being seen while that patient is recovering. Indeed, the same number of patients will be seen, but each will spend a longer time period in the building and, therefore, their parking spaces will not be freed up for other patients.

2. The Board's opinions ignore long-standing County procedures for classifying types of building uses including County databases of the Board of Appeals, Tax Assessor, and M-NCPPC and the reality of what services are routinely found in existing medical buildings/clinics throughout the County.

The database of land uses that is maintained by the Research Department of M-NCPPC lists many buildings whose uses are classified as "medical office" (coded 651 or 653 for condos.). According to M-NCPPC staff, the official determination of a building's use is originally made by the Tax Assessor. M-NCPPC merely imports the file and uses its own code and terminology, medical *office*.

The Board of Appeals maintains a database of uses for which special exceptions for a "medical clinic" has been requested. (The Board of Appeals uses the term medical *clinic*.) At least some of the special exceptions granted for medical clinics are also listed as "medical office" in the M-NCPPC file. (This should not be interpreted to mean that some special exceptions for medical clinics are not listed in the M-NCPPC file. It merely means that, because of time constraints, all of them were not cross-referenced.)

An example of a group of buildings with a special exception for a medical clinic that is listed in the M-NCPPC database as medical *office* is a cluster of three buildings at 10301

Georgia Avenue. Known to many as "the big white buildings near Dennis Avenue," these buildings provide many services that the Board's opinion states are not found in a "clinic." 10301 Georgia is the address for these buildings in the tax file. For Post Office and other specific location identification, two of the buildings have addresses of 2101 and 2121 Medical Park Drive. The third has the address 10301 Georgia Ave. But they are the same buildings and they include in their services: Eye surgery, MRI, Orthopedic-Physical Therapy, Clinical Radiology (imaging center), general, nuclear medicine, mammograms, ultrasound. This facility, essentially, provides the same range of medical/health services as proposed for the Long Branch Medical Buildings.

Many other "medical offices" shown in the M-NCPPC database include services such as imaging centers and ambulatory surgery centers. In fact, another example of such buildings is three located on the campus of Shady Grove Hospital in Rockville owned by Adventist HealthCare, the parent of WAH. These medical offices include an ambulatory surgery center, Doctors' Vascular Lab, EMC-EEG Lab, Hearing Healthcare, Inc., physical therapy, Cardiac Catherization Lab, Cardiac Rehab and EECT Services, Quest Diagnostics (lab)

These databases refute the contrived distinctions that are contained in the Board's opinions.

3. The Board's opinions rely on a memo from the Department of Permitting Services as authority for its determination that the proposed building is a "general office building." Yet in the Board of Appeals proceeding challenging that memo as erroneous, the applicant asserted that the memo was merely "evidence" and not a reliable determination of a classification.

The only calculation that the applicant has submitted to demonstrate compliance with the off-street parking requirements of the Zoning Ordinance is the letter dated February 15, 2006 from David K. Niblock, Permitting Services Specialist, of the Montgomery County Department of Permitting Services. We have correctly argued that Mr. Niblock's analysis is erroneous because he classifies the proposed Long Branch Medical Building as "office, general office, and professional building or similar use".

The Sligo-Branview Community Association and others appealed Mr. Niblock's letter to the Board of Appeals. In successfully arguing to the Board of Appeals that the appeal should be dismissed, the applicant has contended that Mr. Niblock's report is merely "guidance". However, that letter is also the only parking calculation submitted by the applicant for the preliminary and site plans. It is not an merely "guidance".

Beyond Mr. Niblock's error is classifying the proposed Long Branch Medical Building as an "office, general office, and professional building or similar use" is the newly

recovered plot plan for the Flower Avenue Shopping Center which reveals that the existing off-street parking spaces on the Subject Property are part of the required parking spaces for the Shopping Center. That circumstance was not included in Mr. Niblock's report. Accordingly, not only did Mr. Niblock err in calculating the required off-street parking spaces for the Long Branch Medical Building, he also failed to take into account the fact that the existing parking spaces on the Subject Property must be included, or replaced, in any re-development of the Subject Property.

4. There is no suggestion that services in the proposed building will not be services of medical practitioners or related services or for the purpose of providing health services to people on an outpatient basis. In fact, press releases from WAH uniformly describe services to be offered in the proposed building as healthcare services on an outpatient basis. The fact that WAH plans this building to be a "Federally Qualified Health Center" (FQHC) also testifies to the point that all services offered in this proposed building will be "providing health services to people on an outpatient basis."

The description of the current use of the subject property in the Development Review Committee Transportation Planning Comments "Existing Land use/Occupied House(s)" Site Plan file is erroneous. It states that the current use of the Subject Property is: "A surface parking lot mainly used to store a few buses for the nearby house of worship." In fact, the lot is used for parking by the customers of businesses at the Flower Avenue Shopping Center. This error was pointed out to staff and reiterated, with photo, in the March 6, 2006 Sligo-Branview Community Association letter to the Planning Board. That undisputed evidence has been ignored.

C. The Planning Board opinions refer to an applicant's "parking analysis" that is not found in the record.

On Page 11 the Site Plan opinion refers to a "parking analysis [the Applicant] had commissioned". *However, no parking analysis is among the documents in the M-NCPPC record.*

The only "parking analysis" submitted by the applicant is the DPS letter of February 15, 2006. Furthermore, long before the Board's hearing, community representatives asked for the applicant's parking analysis or computations, and the only document ever produced was the DPS letter which, as explained, is erroneous.

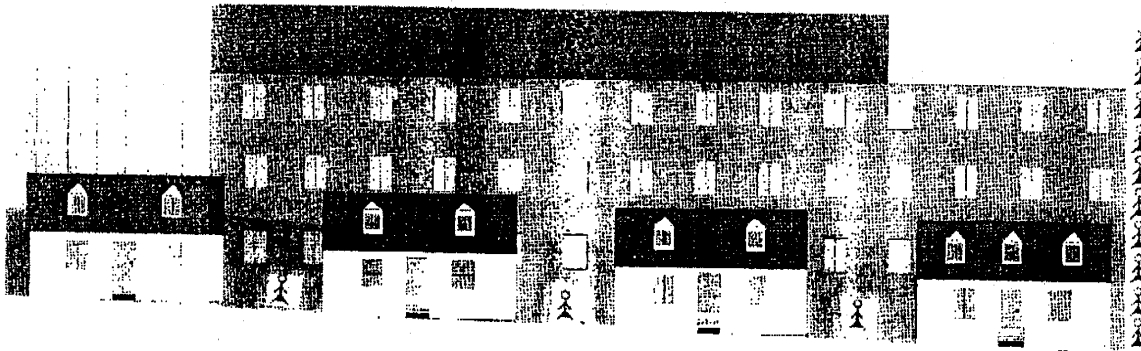
D. Measurements purporting to show a “compatible” height difference between the proposed building and the single-family houses across Flower Avenue and the townhouses across Arliss St. are taken incorrectly in one instance and, though technically correct in another, disguise the perception or vision of height differences. It minimizes how the building looks.

Height measurements for the single-family dwellings and townhouses were taken from the ground to the *peak of roof*, instead of to the mid-point of the gable. This has the effect of maximizing the height of the residential buildings. It is almost a “reverse-Clarksburg” problem where developers incorrectly measured heights to minimize their actual heights.

In addition, the applicant used the *highest point on the site* at the northwestern corner from which to begin their measurements. While this is technically permissible, it has the visual effect of a much larger building. Because this site slopes considerably from its highest point, it permits almost an additional story to be out of the ground at its southern corner. Indeed a pedestrian walking along this building would be next to a solid wall and beneath the first-floor windows for almost the entire length of the Long Branch Medical Building.

The illustration below, which is drawn to scale, shows that the height and bulk of the building will overpower the single-family houses across Flower Avenue. It clearly demonstrates that a 6-foot tall person walking next to the proposed building would always be next to a solid masonry wall and well below the first floor windows at all points. Although the measurement is technically permissible, the actual height of the building—what people will see and experience—will be 53 to 60.5 feet from ground level to top, including the penthouse.

The Proposed Building's Height & Bulk Far Exceed the Local Homes' Size



The four homes on Flower Avenue are 17 to 19' using County measurement methods (23' to 25' from ground-level to peak.)
The proposed building is 40' to 47.5' (53' to 60.5' from ground-level to top.)

Scale:
 $\frac{1}{2}'' = 10$ feet
 $\text{human figure} = 6$ feet



The 2000 East Silver Spring Master Plan, discussing "Achieve the purpose of the new Commercial Revitalization Overlay Zone by" (p. 37), item 3 states: "Limiting building heights to 30 feet. However, allow the Planning Board to permit a height of up to 42 feet for commercial development...if found to be compatible with the neighborhood and consistent with the intent of this Master Plan."

By what stretch of imagination can a building of this height and mass be called "compatible"?

How can walking along a solid masonry wall the entire length of a building be considered pedestrian friendly?

Further, the opinion on the Preliminary Plan (page 4, para 2) noting that "Whereas the earlier 1977 Silver Spring East Master Plan described the subject property, then zoned R-60, as a buffer between the adjoining neighborhood and the C-2 property in Long Branch, the 2000 East Silver Spring Master Plan on page 76 describes Arliss Street as representing 'a transition area between the townhouses on the north side of the street and the commercial retail activity of the Flower Village Center.' "

What this quote leaves out is that the 2000 East Silver Spring Master Plan *downzoned* the C-2 property referred to above because it said C-1 local was more appropriate to the Flower Village neighborhood.

Although the proposed building and the Flower Theatre are approximately the same height, the preliminary plan opinion recognizes that the roof of the proposed building would actually be 20 feet *higher* than the Flower Theater because of the significant change in grade. "Flower Avenue slopes downward as it approaches Pincy Branch Road; and, therefore, the roof of the proposed building will be approximately 20 feet taller than the top of the Flower Theater." Preliminary Plan opinion, p.6. Of course, the penthouse would make the building appear even taller.

E. The Site Plan Opinion "Cherry-picks" its quotes to support its contention that the 2000 East Silver Spring Master Plan envisions Regional-Serving development on the subject property and its contention that most clients of the proposed building will be from the local neighborhood.

On Page 10 the Preliminary Plan opinion states that regionally serving businesses are appropriate at this site "...because the Master Plan specifically recommends such rezoning...by recommending support for, among other things, 'a diverse range of commercial services in East Silver Spring, such as...regionally servicing businesses' Master Plan at 36 (emphasis added). Moreover, the purpose clause of the C-1 Zone merely recommends that facilities not be 'so large or so broad in scope of services as to attract substantial amounts of trade from outside the neighborhood.' " (emphasis not added). There is similar--but not exactly the same--language in the Site Plan Opinion, p 15-16.

The quote from Page 36 of the 2000 East Silver Spring Master Plan is misleading. It refers to *all* of East Silver Spring *in general*, and not the Flower Avenue Shipping Center area..

However, page 39 of the 2000 East Silver Spring Master Plan and the minutes of the PHED Committee's October 11, 2000 meeting, both of which relate specifically to the Flower Village area (including the Subject Property), paint a different picture. While the County Council recommended rezoning the Subject Property from R-60 to C-1 Zone, it simultaneously *downzoned* three quadrants of Flower Avenue and Pincy Branch Road from C-2 to C-1 as a more appropriate category for the area and emphasized the importance of a "unified, coordinated, street-oriented treatment for this portion of Flower."¹ The Master Plan specifically said, "3. Townhouse development is appropriate at this site as a transition to the

¹ A copy of the PHED Committee minutes was attached to the Sligo-Branview Community Association letter of March 6, 2006, which has been submitted to the Board.

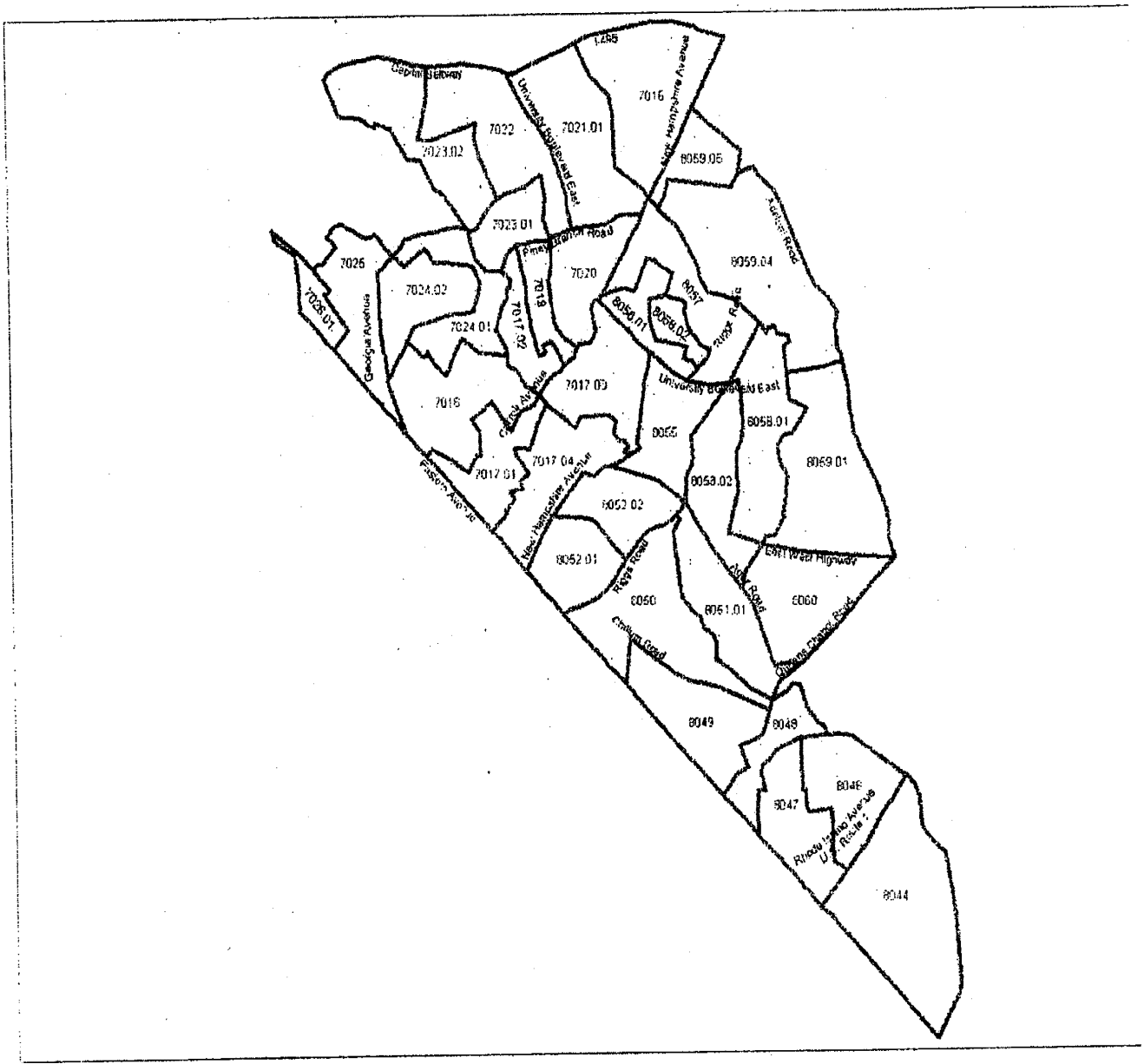
single-family residences located across Flower Avenue and Arliss Street.” ***The downzoning of three quadrants of an intersection fairly shouts that local, neighborhood-serving uses are appropriate. The downzoning was more than merely a recommendation.***

The Preliminary Plan opinion on page 10 asserts: “The Board finds no evidence in the record demonstrating that the proposed facility is so large or will provide such a broad scope of services that a substantial number of users will be from outside the neighborhood. On the contrary, the Board heard testimony from the President of the Washington Adventist Hospital that the County commissioned a study, which identified the subject location as being in need of the type of service proposed and that it was his expectation that the primary users of the facility would be from the Long Branch community.”

Both of these statements are erroneous. There was testimony before the Board that the proposed facility would serve a substantial number of users from outside the neighborhood. WAH, itself, stated at the public hearing and in other documents, press releases, meetings with County Council and others that it intended to seek designation of this building as a Federally Qualified Health Center (FQHC.) An FQHC is a facility that provides healthcare services to medically underserved populations and areas. Federal funds are available to help pay for services in an FQHC. Designation of “medically underserved” is based on a number of demographic factors—age, income, etc.—and number of facilities—doctors’ offices, etc. in that area. The geographic area that fits the criteria for “medically underserved” begins near the Capital Beltway and stretches south through Prince George’s County to beyond Route 1.

The following graphic shows the location of the 35 Census Tracts that would be the underserved area that would be served by the Long Branch Medical Building as a Federally Qualified Health Center. ***Surely drawing clients from 35 Census tracts as far away as Route 1 fits the definition of “large” or “broad” and “from outside the neighborhood.”***

Furthermore, it does not pass the laugh test to maintain that a medical building as large as that proposed and with as many specialized services as envisioned (imaging center, outpatient surgery center, urgent care center, etc.) would or could be supported primarily with clients from such a small area that’s surrounding the Flower Village Center. Even individual doctors’ offices no longer draw most of their patients from a small, local geographic area.



The minutes of the PHED Committee meeting of October 11, 2000 also show considerable attention to the Subject Property. Minutes of the October 11, 2000 Worksession under the heading Commercial Revitalization Overlay Zone, Flower Shopping Center, and Arliss Site state: "Considerable progress was made toward redesigning the overlay zone to reinforce the community serving nature of existing commercial centers...to ensure future commercial development is compatible with nearby residential areas. It was clarified that *C-1 refers to neighborhood-oriented business that residents can walk to* and that C-2 refers to neighborhood-oriented businesses that are more likely driven to." p.1, (emphasis added.)

Accordingly, the 2000 East Silver Spring Master Plan does not recommend that the Subject Property is appropriate for regional services businesses. In point of fact the 2000 East Silver Spring Master Plan recommends that the subject property and its environs are to be developed/used for neighborhood-oriented business. This is consistent with the longstanding master plans for this area. The 1967 Kemp Mill-Four Corners Master Plan, p. 13, Flower Center Proposal, emphasized the parking requirements being fulfilled by the Subject Property when it recommended C-1 zoning south of the subject property but said: "The land north of the proposed C-1 zoning [i.e., the Subject Property] should remain in the R-60 Zone and be used for parking". The 1977 Silver Spring East Master Plan, page 49, reaffirmed the R-60 zoning of the Subject Property in saying: "The lot at the southeast corner of Arliss Street [i.e. the Subject Property], zoned R-60 with a special exception for parking, serves as a buffer between commercial and residential uses and should be retained in the R-60 zone."

**F. The Preliminary Plan opinion asserts,
but does not demonstrate
that streets are adequate transition areas.**

On page 9 the Preliminary Plan opinion asserts that Flower Avenue can be deemed a transition area because "there are several examples throughout the County of compatible commercial structures separated from existing adjacent residential development by rights-of-way deemed to serve as transition areas...." It further posits that the transition area represented by Arliss Street (which the Master Plan refers to as a transition area if streetscape treatment and other improvements are added) is evidence that Flower Avenue is an adequate transition for the houses across the street.

This is faulty logic on two counts:

1. Because there are *some* "...examples throughout the County of compatible commercial structures separated from existing adjacent residential development by rights-of-way deemed to serve as transition area" *it does not necessarily follow that all rights-of-way are adequate transition areas in all cases or even in this specific proposed development.* The Preliminary Plan opinion gives no details as to the size, bulk or other characteristics of "compatible" commercial structures or of the

residential areas or transition streets with which a valid comparison to the subject proposal can be made.

2. Although, under the heading, "Arliss Street Recommendations," the Master Plan on page 76 does suggest that with certain improvements, Arliss Street *could* serve as a transition, it makes *no such statement under the heading "Flower Avenue Recommendations,"* also on page 76. Surely if the County Council believed that Flower Avenue, itself, could be a transition it would have said so as it did for Arliss Street. Indeed, evidence in County Council and PHED committee work sessions show that substantial thought and discussion was given to Flower Avenue and issues regarding compatibility with the existing residences. Under the heading "Flower Avenue Recommendations" on page 76, the Master Plan begins: "The livability, character, and safety of Flower Avenue are important to the entire community....established homes are very close to the street...The highest priority should be given to making improvements for pedestrian safety, *with every effort to preserve neighborhood character* while doing so".

The Site Plan opinion on p.14 measures from building façade to building façade-- which is a greater distance than the rights-of-way--which they say is approximately 115 to 120 feet from the front of confronting properties across both Flower Avenue and Arliss Streets. This distance is no greater than would be found in a dense subdivision for houses across the street from each other. Surely a 40-foot medical building requires a greater transition to residential than would be needed from residential to residential!

The Site Plan opinion on p.14 "observes" that "using intervening rights-of-way to transition from taller commercial buildings to shorter neighboring residential structures is a common technique employed *elsewhere* in the region". (emphasis added). Nowhere is there any discussion of what sized rights-of-way are used to transition from what sized commercial buildings to what sized residential structures. Nor is there any indication of where "elsewhere" is or what constitutes the "region." There is no evidence that using rights-of-way as transition is a "common technique" in Montgomery County or any explanation as to why that technique is appropriate in this specific case. Further, the 115 to 120 feet posited to provide sufficient transition is measured from façade front to façade front. Which means that the "transition" space uses more than the street, which is only 70 feet, to include the front yards of confronting houses. This is not a correct way to measure "transition" space.

At page 15, the Site Plan opinion states that the fact that medical and office uses are permitted in the CROZ "suggests that the Master Plan considers uses such as those proposed for the subject development compatible with adjoining or confronting residential uses." This is more faulty logic. Because medical or office use is permitted does not mean that each and every proposal for medical use, regardless of other factors spelled out in the master plan, is compatible. If that were true, why would we have site plan review?

Given the height, bulk, and location of the proposed Long Branch Medical Building, particularly as it is on the high point of the block between Arliss Street and Pincy Branch Road, the proposed development is not compatible with the neighboring residential community.

In light of all of the foregoing, this letter is submitted to request that the Board reconsider its opinion of September 26, 2006, and deny the requested subdivision and its resolution of September 28, 2006, and deny or disapprove the site plan for the Long Branch Medical Building.

Sincerely,



Rose Crenca
Zoning Committee Co-Chair for
Sligo-Branview Community Association

Enclosures

cc: Cathy Conlon, M-NCPPC
Richard Weaver, M-NCPPC
Robert R. Harris, Esq.
Stacey Silber, Esq.

mml\sligo-branview\h:\planning-brd.ltr

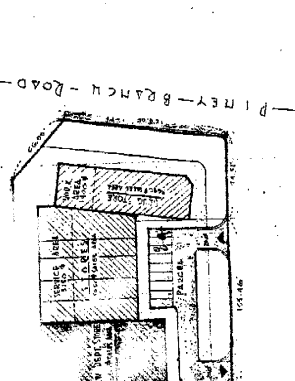
PARKING REQ'D:

Box Office - 1440 sq. ft.
 Post Office - 1000 sq. ft.
 Ticket Shop - 1000 sq. ft.
TOTAL SEATING 10000
TOTAL SEATING 10000
 @ 1.0 car per seat = 10000 cars

NEW SEATING
 17000

NEW SEATING
 17000

TOTAL SEATING REQUIRED 27000
TOTAL PARKING PROVIDED 300 cars
TOTAL PARKING AREA REQUIRED 10000 sq. ft.



PINEY BRANCH ROAD

FLOWER AVENUE

10' WIDE

TAKOMA PARK, MARYLAND

SCALE: 1" = 50'-0"

EDWIN WILKINS, AIA.
 REGISTERED ARCHITECT
 WASHINGTON, D. C.

PLOT PLAN SHOWING BUILDINGS AND PARKING FOR FLOWER AVENUE SHOPPING CENTER, INC.
 TAKOMA PARK, MARYLAND

333654

Engineering for the Department of Public Works
 1950

ATTACHMENT TWO

RECEIVED
OCT 13 2006

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

Stacy P. Silber
301 664 7619
stacy.silber@hkllaw.com

October 12, 2006

VIA OVERNIGHT DELIVERY

Dr. Royce Hanson
Chair
Montgomery County Planning Board
8787 Georgia Avenue
Silver Spring, Maryland 20910

Re: OPPOSITION TO REQUEST FOR RECONSIDERATION
Site Plan No. 820060080
Preliminary Plan No. 120060240

Dear Chairman Hanson:

On behalf of Adventist Health Care, Inc. and the Flower Avenue Shopping Center (the "Applicant") we respectfully submit that Sligo Branview's, *et. al* ("Sligo Branview") request for reconsideration ("Sligo's October 5th Letter") should be denied because the Planning Board thoroughly considered all of the arguments presented by Sligo Branview. Furthermore, there is no relevant and/or material evidence that is being presented by Sligo Branview that was not or could not have been brought to the attention of the Planning Board on, or before March 9, 2006, the date of the Planning Board hearing on these matters. As such, and as is discussed herein, Sligo Branview is simply rehashing issues that the Planning Board already considered and rejected, and thus Sligo Branview fails to satisfy the standards which must be met for the Planning Board to grant a request for reconsideration.

I. Background.

The Site Plan and Preliminary Plan for the Property were filed in August of 2005. During the eight month period between when the applications were filed, and when the Planning Board heard these plans, Sligo Branview had the opportunity to articulate its arguments and submit any written materials to the Planning Board. Furthermore, the Staff published its thorough Staff Reports for both the Preliminary Plan and Site Plan for this case approximately 2 weeks prior to the Planning Board hearing on March 9, 2006, giving the community significant time to review the Staff Report, perform further research to counter any points raised in the Staff Report, and identify problems therewith. In fact, Sligo Branview did just that when on March 7, 2006, the Planning Board received from Sligo Branview a 13 page letter with numerous attachments (the "March 7th Letter"). In this letter, Sligo Branview explained point-by-point why it believed that the Planning Board should deny Adventist's Site Plan and Preliminary Plan. Among these briefed points were that Sligo Branview believed that: (1) Park & Planning Staff and the

Department of Permitting Services applied the incorrect parking category to this Property; (2) there was inadequate parking to serve the existing commercial and new office uses; (3) the proposed project is not in conformance with the Master Plan because, they argued, surrounding streets are not adequate transitions, that the subject building was not street oriented and that the proposed use was not neighborhood-oriented because individuals outside the area could also use the office building; and (4) the proposed building was not compatible with the neighborhood because the building was taller than the single family homes across Flower Avenue (they even submitted the same, respectfully, distorted comparison of the single family homes and the proposed Adventist building that they submitted in the subject reconsideration request).

In the March 7th Letter, Sligo Branview also requested that the Planning Board defer its hearing on the Site Plan and Preliminary Plan so that the Board of Appeals could decide a collateral appeal noted by Sligo Branview regarding the validity of the Department of Permitting Services ("DPS") letters regarding parking. The Planning Board rejected this argument, and the Board of Appeals resoundingly Dismissed Sligo Branview's appeal during oral argument held on May 17, 2006, and memorialized in a written opinion dated September 18, 2006.

The Planning Board also had before it oral and written testimony from the Applicant explaining why Sligo Branview's arguments were faulty and how the Site Plan and Preliminary Plan complied with all applicable requirements of the Montgomery County Code (the "Code"), and are consistent with the East Silver Spring Master Plan. Specifically, the Planning Board received a letter from Adventist (the "Adventist Letter"), which described point-by-point why Sligo Branview's arguments were erroneous. The Planning Board also considered a letter from the Urban Land Institute which reiterated the Technical Assistance Panel recommendation in favor of an office building on the subject property because it would buffer the residential neighborhood from more active uses.

Other neighbors on Flower Avenue and surrounding streets testified regarding why they supported the project and believed that the proposed office building was compatible and needed in Long Branch. There also were letters from Gustavo Torres of Casa of Maryland indicating the need for a health care facility in the Long Branch neighborhood, and letters from individuals who live and/or work in the Long Branch neighborhood who indicate that access to competent health care is limited in the area.

After considering all of this evidence, the Planning Board decided that the subject Site Plan and Preliminary Plan met all applicable requirements of the Code.

II. Planning Board Rules Preclude Reconsideration In This Case.

Section 11 of the Rules of Procedure for the Montgomery County Planning Board state that the Planning Board may grant reconsideration only under the following circumstances:

1. A clear showing that the action of the Board did not conform to relevant law or its rules of procedure; or
2. evidence indicating that certain pertinent and significant information relevant to the Board's decision was not presented at the public hearing before the Board or otherwise contained in the record, together with a statement detailing why such information was not timely presented; or
3. such other appropriate compelling basis as determined by the Board.

As discussed in detail herein, Sligo Branview has presented no relevant, material evidence that meets the above referenced standards. Rather, the Planning Board members discussed with Staff, the Applicant, Sligo Branview representatives, and others arguments and opinions on the correct parking category for Adventist's office building, compatibility with the neighborhood, compliance with the overlay zone standards, and master plan conformity. After considering all of the evidence, the Planning Board found that the subject Site Plan and Preliminary Plan met all applicable requirements of the Code. As discussed below, Sligo Branview introduces no new evidence within its reconsideration request that was not already considered by the Planning Board. The only new document is a Plot Plan, which as discussed herein, is irrelevant and immaterial to the Planning Board's findings. Not only is it irrelevant, but the reconsideration request provides no justification regarding why such Plan was not introduced at the March 9th hearing.

Finally, there is no other compelling basis for granting the reconsideration request. In fact, respectfully there is a compelling basis to NOT grant the reconsideration because the Planning Board has already reviewed and decided each issue raised within Sligo Branview's reconsideration request. Since these issues have already been reviewed and decided, a grant of the reconsideration would be a waste of administrative resources, and would be contrary to the Master Plan's recommendation for economic revitalization of this area, for it would delay the revitalization of Long Branch. As noted by the ULI Technical Assistance Panel, the Adventist Hospital Office Building offers a "unique opportunity of which the community should take advantage." (ULI Letter dated February 9, 2006, attached to Ms. Komes's February 21, 2006 Staff Report).

III. The Parking Is Adequate On The Property And In The Area.¹

A. The Record Evidence Demonstrates That There Will Be Adequate Parking To Satisfy Code And Demand Needs Of Adventist's New Office Building And The Commercial Uses In Area.

"A. The Subject Property is not eligible for development or any use other than its current use for off-street parking." Sligo's October 5th Letter, p. 1-2.

Sligo Branview thoroughly argued at the Planning Board hearing on March 9th, and in its March 7th Letter that they did not believe parking was adequate on the subject property and for the commercial uses in the area. In support of this proposition, Sligo Branview described master plan recommendations from 1967 and 1977, prior plans that discussed shared parking among various commercial uses, and made arguments regarding why Adventist's building was not an office for the use of (a) professional persons such as doctors, lawyers or accountants. In response to these contentions, the Applicant also submitted, as part of the Adventist Letter, a study from a traffic engineer that detailed the parking demands of the Adventist building and for existing adjacent commercial uses. Contrary to Sligo Branview's erroneous assertions, the parking analysis in fact did examine the whole area, and the analysis demonstrated that "the existing parking supply well exceeds the demand for the entire parking study area" and "a shared parking analysis for the area indicates parking will be adequate to meet the parking demand for the proposed project and adjacent land uses." The Planning Staff and Board considered this evidence, and rejected Sligo Branview's arguments. See Site Plan Resolution at pg. 7, 10-13.

¹ Sligo Branview's arguments are noted in italics, and the following discussion provides a point-by-point response to Sligo Branview's October 5th Letter.

The only 'new' piece of evidence that Sligo Branview attaches to its request for reconsideration is something called a "Plot Plan" apparently prepared for the property more than 55 years ago. This Plot Plan is irrelevant and immaterial and provides no basis for the Planning Board to grant the subject reconsideration request. First, there is no context for the Plot Plan. The Plot Plan contains no County stamps indicating why it was prepared, who reviewed it, or whether it was ever filed with or required for the development on the site. Secondly, Sligo Branview already made the argument to the Planning Board in its March 7th Letter and orally before the Board that they believed that the parking on the Adventist property was needed to serve other commercial uses along Flower Avenue. Adventist addressed this issue through its parking analysis of the area, which explained how all needs of the commercial and office use would be satisfied both practically and from a Code perspective with the construction of 190 parking spaces on the Adventist Property. Because these arguments have already been reviewed and decided, reconsideration is not appropriate.

Finally, parking requirements have changed since the 1950s. The Code now allows mixed, shared parking uses pursuant to Section 59-E-3.1. As discussed within the Adventist Letter and at the Planning Board hearing, all Code parking requirements are satisfied for the office and applicable commercial uses. Finally, the Plot Plan is irrelevant and immaterial because parking that may have been needed for uses in existence in the 1950s is not what is needed for the specific commercial uses that exist today. For example, there is no longer a grocery store or a theater on the commercial properties.

B. Park & Planning Staff Independently Determined That Parking Is Adequate On The Property And In The Community.

On pages 4, 7, 10, 11, 12, and 13 of the Planning Board's Site Plan Resolution, there is a detailed description of the extensive discussion that occurred in written submissions and discussions before the Planning Board about the adequacy of parking. Again, based on all of the evidence presented, the Planning Board concluded that there was adequate parking.

*1. The Board Has Already Rejected Sligo Branview's Argument That Park & Planning Staff Used The Wrong Parking Classification For Adventist's Office Building.

"B. The classification of the proposed building is incorrect and therefore the required parking calculations are incorrect." Sligo's October 5th Letter at p. 2.

"B1. The Board's site plan opinion is based on "Staff's opinion" of a non-existent distinction between a "clinic" and a "medical building" instead of the applicable definitions of the Zoning Ordinance (Section 59-A-2.1). Sligo's October 5th Letter at pp. 2-3.

As discussed at length at the Planning Board hearing and within the record, the Planning Board and Staff considered and already rejected Sligo Branview's arguments that Staff and the Planning Board should have used the "medical or dental clinic" parking category for this property. As was discussed before the Board, testified to by Adventist's president, and described in detail within the DPS referral comments to the Board, the Adventist building is an office, for professional persons such as doctors. In fact, Park & Planning staff

"advised the Board that it agreed with the interpretation regarding the building's use provided by DPS in its two letters to the Applicant. . . . Staff asserted that this building will not have the constant patient turnover that a traditional clinic would experience; for example, the surgery center, the imaging center and the urgent care center all involve longer stays than one would experience in a traditional clinic with examination rooms. A representative of the Applicant, the President of the Washington Adventist Hospital confirmed Staff's view that, given the mix of uses, patient turnover in the proposed facility would be lower than in a traditional medical office." Site Plan Resolution at p. 12.

Adventist of course acknowledges that its building will be used by Adventist and doctors for medical purposes. But, again, the "Office, General" is defined as "An Office for the use of (a) professional persons such as **doctors**, lawyers, accountants." (emphasis added). The "General Office Parking" category presumes such space will be occupied by such professionals as doctors. The Applicant acknowledges that there is another parking category entitled "Medical or Dental Clinic," but as discussed at length in the Planning Board's Staff report, and the Site Plan Opinion, and at the Planning Board hearing, the Planning Board has the authority, and in fact must interpret the Code in approving site plans. In this instance, the Planning Board evaluated Adventist's proposed uses, and the parking demands for Adventist's proposed building, and concluded that the correct parking category in this case is "Office, general office, and professional building or similar uses." See Site Plan Resolution at pp. 12-13.

The fact that the Adventist office building has been referred to as the Long Branch Medical Building is irrelevant and immaterial to determining the correct parking category. To suggest that a name of a building or project could determine a parking category would of course lead to an illogical result. This is especially true given that many site plans in the County are named after the historical reference of the Property, or prior uses (like a church) if the property is being redeveloped.

2. The Board Clearly, and Independently Determined the Correct Parking Category for the Subject Property.

"B3. The Board's opinions rely on a memo from the Department of Permitting Services as authority for its determination that the proposed building is a "general office building." Yet in the Board of Appeals proceeding challenging that memo as erroneous, the applicant asserted that the memo was merely "evidence" and not a reliable determination of a classification." Sligo's October 5th Letter at p. 5-6.

"B4. There is no suggestion that services in the proposed building will not be services of medical practitioners or related services or for the purpose of providing health services to people on an outpatient basis. In fact, press releases from WAH uniformly describe services to be offered in the proposed building as healthcare services on an outpatient basis. The fact that WAH plans this building to be a "Federally Qualified Health Center" (FQHC) also testifies to the point that all services offered in this proposed building will be "providing health services to people on an outpatient basis." Sligo's October 5th Letter at p. 6.

Sligo Branyview erroneously intimates that that the Planning Board relied upon the DPS letter as the sole authority in determining the correct parking category for the Property. On the contrary, as discussed above, the Planning Board asked its Staff for its Opinion regarding the correct parking

classification, listened to the facts provided by the Applicant (and Sligo Branview) regarding its parking analysis, and made an independent decision that it agreed with its Staff that the correct parking category for the subject property is Office, General Office which is for the use of professional persons such as doctors. See Site Plan Resolution at pp. 12-13.

In its review of Sligo Branview's claims, the Board of Appeals resoundingly dismissed Sligo Branview's appeal during oral argument held on May 17, 2006, and as memorialized in a written opinion dated September 18, 2006. In its Opinion, the Board of Appeals concludes that "Again, the Zoning Ordinance makes clear that in this context [i.e., Site Plan review], the number of parking spaces is a decision that must be made by the Planning Board, which was free to accept, modify, or reject DPS's parking calculation in making their determination." Board of Appeals Opinion at p 6. As explicitly stated within the Planning Board's Site Plan resolution, the Planning Board did review DPS's referral, as it reviews referrals from all referring agencies, and based on all of the information presented determined that its Staff correctly classified Adventist's proposed use.

Finally, Sligo Branview distorts the current use of the subject property for parking. As discussed within Applicant's Letter, depicted on Applicant's picture of the subject surface parking lot, and reviewed in an actual parking analysis submitted as part of Adventist's Letter, the existing surface parking has very limited use. In fact the parking analysis evaluates the use of the subject surface parking lot and determined that the peak of any usage of the surface parking lot was on Thursday and Friday evenings at 7 p.m., when the usage was 18% (or 15 out of a total of 82 parking spaces). On Saturdays, the peak usage was 7% occupied (or 6 out of a total of 82 parking spaces). This low usage makes sense because of the nature of the retail uses and the parking supply closer to those uses. The introduction of 190 parking spaces on the subject property will more than compensate for any overflow parking from the commercial uses.

3. Tax Assessor Category And Special Exception Categories Of Use Are Irrelevant To Determining The Correct Parking Category For Adventist's Office Building.

"B2. The Board's opinions ignore long-standing County procedures for classifying types of building uses including County databases of the Board of Appeals, Tax Assessor, and M-NCPPC and the reality of what services are routinely found in existing medical buildings/clinics throughout the County."
Sligo's October 5th Letter at pp. 4-5.

Respectfully, it is inappropriate to suggest that the Montgomery County Tax Assessment Codes determine the parking category for a specific use. Rather, the Code provides very specific parking categories for different office uses, and delegates authority for determining the applicable category to the Planning Board, DPS, and/or Board of Appeals, not the Tax Assessor. DPS, Park & Planning Staff and the Planning Board were correct in the subject classification.

In addition, Sligo Branview's citation of Special Exception uses and the Board of Appeals' treatment of such uses also is irrelevant to the Planning Board's evaluation of Adventist's permitted office use. There are specific office classifications that are permitted by special exception, particularly in residential zones. But, these use categories are different than the general office, medical or dental clinic uses that are permitted as of right in commercial zones. Likewise, the parking classifications can also vary depending on the specific use. In this case, the Planning Board carefully considered all of the evidence of how the Adventist building is expected to be used, and correctly concluded that this type of

building appropriately is an "office, general office use, and professional buildings or similar uses" for the professional persons such as doctors.

4. Sligo Branview Distorts The Facts, By Indicating That The Applicant's Letter Is Not In The Record.

Sligo Branview alleges repeatedly at page 6 of its March 7th Letter, that Applicant did not submit a parking analysis as referenced on page 11 of the Site Plan Opinion. To refresh Sligo Branview's recollection, and to correct yet another error by Sligo Branview, we point out that Applicant did submit a detailed parking analysis. The analysis was attached to Applicant's March 8th letter, provided to all Planning Board members and directly handed to Sligo Branview representative Rose Crenca. This letter is a part of the record for both the Preliminary Plan and Site Plan cases.

IV. The Planning Board Thoroughly Reviewed Voluminous Information, And All Ready Decided That The Proposed Project Is Compatible With The Neighborhood, And Consistent With Recommendations Of The Master Plan.

A. The Board, After Considering Considerable Evidence, Found The Adventist Building Compatible With The Neighborhood.

"D. Measurements purporting to show a "compatible" height difference between the proposed building and the single-family houses across Flower Avenue and the townhouses across Arliss Street are taken incorrectly in one instance, and though technically correct in another, disguise the perception or vision of height differences. It minimizes how the building looks." Sligo's October 5th Letter at p. 7.

"F. The Preliminary Plan opinion asserts, but does not demonstrate that streets are adequate transition areas." Sligo's October 5th Letter at p. 12-13.

First, Sligo Branview frivolously contends that the Applicant incorrectly measured buildings. This is false. The Applicant's buildings have been measured by Shalom Baranes and Associates, the project architect, in accordance with Code requirement, as confirmed by the Department of Permitting Services in a referral letter to the Board, which is attached to Staff's reports. As such, the office building height is not only "technically" correct, but IS correct. There is no basis to the claim that the Applicant incorrectly measured the heights of the adjacent single family homes. Rather, the Applicant openly explained the height differential between the single family homes and the subject office building to the Board. After hearing all of Sligo Branview's arguments, and the arguments of the Applicant and the opinions of Shalom Baranes, and the opinions of its Staff, the Planning Board found that the proposed building was compatible with the neighborhood, and met all applicable requirements of the Code and was consistent with the intent of the Master Plan.

Second, Sligo Branview asserts that there is not adequate evidence to demonstrate that streets are adequate transition areas. On the contrary, at the Planning Board hearing, a Park & Planning Staff Person very specifically discussed that both Arliss Street and Flower Avenue have 70 foot right-of-way. Staff also presented pictures, and described other office buildings in the County, and how such streets serve as transitions between residential and commercial uses. The Planning Board, after viewing Staff's pictures, was able to make its own conclusions regarding the similarities between the examples and the subject property. Furthermore, Sligo Branview intimates that the street transition was the only basis for finding that the subject building is compatible with the neighborhood. On the contrary, as is described

within both the Preliminary Plan and Site Plan Resolutions, there were many facts that made the building compatible including: (1) the building design, (2) building setbacks which align the subject building with other buildings along Flower Avenue, (3) the introduction of streetscape, (4) green space (which exceeds the minimum requirement), (5) a proffer to use mecho shades, which will shield internal light from the office building; and (6) neighborhood friendly pedestrian access and connections.

B. The Board, After Evaluating Considerable Evidence, Concluded That The Adventist Project Is Consistent With The Recommendations Of The East Silver Spring Master Plan.

1. Master Plan Consideration.

"E. The Site Plan Opinion "cherry-picks" its quotes to support its contention that the 2000 East Silver Spring Master Plan envisions Regional-Serving development on the subject property and its contention that most clients of the proposed building will be from the local neighborhood." Sligo's October 5th Letter at pp. 9-12.

The argument of Master Plan *inconsistency* was already presented and rejected by the Planning Board. The Planning Board found that on balance the proposed project is consistent with the recommendations of the Master Plan. The Community Based Planning Memorandum, dated February 16, 2006, and which is part of the Preliminary Plan and Site Plan Staff Reports, particularly provides a point by point discussion regarding how the proposed project is consistent with relevant public policies, and is compatible with the neighborhood and in conformance with the Master Plan as it relates to height and bulk, setbacks, pedestrian access and streetscape, vehicular circulation and parking, landscaping, the use of building materials, illumination and signage.

All of Sligo Branview's citations to master plans that pre-date the 2000 East Silver Spring Master Plan are irrelevant and immaterial to the guidance provided by the current 2000 plan. In adopting the 2000 Plan, the County Council rezoned the property from R-60 to C-1 with the new Commercial Revitalization Overlay Zone ("CROZ"). It is irrelevant and immaterial that the Council "downzoned" surrounding properties from C-2 to C-1. It also is irrelevant what earlier master plans may have recommended. One of the primary objectives of the CROZ is to "foster economic vitality and attractive community character in the commercial areas of East Silver Spring." The Community Based Planning Memorandum states that: "We believe that this project is critical to the future revitalization of Long Branch as envisioned in the Master Plan and in subsequent reports by such groups as the Long Branch task force. . . . The investment in Class A space will encourage other redevelopment in the area consistent with the vision identified for Long Branch by a technical panel from the Urban Land Institute."

2. Adventist's Building Is Programmed To, And Will Primarily Serve The Long Branch Community.

Sligo Branview distorts the relevance that part of the subject building may contain a "Federally Qualified Health Center" ("FQHC"). First, the subject Adventist building is designed to principally provide primary care services to the Long Branch community. If a private organization seeks the FQHC designation for this property, such use will only compose a limited portion of the building. Second, Sligo Branview fails to explain the significance of the underserved areas that support a potential FQHC at the Adventist building. Simply, the FQHC underserved areas identify where there is a need for primary care services. There are existing federal and state subsidized facilities in this same area, and thus if the FQHC designation is achieved for a limited part of the building area, FQHC on the property will attract most of


its patients from the Long Branch community. Of course, there may be patients that come from outside Long Branch, but certainly Sligo Branview knows that the County Council, through the Master Plan cannot, and does not discriminate so as to keep certain classes of people out of the Long Branch Commercial Revitalization Area.

V. Conclusion.

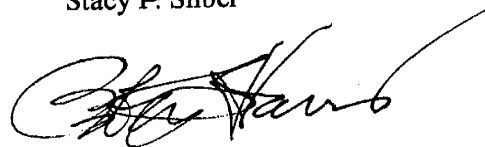
Based on the information in the Record of the subject Preliminary and Site Plans, and as discussed herein, we respectfully submit that Sligo Branview's request for Reconsideration must be denied because it fails to satisfy any of the standards outlined in Section 11 of the Planning Board's Rules of Procedure. The Planning Board has already considered and rejected all of the arguments made by Sligo Branview, and thus, we respectfully submit that the Planning Board's well reasoned and thorough decisions for Site Plan No. 820060080 and Preliminary Plan No. 120060240 should stand.

Respectfully submitted,

HOLLAND & KNIGHT



Stacy P. Silber



Robert R. Harris

cc: William J. Chen, Jr., Esq.
Tariq El'Baba, Esq.
Ms. Cathy Conlon
Mr. Richard Weaver
Mr. Glen Kreger

M-NCPPC



MONTGOMERY COUNTY DEPARTMENT OF PLANNING AND ZONING

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

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

MCPB
Item # 1
March 9, 2006



MEMORANDUM

DATE: February 24, 2006

TO: Montgomery County Planning Board

VIA: Rose Krasnow, Chief
Catherine Conlon, Supervisor *CC*
Development Review Division

FROM: Richard Weaver, Coordinator (301) 495-4544 *RAW*
Development Review Division

REVIEW TYPE: Preliminary Plan Review

APPLYING FOR: Subdivision of Part of Lot 20

PROJECT NAME: Long Branch Medical Building

CASE #: 120060240 (Formerly 1-06024)

REVIEW BASIS: Chapter 50, Montgomery County Subdivision Regulations

ZONE: C-1

LOCATION: Located at the southeast quadrant of the intersection of Flower Avenue and Arliss Avenue

MASTER PLAN: East Silver Spring

APPLICANT: Flower Avenue Shopping Center, LLP

ENGINEER: A. Morton Thomas & Associates, Inc.

HEARING DATE: March 9, 2006

STAFF RECOMMENDATION: Approval, pursuant to Chapter 50 of the Montgomery County Subdivision Regulations, and subject to the following conditions:

- 1) Approval under this preliminary plan is limited to a 57,900 gross square foot office building.
- 2) No clearing or grading prior to site plan signature set approval.
- 3) Final approval of the location of building, on-site parking and site circulation, will be determined at site plan.
- 4) A landscape and lighting plan must be submitted as part of the site plan application for review and approval by technical staff.
- 5) Site Plan #820060080 shall be approved by the Board and signed by the Development Review Staff prior to the approval of the record plat.
- 6) Road dedication as shown on preliminary plan to be reflected on record plat.
- 7) Compliance with conditions of MCDPWT letter dated, December 2, 2005, unless otherwise amended.
- 8) Compliance with the conditions of approval of the MCDPS stormwater management approval dated July 13, 2005.
- 9) The Adequate Public Facility (APF) review for the preliminary plan will remain valid for sixty-one (61) months from the date of mailing of the Planning Board opinion.
- 10) Other necessary easements.

SITE DESCRIPTION:

The property, identified as Part of Lot 20 (Subject Property), is located in the Flower Village Center at the southeast quadrant of the intersection of Flower Avenue and Arliss Avenue (Attachment A). The Subject Property contains a total tract area of 0.91 acres, is zoned C-1, and is located in the East Silver Spring Commercial Revitalization Overlay Zone (CROZ).

PROJECT DESCRIPTION:

This is a preliminary plan application to create one (1) lot for the construction of a 55,800 square foot office building (Attachment B) which is slightly less square footage than could be constructed per the approved traffic study. This preliminary plan is being reviewed concurrently with Site Plan #8-20060080. Access to the site will be directly from Arliss Street and Flower Avenue.

DISCUSSION OF ISSUES:

MASTER PLAN

Zoning and Land Use

The proposed use on the subject property is a medical office building to be occupied by Adventist Health Care, Inc. As demonstrated in materials submitted by the

applicant, it is not uncommon for office buildings to be located on the edge of commercial districts across from single-family residential uses. The proposed use is permitted under the current zoning and it is consistent with the revitalization goal of the Overlay Zone and the master plan.

Under the CROZ, site plan review is required to help achieve development that is consistent with the vision and design guidance in the master plan. Although no reduction has been requested for the subject property, the Planning Board can reduce setbacks to accomplish master plan objectives. Under the CROZ, the Planning Board can also approve building height in excess of the normal 30' in the C-1 zone; height up to 42' can be approved with a finding of neighborhood compatibility and consistency with the intent of the master plan. The proposed project would be 40' in height.

Master Plan Conformance

Pursuant to the *December 2000 East Silver Spring Master Plan*, the subject property was rezoned from R-60 to C-1/CROZ. The rest of the block was rezoned from C-2 to C-1/CROZ. This action by the County Council reflected a change in land use policy. The entire block bounded by Flower Avenue, Piney Branch Road and Arliss Street was consolidated as the commercial core for Long Branch with uniform commercial zoning. Whereas the 1977 Master Plan described the subject property—then R-60—as a buffer between the adjoining neighborhood and the C-2 property in Long Branch, the *December 2000 East Silver Spring Master Plan* describes Arliss Street as providing “a transition area between the townhouses on the north side of the street and the commercial retail activity of the Flower Village Center.” (p. 76) The Master Plan recommends that Arliss Street be streetscaped to improve its role as a transitional element.

The Master Plan envisions the Flower Village Center as “the major neighborhood center and community focal point for neighborhoods in both East Silver Spring and Takoma Park.” (p. 39) The Plan notes that sensitivity needs to be shown when adding land uses next to commercial centers: “New or expanded structures should be sensitive to the character and the scale of adjoining neighborhoods. Buildings should not be significantly larger than nearby structures.” (p. 29)

As a result of its rezoning to C-1/CROZ, the subject property is part of the commercial center, not a new use to be located next to a commercial center. Nevertheless, the Master Plan provided specific guidance to ensure that the subject property was developed in a way that is sensitive to the nearby neighborhood. Specific master plan guidance is provided in the Master Plan that illustrates potential ways to achieve the street-oriented development recommended by the Plan. The proposed medical office building resembles alternative B in these illustrations (Attachment C). The Master Plan states “consideration should be given to the views of homeowners that face the site across Flower Avenue, as well as the residential properties on Arliss Street.” It then identifies a number of factors that affect the relationship between the proposed medical office building and nearby homes:

1. Height and bulk

Although the Master Plan states that townhouse development on this site would be appropriate as a transition to the residences across Flower Avenue and Arliss Street, townhouses are not necessarily the only type of development that would be appropriate; other types of buildings could also be appropriate if designed to be compatible with the adjacent residential neighborhood. The proposed building will be clearly identifiable as an office building, but it has been designed to avoid appearing as a monolithic structure. The building will have two wings rather than appearing as a single mass. Building articulation and materials will be used to break up the building mass.

According to the Master Plan, the purpose of the CROZ shall be achieved in part by limiting building heights to 30'; however, the Planning Board may permit up to 42' in building height for commercial development (or up to 50' for residential development) if the Planning Board finds the proposed development to be compatible with the neighborhood and consistent with the intent of the Master Plan (p. 37). The proposed medical office building will be 40' in height. Since Flower Avenue slopes downward as it approaches Piney Branch Road, the roof will be approximately 20' taller than the top of the Flower Theater.

The roof of the proposed building will be 15' higher than the peak of the roofs on the single-family detached homes across Flower Avenue and only 12' higher than the peak of the roof on the home across Arliss Street. CBP staff find this to be an acceptable relationship given a) the 115' distance between the face of the proposed building and the existing single-family detached homes across Flower Avenue, and b) the 115'-120' distance between the face of the proposed building and the homes across Arliss Street. (The distance between the face of the proposed building and the homes on the north side of Arliss Street increases as one moves east from Flower Avenue.) The applicant's shadow study demonstrates that the building will not significantly impact the homes across either street or other commercial structures.

2. Setbacks

Setback reductions are permitted by the CROZ, but no setback reductions have been requested. Instead, the building has been pushed back further than the required 10' setback along the two street frontages, providing an opportunity for additional landscaping along the edges. The proposed building setback along Flower Avenue aligns with the face of the Flower Theater down the block. As illustrated on page 40 of the Master Plan (Attachment 3), the Plan contemplated new buildings on this site that are located close to the street.

3. Location of the Building on the Site and Entrances to the Building

The proposed location of the medical office building on the site was contemplated in the Master Plan. The proposed building and the main entrance to the building are oriented to the street as called for by the Master Plan.

4. Neighborhood Friendly Pedestrian Access to the Building

The main entrance to the proposed medical office building is at an appropriate location on Flower Avenue. An existing concrete pedestrian refuge on Flower Avenue facilitates pedestrian crossings to the proposed medical office building. Pursuant to the Master Plan, the proposed project includes a neck down on Arliss Street at Flower Avenue. This facilitates a shorter crossing distance on Arliss Street for Long Branch residents who may wish to walk to the proposed medical office building or the other uses in the commercial core. The retention of on-street parking along Arliss Street also serves to buffer pedestrians from vehicles.

The streetscape recommendations in the Master Plan include a shared use (pedestrian and bicyclist) sidewalk along Flower Avenue. The application proposes a 15'-wide sidewalk (11' clear at the tree pits) that will accommodate both pedestrians and bicyclists. The shared-use sidewalk will facilitate access to the proposed building as well as other uses on the block. A Class III bike route (signed, shared roadway) is also recommended on Flower Avenue. The site plan includes bike storage facilities at an appropriate location.

5. Vehicular Circulation and Parking on Site that is Sensitive to Pedestrians

An existing curb cut on Flower Avenue near the corner of Flower Avenue/Arliss Street will be removed to improve safety. Vehicular access points will be limited to a single entrance on Flower Avenue and a single entrance on Arliss Street— away from the Flower Avenue/Arliss Street intersection, at opposite corners of the site. Drivers who cannot find surface parking behind the building will be able to go directly into structured parking. A covered patient drop-off area that is internal to the site will remove this function from adjoining roadways.

As recommended in the Master Plan, the parking for the proposed building does not separate the building from the street. Both the parking and the loading area are screened from the residential uses across Flower Avenue and Arliss Street by the location of the proposed building.

Arliss and Flower Avenue are business streets with 70' minimum rights-of-way. No additional dedication is needed.

6. Landscaping

The mature street trees along Flower Avenue will be preserved or replaced in kind. The proposed landscaping along Flower Avenue and Arliss Street will make it more enjoyable to walk along both streets. The landscape materials along the building frontages will add color and variety throughout the year.

7. Building Materials

The proposed building will include a glass corner curtain wall; the remaining approximately 80 percent of the façade will be masonry (primarily brick) with vertical punch out windows typical of residential construction to break up the mass of the building.

8. Illumination

The applicant (not the tenant) will provide an architectural shading system for the building along both street frontages. These shades will significantly reduce the transmission of interior lighting to the exterior of the building after sunset.

9. Signage

Rather than use the neon signage typical of commercial buildings, the proposed building will use backlit signage to minimize its intrusiveness.

Based on the description above, staff concludes that the proposed building will not be incompatible with either the single-family homes outside the commercial core or the other commercial buildings on the same block, many of which are likely redevelopment candidates themselves.

TRANSPORTATION:

Local Area Transportation

The proposed maximum development of 57,900 square feet (55,800 sq. ft. building proposed) of medical office space is anticipated to generate 143 AM peak hour trips and 215 PM peak hour trips during a regular weekday peak periods. An LATR study was performed to determine the impact of the proposed development on the adjacent transportation infrastructure.

Four intersections adjacent to the development were selected for analysis: Flower Avenue at Wayne Avenue, Flower Avenue at Arliss Street, Flower Avenue at Piney Branch Road (MD 320) and Arliss Street at Piney Branch Road (MD 320). There were no previously approved nearby projects for inclusion in the calculation of background traffic CLV for the intersections under study. As shown in the table below, all studied intersections are estimated to operate within the established Silver Spring/ Takoma Park Critical Lane Volume (CLV) threshold of 1,600 vehicles.

The following table shows the CLV analysis results for the studied intersections:

<u>Roadway Intersection</u>	Current CLV levels (AM / PM)	Projected Future CLV (AM / PM)
Flower Avenue / Arliss Street	940 / 1,096	950 / 1,147
Flower Avenue / Wayne Avenue	861 / 954	895 / 978
Flower Avenue / Piney Branch Road	866 / 805	882 / 813
Arliss Street / Piney Branch Road	693 / 789	731 / 830

CITIZEN CONCERNS

The Development Review Division (DRD) received several letters from citizens expressing concerns pertaining to the proposed building height, traffic generated from the site, the hours of operation of the urgent care facility, and the physical conditions of the surrounding properties.

Building Height

The citizens contend that the height of the building is 20 to 30 feet higher than the dwellings in the surrounding residential homes and, therefore, incompatible. The citizens also contend that the East Silver Spring Master Plan requires any structure on this site to be compatible with the surrounding residential homes in terms of height, bulk, setback and landscaping.

Under the C-1 Zoning standards building height is limited to 30 feet. However, under the provisions of the CROZ building height may go up to 42 feet with appropriate findings for compatibility and consistency with the intent of the Master Plan as part of the site plan being concurrently reviewed. Refer to the Community based Planning memorandum for details of these findings.

Traffic

Based on the traffic analysis contained in the "Transportation" section above, all studied intersections are estimated to operate within the established Silver Spring/Takoma Park Critical Lane Volume (CLV) threshold. Therefore, the application satisfies the Local Area Traffic Review Guidelines without need for roadway improvements.

Urgent Care Facility

The citizens expressed concerns pertaining to the potential disturbance caused by activity generated by the urgent care facility. The facility will be open to the public until 10:00 p.m., six days a week. According to the citizen letters, this use was not included in the initial plan for the site and is now viewed as a potential intrusion in the community.

Usually, an urgent care facility operates similar to a doctor's office, in that outpatient care is rendered, but on an emergency basis with or without scheduled appointments. Ambulance service, the associated sirens and alarms typical of hospital emergency care, is not proposed with this facility. In staff's opinion, the additional hours for this type of facility should not be a nuisance to the neighborhood.

Surrounding Physical Conditions

The citizens identified a need to address the revitalization of the entire commercial area. Although this application does not address this concern, the East Silver Spring Master Plan acknowledges the deteriorating conditions of the area and supports establishing a task force to examine issues and solutions affecting the East Silver Spring and Takoma Park area.

Community Outreach

The applicant initiated meetings with the Sligo Branview Community Association (SBCA) last summer and has since met with them three times (October 26 and November 9, 2005 and January 31, 2006). The design of the project was revised in several ways to respond to community concerns: the building setbacks were increased, the building height was reduced by two feet; the extent of masonry in the building façade was significantly increased; and the building articulation was refined. Some members of SBCA continue to have concerns regarding the project.

The applicant presented the proposed project to the Commercial and Economic Development Committee of the Silver Spring Citizens Advisory Board (CAB) on September 21, 2005. The full CAB considered the project on October 10, 2005, and again on February 13, 2006, but has taken no official position. The applicant also presented the proposed project to the Long Branch Business League on June 15, 2005. On January 30, 2006, the League submitted a letter of support for the proposed project.

ANALYSIS

Staff's review of Preliminary Plan #120060240 (Formerly 1-06024), Long Branch Medical Building, indicates that the plan conforms to the East Silver Spring Master Plan. The proposed preliminary plan is consistent with the master plan goal to encourage revitalization and development in the central business district. Staff also finds that the proposed preliminary plan complies with Chapter 50 of the Montgomery County Code, Subdivision Regulations, in that public facilities will be adequate to support and service the area of the proposed subdivision. Staff further finds that the size, width, shape, and orientation of the proposed lot is appropriate for the location of the subdivision.

CONCLUSION:

Staff concludes that Preliminary Plan #1-06024, Long Branch Medical Building, conforms to the land use objectives of the East Silver Spring Master Plan, including the CROZ and meets all necessary requirements of the Subdivision Regulations (Checklist and Data Table attached). As such, Staff recommends approval of the preliminary plan, subject to the above conditions.

Preliminary Plan Data Table and Checklist

Plan Name: Long Branch Medical Building				
Plan Number: 120060240				
Zoning: C-1				
# of Lots: 1				
# of Outlots: 0				
Dev. Type: One medical office building				
PLAN DATA	Zoning Ordinance Development Standard	Proposed for Approval on the Preliminary Plan	Verified	Date
Minimum Lot Area	None	39,657 s.f. proposed	RW	February 22, 2006
Lot Width	None			February 22, 2006
Lot Frontage	None			
Setbacks				
Front	Est. by site plan	Must not exceed minimum set by site plan	RW	February 22, 2006
Side	Est. by site plan	Must not exceed minimum set by site plan	RW	February 22, 2006
Rear	Est. by site plan	Must not exceed minimum set by site plan	RW	February 22, 2006
Height	*30 ft. Max.	Must not exceed maximum set by site plan	RW	February 22, 2006
Max Comm'l s.f. per Zoning	None			
Site Plan Req'd?	Yes	Yes	RW	February 22, 2006
FINDINGS				
SUBDIVISION				
Lot frontage on Public Street	Yes	Yes	RW	February 22, 2006
Road dedication and frontage improvements	Yes	Yes	DPWT memo	December 2, 2006
Environmental Guidelines	Yes	Yes	Environmental Planning memo	September 12, 2005
Forest Conservation	Yes	Exempted	Environmental Planning memo	June 24, 2005
Master Plan Compliance	Yes	Yes	Community Based Planning memo	February 16, 2006
ADEQUATE PUBLIC FACILITIES				
Stormwater Management	Yes	Yes	DPS memo	July 13, 2005
Water and Septic	Yes	Yes	DPS memo	September 12, 2005
Local Area Traffic Review	Yes	Yes	Transportation Planning memo	February 16, 2006
Fire and Rescue	Yes	Yes	MCFRS	January 20, 2006

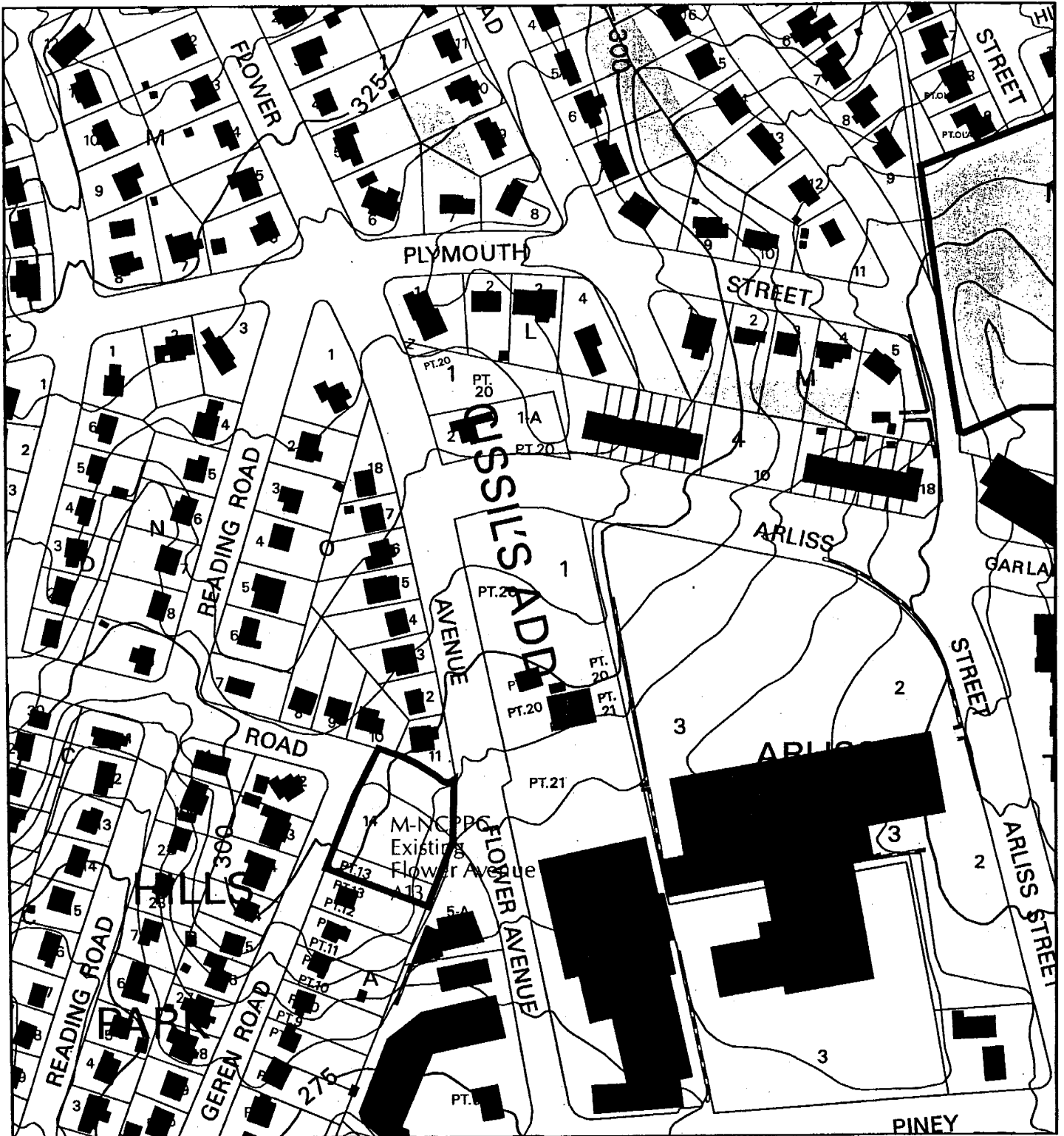
*May exceed minimum upon approval of a site plan by the Planning Board.

ATTACHMENTS:

Attachment A	Vicinity Map
Attachment B	Preliminary Plan
Attachment C	Community Based Planning memo
Attachment D	Correspondence
Attachment E	Agency letters

ATTACHMENT A

LONG BRANCH MEDICAL BUILDING (1-06024) (8-06008)



Map compiled on August 31, 2005 at 3:11 PM | Site located on base sheet no - 211NE01

NOTICE

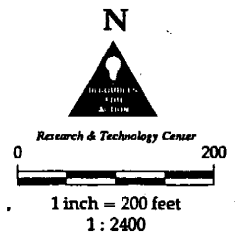
The planimetric, property, and topographic information shown on this map is based on copyrighted Map Products from the Montgomery County Department of Park and Planning of the Maryland-National Capital Park and Planning Commission, and may not be copied or reproduced without written permission from M-NCPPC.

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

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

MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING
 THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
 8787 Georgia Avenue - Silver Spring, Maryland 20910-3760

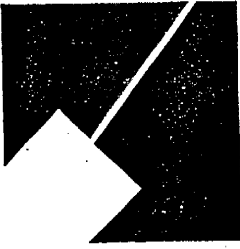
Key Map



ATTACHMENT B

ATTACHMENT C

M-NCPPC



MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

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

February 16, 2006

MEMORANDUM

TO: Linda Komes, Planner Coordinator
Development Review Division

Richard Weaver, Principal Planner
Development Review Division

FROM: Glenn Kreger, Team Leader, Silver Spring/Takoma Park
Community-Based Planning Division *GK*

Miguel Iraola, ASLA, Planner Coordinator
Community-Based Planning Division *MIR*

SUBJECT: Long Branch Medical Building
Site Plan #8-20060080
Preliminary Plan #1-20060240

The Community-Based Planning staff has reviewed the above-referenced plans for conformance with the December 2000 East Silver Spring Master Plan. We recommend approval of the proposed preliminary plan and site plan. We believe that this project is critical to the future revitalization of Long Branch as envisioned in the Master Plan and in subsequent reports by such groups as the Long Branch Task Force. The proposed project will foster economic vitality in the area by creating jobs, providing customers for other local businesses, and providing parking that can be used by the community during evenings and weekends. It will provide important medical services to the community and help to activate the streets, thereby contributing to public safety. The investment in new Class A space will encourage other redevelopment in the area consistent with the vision identified for Long Branch by a technical panel from the Urban Land Institute.

ZONING AND LAND USE

The subject property has a gross area of 0.91 acres (39,657 square feet) and a net area after dedications of 0.84 acres (39,344.51 square feet). It is bordered by Arliss Street to the north and Flower Avenue to the west. Arliss Street consists of 48' of pavement plus two 10' sidewalks in a 70' right-of-way. Flower Avenue consists of three travel lanes; a median that is concrete in some places and painted in others; and sidewalks on both sides in a 70' right-of-way.

The subject property is currently occupied by a surface parking lot. A mixture of commercial uses exist along Flower Avenue to the south, including a dental appliance

business; El Gavilan restaurant; the former Flower Theater, now occupied by a church; and various retailers in the Flower Village Center including a County liquor store. A second surface parking lot is also located to the south. The parking lot for the Giant food store adjoins the subject property on the east. This entire block is zoned C-1 with the Commercial Revitalization Overlay Zone (CROZ).

Across Flower Avenue to the west of the subject property are single-family detached homes in the R-60 Zone. Across Arliss Street to the north is a single-family detached house at the intersection with Flower Avenue and townhouses along Arliss Street in the RT-12.5 Zone.

The proposed use on the subject property is a medical office building to be occupied by Adventist Health Care, Inc. As demonstrated in materials submitted by the applicant, it is not uncommon for office buildings to be located on the edge of commercial districts across from single-family residential uses. The proposed use is permitted under the current zoning and it is consistent with the revitalization goal of the Overlay Zone and the master plan.

Under the CROZ, site plan review is required to help achieve development that is consistent with the vision and design guidance in the master plan. Although no reduction has been requested for the subject property, the Planning Board can reduce setbacks to accomplish master plan objectives. Under the CROZ, the Planning Board can also approve building height in excess of the normal 30' in the C-1 zone; height up to 42' can be approved with a finding of neighborhood compatibility and consistency with the intent of the master plan. The proposed project would be 40' in height.

RELEVANT PUBLIC POLICIES

Enterprise Zone

The subject property is located within the Long Branch-Takoma Park Enterprise Zone. This zone was designated in 2003 to provide incentives for economic development in the target area.

Urban Land Institute (ULI) Report

The February 2005 report of the ULI Technical Assistance Panel indicated that the density and height allowed by the CROZ in the commercial core needed to be even greater than what the zone presently allows. According to the report, "The panel agrees with the County that the proposed location at the northwest edge of the study area at the corner of Flower Avenue and Arliss Street is an appropriate location for the medical office building."

Long Branch Task Force

The Long Branch Task Force endorsed the ULI recommendations in their May 2005 annual report.

Centers and Boulevards

Emerging public policy regarding the redevelopment of mature commercial centers is described in the *Planning Framework Report: Revitalizing Centers, Reshaping*

Boulevards, and Creating Great Public Spaces. This report envisions Montgomery County in transition from a large auto-dependent suburb to a more urban form. It recognizes that future growth will take the form of infill development and redevelopment away from the Agricultural Reserve. Much of this growth will be accommodated by the redevelopment of aging commercial centers and along the frontage of the roads and transit routes that connect the centers. The redevelopment of commercial centers as envisioned in the Framework Report could help return these commercial centers to their historic role as focal points of community life and provide multiple community benefits, including: community-serving retail, offices, services, market-rate and affordable housing, public spaces and linkages to the surrounding communities.

Bi-County Transitway

At least one potential alignment for the Bi-County Transitway (BCT) passes the subject property. The Maryland Mass Transit Administration (MTA) has indicated that the proposed project does not impact potential BCT alignments.

MASTER PLAN CONFORMANCE

Pursuant to the *December 2000 East Silver Spring Master Plan*, the subject property was rezoned from R-60 to C-1/CROZ. The rest of the block was rezoned from C-2 to C-1/CROZ (Attachments 1-2). This action by the County Council reflected a change in land use policy. The entire block bounded by Flower Avenue, Piney Branch Road and Arliss Street was consolidated as the commercial core for Long Branch with uniform commercial zoning. Whereas the 1977 Master Plan described the subject property—then R-60—as a buffer between the adjoining neighborhood and the C-2 property in Long Branch, the *December 2000 East Silver Spring Master Plan* describes Arliss Street as providing “a transition area between the townhouses on the north side of the street and the commercial retail activity of the Flower Village Center.” (p. 76) The Master Plan recommends that Arliss Street be streetscaped to improve its role as a transitional element.

The Master Plan envisions the Flower Village Center as “the major neighborhood center and community focal point for neighborhoods in both East Silver Spring and Takoma Park.” (p. 39) The Plan notes that sensitivity needs to be shown when adding land uses next to commercial centers: “New or expanded structures should be sensitive to the character and the scale of adjoining neighborhoods. Buildings should not be significantly larger than nearby structures.” (p. 29)

As a result of its rezoning to C-1/CROZ, the subject property is part of the commercial center, not a new use to be located next to a commercial center. Nevertheless, the Master Plan provided specific guidance to ensure that the subject property was developed in a way that is sensitive to the nearby neighborhood. Specific master plan guidance is provided on page 39 of the Master Plan; Figure 2 on page 40 illustrates potential ways to achieve the street-oriented development recommended by the Plan (attachments). The proposed medical office building resembles alternative B in these illustrations. The Master Plan states that “consideration should be given to the views of homeowners that face the site across Flower Avenue, as well as the residential

properties on Arliss Street.” (p. 39) It then identifies a number of factors that affect the relationship between the proposed medical office building and nearby homes:

1. Height and bulk

Although the Master Plan states that townhouse development on this site would be appropriate as a transition to the residences across Flower Avenue and Arliss Street, townhouses are not necessarily the only type of development that would be appropriate; other types of buildings could also be appropriate if designed to be compatible with the adjacent residential neighborhood. The proposed building will be clearly identifiable as an office building, but it has been designed to avoid appearing as a monolithic structure. The building will have two wings rather than appearing as a single mass. Building articulation and materials will be used to break up the building mass.

According to the Master Plan, the purpose of the CROZ shall be achieved in part by limiting building heights to 30'; however, the Planning Board may permit up to 42' in building height for commercial development (or up to 50' for residential development) if the Planning Board finds the proposed development to be compatible with the neighborhood and consistent with the intent of the Master Plan (p. 37). The proposed medical office building will be 40' in height. Since Flower Avenue slopes downward as it approaches Piney Branch Road, the roof will be approximately 20' taller than the top of the Flower Theater.

The roof of the proposed building will be 15' higher than the peak of the roofs on the single-family detached homes across Flower Avenue and only 12' higher than the peak of the roof on the home across Arliss Street. We find this to be an acceptable relationship given a) the 115' distance between the face of the proposed building and the existing single-family detached homes across Flower Avenue, and b) the 115'-120' distance between the face of the proposed building and the homes across Arliss Street. (The distance between the face of the proposed building and the homes on the north side of Arliss Street increases as one moves east from Flower Avenue.) The applicant's shadow study demonstrates that the building will not significantly impact the homes across either street or other commercial structures.

2. Setbacks

Setback reductions are permitted by the CROZ, but no setback reductions have been requested. Instead, the building has been pushed back further than the required 10' setback along the two street frontages, providing an opportunity for additional landscaping along the edges. The proposed building setback along Flower Avenue aligns with the face of the Flower Theater down the block. As illustrated on page 40 of the Master Plan (Attachment 3), the Plan contemplated new buildings on this site that are located close to the street.

3. Location of the Building on the Site and Entrances to the Building

As illustrated on page 40 of the Master Plan, the proposed location of the medical office building on the site was contemplated in the Plan. The proposed

building and the main entrance to the building are oriented to the street as called for by the Master Plan.

4. Neighborhood Friendly Pedestrian Access to the Building

The main entrance to the proposed medical office building is at an appropriate location on Flower Avenue. An existing concrete pedestrian refuge on Flower Avenue facilitates pedestrian crossings to the proposed medical office building. Pursuant to the Master Plan, the proposed project includes a neck down on Arliss Street at Flower Avenue. This facilitates a shorter crossing distance on Arliss Street for Long Branch residents who may wish to walk to the proposed medical office building or the other uses in the commercial core. The retention of on-street parking along Arliss Street also serves to buffer pedestrians from vehicles.

The streetscape recommendations in the Master Plan include a shared use (pedestrian and bicyclist) sidewalk along Flower Avenue. The application proposes a 15'-wide sidewalk (11' clear at the tree pits) that will accommodate both pedestrians and bicyclists. The shared-use sidewalk will facilitate access to the proposed building as well as other uses on the block. A Class III bike route (signed, shared roadway) is also recommended on Flower Avenue. The site plan includes bike storage facilities at an appropriate location.

5. Vehicular Circulation and Parking on Site that is Sensitive to Pedestrians

An existing curb cut on Flower Avenue near the corner of Flower Avenue/Arliss Street will be removed to improve safety. Vehicular access points will be limited to a single entrance on Flower Avenue and a single entrance on Arliss Street—away from the Flower Avenue/Arliss Street intersection, at opposite corners of the site. Drivers who cannot find surface parking behind the building will be able to go directly into structured parking. A covered patient drop-off area that is internal to the site will remove this function from adjoining roadways.

As recommended in the Master Plan, the parking for the proposed building does not separate the building from the street. Both the parking and the loading area are screened from the residential uses across Flower Avenue and Arliss Street by the location of the proposed building.

Arliss and Flower Avenue are business streets with 70' minimum rights-of-way. No additional dedication is needed.

6. Landscaping

The mature street trees along Flower Avenue will be preserved or replaced in kind. The proposed landscaping along Flower Avenue and Arliss Street will make it more enjoyable to walk along both streets. The landscape materials along the building frontages will add color and variety throughout the year.

7. Building Materials

The proposed building will include a glass corner curtain wall; the remaining approximately 80 percent of the façade will be masonry (primarily brick) with vertical punch out windows typical of residential construction to break up the mass of the building.

8. Illumination

The applicant (not the tenant) will provide an architectural shading system for the building along both street frontages. These shades will significantly reduce the transmission of interior lighting to the exterior of the building after sunset.

9. Signage

Rather than use the neon signage typical of commercial buildings, the proposed building will use backlit signage to minimize its intrusiveness.

Based on the description above, we conclude that the proposed building will not be incompatible with either the single-family homes outside the commercial core or the other commercial buildings on the same block, many of which are likely redevelopment candidates themselves.

COMMUNITY OUTREACH

The applicant initiated meetings with the Sligo Branview Community Association (SBCA) last summer and has since met with them three times (October 26 and November 9, 2005 and January 31, 2006). The design of the project was revised in several ways to respond to community concerns: the building setbacks were increased; the building height was reduced by two feet; the extent of masonry in the building façade was significantly increased; and the building articulation was refined. Some members of SBCA continue to have concerns regarding the project.

The applicant presented the proposed project to the Commercial and Economic Development Committee of the Silver Spring Citizens Advisory Board (CAB) on September 21, 2005. The full CAB considered the project on October 10, 2005, and again on February 13, 2006, but has taken no official position. The applicant also presented the proposed project to the Long Branch Business League on June 15, 2005. On January 30, 2006, the League submitted a letter of support for the proposed project.

GK:tv: G: \Long Branch medical office referral.doc

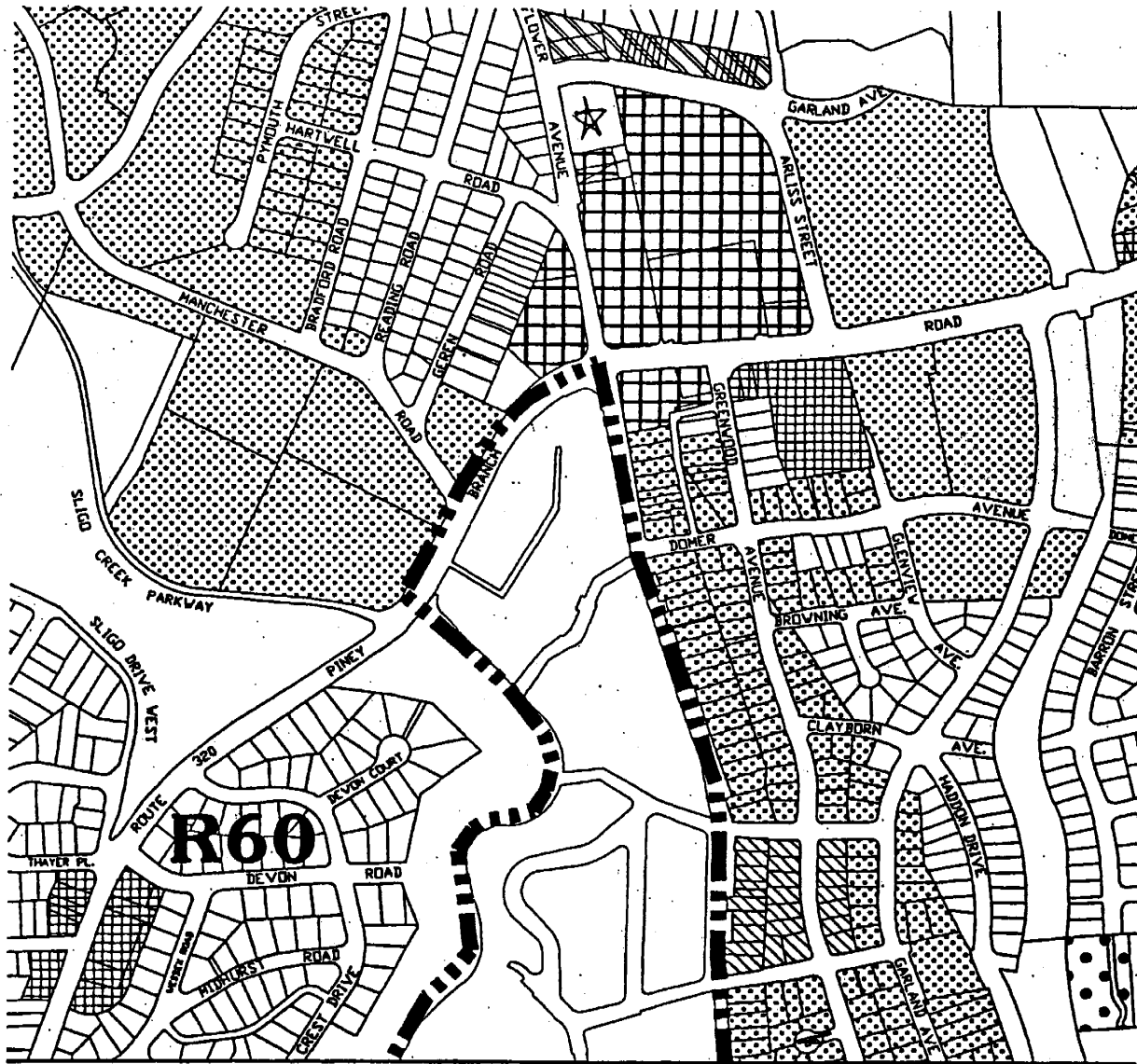
Attachment 1: Prior Zoning Map (pre-2001 zoning)

Attachment 2: Current Zoning Map

Attachment 3: Master Plan Figure 2, Illustration of Street Oriented Development
Along Flower Avenue

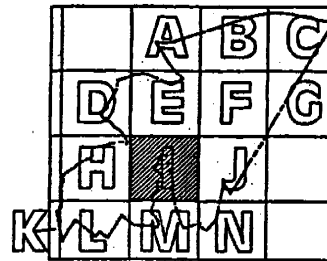
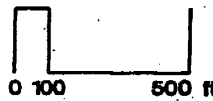
Existing Zoning – Area I
(prior to 2001)

Map 43



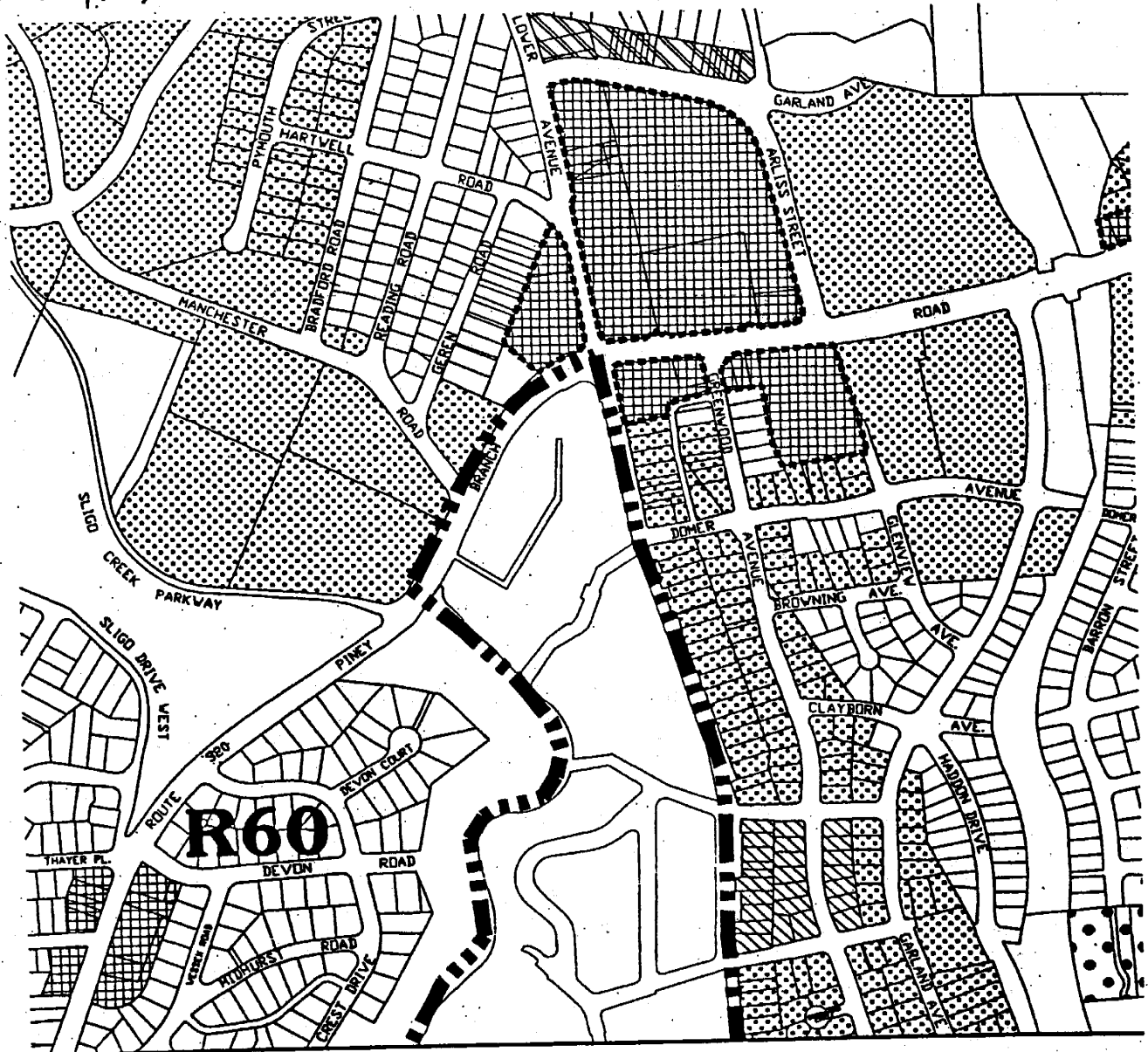
LEGEND

- ▬▬▬▬ Master Plan Boundary
- ▣▣▣▣ C-1 - Local Commercial
- ▣▣▣▣ C-2 - General Commercial
- ▣▣▣▣ R-10 - Multi-Family High Density Residential
- ▣▣▣▣ R-30 - Multi-Family Low Density Residential
- ▣▣▣▣ R-40 - One Family Semi-Detached
- ▣▣▣▣ R-60 - Single Family Residential
- ▣▣▣▣ RT-12.5 - Townhouses



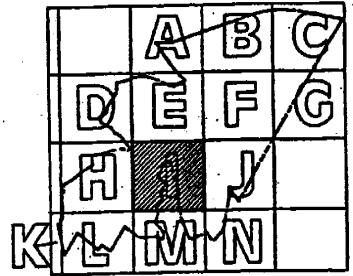
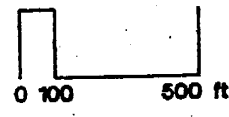
Proposed Zoning – Area I
(now adopted)

Map 44

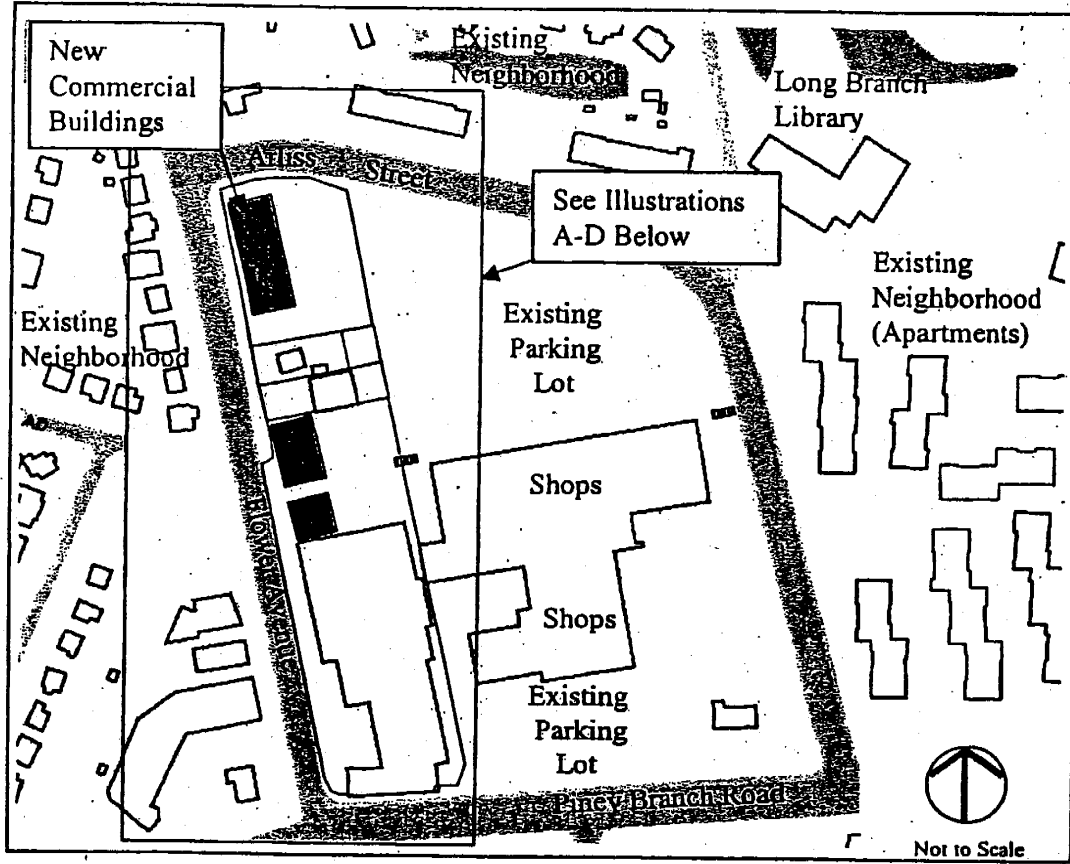


LEGEND

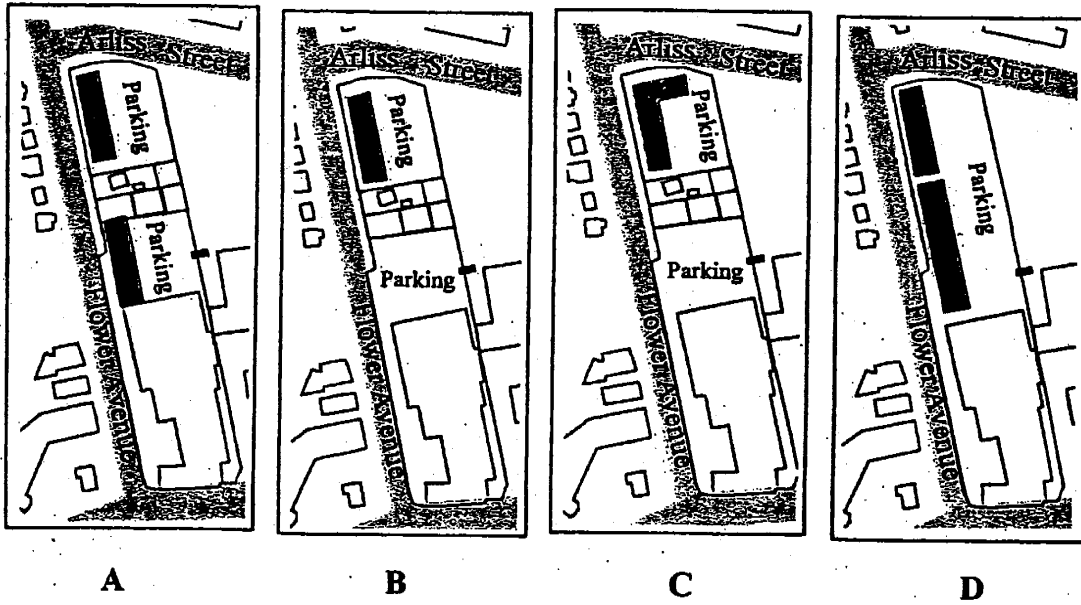
- Master Plan Boundary
- C-1 - Local Commercial
- C-2 - General Commercial
- R-10 - Multi-Family High Density Residential
- R-30 - Multi-Family Low Density Residential
- R-40 - One Family Semi-Detached
- R-60 - Single Family Residential
- RT-12.5 - Townhouses
- CROZ - Commercial Revitalization Overlay Zone



Flower Village and Center Illustrations of Street-Oriented Development along Flower Avenue Figure 2

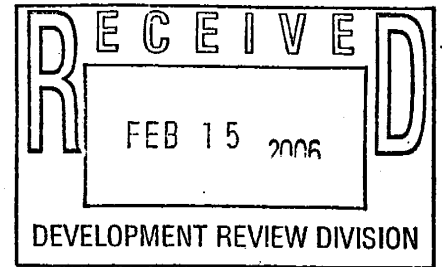


Other Possible Locations of Buildings & Parking



ATTACHMENT D

February 9, 2006



Derrick Berlage, Chairman
Montgomery County Department of Park and Planning
The Maryland-National Capital Park and Planning Commission
8787 Georgia Avenue
Silver Spring, MD 20910-3760

RE: File Number - 1-06024 & 8-06008 - Long Branch Medical Building - Preliminary Plan and Site Plan

Dear Chairman Berlage:

I am writing to become a party of record for file number 1-06024 & 8-06008 - Long Branch Medical Building - Preliminary Plan & Site Plan. In addition, I would like to express my concerns with this project as currently proposed.

This project is not compatible with the nearby residential homes. The *East Silver Spring Master Plan 2000* requires that any structure on this site should be compatible with the surrounding residential homes relative height, bulk, setback, and landscaping. The proposed building would be 40 feet in height with an additional 13 feet in height to allow for mechanical units. It would exceed the surrounding residential homes at least by 20 to 30 feet. The plans for the proposed building do not meet the Master Plan guidelines that were specifically intended to protect the surrounding residential area. This site faces residential homes on both Arliss St. and Flower Ave.

The Master Plan also recognizes the heavy volume of traffic in this area. A traffic island has been placed at the corner of Arliss and Flower for pedestrian safety. Another one has been placed on Flower Avenue, less than a block away, near Piney Branch. Speed bumps were installed on Flower Avenue, north of Wayne Avenue, in December. During rush hour, Flower Avenue traffic often backs up half way to Arliss Street. The proposed medical building will only exacerbate an already hazardous traffic problem.

This facility will include an urgent care facility that will operate until 10 p.m. six days a week. This would impact the quiet use and enjoyment of surrounding residential homes. When this project was first proposed, the community was given the impression that medical offices, with limited operating hours, would be the ultimate use. Also, given the fact that the surrounding commercial is plagued by limited parking, uncleanliness, limited retail choices, and deteriorating structures, it would seem more reasonable to address the entire commercial area. The ULI study, done at request of the Long Branch Task Force, spoke of an overall development plan for the area. This project is a piecemeal approach that has been used in this area for years and does not reflect that broader vision.

I respectfully request that the preliminary plan and site plan be considered separately to allow for adequate community input. Thank you for your consideration of this request.

Sincerely,

A handwritten signature in cursive script that reads "Gina M. Smallwood".

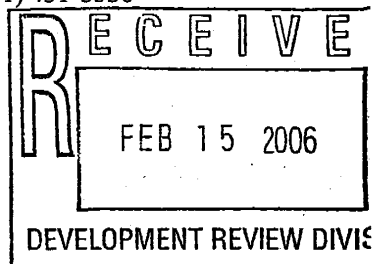
Gina M. Smallwood
8606 Barron Street
Takoma Park, MD 20912

Rolling Terrace Civic Association

8606 Barron Street
Takoma Park, MD 20912
(301) 431-3336

February 9, 2006

Derrick Berlage, Chairman
Montgomery County Department of Park and Planning
The Maryland-National Capital Park and Planning Commission
8787 Georgia Avenue
Silver Spring, MD 20910-3760



RE: File Number - 1-~~06024~~ & 8-06008 - Long Branch Medical Building - Preliminary Plan and Site Plan

Dear Chairman Berlage:

I am writing to become a party of record for file number 1-06024 & 8-06008 - Long Branch Medical Building - Preliminary Plan & Site Plan. In addition, I would like to express my concerns with this project as currently proposed.

This project is not compatible with the nearby residential homes. The *East Silver Spring Master Plan 2000* requires that any structure on this site should be compatible with the surrounding residential homes relative height, bulk, setback, and landscaping. The proposed building would be 40 feet in height with an additional 13 feet in height to allow for mechanical units. It would exceed the surrounding residential homes at least by 20 to 30 feet. The plans for the proposed building do not meet the Master Plan guidelines that were specifically intended to protect the surrounding residential area. This site faces residential homes on both Arliss St. and Flower Ave.

The Master Plan also recognizes the heavy volume of traffic in this area. A traffic island has been placed at the corner of Arliss and Flower for pedestrian safety. Another one has been placed on Flower Avenue, less than a block away, near Piney Branch. Speed bumps were installed on Flower Avenue, north of Wayne Avenue, in December. During rush hour, Flower Avenue traffic often backs up half way to Arliss Street. The proposed medical building will only exacerbate an already hazardous traffic problem.

This facility will include an urgent care facility that will operate until 10 p.m. six days a week. This would impact the quiet use and enjoyment of surrounding residential homes. When this project was first proposed, the community was given the impression that medical offices, with limited operating hours, would be the ultimate use. Also, given the fact that the surrounding commercial is plagued by limited parking, uncleanliness, limited retail choices, and deteriorating structures, it would seem more reasonable to address the entire commercial area. The ULI study, done at request of the Long Branch Task Force, spoke of an overall development plan for the area. This project is a piecemeal approach that has been used in this area for years and does not reflect that broader vision.

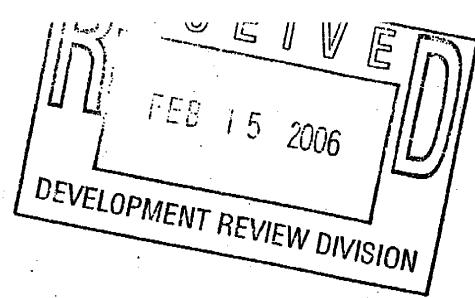
I respectfully request that the preliminary plan and site plan be considered separately to allow for adequate community input. Thank you for your consideration of this request.

Sincerely,

A handwritten signature in cursive script that reads "Gina M. Smallwood".

Gina M. Smallwood
President

Rolling Terrace Civic Association



February 8, 2006

Derrick Berlage, Chairman
Montgomery County Department of Park and Planning
The Maryland-National Capital Park and Planning Commission
8787 Georgia Avenue
Silver Spring, MD 20910-3760

RE: File Number - 1-06024 & 8-06008 - Long Branch Medical Building - Preliminary Plan and Site Plan

Dear Chairman Berlage:

I am writing to become a party of record for file number 1-06024 & 8-06008 - Long Branch Medical Building - Preliminary Plan & Site Plan. In addition, I would like to express my concerns with this project as currently proposed.

This project is not compatible with the nearby residential homes. The *East Silver Spring Master Plan 2000* requires that any structure on this site should be compatible with the surrounding residential homes relative height, bulk, setback, and landscaping. The proposed building would be 40 feet in height with an additional 13 feet in height to allow for mechanical units. It would exceed the surrounding residential homes at least by 20 to 30 feet. The plans for the proposed building do not meet the Master Plan guidelines that were specifically intended to protect the surrounding residential area. This site faces residential homes on both Arliss St. and Flower Ave.

The Master Plan also recognizes the heavy volume of traffic in this area. A traffic island has been placed at the corner of Arliss and Flower for pedestrian safety. Another one has been placed on Flower Avenue, less than a block away, near Piney Branch. Speed bumps were installed on Flower Avenue, north of Wayne Avenue, in December. During rush hour, Flower Avenue traffic often backs up half way to Arliss Street. The proposed medical building will only exacerbate an already hazardous traffic problem.

This facility will include an urgent care facility that will operate until 10 p.m. six days a week. This would impact the quiet use and enjoyment of surrounding residential homes. When this project was first proposed, the community was given the impression that medical offices, with limited operating hours, would be the ultimate use. Also, given the fact that the surrounding commercial is plagued by limited parking, uncleanliness, limited retail choices, and deteriorating structures, it would seem more reasonable to address the entire commercial area. The ULI study, done at request of the Long Branch Task Force, spoke of an overall development plan for the area. This project is a piecemeal approach that has been used in this area for years and does not reflect that broader vision.

I respectfully request that the preliminary plan and site plan be considered separately to allow for adequate community input. Thank you for your consideration of this request.

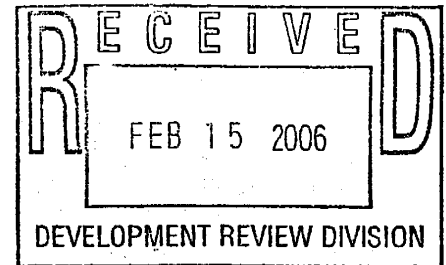
Signed,

NAME
ADDRESS
CITY, STATE, ZIP

Rose Cuenca
9101 Flower Avenue
Silver Spring, Md. 20901

February 9, 2006

Derrick Berlage, Chairman
Montgomery County Department of Park and Planning
The Maryland-National Capital Park and Planning Commission
8787 Georgia Avenue
Silver Spring, MD 20910-3760
RE: File Number - 1-06024 & 8-06008 - Long Branch Medical Building - Preliminary Plan and Site Plan



Dear Chairman Berlage:

I am writing to ensure that I am a party of record for File No. 1-06024 & 8-06008-Long Branch Medical Building - Preliminary Plan & Site Plan. In addition, I would like to express my concerns with this project as currently proposed. I request that the preliminary plan and site plan be considered separately.

This project is not compatible with the nearby residential homes. The *East Silver Spring Master Plan 2000* requires that any structure on this site should be compatible with the surrounding residential homes relative height, bulk, setback, and landscaping. The proposed building would be 40 feet in height with an additional 13 feet in height to allow for mechanical units. It would exceed the surrounding residential homes at least by 20 to 30 feet. The plans for the proposed building do not meet the Master Plan guidelines that were specifically intended to protect the surrounding residential area. This site faces residential homes on both Arliss St. and Flower Ave.

The Master Plan also recognizes the heavy volume of traffic in this area. A traffic island has been placed at the corner of Arliss and Flower for pedestrian safety. Another one has been placed on Flower Avenue, less than a block away, near Piney Branch. Speed bumps were installed on Flower Avenue, north of Wayne Avenue, in December. During rush hour, Flower Avenue traffic often backs up half way to Arliss Street. The proposed medical building will only exacerbate an already hazardous traffic problem.

This facility will include an urgent care facility that will operate until 10 p.m. six days a week and potentially 24 hours a day, seven days a week based upon documents filed with the application. This would impact the quiet use and enjoyment of surrounding residential homes. When this project was first proposed, the community was given the impression that medical offices, with limited operating hours, would be the ultimate use. Given the fact that the surrounding commercial area is plagued by inadequate parking, uncleanliness, limited retail choices, and deteriorating structures, it would seem more reasonable to address the entire commercial area. The ULI study, done at request of the Long Branch Task Force, spoke of an overall development plan for the commercial area. This project does not reflect that broader vision; instead it is a piecemeal approach that has been used in this area for years.

Thank you for your consideration of this request.

Sincerely,

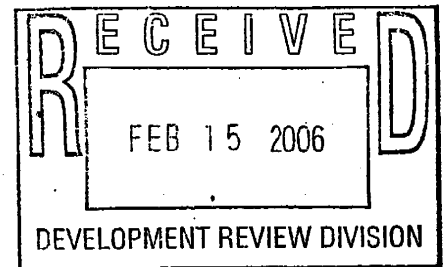
A handwritten signature in black ink, appearing to read "Richard A. Gollub".

Richard A. Gollub
8830 Sudbury Road
Silver Spring, MD 20901

February 8, 2006

Derrick Berlage, Chairman
Montgomery County Department of Park and Planning
The Maryland-National Capital Park and Planning Commission
8787 Georgia Avenue
Silver Spring, MD 20910-3760

RE: File Number - 1-06024 & 8-06008 - Long Branch Medical Building - Preliminary Plan and Site Plan



Dear Chairman Berlage:

I am writing to become a party of record for file number 1-06024 & 8-06008 - Long Branch Medical Building - Preliminary Plan & Site Plan. In addition, I would like to express my concerns with this project as currently proposed.

This project is not compatible with the nearby residential homes. The *East Silver Spring Master Plan 2000* requires that any structure on this site should be compatible with the surrounding residential homes relative height, bulk, setback, and landscaping. The proposed building would be 40 feet in height with an additional 13 feet in height to allow for mechanical units. It would exceed the surrounding residential homes at least by 20 to 30 feet. The plans for the proposed building do not meet the Master Plan guidelines that were specifically intended to protect the surrounding residential area. This site faces residential homes on both Arliss St. and Flower Ave.

The Master Plan also recognizes the heavy volume of traffic in this area. A traffic island has been placed at the corner of Arliss and Flower for pedestrian safety. Another one has been placed on Flower Avenue, less than a block away, near Piney Branch. Speed bumps were installed on Flower Avenue, north of Wayne Avenue, in December. During rush hour, Flower Avenue traffic often backs up half way to Arliss Street. The proposed medical building will only exacerbate an already hazardous traffic problem.

This facility will include an urgent care facility that will operate until 10 p.m. six days a week. This would impact the quiet use and enjoyment of surrounding residential homes. When this project was first proposed, the community was given the impression that medical offices, with limited operating hours, would be the ultimate use. Also, given the fact that the surrounding commercial is plagued by limited parking, uncleanliness, limited retail choices, and deteriorating structures, it would seem more reasonable to address the entire commercial area. The ULI study, done at request of the Long Branch Task Force, spoke of an overall development plan for the area. This project is a piecemeal approach that has been used in this area for years and does not reflect that broader vision.

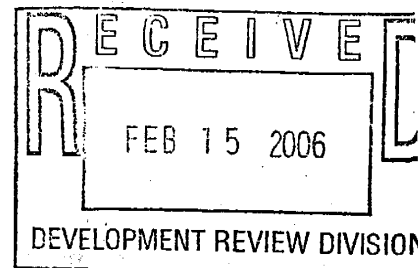
I respectfully request that the preliminary plan and site plan be considered separately to allow for adequate community input. Thank you for your consideration of this request.

Signed,

NAME
ADDRESS
CITY, STATE, ZIP

Carl A. Richardson
8818 Flower Avenue
Silver Spring, MD 20901

February 8, 2006



Derrick Berlage, Chairman
Montgomery County Department of Park and Planning
The Maryland-National Capital Park and Planning Commission
8787 Georgia Avenue
Silver Spring, MD 20910-3760
RE: File Number - 1-06024 & 8-06008 - Long Branch Medical Building - Preliminary Plan and Site Plan

Dear Chairman Berlage:

I am writing to become a party of record for file number 1-06024 & 8-06008 - Long Branch Medical Building - Preliminary Plan & Site Plan. In addition, I would like to express my concerns with this project as currently proposed.

This project is not compatible with the nearby residential homes. The *East Silver Spring Master Plan 2000* requires that any structure on this site should be compatible with the surrounding residential homes relative height, bulk, setback, and landscaping. The proposed building would be 40 feet in height with an additional 13 feet in height to allow for mechanical units. It would exceed the surrounding residential homes at least by 20 to 30 feet. The plans for the proposed building do not meet the Master Plan guidelines that were specifically intended to protect the surrounding residential area. This site faces residential homes on both Arliss St. and Flower Ave.

The Master Plan also recognizes the heavy volume of traffic in this area. A traffic island has been placed at the corner of Arliss and Flower for pedestrian safety. Another one has been placed on Flower Avenue, less than a block away, near Piney Branch. Speed bumps were installed on Flower Avenue, north of Wayne Avenue, in December. During rush hour, Flower Avenue traffic often backs up half way to Arliss Street. The proposed medical building will only exacerbate an already hazardous traffic problem.

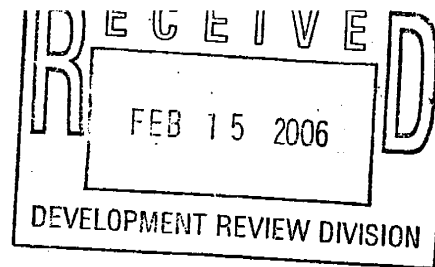
This facility will include an urgent care facility that will operate until 10 p.m. six days a week. This would impact the quiet use and enjoyment of surrounding residential homes. When this project was first proposed, the community was given the impression that medical offices, with limited operating hours, would be the ultimate use. Also, given the fact that the surrounding commercial is plagued by limited parking, uncleanliness, limited retail choices, and deteriorating structures, it would seem more reasonable to address the entire commercial area. The ULI study, done at request of the Long Branch Task Force, spoke of an overall development plan for the area. This project is a piecemeal approach that has been used in this area for years and does not reflect that broader vision.

I respectfully request that the preliminary plan and site plan be considered separately to allow for adequate community input. Thank you for your consideration of this request.

Signed,

NAME
ADDRESS
CITY, STATE, ZIP

Elizabeth B Martin
8727 Geren Rd
Silver Spring, Md 20901



February 9, 2006

Derrick Berlage, Chairman
Montgomery County Department of Park and Planning
The Maryland-National Capital Park and Planning Commission
8787 Georgia Avenue
Silver Spring, MD 20910-3760

RE: File Number - 1-06024 & 8-06008 - Long Branch Medical Building - Preliminary Plan and Site Plan

Dear Chairman Berlage:

I am writing to become a party of record for file number 1-06024 & 8-06008 - Long Branch Medical Building - Preliminary Plan & Site Plan. In addition, I would like to express my concerns with this project as currently proposed. I request that the preliminary plan and site plan be considered separately.

This project is not compatible with the nearby residential homes. The *East Silver Spring Master Plan 2000* requires that any structure on this site should be compatible with the surrounding residential homes relative height, bulk, setback, and landscaping. The proposed building would be 40 feet in height with an additional 13 feet in height to allow for mechanical units. It would exceed the surrounding residential homes at least by 20 to 30 feet. The plans for the proposed building do not meet the Master Plan guidelines that were specifically intended to protect the surrounding residential area. This site faces residential homes on both Arliss St. and Flower Ave.

The Master Plan also recognizes the heavy volume of traffic in this area. A traffic island has been placed at the corner of Arliss and Flower for pedestrian safety. Another one has been placed on Flower Avenue, less than a block away, near Piney Branch. Speed bumps were installed on Flower Avenue, north of Wayne Avenue, in December. During rush hour, Flower Avenue traffic often backs up half way to Arliss Street. The proposed medical building will only exacerbate an already hazardous traffic problem.

This facility will include an urgent care facility that will operate until 10 p.m. six days a week and potentially 24 hours a day, seven days a week based upon documents filed with the application. This would impact the quiet use and enjoyment of surrounding residential homes. When this project was first proposed, the community was given the impression that medical offices, with limited operating hours, would be the ultimate use. Given the fact that the surrounding commercial area is plagued by inadequate parking, uncleanliness, limited retail choices, and deteriorating structures, it would seem more reasonable to address the entire commercial area. The ULI study, done at request of the Long Branch Task Force, spoke of an overall development plan for the commercial area. This project does not reflect that broader vision; instead it is a piecemeal approach that has been used in this area for years.

Thank you for your consideration of this request.

Signed,

Yolanda Sanchez

NAME

Yolanda Sanchez

ADDRESS

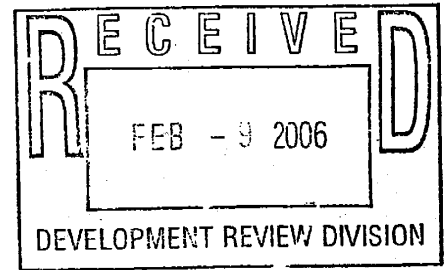
8814 Flower Ave

CITY, STATE, ZIP

Silver Spring, Md. 20901

February 9, 2006

Derrick Berlage, Chairman
Montgomery County Department of Park and Planning
The Maryland-National Capital Park and Planning Commission
8787 Georgia Avenue
Silver Spring, MD 20910-3760
RE: File Number - 1-06024 & 8-06008 - Long Branch Medical Building - Preliminary Plan and Site Plan



Dear Chairman Berlage:

I am writing to become a party of record for file number 1-06024 & 8-06008 - Long Branch Medical Building - Preliminary Plan & Site Plan. In addition, I would like to express my concerns with this project as currently proposed. I request that the preliminary plan and site plan be considered separately.

This project is not compatible with the nearby residential homes. The *East Silver Spring Master Plan 2000* requires that any structure on this site should be compatible with the surrounding residential homes relative height, bulk, setback, and landscaping. The proposed building would be 40 feet in height with an additional 13 feet in height to allow for mechanical units. It would exceed the surrounding residential homes at least by 20 to 30 feet. The plans for the proposed building do not meet the Master Plan guidelines that were specifically intended to protect the surrounding residential area. This site faces residential homes on both Arliss St. and Flower Ave.

The Master Plan also recognizes the heavy volume of traffic in this area. A traffic island has been placed at the corner of Arliss and Flower for pedestrian safety. Another one has been placed on Flower Avenue, less than a block away, near Piney Branch. Speed bumps were installed on Flower Avenue, north of Wayne Avenue, in December. During rush hour, Flower Avenue traffic often backs up half way to Arliss Street. The proposed medical building will only exacerbate an already hazardous traffic problem.

This facility will include an urgent care facility that will operate until 10 p.m. six days a week and potentially 24 hours a day, seven days a week based upon documents filed with the application. This would impact the quiet use and enjoyment of surrounding residential homes. When this project was first proposed, the community was given the impression that medical offices, with limited operating hours, would be the ultimate use. Given the fact that the surrounding commercial area is plagued by inadequate parking, uncleanliness, limited retail choices, and deteriorating structures, it would seem more reasonable to address the entire commercial area. The ULI study, done at request of the Long Branch Task Force, spoke of an overall development plan for the commercial area. This project does not reflect that broader vision; instead it is a piecemeal approach that has been used in this area for years.

Thank you for your consideration of this request.

Signed,

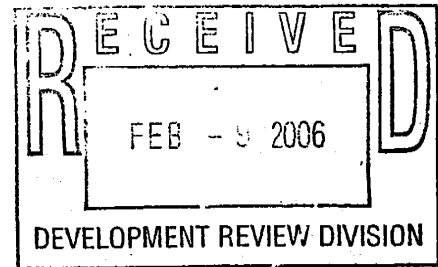
NAME
ADDRESS
CITY, STATE, ZIP

2018 Flower Ave
Silver Spring MD 20901

February 8, 2006

Derrick Berlage, Chairman
Montgomery County Department of Park and Planning
The Maryland-National Capital Park and Planning Commission
8787 Georgia Avenue
Silver Spring, MD 20910-3760

RE: File Number - 1-06024 & 8-06008 - Long Branch Medical Building - Preliminary Plan and Site Plan



Dear Chairman Berlage:

I am writing to become a party of record for file number 1-06024 & 8-06008 - Long Branch Medical Building - Preliminary Plan & Site Plan. In addition, I would like to express my concerns with this project as currently proposed.

This project is not compatible with the nearby residential homes. The *East Silver Spring Master Plan 2000* requires that any structure on this site should be compatible with the surrounding residential homes relative height, bulk, setback, and landscaping. The proposed building would be 40 feet in height with an additional 13 feet in height to allow for mechanical units. It would exceed the surrounding residential homes at least by 20 to 30 feet. The plans for the proposed building do not meet the Master Plan guidelines that were specifically intended to protect the surrounding residential area. This site faces residential homes on both Arliss St. and Flower Ave.

The Master Plan also recognizes the heavy volume of traffic in this area. A traffic island has been placed at the corner of Arliss and Flower for pedestrian safety. Another one has been placed on Flower Avenue, less than a block away, near Piney Branch. Speed bumps were installed on Flower Avenue, north of Wayne Avenue, in December. During rush hour, Flower Avenue traffic often backs up half way to Arliss Street. The proposed medical building will only exacerbate an already hazardous traffic problem.

This facility will include an urgent care facility that will operate until 10 p.m. six days a week. This would impact the quiet use and enjoyment of surrounding residential homes. When this project was first proposed, the community was given the impression that medical offices, with limited operating hours, would be the ultimate use. Also, given the fact that the surrounding commercial is plagued by limited parking, uncleanliness, limited retail choices, and deteriorating structures, it would seem more reasonable to address the entire commercial area. The ULI study, done at request of the Long Branch Task Force, spoke of an overall development plan for the area. This project is a piecemeal approach that has been used in this area for years and does not reflect that broader vision.

I respectfully request that the preliminary plan and site plan be considered separately to allow for adequate community input. Thank you for your consideration of this request.

Signed,

A handwritten signature in black ink, appearing to read "Mary Cogan".

NAME

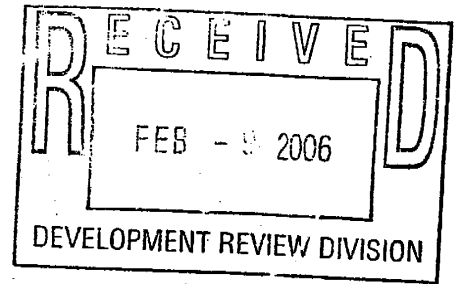
MARY COGAN

ADDRESS

9216 Mintwood Street

CITY, STATE, ZIP

Silver Spring, MD 20901



February 8, 2006

Derrick Berlage, Chairman
Montgomery County Department of Park and Planning
The Maryland-National Capital Park and Planning Commission
8787 Georgia Avenue
Silver Spring, MD 20910-3760

RE: File Number - 1-06024 & 8-06008 - Long Branch Medical Building - Preliminary Plan and Site Plan

Dear Chairman Berlage:

I am writing to become a party of record for file number 1-06024 & 8-06008 - Long Branch Medical Building - Preliminary Plan & Site Plan. In addition, I would like to express my concerns with this project as currently proposed.

This project is not compatible with the nearby residential homes. The *East Silver Spring Master Plan 2000* requires that any structure on this site should be compatible with the surrounding residential homes relative height, bulk, setback, and landscaping. The proposed building would be 40 feet in height with an additional 13 feet in height to allow for mechanical units. It would exceed the surrounding residential homes at least by 20 to 30 feet. The plans for the proposed building do not meet the Master Plan guidelines that were specifically intended to protect the surrounding residential area. This site faces residential homes on both Arliss St. and Flower Ave.

The Master Plan also recognizes the heavy volume of traffic in this area. A traffic island has been placed at the corner of Arliss and Flower for pedestrian safety. Another one has been placed on Flower Avenue, less than a block away, near Piney Branch. Speed bumps were installed on Flower Avenue, north of Wayne Avenue, in December. During rush hour, Flower Avenue traffic often backs up half way to Arliss Street. The proposed medical building will only exacerbate an already hazardous traffic problem.

This facility will include an urgent care facility that will operate until 10 p.m. six days a week. This would impact the quiet use and enjoyment of surrounding residential homes. When this project was first proposed, the community was given the impression that medical offices, with limited operating hours, would be the ultimate use. Also, given the fact that the surrounding commercial is plagued by limited parking, uncleanliness, limited retail choices, and deteriorating structures, it would seem more reasonable to address the entire commercial area. The ULI study, done at request of the Long Branch Task Force, spoke of an overall development plan for the area. This project is a piecemeal approach that has been used in this area for years and does not reflect that broader vision.

I respectfully request that the preliminary plan and site plan be considered separately to allow for adequate community input. Thank you for your consideration of this request.

Signed,

NAME
ADDRESS
CITY, STATE, ZIP

Jim Reed
1228 Mintwoods St.
Silver Spring MD. 20901

K.W.

**SLIGO BRANVIEW COMMUNITY ASSOCIATION
SILVER SPRING, MARYLAND 20901**

R E C E I V E D
2063
NOV 17 2005

November 10, 2005

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

Derrick Berlage, Chairman
Montgomery County Department of Park and Planning
The Maryland-National Capital Park and Planning Commission
8787 Georgia Avenue
Silver Spring, MD 20910-3760

RE: Long Branch Medical Building: Case Numbers - 1-06024 & 8-06008
[Preliminary and Site Plan]

Dear Chairman Berlage:

I am writing to become a party of record for file numbers 1-06024 & 8-06008 -
Long Branch Medical Building - Preliminary Plan & Site Plan.

Thank you for your consideration of this request.

Regards,

Name noeene Stehlik

Address 8713 Bradford Rd

Silver Spring, MD Zip Code 20901-4003

nstehlik@starpower.net

If notices, correspondence can be emailed, that
would be fine.

R-u

SLIGO BRANVIEW COMMUNITY ASSOCIATION
SILVER SPRING, MARYLAND 20901

November 10, 2005

RECEIVED
2064
NOV 17 2005

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

Derrick Berlage, Chairman
Montgomery County Department of Park and Planning
The Maryland-National Capital Park and Planning Commission
8787 Georgia Avenue
Silver Spring, MD 20910-3760

RE: Long Branch Medical Building: Case Numbers - 1-06024 & 8-06008
[Preliminary and Site Plan]

Dear Chairman Berlage:

I am writing to become a party of record for file numbers 1-06024 & 8-06008 -
Long Branch Medical Building - Preliminary Plan & Site Plan.

Thank you for your consideration of this request.

Regards, *Janet Callis*

Name Janet Callis

Address 8706 Reading Rd

Silver Spring, MD Zip Code 20901

Washington Adventist Healthcare Center at Long Branch Questions from the Community

1. What are WAH's arrangements with the developer? **WAH will be leasing the proposed Medical Office Building from the developer.**
2. How long will Washington Adventist stay at this location? **WAH will be leasing the proposed Medical Office Building for Twenty (20) years with One (1) Ten (10) year extension.**
3. What services will they provide? **Urgent Care- 3,500 Sq. Ft., Imaging- 5,500 Sq. Ft., Surgical Center (Two Operating Rooms, Four Procedure Rooms)- 13,336 Sq. Ft., General Medical Office Space- 15,664 Sq. Ft., Women's Services Clinic (prenatal Care, and women's health problems)-12,000 Sq. Ft.**
4. How much space do they need? **50,000 Sq.Ft.**
5. What is the minimum square feet WAH requires to sign a lease? **50,000 Sq.Ft Usable is the minimum required for the service they are providing in this building.**
6. Can WAH use their existing property for this building since they have announced plans to move out? **This property will be sold when the hospital relocates.**
7. Can WAH use their old bookstore property? **WAH does not own this property.**
8. Can WAH use the current condo high-rise on hospital property or other property they own throughout Takoma Park and near the hospital? **The condo high-rise is not owned by WAH but by individual doctors. The remainder of the property will be sold when the hospital relocates.**
9. What specific services do they plan to offer? **Urgent Care, Imaging, Surgical Center, General Medical Offices and a Womens Services Clinic (prenatal care, and women's health problems).**
10. What do they mean by "primary care" and "urgent care" services? **Urgent Care is a medical clinic that provides general medical services similar to a primary care doctor but works on a walk in basis. Examples of treatments include: Treatment for Flu, Cut your finger, fall down and break your wrist, sprained ankle. Urgent Care is open to the public and is a pay service either via insurance or patient direct payment.**
11. What hours will these services be open? **To Be Determined, 24 hours a day for some? To Be Determined, if the community needs these service 24 hours a day WAH could changes their hours to accommodate.**

12. Why do they want to locate at Flower and Arliss? This location is central to the community WAH wants to provide services to. Way in which to bring services to community. Incorporates and implements visions of Long Branch Taskforce, ULI Tap Report and Park & Planning vision for revitalizing the area.

13. How did they choose Flower and Arliss? WAH has been extensively searching for a site to house these services in the Long Branch Community over the last two years. WAH looked at 50 possible sites before choosing the Flower & Arliss site.

14. Is it near their intended clients? Yes.

15. Who are their intended clients? The community in a five mile radius around this location is WAH's intended clients.

16. Is it chosen by default, i.e., developer driven? WAH has been extensively searching for a site to house these services in the Long Branch Community over the last two years. WAH looked at 50 possible sites before choosing the Flower & Arliss site. WAH contacted the developer directly and asked the developer to build the medical office building.

17. How will this building affect the surrounding area?

This building will be the first building proposed as part of the Master Plan redevelopment for the Long Branch Commercial Center. As such, it complies with the goals of the master plan proposed by the County. First, the building will place parking below grade and not visible from the street. Secondly, the building will anchor the corner of this commercial center, setting a reference point in terms of quality architectural & construction, a true Gateway to the Long Branch Community. Finally, in terms of traffic and circulation, the building will resolve a dangerous curb cut issue by removing the current entrance at the corner of Arliss and Flower and placing two site entries at the opposite corners of the site.

18. Some people have suggested that a WAH office building would "jump-start" economic development in Long Branch. What development do they expect to occur because of this building? From a development perspective the influx of money into a community begets new investments. An example would be Discovery Communications believing in Downtown Silver Spring. Once Discovery came, other businesses followed. The building will provide 90-110 new jobs in the Long Branch Community. The employees of these new jobs along with the clients using the building will patronize the Long Branch Commercial Center. This building will create a lunch/mid-day pedestrian traffic that doesn't currently exist.

19. Do they expect that nearby single-family homes and townhouses will be used for offices, labs, etc. If not, why not? The single family homes and townhouses could only be used for offices, labs, etc. if they get approval from Montgomery County for these uses in a residential zone.

20. Do they have any traffic safety concerns with two entrances so near the intersection? Why? Why not? We (Symmetra Design and A. Morton Thomas) do not have any traffic operational or safety concerns related to the location of the proposed site driveways. There are currently two curb cuts on Flower Avenue that provide access to the project site. The project would eliminate the closest curbcut on Flower Avenue and relocate it to Arliss Street at a greater distance from the intersection. The relocated driveway would allow for an improvement from existing conditions. The existing driveway on Flower Avenue that is located furthest from the intersection would remain. A sight distance evaluation of the driveways was completed as part of the preliminary plan application.

21. What county agencies and/or elected officials have they been meeting with and getting support from? We have met with Tom Perez, George Leventhal, Steve Silverman, Gary Stith, Roylene Roberts, Silver Spring Citizens Advisory Board, Melanie Isis, Long Branch Task Force Member Joe Rodriquez, Dave Niblock with Department Of Permitting Services, ULI Tap Study, County Executives Office and Park & Planning Staff.

22. What incentives are they requesting/expecting from Montgomery County? Washington Adventist Hospital is requesting grants in the amount of \$3,500,000.

23. Will use of this building be limited to those affiliated with WAH or will anyone be able to lease space? This building will be 100% leased by WAH.

24. Will WAH lease the entire building and sublet? Yes

25. Who will own/manage/staff urgent care center. The Urgent Care, Imaging Center and Womens Services Clinic (prenatal Care, and women's health problems) will be staffed by WAH. The General Medical Offices and the Surgical Center will be sub-leased by WAH and staffed by Private Doctors. The owner of the building will be the same owner of the Flower Avenue Shopping Center. Harvey Property Management will be the property manager .

26. What is the current Level of Service of the traffic at Flower and Arliss? Montgomery County uses Critical Lane Volume or CLV to assess the traffic operational conditions at intersections. CLV is based on peak hour turning movements, the number of lanes at an intersection, and the traffic control method (i.e. stop sign or traffic signal). A critical lane volume less than 1,600 is accepted by the Montgomery County Planning Board as the maximum critical volume for intersections within the Silver Spring/Takoma Park Policy area. The traffic level for the Flower and Arliss intersection is as follows:

Existing Critical Lane Volume (CLV) Results for the Flower Ave/Arliss Street
AM Peak CLV- 940, PM Peak CLV- 1096
Future Critical Lane Volume (CLV) Results for the Flower Ave/Arliss Street
AM Peak CLV- 950, PM Peak CLV- 1147

In both cases we are well within the acceptable limit.

27. Will the new traffic projected at this intersection now meet the warrants for a traffic light and can the installation be expedited? An engineering study of traffic conditions, pedestrian conditions, and physical characteristics of the location would need to be performed to determine whether installation of a traffic control signal is justified at this location (these studies are a little different than what was done for the adequate public facilities traffic study). A traffic control signal should not be installed unless one or more of the factors described in the Manual on Uniform Traffic Control Devices are met. Then if one or more of the warrants are satisfied, engineering judgment would need to be considered to determine the installation of a signal. Three of the warrants are based on vehicular traffic, one of the warrants is based on pedestrian volume, one of the warrants depends on proximity to a school crossing, and one depends on crash experience (others include coordinated signal system and roadway network). These factors would all have to be studied to determine if a signal is warranted at this location. At this time Park & Planning, Department of Public Works and State Highway have reviewed the project and not required additional traffic studies.

28. Will left-turning movements be allowed or prohibited from the proposed exits from the building? Left turn movements will be allowed from the proposed exits of the building. Left turn movements will be allowed at both site driveways in order to allow for full egress without causing unnecessary circulation and u-turns within the site vicinity. Left turn movements would only need to be eliminated if the movement would result in safety or operational concerns. The traffic projections and CLV analysis indicate there would not be operational issues. Also traffic signals at the adjacent intersections would allow for gaps in traffic to allow for left turns onto Flower Avenue during peak times of the day.

29. Can the architecture of the new building be required to be compatible with the architecture of the Flower Theater? The architectural concept for the building skin was to treat the building as two buildings, rather than one monolithic structure. This is accomplished by mixing two materials. The pattern of windows proposed is a soft pattern of vertical punched windows, in scale with the surrounding residential neighborhood. The primary exterior material, brick masonry, is used on many of the surrounding buildings and will allow the building to harmonize with its neighbors. Both in terms of scale and massing the building will be a good fit for its corner site.

The building exterior design has been redesigned three times with the third redesign showing a building with 80% masonry/20% glass, up from the original design of 60% masonry/40% glass. The punch windows have been redesigned to have a more residential feel. The building has been setback from the county required 20 feet from the curb to 29 feet from the curb. This additional setback now makes the

building to building setback on Flower Avenue 113 feet and the building to building setback on Arliss Street 105 feet.

30. As the Center is to serve the community, can an OJT provision be required? WAH has in place an OJT program in all of their facilities.

ATTACHMENT E

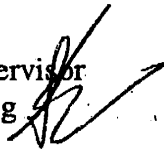



February 16, 2006

MEMORANDUM

TO: Linda Komes, Planner/Coordinator
Development Review

Rich Weaver, Planner/Coordinator
Development Review

VIA: Shahriar Etemadi, Supervisor
Transportation Planning 

FROM: Scott A. James, Planner/Coordinator 
Transportation Planning

SUBJECT: Washington Adventist Medical Office Building
Preliminary Plan #1-06024 Site Plan #8-06008
8702 Flower Avenue, Silver Spring
Silver Spring/Takoma Park Policy Area

This memorandum is Transportation Planning staff's adequate public facilities (APF) review of the subject preliminary and site plan applications to build a medical office building of 57,900 square feet.

RECOMMENDATION

Transportation Planning staff recommends the following conditions of approval as part of APF test for transportation requirements related to Local Area Transportation Review (LATR):

1. Limit the development to 57,900 square feet of medical office space and associated 192 – space structured parking garage.
2. Dedicate up to 35 feet as measured from the centerline along Flower Avenue.
3. Dedicate up to 35 feet as measured from the centerline along Arliss Street.

4. Dedicate standard 25-foot straight-line truncation at the corner of Flower Avenue and Arliss Street, per Montgomery County Code requirements.
5. Provide parking for eight bicycles: two racks near the main entrance and four bicycle lockers located in a visible, well-lit secure location within the parking garage.
6. Continue to coordinate and confirm with Maryland Transit Administration no negative impact is anticipated due to proposed Bi-County Transitway alignments.

DISCUSSION

Site Location, Access, Circulation, and Parking

The proposed medical office building will occupy the corner of Arliss Street and Flower Avenue in East Silver Spring. Access to the site will be via two full service driveways, one connecting to Flower Avenue and the other accessing Arliss Street. On-site circulation will allow for vehicles to access the surface parking lot located to the rear of the building or the below grade structured parking garage. The proposed site layout allows for access to the parking garage from adjacent properties located along Flower Avenue for use during non-business hours. Pedestrian access to and across the site will use the existing sidewalks. The development will include streetscape improvements and landscaping along both Flower Avenue and Arliss Street.

Proposed Bi-County Transitway Alignments

The proposed Bi-County Transitway may select an alignment along Flower Avenue and/or Arliss Street for the section serving East Silver Spring. The applicant has incorporated possible future requirements for a dedicated transitway into the building location and right-of-way dedication for their development. MTA has confirmed in writing, that no conflicts are anticipated between the current alignments under discussion and the building footprint and vehicular access proposed. Staff will continue to work with the applicant and representatives of the MTA to insure coordination between this proposed development and any future selected BCT alignment.

Local Area Transportation Review

The proposed development of 57,900 square feet of medical office space is anticipated to generate 143 AM peak hour trips and 215 PM peak hour trips during a regular weekday peak periods. An LATR study was performed to determine the impact of the proposed development on the adjacent transportation infrastructure.

Four intersections adjacent to the development were selected for analysis: Flower Avenue at Wayne Avenue, Flower Avenue at Arliss Street, Flower Avenue at Piney Branch Road (MD 320) and Arliss Street at Piney Branch Road (MD 320). There were no previously approved nearby projects for inclusion in the calculation of background traffic CLV for the intersections under study. As shown in the table below, all studied intersections are estimated to operate within the established Silver Spring/ Takoma Park Critical Lane Volume (CLV) threshold of 1,600 vehicles.

The following table shows the CLV analysis results for the studied intersections:

<u>Roadway Intersection</u>	<u>Current CLV levels (AM / PM)</u>	<u>Projected Future CLV (AM / PM)</u>
Flower Avenue / Arliss Street	940 / 1,096	950 / 1,147
Flower Avenue / Wayne Avenue	861 / 954	895 / 978
Flower Avenue / Piney Branch Road	866 / 805	882 / 813
Arliss Street / Piney Branch Road	693 / 789	731 / 830

Master Plan Roadways and Bikeways

Flower Avenue (MD 195) intersects Wayne Avenue to the north and Piney Branch Road (MD 320) to the south. Flower Avenue and Arliss Street form a three-legged intersection to the north of the site. Arliss Street connects Flower Avenue to the west with Piney Branch Road (MD 320) to the south and east. Both Flower Avenue and Arliss Street are classified as Business streets with ultimate rights-of-way of 70 feet. Piney Branch Road is classified as a major arterial with ultimate right-of-way of 80 feet. Wayne Avenue is classified as a primary residential street at its intersection with Flower Avenue. No bikeway facilities are planned for any of these roads adjacent to the development. In the East Silver Spring Master Plan (adopted December 2000), Flower Avenue is designated an on-road bicycle facility between Franklin Avenue and Carroll Avenue. No additional signage or pavement markings are required.

Pedestrian Access

The signalized intersections within the traffic study area have pedestrian signal phasing for crosswalks. Intersection signal timing and signage is adequate for pedestrians at all intersections studied. The existing sidewalk along the frontage of the property on Flower Avenue will be reconstructed. A pedestrian connection will be provided across the site to Arliss Street to improve connectivity between the medical office building and the adjacent developments.

SAJ:gw

mno to Komes re Washington Adventist 1-06024



RECEIVED
JUL 15 2005
A. MORTON THOMAS

DEPARTMENT OF PERMITTING SERVICES

Douglas M. Duncan
County Executive

July 13, 2005

Robert C. Hubbard
Director

Mr. Bill Mytsak
A. Morton Thomas and Associates, Inc.
12750 Twinbrook Parkway
Rockville, MD 20852-1700

Re: Stormwater Management **CONCEPT** Request
for Long Branch Medical Building
Preliminary Plan #: Pending
SM File #: 218962
Tract Size/Zone: 0.91 Ac./CRD-2
Total Concept Area: 0.91 Ac.
Lots/Block: Pt of Lot 20
Watershed: Sligo Creek

Dear Mr. Mytsak:

Based on a review by the Department of Permitting Services Review Staff, the stormwater management concept for the above mentioned site is **acceptable**. The stormwater management concept consists of partial on-site water quality control via a separator sand filter. Onsite recharge is not required since this is redevelopment. Channel protection requirements and the remainder of the water quality requirements are waived due to site constraints.

The following items will need to be addressed during the detailed sediment control/stormwater management plan stage:

1. Prior to permanent vegetative stabilization, all disturbed areas must be topsoiled per the latest Montgomery County Standards and Specifications for Topsoiling.
2. A detailed review of the stormwater management computations will occur at the time of detailed plan review.
3. An engineered sediment control plan must be submitted for this development.
4. All filtration media for manufactured best management practices, whether for new development or redevelopment, must consist of MDE approved material.
5. All covered parking is to drain to a WSSC sanitary sewer system. Provide a copy of the mechanical drawings to verify where roof, surface and garage drains outlet.

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

Payment of a stormwater management contribution in accordance with Section 2 of the Stormwater Management Regulation 4-90 is required.

This letter must appear on the sediment control/stormwater management plan at its initial submittal. The concept approval is based on all stormwater management structures being located outside of the Public Utility Easement, the Public Improvement Easement, and the Public Right of Way unless specifically approved on the concept plan. Any divergence from the information provided to this



office; or additional information received during the development process; or a change in an applicable Executive Regulation may constitute grounds to rescind or amend any approval actions taken, and to reevaluate the site for additional or amended stormwater management requirements. If there are subsequent additions or modifications to the development, a separate concept request shall be required.

If you have any questions regarding these actions, please feel free to contact David Kuykendall at 240-777-6332.

Sincerely,



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

RRB:dm CN218962 Long Branch Medical Building.DWK

cc: R. Weaver
S. Federline
SM File # 218962

QN -Waived; Acres: 0.91
QL - Onsite/Waived; Acres: 0.79/0.12
Recharge is not provided



Robert L. Ehrlich, Jr., *Governor*
Michael S. Steele, *Lt. Governor*

Robert L. Flanagan, *Secretary*
Neil J. Pedersen, *Administrator*

Maryland Department of Transportation

September 8, 2005

Ms. Cathy Conlon
Supervisor, Development Review
Subdivision Division
Maryland National Capital
Park & Planning Commission
8787 Georgia Avenue
Silver Spring, MD 20910-3760

Re: Montgomery County
MD 787 General
Long Branch Medical Building
File Nos. ~~1-06024 & 8-06008~~

Dear Ms. Conlon:

The State Highway Administration (SHA) would like to thank you for the opportunity to review the preliminary and site plan applications for the Long Branch Medical Building. We have completed our review and offer the following comments at this time:

- Please note that this section of Flower Avenue is owned and maintained by Montgomery County. It is not part of the State route, MD 787.
- Five (5) copies of the traffic study need to be submitted so the appropriate divisions within the State Highway Administration (SHA) can make the necessary review.

If additional information is required from SHA regarding this project, please do not hesitate to contact Mr. Gregory Cooke at 410-545-5602, Mr. John Borkowski at 410-545-5595, or by using our toll free number in Maryland only, 1-800-876-4742 (x-5602 for Greg, x-5595 for John). You may also E-mail Greg at gcooke@sha.state.md.us or John at jborkowski@sha.state.md.us. Thank you for your cooperation.

Very truly yours,

Steven D. Foster, Chief
Engineering Access Permits Division

SDF/jb

cc: Mr. Darrell Mobley (Via E-mail)
Mr. Augustine Rebish (Via E-mail)
Mr. Richard Weaver, M-NCPPC (Via E-mail)
Mr. Bill Mytsak (A. Morton Thomas & Associates, Inc.)

My telephone number/toll-free number is _____
Maryland Relay Service for Impaired Hearing or Speech: 1.800.735.2258 Statewide Toll Free

Street Address: 707 North Calvert Street • Baltimore, Maryland 21202 • Phone: 410.545.0300 • www.marylandroads.com

EPD Recommendation to Dev Rev Div: XXX Approve w/conditions as noted below
 Hold for revision/additional information Disapproval

MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
DEVELOPMENT REVIEW COMMITTEE RECOMMENDATIONS

TO: Richard Weaver
Development Review Division

SUBJECT: Plan # 1-06024 & 8-06008, Name Long Branch Medical Building
DRC date: Monday, September 12, 2005

The above-referenced plan has been reviewed to determine if it meets requirements of the Guidelines for Environmental Management of Development in Montgomery County, and other county regulations that may apply. The following recommendations are made for the DRC meeting:

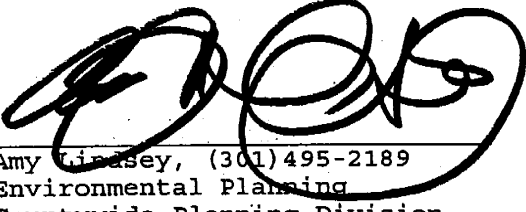
SUBMITTAL ADEQUACY
XXX Plan is complete. (see recommendations below)

EPD RECOMMENDATIONS:
XXX Approval.

Comments:

- #4-05333E*
1. Property is **EXEMPT** from Forest Conservation Law as per ~~4-05333E~~ (Small property).
 2. Applicant is encouraged to investigate green building technologies.
 3. Applicant is encouraged to use native plants in all landscaping.

SIGNATURE:


Amy Lindsey, (301) 495-2189
Environmental Planning
Countywide Planning Division

DATE: September 12, 2005

cc: Bill Mytsak, A. Morton Thomas & Associates
Greg Fernebok, Flower Avenue Shopping Center

Reminder: Address your submissions/revisions to the Reviewer who completed the Comments sheet.
Put the Plan numbers on your cover/transmittal sheets.



DEPARTMENT OF PUBLIC
AND TRANSPORTATION

Douglas M. Duncan
County Executive

Ms. Catherine Conlon, Subdivision Supervisor
Development Review Division
The Maryland-National Capital
Park & Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910-3760

104-197

RECEIVED

JAN 04 2006

A. MORTON THOMAS

Orig: Bill M.

cc: Max K.

File: MAM

es, Jr.

RE:

Dear Ms. Conlon:

We have completed our review of the preliminary plan dated August 17, 2005. This plan was reviewed by the Development Review Committee at its meeting on September 12, 2005. We recommend approval of the plan subject to the following comments:

All Planning Board Opinions relating to this plan or any subsequent revision, project plans or site plans should be submitted to DPS in the package for record plats, storm drain, grading or paving plans, or application for access permit. Include this letter and all other correspondence from this department.

1. Show all existing planimetric and topographic details (paving, storm drainage, driveways adjacent and opposite the site, sidewalks and/or bikeways, bus stops, utilities, etc.) as well as existing rights of way and easements on the preliminary plan.
2. Necessary dedication along Flower Avenue and Arliss Avenue in accordance with the master plan, including standard truncation at their intersection.
3. Grant necessary slope and drainage easements. Slope easements are to be determined by study or set at the building restriction line.
4. We did not receive complete analyses of the capacity of the downstream public storm system(s) and the impact of the post-development runoff on the system(s). As a result, we are unable to offer comments on the need for possible improvements to the system(s) by this applicant.

Prior to approval of the record plat by the Department of Permitting Services (DPS), the applicant's consultant will need to submit this study, with computations, for review and approval by DPS. Analyze the capacity of the existing downstream public storm drain system and the impact of the post-development ten (10) year storm runoff on same. Since the proposed subdivision drains to an existing closed section street, include inlet efficiency and spread computations in the impact analysis.



Division of Operations

101 Orchard Ridge Drive, 2nd Floor • Gaithersburg, Maryland 20878
240/777-6000, TTY 240/777-6013, FAX 240/777-6030

Ms. Catherine Conlon
Preliminary Plan No. 1-06024
December 2, 2005
Page 2

5. Prior to approval of the record plat by the Department of Permitting Services, submit a revised completed, executed and sealed DPWT Sight Distances Evaluation certification form, for the proposed driveway on Flower Avenue.

If sight distances are acceptable, DPS may approve that form as well as the certification form for the Arliss Street driveway.

The proposed driveway apron on Flower Avenue cannot extend past the common property line (with the adjacent 8807 Flower Avenue property). The proposed driveway apron should either be shifted to the north or built as a commercial driveway apron (DPWT Standard No. MC-302.01).

6. The parking layout plan will be reviewed by DPS at the site plan or building permit stage, whichever comes first. To facilitate their review, that plan should delineate and dimension the proposed on-site travel lanes, parking spaces, curb radii, handicap parking spaces and access facilities, and sidewalks. The applicant may wish to contact Ms. Sarah Navid of that Department at (240) 777-6320 to discuss the parking lot design.
7. For safe simultaneous movement of vehicles, we recommend a driveway pavement width of no less than twenty four (24) feet to allow vehicles to enter and exit the site without encroaching on the opposing lanes. This pavement width will permit an inbound lane width of fourteen (14) feet and an exit lane width of ten (10) feet.
8. Curb radii for intersection type driveways should be sufficient to accommodate the turning movements of the largest vehicle expected to frequent the site.
9. The applicant needs to submit a truck circulation plan for review by the M-NCPPC and DPS. This plan should delineate the proposed movements on-site between the anticipated access locations, the proposed truck loading spaces, and the proposed dumpsters. The truck circulation pattern and loading position should be designed for counter-clockwise entry and for a left-side backing maneuver. Passenger vehicle travel ways should be separated from the expected truck patterns and storage areas. The applicant may also need to provide documentation of their proposed delivery schedules.
10. Truck loading space requirements to be determined in accordance with the Executive Branch's "Off-Street Loading Space" policy. On the site plan, delineate the location and dimensions of the proposed truck loading and/or dumpster spaces.
12. Provide on-site handicap access facilities, parking spaces, ramps, etc. in accordance with the Americans With Disabilities Act.
13. For any parking facility containing more than fifty (50) parking spaces, the applicant needs to furnish bicycle parking facilities as required Section 59 E-2.3 of the Montgomery County Code. Accordingly, the applicant should provide either bike lockers or inverted "U" type bike racks.
14. Relocation of utilities along existing roads to accommodate the required roadway improvements shall be the responsibility of the applicant.

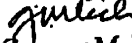
Ms. Catherine Conlon
Preliminary Plan No. 1-06024
December 2, 2005
Page 3

markings, please contact Mr. Fred Lees of our Traffic Control and Lighting Engineering Team at (240) 777-6000 for proper executing procedures. All costs associated with such relocations shall be the responsibility of the applicant.

16. If the proposed development will alter or impact any existing County maintained transportation system management component (i.e., traffic signals, signal poles, handboxes, surveillance cameras, etc.) or communication component (i.e., traffic signal interconnect, fiber optic lines, etc.), please contact Mr. Bruce Mangum of our Traffic Systems Engineering Team at (240) 777-6000 for proper executing procedures. All costs associated with such relocations shall be the responsibility of the applicant.
17. If the applicant is required to install special streetscaping amenities along the Flower Avenue and/or Arliss Street site frontages -- prior to approval of the record plat by DPS, execute and record a Declaration of Covenants (for Maintenance and Liability).
18. Permit and bond will be required as a prerequisite to DPS approval of the record plat. The permit will include, but not necessarily be limited to, the following improvements:
 - A. Improvements to the existing public storm drainage system, if necessitated by the previously mentioned outstanding storm drain study. If the improvements are to be maintained by Montgomery County, they will need to be designed and constructed in accordance with the DPWT Storm Drain Design Criteria.
 - B. Install Silver Spring CBD streetscaping amenities on the Arliss Street and/or Flower Avenue site frontages -- if required as a condition of approval by the Planning Board
 - C. Remove the existing driveway apron on Flower Avenue, closest to the intersection with Arliss Street, and restore the disturbed right-of-way.

Thank you for the opportunity to review this preliminary plan. If you have any questions regarding this letter, please contact Mr. Sam Farhadi at sam.farhadi@montgomerycountymd.gov or (240) 777-6000.

Sincerely,


Gregory M. Leck, Manager
Traffic Safety Investigations and Planning Team
Traffic Engineering and Operations Section

m:/subd/gml/docs/1-06024, Long Branch Medical Building

cc: Greg Fernebok; Flower Avenue Shopping Center LLP
Bill Mytsak; A. Morton Thomas & Associates, Inc.
Richard Weaver; M-NCPPC DRD
Shahriar Etemadi; M-NCPPC TP
Mel Tull; Silver Spring Regional Center
Joseph Y. Cheung; MCDPS Subdivision Development
Christina Contreras; MCDPS Subdivision Development



DEPARTMENT OF PUBLIC WORKS
AND TRANSPORTATION

Douglas M. Duncan
County Executive

October 17, 2005

Arthur Holmes, Jr.
Director

Ms. Catherine Conlon, Subdivision Supervisor
Development Review Division
The Maryland-National Capital
Park & Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910-3760

RE: Project Plan No. 1-06024
Long Branch Medical Building

Dear Ms. Conlon:

This letter is to confirm our comments at the September 26, 2005 meeting of the Development Review Committee. We request that this plan not be sent to the Planning Board for their review until these issues have been addressed. In our opinion, this project plan submission is incomplete for the following reasons:

1. The storm drain study does not provide sufficient information on the downstream public storm drain system: where is it located, what is its capacity, pre- and post-development ten (10) year run offs, and what is the impact of the post-development runoff on that system. Since this site drains to an enclosed storm drain system, include spread analysis in this study.

Note: These (storm drain study) requirements can be waived upon request by the applicant if they can provide plans and computations that the post-development run-off will be less than that which exists today.

2. Provide a revised site distance evaluation certification signed and sealed by a Maryland registered professional engineer or land surveyor. Also provide sight distance measurements for the proposed drive way on Flower Avenue and add note explaining the visibility limitation for the proposed driveway on Arliss Street.

Thank you for the opportunity to review this preliminary plan. If you have any questions or comments regarding this letter, please contact Mr. Sam Farhadi at sam.farhadi@montgomerycountymd.gov or (240) 777-2190.

Sincerely,

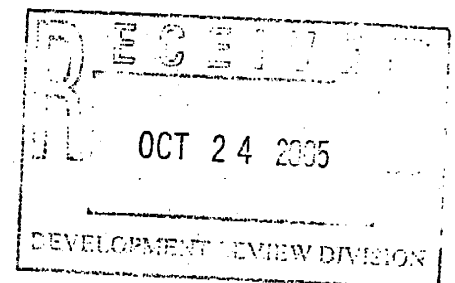
Gregory M. Leck, P.E., Manager
Traffic Safety Investigations and Planning Team
Traffic Engineering and Operations Section

m:/wp/farhas01/postponements/postponement,1-06024,LongBranch_Medical.doc

cc: Greg Fernebok, Flower Avenue Shopping Center LLP
Bill Mytsak, A Morton Thomas
Stacy Silber, Holland and Knight
Joseph Y. Cheung; DPS RWPPR
Christina Contreras; DPS RWPPR



Division of Operations



WSSC Comments on Items for September 12, 2005, Development Review Committee Meeting

Revised 9/13/05

File Number	Project Name	Comments
1-06024 8-06008	LONG BRANCH MEDICAL BUILDING	Water and sewer lines about the property – connections required.

Unless otherwise noted, all extensions require Requests for Hydraulic Planning Analysis and need to follow the System Expansion Permit (SEP) Process. Contact WSSC's Development Services Center (301-206-8650) or visit the Development Services on WSSC's web-site (www.wsscwater.com) for information on requesting a Hydraulic Planning Analysis and additional requirements for extensions. Contact WSSC's Permit Services (301-206-4003) for information on service connections and on-site system reviews.



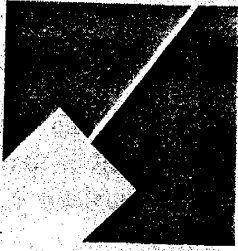
FIRE MARSHAL COMMENTS

DATE: 1-20-06
TO: PLANNING BOARD, MONTGOMERY COUNTY
VIA:
FROM: CAPTAIN JOHN FEISSNER 240.777.2436
RE: APPROVAL OF ~ *LONG BRANCH MEDICAL #8-06008*

1. PLAN APPROVED.

- a. Review based only upon information contained on the plan submitted 1-20-06. Review and approval does not cover unsatisfactory installation resulting from errors, omissions, or failure to clearly indicate conditions on this plan.
- b. Correction of unsatisfactory installation will be required upon inspection and service of notice of violation to a party responsible for the property.

cc: Department of Permitting Services



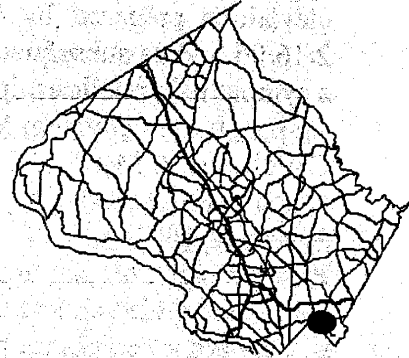
THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

MCPB 3-09-05

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

MEMORANDUM

DATE: February 21, 2006
TO: Montgomery County Planning Board
VIA: Rose Krasnow, Chief *RK*
Robert A. Kronenberg, Acting
Supervisor *RAK*
Development Review Division
FROM: Linda Komes, RLA, AICP *LK*
(On behalf of Development Review
Division)
(301) 650-2860



REVIEW TYPE: **Site Plan Review**
CASE #: **820060080**
PROJECT NAME: **Long Branch Medical Building**
APPLYING FOR: Approval of 55,800 sf of Medical Office space on 0.91 acres
REVIEW BASIS: Div. 59-D-3 of Montgomery County Zoning Ordinance
ZONE: C-1 and Takoma Park/East Silver Spring Commercial Revitalization
Overlay Zone (CROZ)
LOCATION: Southeast quadrant of the intersection of Flower Avenue and Arliss Street
in the Long Branch Village Center
MASTER PLAN: East Silver Spring
APPLICANT: Flower Avenue Shopping Center, LLP
CO-APPLICANT: Adventist Healthcare, Inc.
FILING DATE: August 18, 2005
HEARING DATE: March 09, 2006

STAFF RECOMMENDATION: Approval of Site Plan 820060080 for 55,800 sf of medical office space on 0.91 acres. All site development elements as shown on the Long Branch Medical building stamped by the M-NCPPC on February 15, 2006 shall be required except as modified by the following conditions:

1. Preliminary Plan Conformance

The proposed development shall comply with the conditions of approval for Preliminary Plan 1-06024 reviewed concurrently with the subject site plan.

2. Building Height

The building shall be built in strict conformance with Site Plan 8-06008 and shall be no more than 40 feet in height measured from the top of the curb at the midpoint of the site frontage facing Arliss Street to the high point of the flat roof as depicted on Sheet A.04 of the Shalom Baranes Assoc. plans dated 2/16/06.

3. Architecture

The building shall be constructed in substantial conformance with the architectural plans and elevations prepared by Shalom Baranes Associates, as revised and dated 2/14/06 and 2/16/06 and as subsequently amended to include additional architectural details to establish a sympathetic relationship with the nearby Flower Theatre.

4. Transportation Division Memo

Conditions of M-NCPPC Transportation Planning Division memo dated February 16, 2006, attached in Appendix A.

5. Signature Set

Prior to signature set approval of site and landscape/lighting plans the following revisions shall be included and/or information provided, subject to staff review and approval:

- a. Provide a designated pedestrian route from the parking garage to Flower Avenue and the surrounding retail area. The Pedestrian route shall be separated from vehicular travelways and will provide a safe pedestrian route from the underground parking garage to the businesses along Flower Ave.
- b. The top of building elevation, and all building and yard setbacks from the Development Data table shall be clearly shown on the site plan.
- c. Provide construction details for the enlargement of the existing tree pits along Flower Avenue and a detail of the tree pit, including an amended soil panel, and ground cover planting.
- d. Provide the streetscape treatment along Arliss Street as proposed by the Department Of Housing and Community Affairs and as approved by the Department of Public Works and Transportation.
- e. Demonstrate that the driveway aprons will be constructed using exposed aggregate concrete for a continuous treatment within the Flower Avenue and Arliss Street right-of-ways.
- f. Add another shade tree 30 feet on center north of the last proposed shade tree along Flower Avenue.
- g. Replace the Zelkovas along Flower Avenue with a flowering tree.
- h. Provide construction details for retaining walls, special pavement areas, signage, lighting, railings, bike racks, etc. All facades of retaining walls above grade shall be brick clad.
- i. Provide the proposed spacing for all shrubs in the plant list.
- j. Demonstrate that all light fixtures shall be full cut-off fixtures or shall be able to be equipped with deflectors, refractors or reflectors, on all fixtures causing potential glare or excess illumination, specifically on the perimeter fixtures abutting the adjacent residential property.
- k. Locate required bicycle and motorcycle parking on the plans
- l. Provide the internal green area calculations on the site plan and show that the minimum requirements of one shade tree for every 350 sf feet of internal green area has been provided.

- m. Ensure that all trees planted over structure will have enough soil volume to encourage growth and maintain the health of the trees.
 - n. Add special paving, such as stamped concrete, to the island in the parking lot and at the building's entrance from the parking lot.
6. Signage
All illuminated signage, shall be backlit and located as shown on the approved site plan. Details of the signage shall be added to the signature set. The pedestrian route from the underground parking structure to Flower Avenue shall be clearly signed.
 7. Public Parking
The parking garage will have an attendant, and will be available to the public in the following manner: Weekdays: 6 p.m.-11 p.m.; Saturdays from 10 a.m. - 11 p.m.; Sunday 7:30 a.m.- 6 p.m.
 8. Building Glare
Mecho shades will be used on all building windows along Flower Avenue and Arliss Street.
 9. Forest Conservation
The property is exempt from the Forest Conservation requirements by letter dated June 24, 2005 (Appendix A).
 10. Stormwater Management
The proposed development is subject to Stormwater Management Concept approval conditions dated September 8, 2005 [Appendix A].
 11. Development Program
Applicant shall construct the proposed development in accordance with the Development Program. A Development Program shall be reviewed and approved by M-NCPPC staff prior to approval of signature set of site plan. The Development Program shall include a phasing schedule as follows:
 - a. All elements of the site plan, except for the street trees and streetscape treatment, shall be completed prior to issuance of the occupancy permit. Applicant shall provide the use and occupancy permit to M-NCPPC staff in order to inspect the site for streetscape, including the street trees, streetlights and pavers, as well as on-site landscaping, lighting, and paver materials.
 - b. Street tree planting for Flower Avenue and Arliss Street shall progress as site construction is completed, but no later than six months after completion of the building.
 - c. Clearing and grading shall correspond to the construction phasing, to minimize soil erosion.
 - d. Phasing of dedications, stormwater management, sediment/erosion control, pedestrian paths, trip mitigation or other features.
 12. Clearing and Grading
No clearing, grading, or demolition prior to M-NCPPC approval of signature set of plans.

SITE PLAN REVIEW ISSUES

Building compatibility with adjacent properties

The subject site is located in the northeast quadrant of the intersection of Flower Avenue and Arliss Street on the edge of the Long Branch Village Center. The site lies within the East Silver Spring Commercial Revitalization Overlay Zone. The underlying zone is C-1. The Commercial Revitalization Overlay Zone allows the Planning Board to approve building heights up to 42 feet with a finding of neighborhood compatibility and consistency with the intent of the master plan.

The site is currently developed as a surface parking lot containing approximately 68 parking spaces. Confronting properties across Flower Avenue are zoned R-60 and are developed with two-story, single-family detached homes. The height of these homes measured to the peak of each roof varies from 24'-28'. Confronting property across Arliss Street is developed with a two-story, single-family detached home, approximately 22 feet-tall to the peak of its roof. The front of the house faces Flower Avenue and its side façade faces the proposed office building. The side and rear yard of this home is completely enclosed with a solid board fence. Further east along Arliss Street is a row of eight, two-story townhouses, zoned R-T 12.5.

Both Flower Avenue and Arliss Street have 70-foot-wide road right-of-ways. The distance between between the proposed office building façade and the confronting residences along Flower Avenue and Arliss Street is approximately 115 feet.

The applicant proposes to construct a three story, forty-foot-tall, medical office building. A penthouse structure enclosing mechanical units is located on the roof of the building setback from the face of the building. The building has been sited on the lot to align with the edge of the existing commercial buildings along Flower Avenue providing a strong relationship to Flower Avenue and Arliss Street. Parking, consisting of approximately 190 total parking spaces, is located primarily below the building in a parking garage, with 24 parking spaces located behind the building in a small surface parking lot.

In response to community concerns, a number of revisions have been made to the plans. The gross floor area of the building, now proposed at 55,800 square feet, has been reduced from the original submission of 57,900 square feet. The building height has also been reduced from 42 feet to 40 feet, and the building façade materials have been modified so that approximately 80% of the façade will be clad in brick or will be comprised of punched windows, and the remaining 20% of the façade will be a glass curtain wall. The building setback along Flower Avenue has been increased and both the Flower Avenue and Arliss Street frontages will include an improved streetscape and a garden area at the base of the building.

Community Position

Staff has received letters opposing as well as supporting the proposed medical office building. These letters are attached in Appendix B of this report. The Sligo Branview community is in opposition to the proposal, finding its height and bulk incompatible with the surrounding residential community. They are also concerned that the proposed building will displace existing parking that is necessary to support the adjacent commercial uses and that not enough parking is

being provided to support both the medical office building and the adjacent commercial uses. They have also expressed concerns over the proposed hours that Urgent Care services will be provided.

Letters of support received at the time of this writing include a letter from a neighbor supporting the use and several letters from nearby commercial property owners.

Staff Position

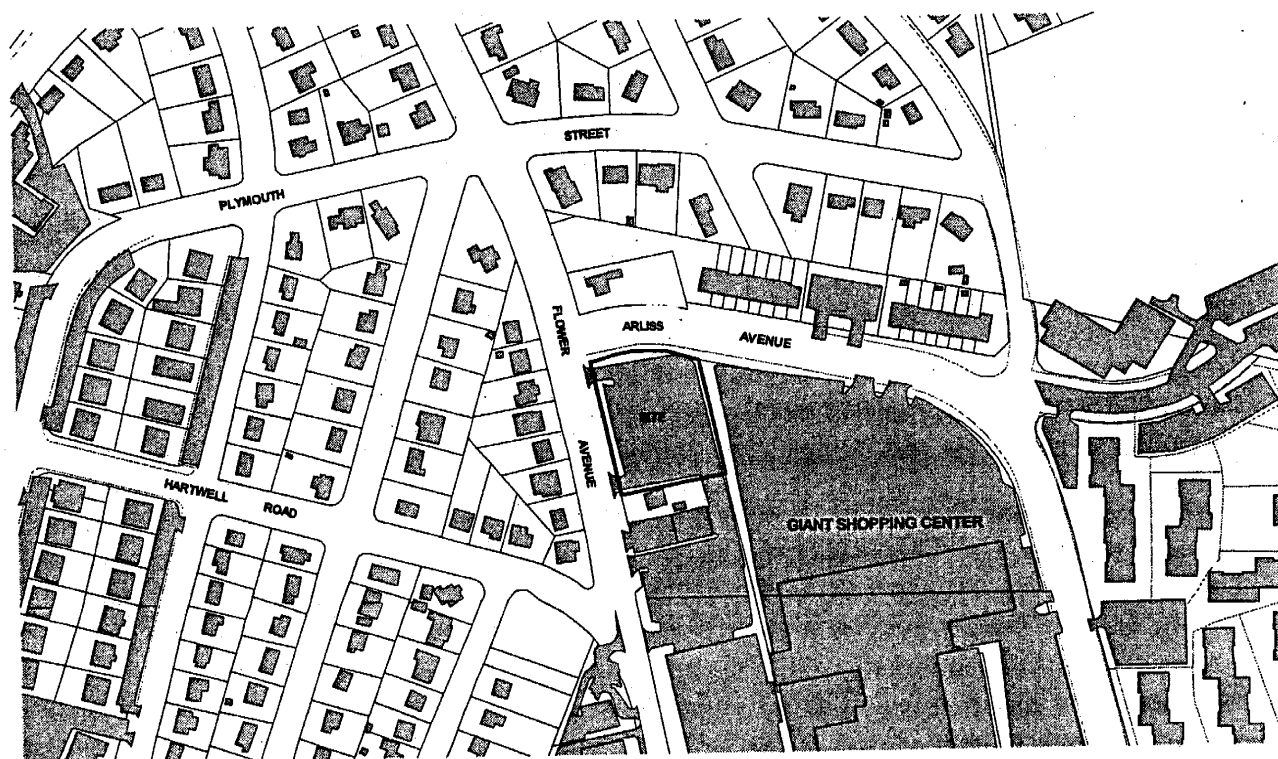
Staff believes that the proposal as amended is compatible with the abutting residential neighborhood. The site is currently an under utilized surface parking lot. The proposed three-story office building is separated from the residential neighborhood by roadways which themselves provide a transition between the commercial and residential uses. This type of condition is extremely common and occurs at the edge between nearly every commercial and residential zone. The proposal has been amended to slightly lower the height of the building and additional changes were made in building materials and architectural articulation of the façade to form a more compatible relationship with the nearby residential neighborhood. As amended by the conditions, which require the building to include architectural elements and/or details to foster a sympathetic architectural relationship between the office building and the nearby commercial development, combined with the proposed building setbacks and landscape treatment, the new medical office building will be compatible with both its residential and commercial neighbors.

Sufficient parking will be provided on the site in a surface lot and in an underground garage to support the proposed development. Fifty-six parking spaces over the zoning code requirement will be provided. The new parking facility will be available for use by the community during off-peak hours for the medical office building.

Staff believes that the proposed development is compatible with the adjoining commercial and nearby residential uses and is consistent with the intent of the Master Plan. The following is from the Community Based Planning Division memo, (see Kreger to Komes/Weaver, dated 2/16/06, attached in Appendix A): "We believe that this project is critical to the future revitalization of Long Branch as envisioned in the Master Plan and in subsequent reports by such groups as the Long Branch task force. The proposed project will foster economic vitality in the area by creating jobs, providing customers for other local businesses, and providing parking that can be used by the community during evenings and weekends. It will provide important medical services to the community and help to activate the streets, thereby contributing to public safety. The investment in new Class A space will encourage other redevelopment in the area consistent with the vision identified for Long Branch by a technical panel from the Urban Land Institute".

PROJECT DESCRIPTION: Site Vicinity

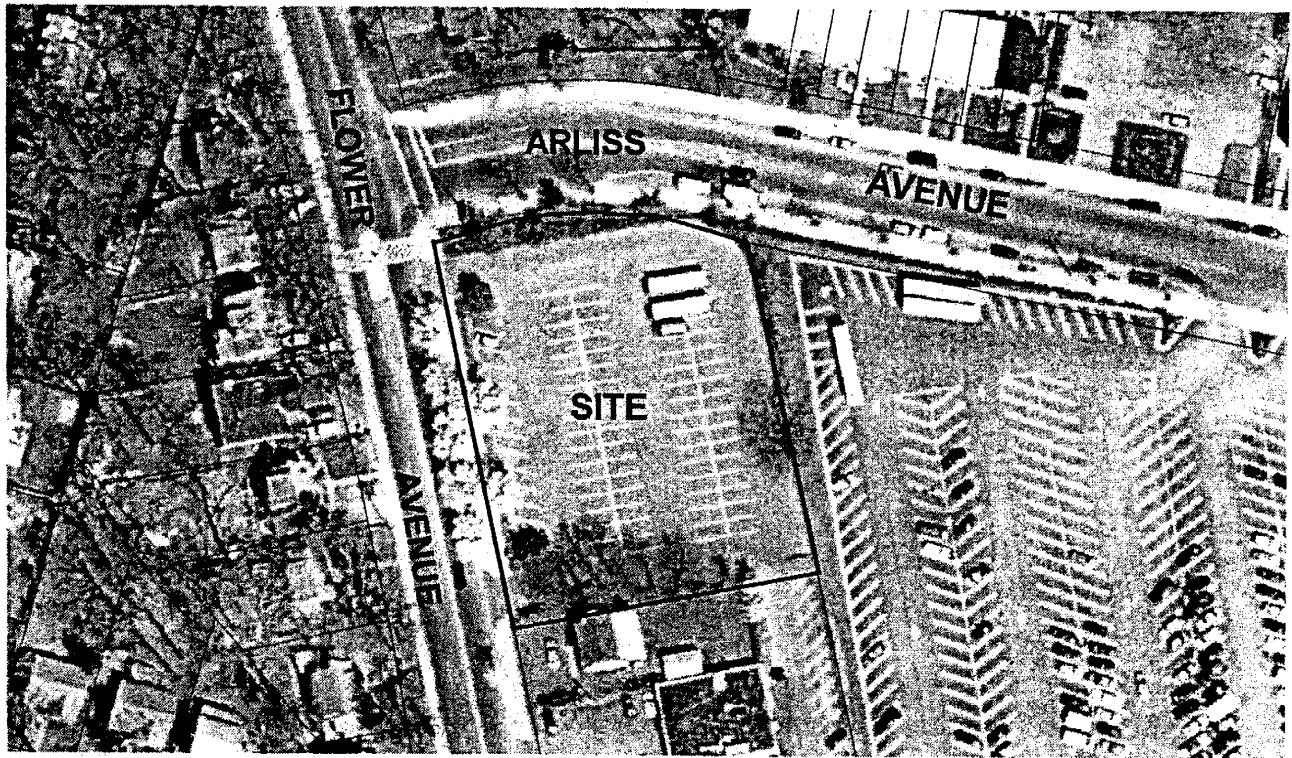
The proposed development is located on the northwestern edge of the commercial core of Long Branch Village Center in East Silver Spring. Flower Avenue (MD 195), a State highway with a 70-foot wide right-of-way forms the western boundary of the subject site. Confronting properties across Flower Avenue consist of two-story, single-family detached homes in the R-60 zone. Arliss Street, classified as a business street with a 70-foot wide right-of-way forms the northern boundary of the site. Confronting property to the north across Arliss Street consists of one, two-story single-family detached home which faces Flower Avenue and further east a row of eight townhomes in the R-T 12.5 zone. Adjacent property to the east is developed with a Giant grocery store and large surface parking lot. Directly south of the site is an existing two-story, single-family detached building (zoned C-1) that houses a dental appliance business. Further south is El Gavilan restaurant, the former Flower Theatre (now occupied by a church) and various retailers in the Flower Village Center, including a County liquor store.



PROJECT DESCRIPTION: Site Description

The site, located at 8809 Flower Avenue, is currently being used as a surface parking facility. There are no permanent structures on the property. The property has direct frontage on Flower Avenue and Arliss Street. A streetscape treatment was installed during the 1980's and consists of a now incomplete double row of mature Bradford Pear trees, planted approximately 30-feet on center in tree pits located in a 15-foot wide exposed aggregate concrete sidewalk. Pedestrian-scale, decorative street lighting exists along both the Flower Avenue and Arliss Street frontages. An existing row of Honey Locust Trees in tree pits 40'-50' on center, are located along the Arliss Street frontage. The existing sidewalk is concrete. Overhead utility lines also exist along the Arliss Street frontage. A lone electric pole exists near the existing driveway entrance off of Flower Avenue. Access to the existing parking lot is provided via two driveways on Flower Avenue and a connection behind the adjacent commercial uses to the south.

The topography on the property slopes from north to south by approximately 8 feet. The high point of the site is at the northwest corner of the site adjacent to the intersection of Flower Avenue and Arliss Street. There is no significant vegetation on the property with the exception of a large shade tree along the common property line with the grocery store. Several volunteer Tulip Poplars and Oaks are growing along the property line to the south and a row of Japanese pine trees parallel the Arliss Street frontage under the overhead lines.



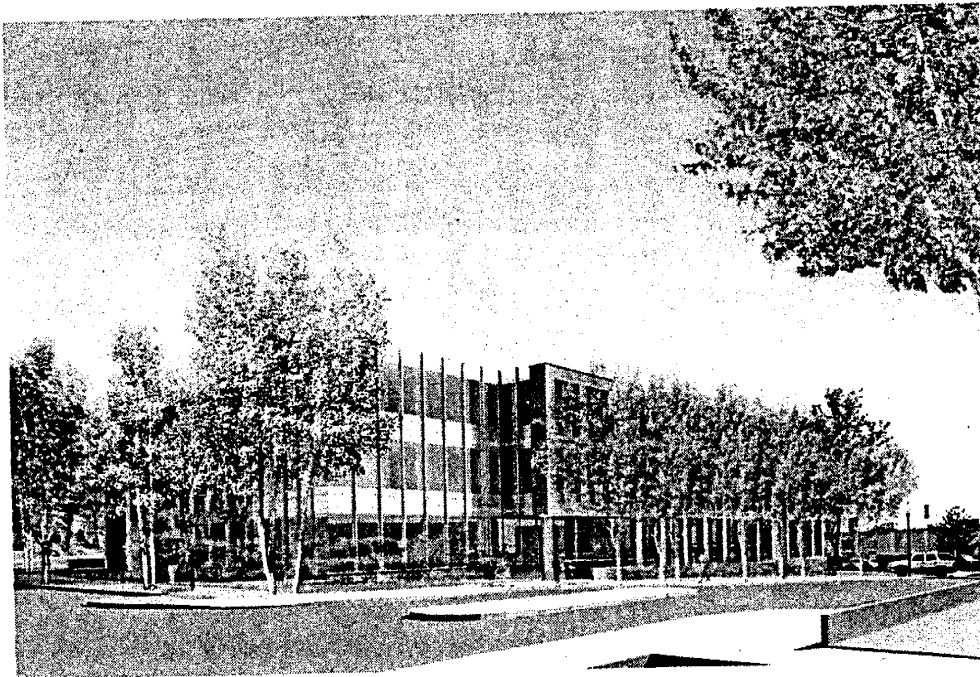
PROJECT DESCRIPTION: Proposal

The proposal requests approval of a 55,800 square foot (sf) medical office building. The building will include the following medical uses: 5,000 sf Urgent Care Center, approximately 25,000 sf of medical offices, 5,000 sf Surgery Center, 5,000 sf Imaging Center, 10,000 sf primary/specialty care clinic. The remaining space will be “back of the house” support space. The proposal also includes 190 parking spaces located primarily in an underground parking garage.

Building Design

The L-shaped, three-story building will be 40 feet in height and located on the site to align with the face of the Flower Theatre located just down the block. This strategy is a departure from the typical 'box' office prototype with parking located in front of the building along the street and helps scale the building to its surrounding context. The two wings of the 'L' have been 'slipped' in relation to each other to announce the main building entry at the corner of Arliss Street and Flower Avenue. The positioning of the building along the street helps define the pedestrian zone along the street frontage and locates surface parking and loading areas behind the building out of direct view.

The building skin design avoids the use of ribbon windows, as seen on many contemporary office buildings, in favor of a 'punched' window vocabulary more in keeping with the residential neighborhood scale. This simple window pattern is relieved by more dramatic openings of glass windows in the exterior walls at the corners and near the entry to add an additional layer of detail to the façade fenestration, visually breaking down the façade into two and three-story components.



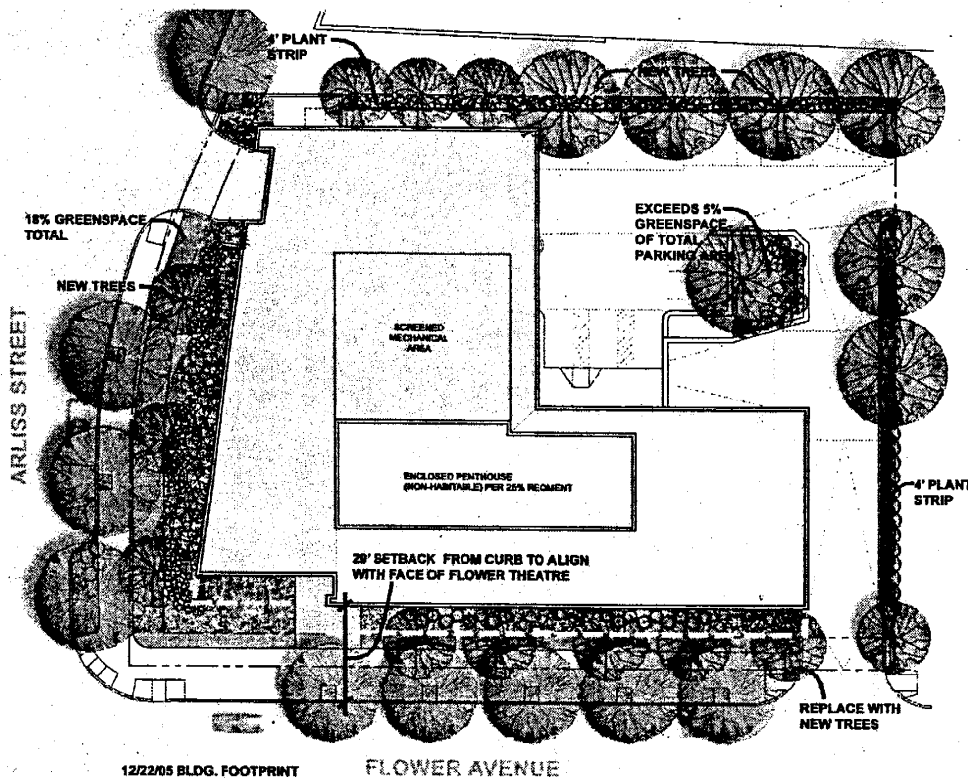
The proposed building materials are derived both from the Flower Theater building, (which is the neighborhood landmark), and nearby residential buildings, many of which are brick. The brick color will be a buff/grey, which is sympathetic yet deferential to the brick of the Flower Theater.

Vehicular Access/Parking

Vehicular access to the site and the underground parking garage is provided via three entrances. Ingress/egress will be provided off of Flower Avenue near the southern property line, and from Arliss Street near the eastern property line. Ingress only will be provided via the existing access drive from the surface parking lot located to the south of the property.

A total of 190 parking spaces are proposed. A small surface parking lot, located behind the building, will include 24 parking spaces, including three handicap accessible parking spaces. The surface parking lot will be partially covered by the upper floors of the northern wing of the building. The applicant has stated that the public will be permitted to park in these surface parking spaces as well as in the parking garage during non-peak hours for the medical building. Access to the parking garage will be via a ramp located behind the southern wing of the building. Three levels of underground parking will accommodate the remaining 166 parking spaces.

Spaces for motorcycle parking and bike lockers and bicycle racks are also being provided. As amended by the conditions above, the driveway aprons will also be constructed using exposed aggregate concrete for a continuous treatment within the Flower Avenue and Arliss Street right-of-ways to visually accentuate the pedestrian friendly streetscape treatment.



Pedestrian Access

Pedestrian access to the medical office building will be provided from the main entrance off of Flower Avenue as well as from the rear of the building off of the surface parking lot and from the underground parking garage via an elevator and by access stairs. Pedestrian access to Flower Avenue from the parking

garage will be provided from the P-1 parking level, up a short flight of stairs through a door exiting onto Flower Avenue in the southwest corner of the building. Patrons parking in the underground garage will also be able to exit the garage on foot by using a stairwell and exiting the building at the ground floor level via an egress door near the surface parking lot.

PROJECT DESCRIPTION:

Prior Approvals

A Preliminary Plan of subdivision (1-06024) is being reviewed concurrently with the subject site plan.

PROJECT DESCRIPTION:

Community Outreach

The Applicant and representatives from Adventist Hospital have met with various members of the community on a number of occasions beginning in October 2005 and most recently on January 21, 2006. These meetings were with the Sligo Branview Community Association, the Silver Spring Citizens Advisory Board, members from the Long Branch Task Force and the Long Branch Business League. Attached in Appendix C is a memo from Greg Fernebok of Sheridan Development with the dates and a summary of the issues raised during these meetings. See Fernebok to Silber, dated 2/6/06.

ANALYSIS: Conformance to Development Standards

PROJECT DATA TABLE (C-1 and CROZ)

<u>Development Standard</u>	<u>Permitted/Required</u>		<u>Binding</u>
	<u>C-1 Zone</u>	<u>CROZ</u>	<u>8-06006</u>
<u>Lot Area</u>			
Tract Area	15 acres max		0.91 ac. (39,657 sf)
Gross Lot Area (ac)	N/A	N/A	0.91 ac. (39,657 sf)
Public Dedication: Flower Avenue			
Public Dedication: Intersection Truncation			0.007 ac. (312.49 sf)
Net Lot Area	N/A	N/A	0.90 ac. (39,344.51 sf)
<u>Density</u>			
Building Area (building sf)	N/A	N/A	55,800 sf
Building Coverage (footprint)			18,600 sf
<u>Green Area</u>			
Green Space %	10% [3,996 sf]		18% [7,143 sf]
Internal Parking lot Green Space	5% (362 sf)		11% (776 sf)
Impervious Area	N/A	N/A	82% [32,514 sf]
<u>Building Height C-1 Zone [59-C-4.42]</u>	30 feet avg;	30 feet ¹	40 feet
<u>Building Setbacks (linear feet)</u>			
Street Front [Master Plan ROW]			
From Flower Avenue, Master Plan	10 feet min		18'-6"
Arliss Street, Master Plan	10 feet min		Varies, min. 11'-0"
Other Lot Lines:			
Setback	Not required		
Yard Dimensions (east)	10' min		10'-0"
Yard Dimensions (south)	10' min.		25'-0"
<u>Parking</u>			
Medical office/clinic 2.4 spaces/1,000 sf	134		190
-Surface parking - 24 spaces			
-Garage Level 1 - 57 spaces			
-Garage Level 2 - 57 spaces			
-Garage Level 3 - 42 spaces			
Required bicycle/motorcycle spaces	10/4		12/4

1. §59-C-18.213(c) The Planning Board may allow additional building height up to 42 feet in commercial development if the Board finds that the buildings are compatible with the neighborhood and consistent with the intent of the master plan. Building compatibility is addressed on pg. 4 "Building Compatibility with Adjacent Properties" and in the Findings for Compatibility on pg.15.

ANALYSIS: Conformance to Master Plan

The *Approved and Adopted December 2000 East Silver Spring Master Plan* rezoned the subject property from the R-60 zone to C-1/CROZ, and rezoned the rest of the block from C-2 to C-1/CROZ. In doing so, the County Council created the commercial core of Long Branch with uniform commercial zoning, and incorporated the subject site into the commercial core. It also established Arliss Street as the transition between the commercial retail activity of the Flower Village Center and the residential community to the north. .

As part of the rezoning, the Master Plan also provided recommendations to ensure that new development within the Commercial Revitalization Overlay Zone would be compatible with the adjacent residential neighborhood. Among these recommendations, that are found on pages 39-41 of the Master Plan, is a requirement for site plan review. The Master Plan states that new buildings on the site “should be compatible with the adjoining residential neighborhood in terms of height, bulk, building materials, setbacks, and landscaping”. The Master Plan goes on to provide specific guidance to achieve compatibility including recommendations for the location of building entrances, orientation to the street, vehicular circulation and parking, lighting, and signage. It mentions that townhouse development would be appropriate for the subject site, but it in no way restricts the site to that type of development.

The Master Plan also recommends that the Arliss Street streetscape be improved as a “transition area between the townhouses on the north side of the street and the commercial retail activity of the Flower Village Center” (pg. 76). The DHCA has recently developed streetscape standards for Arliss Street that are currently under review by the DPW&T. A condition has been included in this report which requires that the Applicant improve the Arliss Street streetscape using the standards as approved by DPW&T. The Master Plan also recommends that improvements be made to the Flower Avenue streetscape. The Applicant has agreed to replace the more than 30-year old Bradford Pears with a long lived street tree, and increase the size and improve the soil within the existing tree pits along Flower Avenue.

Upon review of the proposal, staff finds that the new office building achieves the purposes and meets the recommendations of the Master Plan. A memorandum from the Community Based Planning Division is attached in Appendix A and further elaborates on the how the proposal conforms with the Master Plan as well as with other relevant public policy including the Enterprise Zone, the Urban Land Institute (ULI) report, the Long Branch Task Force, *Planning Framework Report: Revitalizing Centers, Reshaping Boulevards, and creating Great Public Spaces*, and the Bi-County Transitway.

FINDINGS: For Site Plan Review

1. *The Site Plan is consistent with an approved development plan or a project plan for the optional method of development if required.*

Neither a Development Plan nor a Project Plan is required in this zone.

2. *The Site Plan meets all of the requirements of the zone in which it is located.*

The Site Plan meets all of the requirements of the C-1 Zone and the Commercial Revitalization Overlay Zone (CROZ) as demonstrated in the project Data Table above.

3. *The location of the building and structures, the open spaces, the landscaping, recreation facilities, and the pedestrian and vehicular circulation systems are adequate, safe and efficient.*

- a. **Buildings**

The three-story, L-shaped building includes 55,800 square feet(sf) of medical space including a 5,000 sf Urgent care Center, 25,000 sf of medical office space, 5,000 sf surgical center, 5,000 sf imaging center, a 10,000 sf primary/specialty care clinic, and the rest being ancillary support space. The building meets or exceeds all required setbacks and green space requirements.

When amended by the proposed conditions of approval the proposal will improve the Flower Avenue and Arliss Street streetscape contributing to and ensuring that the pedestrian circulation around the site is not only adequate, safe and efficient but also a pleasant space to walk through.

The forty-foot building height is permitted under the CROZ with a compatibility finding. When amended by the conditions the building will be compatible with the adjacent residential buildings located across Flower Avenue and Arliss Street as well as the commercial buildings in the Flower Village Center.

- b. **Open Space**

The plan proposes that approximately 18% (7,140 sf) of the site will be green space, exceeding the 10% minimum requirement. The green space consists largely of a landscape "garden" area at the foundation of the building along the Flower Avenue and Arliss Street frontages, a landscape strip and internal parking lot landscape area. The building entrances will include areas with special paving and bicycle racks will be provided near the building entrance.

The proposed stormwater management concept consists of on-site water quality control via a separator sand filter. Onsite recharge is not required since this is

considered to be redevelopment. Channel protection is not required because the post development peak discharge is less than or equal to 2.0 cfs.

c. Landscaping and Lighting

The proposed landscaping on the site as amended by the conditions above is adequate, safe and efficient. The planting consists primarily of new streetscape planting, foundation planting around the base of the building on the Flower Avenue and Arliss Street frontages, and perimeter landscape strip planting on the southern and eastern property lines.

All retaining walls will be clad with brick on both sides of all above grade portions of the walls.

The streetscape along Flower Avenue will be improved by replacing the aging Bradford Pear trees and by enlarging the tree pits and amending the planting soil. The existing exposed aggregate paving will be continued across the proposed driveway entrances to form a continuous pedestrian zone along the street. Existing street lighting will be retained along Flower Avenue. An existing electrical pole will be removed.

A new streetscape treatment has been developed by DHCA for Arliss Street. At the time of this writing, the new standards are under review by the DPWT. The treatment consists of panels of scored concrete panels within exposed aggregate concrete bands, street trees, approximately every 30 feet on center and decorative streetlights every 60 feet on center. The Applicant will use these new streetscape standards as approved by DPWT. A "neckdown" will also be added near the intersection of Arliss Street and Flower Avenue.

The lighting plan addresses safety and security issues within the site as well as the avoidance of negative glare onto the adjacent properties. On-site lighting consists of a mix of freestanding fixtures in the surface parking lot, wall-mounted fixtures on the south and east facades, recessed lighting in the building overhang and street lighting.

The Applicant has also proffered to provide all windows that face Flower Avenue and Arliss Street with light filtering Mecho shades. The developer states that the shades will be drawn every evening by the cleaning crew and will be included as a required responsibility in their cleaning contract.

d. Recreation

There is no recreation requirement for non-residential development.

e. Vehicular and Pedestrian Circulation

As amended by the preceding conditions, vehicular and pedestrian circulation will be adequate, safe and efficient. This plan encourages the development of active urban streets and improves the quality of the pedestrian environment by providing the enhancement to the streetscape as prescribed in the new DHCA streetscape standards and as envisioned by the master plan.

Anticipating that patrons of the commercial center may park in the parking garage during times of heavy use, egress from the P-1 level of the parking garage to the Flower Avenue sidewalk will be provided in the southwest corner of the building. The streetscape improvements along Flower Avenue and Arliss Street facilitate pedestrian access between the adjacent residential neighborhood and the commercial center

4. *Each structure and use is compatible with other uses and other Site Plans and with existing and proposed adjacent development.*

The three-story office building is compatible with the two story homes across Flower Avenue and Arliss Street and with the adjacent commercial development. The building has been designed to incorporate building materials and details that are sympathetic to both the adjacent commercial buildings and to the confronting residential properties. The mass of the building and been broken down by the use of punched windows and articulation of the façade elements. Views of all sides of the building have been carefully considered. The penthouse structure housing mechanical equipment has been set back and should not be visible from the street.

All windows facing Flower Avenue and Arliss Street will include light filtering Mecho shades to prevent glare at night to adjacent homes. All illuminated signage will be backlit also to prevent glare.

The applicant also submitted a shadow study, which shows there is no detrimental impact on the adjacent community as a direct result of the height of the proposed building. The greatest impact of shadows from the proposed 3-story building will at 3 p.m. on the winter solstice where the shadow just reaches across Arliss Avenue to the front yards of the townhouses.

Parking is located behind the building or within an underground parking garage and will not be visible from the street. The exposed aggregate concrete sidewalk treatment will be extended across driveway aprons to further enhance the streetscape.

5. *The Site Plan meets all applicable requirements of Chapter 22A regarding forest conservation.*

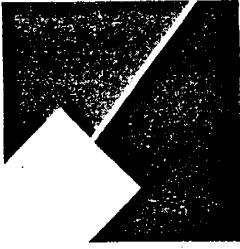
The property is exempt from the forest conservation requirements.

APPENDICES

- A. Memorandums from Agencies
- B. Correspondence from the Community
- C. Correspondence from the Applicant

APPENDIX A

M-NCPPC



MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

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

February 16, 2006

MEMORANDUM

TO: Linda Komes, Planner Coordinator
Development Review Division

Richard Weaver, Principal Planner
Development Review Division

FROM: Glenn Kreger, Team Leader, Silver Spring/Takoma Park *GK*
Community-Based Planning Division

Miguel Iraola, ASLA, Planner Coordinator *MI*
Community-Based Planning Division

SUBJECT: Long Branch Medical Building
Site Plan #8-20060080
Preliminary Plan #1-20060240

The Community-Based Planning staff has reviewed the above-referenced plans for conformance with the December 2000 East Silver Spring Master Plan. We recommend approval of the proposed preliminary plan and site plan. We believe that this project is critical to the future revitalization of Long Branch as envisioned in the Master Plan and in subsequent reports by such groups as the Long Branch Task Force. The proposed project will foster economic vitality in the area by creating jobs, providing customers for other local businesses, and providing parking that can be used by the community during evenings and weekends. It will provide important medical services to the community and help to activate the streets, thereby contributing to public safety. The investment in new Class A space will encourage other redevelopment in the area consistent with the vision identified for Long Branch by a technical panel from the Urban Land Institute.

ZONING AND LAND USE

The subject property has a gross area of 0.91 acres (39,657 square feet) and a net area after dedications of 0.84 acres (39,344.51 square feet). It is bordered by Arliss Street to the north and Flower Avenue to the west. Arliss Street consists of 48' of pavement plus two 10' sidewalks in a 70' right-of-way. Flower Avenue consists of three travel lanes; a median that is concrete in some places and painted in others; and sidewalks on both sides in a 70' right-of-way.

The subject property is currently occupied by a surface parking lot. A mixture of commercial uses exist along Flower Avenue to the south, including a dental appliance

business; El Gavilan restaurant; the former Flower Theater, now occupied by a church; and various retailers in the Flower Village Center including a County liquor store. A second surface parking lot is also located to the south. The parking lot for the Giant food store adjoins the subject property on the east. This entire block is zoned C-1 with the Commercial Revitalization Overlay Zone (CROZ).

Across Flower Avenue to the west of the subject property are single-family detached homes in the R-60 Zone. Across Arliss Street to the north is a single-family detached house at the intersection with Flower Avenue and townhouses along Arliss Street in the RT-12.5 Zone.

The proposed use on the subject property is a medical office building to be occupied by Adventist Health Care, Inc. As demonstrated in materials submitted by the applicant, it is not uncommon for office buildings to be located on the edge of commercial districts across from single-family residential uses. The proposed use is permitted under the current zoning and it is consistent with the revitalization goal of the Overlay Zone and the master plan.

Under the CROZ, site plan review is required to help achieve development that is consistent with the vision and design guidance in the master plan. Although no reduction has been requested for the subject property, the Planning Board can reduce setbacks to accomplish master plan objectives. Under the CROZ, the Planning Board can also approve building height in excess of the normal 30' in the C-1 zone; height up to 42' can be approved with a finding of neighborhood compatibility and consistency with the intent of the master plan. The proposed project would be 40' in height.

RELEVANT PUBLIC POLICIES

Enterprise Zone

The subject property is located within the Long Branch-Takoma Park Enterprise Zone. This zone was designated in 2003 to provide incentives for economic development in the target area.

Urban Land Institute (ULI) Report

The February 2005 report of the ULI Technical Assistance Panel indicated that the density and height allowed by the CROZ in the commercial core needed to be even greater than what the zone presently allows. According to the report, "The panel agrees with the County that the proposed location at the northwest edge of the study area at the corner of Flower Avenue and Arliss Street is an appropriate location for the medical office building."

Long Branch Task Force

The Long Branch Task Force endorsed the ULI recommendations in their May 2005 annual report.

Centers and Boulevards

Emerging public policy regarding the redevelopment of mature commercial centers is described in the *Planning Framework Report: Revitalizing Centers, Reshaping*

Boulevards, and Creating Great Public Spaces. This report envisions Montgomery County in transition from a large auto-dependent suburb to a more urban form. It recognizes that future growth will take the form of infill development and redevelopment away from the Agricultural Reserve. Much of this growth will be accommodated by the redevelopment of aging commercial centers and along the frontage of the roads and transit routes that connect the centers. The redevelopment of commercial centers as envisioned in the Framework Report could help return these commercial centers to their historic role as focal points of community life and provide multiple community benefits, including: community-serving retail, offices, services, market-rate and affordable housing, public spaces and linkages to the surrounding communities.

Bi-County Transitway

At least one potential alignment for the Bi-County Transitway (BCT) passes the subject property. The Maryland Mass Transit Administration (MTA) has indicated that the proposed project does not impact potential BCT alignments.

MASTER PLAN CONFORMANCE

Pursuant to the *December 2000 East Silver Spring Master Plan*, the subject property was rezoned from R-60 to C-1/CROZ. The rest of the block was rezoned from C-2 to C-1/CROZ (Attachments 1-2). This action by the County Council reflected a change in land use policy. The entire block bounded by Flower Avenue, Piney Branch Road and Arliss Street was consolidated as the commercial core for Long Branch with uniform commercial zoning. Whereas the 1977 Master Plan described the subject property—then R-60—as a buffer between the adjoining neighborhood and the C-2 property in Long Branch, the *December 2000 East Silver Spring Master Plan* describes Arliss Street as providing “a transition area between the townhouses on the north side of the street and the commercial retail activity of the Flower Village Center.” (p. 76) The Master Plan recommends that Arliss Street be streetscaped to improve its role as a transitional element.

The Master Plan envisions the Flower Village Center as “the major neighborhood center and community focal point for neighborhoods in both East Silver Spring and Takoma Park.” (p. 39) The Plan notes that sensitivity needs to be shown when adding land uses next to commercial centers: “New or expanded structures should be sensitive to the character and the scale of adjoining neighborhoods. Buildings should not be significantly larger than nearby structures.” (p. 29)

As a result of its rezoning to C-1/CROZ, the subject property is part of the commercial center, not a new use to be located next to a commercial center. Nevertheless, the Master Plan provided specific guidance to ensure that the subject property was developed in a way that is sensitive to the nearby neighborhood. Specific master plan guidance is provided on page 39 of the Master Plan; Figure 2 on page 40 illustrates potential ways to achieve the street-oriented development recommended by the Plan (attachments). The proposed medical office building resembles alternative B in these illustrations. The Master Plan states that “consideration should be given to the views of homeowners that face the site across Flower Avenue, as well as the residential

properties on Arliss Street.” (p. 39) It then identifies a number of factors that affect the relationship between the proposed medical office building and nearby homes:

1. Height and bulk

Although the Master Plan states that townhouse development on this site would be appropriate as a transition to the residences across Flower Avenue and Arliss Street, townhouses are not necessarily the only type of development that would be appropriate; other types of buildings could also be appropriate if designed to be compatible with the adjacent residential neighborhood. The proposed building will be clearly identifiable as an office building, but it has been designed to avoid appearing as a monolithic structure. The building will have two wings rather than appearing as a single mass. Building articulation and materials will be used to break up the building mass.

According to the Master Plan, the purpose of the CROZ shall be achieved in part by limiting building heights to 30'; however, the Planning Board may permit up to 42' in building height for commercial development (or up to 50' for residential development) if the Planning Board finds the proposed development to be compatible with the neighborhood and consistent with the intent of the Master Plan (p. 37). The proposed medical office building will be 40' in height. Since Flower Avenue slopes downward as it approaches Piney Branch Road, the roof will be approximately 20' taller than the top of the Flower Theater.

The roof of the proposed building will be 15' higher than the peak of the roofs on the single-family detached homes across Flower Avenue and only 12' higher than the peak of the roof on the home across Arliss Street. We find this to be an acceptable relationship given a) the 115' distance between the face of the proposed building and the existing single-family detached homes across Flower Avenue, and b) the 115'-120' distance between the face of the proposed building and the homes across Arliss Street. (The distance between the face of the proposed building and the homes on the north side of Arliss Street increases as one moves east from Flower Avenue.) The applicant's shadow study demonstrates that the building will not significantly impact the homes across either street or other commercial structures.

2. Setbacks

Setback reductions are permitted by the CROZ, but no setback reductions have been requested. Instead, the building has been pushed back further than the required 10' setback along the two street frontages, providing an opportunity for additional landscaping along the edges. The proposed building setback along Flower Avenue aligns with the face of the Flower Theater down the block. As illustrated on page 40 of the Master Plan (Attachment 3), the Plan contemplated new buildings on this site that are located close to the street.

3. Location of the Building on the Site and Entrances to the Building

As illustrated on page 40 of the Master Plan, the proposed location of the medical office building on the site was contemplated in the Plan. The proposed

building and the main entrance to the building are oriented to the street as called for by the Master Plan.

4. Neighborhood Friendly Pedestrian Access to the Building

The main entrance to the proposed medical office building is at an appropriate location on Flower Avenue. An existing concrete pedestrian refuge on Flower Avenue facilitates pedestrian crossings to the proposed medical office building. Pursuant to the Master Plan, the proposed project includes a neck down on Arliss Street at Flower Avenue. This facilitates a shorter crossing distance on Arliss Street for Long Branch residents who may wish to walk to the proposed medical office building or the other uses in the commercial core. The retention of on-street parking along Arliss Street also serves to buffer pedestrians from vehicles.

The streetscape recommendations in the Master Plan include a shared use (pedestrian and bicyclist) sidewalk along Flower Avenue. The application proposes a 15'-wide sidewalk (11' clear at the tree pits) that will accommodate both pedestrians and bicyclists. The shared-use sidewalk will facilitate access to the proposed building as well as other uses on the block. A Class III bike route (signed, shared roadway) is also recommended on Flower Avenue. The site plan includes bike storage facilities at an appropriate location.

5. Vehicular Circulation and Parking on Site that is Sensitive to Pedestrians

An existing curb cut on Flower Avenue near the corner of Flower Avenue/Arliss Street will be removed to improve safety. Vehicular access points will be limited to a single entrance on Flower Avenue and a single entrance on Arliss Street—away from the Flower Avenue/Arliss Street intersection, at opposite corners of the site. Drivers who cannot find surface parking behind the building will be able to go directly into structured parking. A covered patient drop-off area that is internal to the site will remove this function from adjoining roadways.

As recommended in the Master Plan, the parking for the proposed building does not separate the building from the street. Both the parking and the loading area are screened from the residential uses across Flower Avenue and Arliss Street by the location of the proposed building.

Arliss and Flower Avenue are business streets with 70' minimum rights-of-way. No additional dedication is needed.

6. Landscaping

The mature street trees along Flower Avenue will be preserved or replaced in kind. The proposed landscaping along Flower Avenue and Arliss Street will make it more enjoyable to walk along both streets. The landscape materials along the building frontages will add color and variety throughout the year.

7. Building Materials

The proposed building will include a glass corner curtain wall; the remaining approximately 80 percent of the façade will be masonry (primarily brick) with vertical punch out windows typical of residential construction to break up the mass of the building.

8. Illumination

The applicant (not the tenant) will provide an architectural shading system for the building along both street frontages. These shades will significantly reduce the transmission of interior lighting to the exterior of the building after sunset.

9. Signage

Rather than use the neon signage typical of commercial buildings, the proposed building will use backlit signage to minimize its intrusiveness.

Based on the description above, we conclude that the proposed building will not be incompatible with either the single-family homes outside the commercial core or the other commercial buildings on the same block, many of which are likely redevelopment candidates themselves.

COMMUNITY OUTREACH

The applicant initiated meetings with the Sligo Branview Community Association (SBCA) last summer and has since met with them three times (October 26 and November 9, 2005 and January 31, 2006). The design of the project was revised in several ways to respond to community concerns: the building setbacks were increased; the building height was reduced by two feet; the extent of masonry in the building façade was significantly increased; and the building articulation was refined. Some members of SBCA continue to have concerns regarding the project.

The applicant presented the proposed project to the Commercial and Economic Development Committee of the Silver Spring Citizens Advisory Board (CAB) on September 21, 2005. The full CAB considered the project on October 10, 2005, and again on February 13, 2006, but has taken no official position. The applicant also presented the proposed project to the Long Branch Business League on June 15, 2005. On January 30, 2006, the League submitted a letter of support for the proposed project.

GK:tv: G: \Long Branch medical office referral.doc

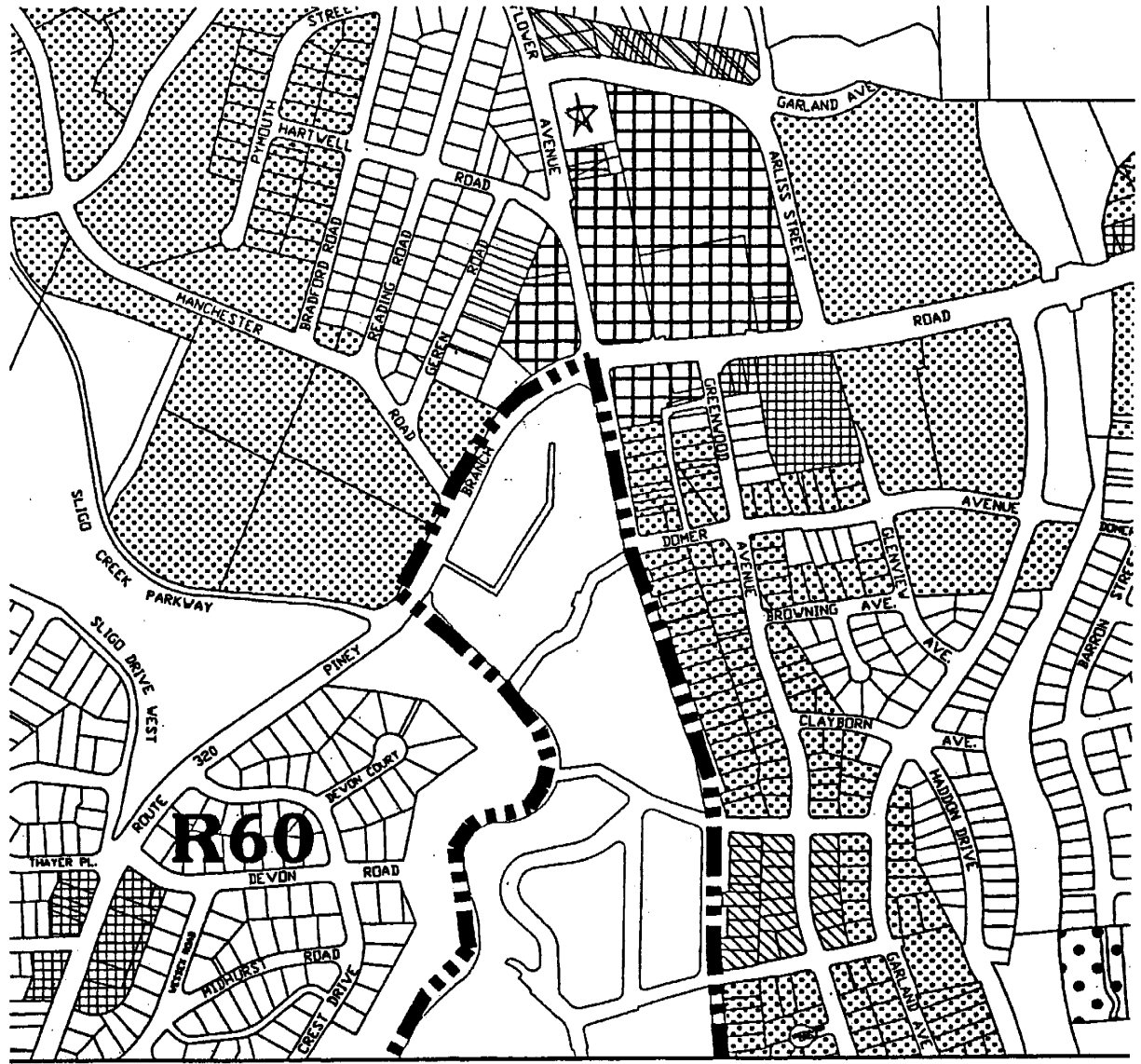
Attachment 1: Prior Zoning Map (pre-2001 zoning)

Attachment 2: Current Zoning Map

Attachment 3: Master Plan Figure 2, Illustration of Street Oriented Development
Along Flower Avenue

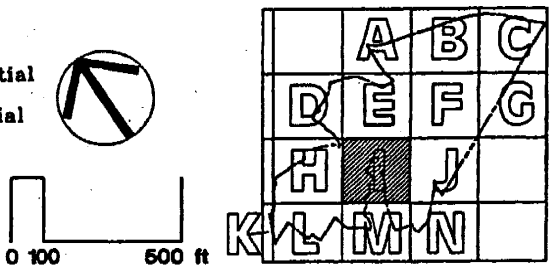
Existing Zoning - Area I
(prior to 2001)

Map 43



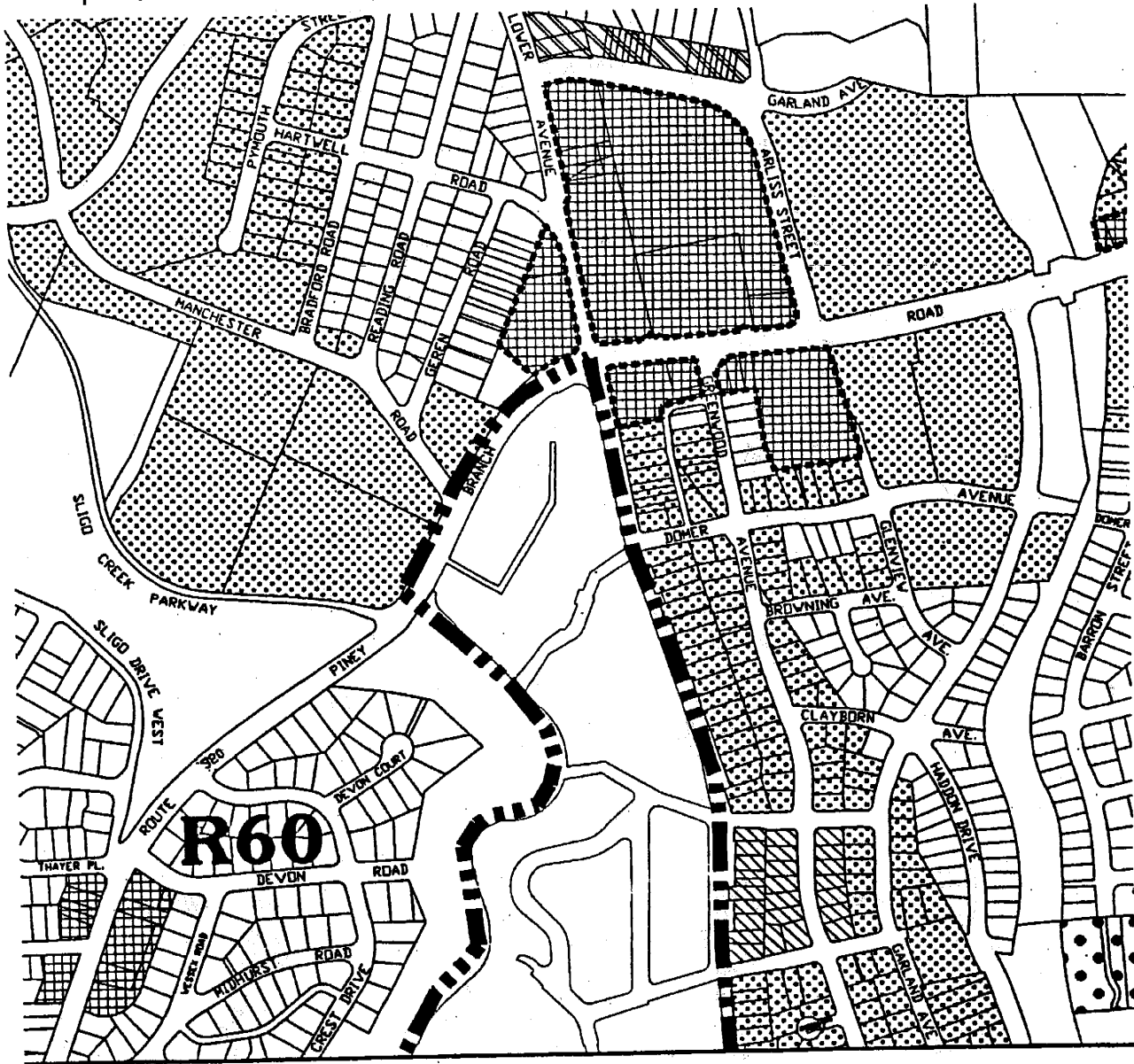
LEGEND

- ▬▬▬▬ Master Plan Boundary
- ▧ C-1 - Local Commercial
- ▨ C-2 - General Commercial
- ▩ R-10 - Multi-Family High Density Residential
- ◻ R-30 - Multi-Family Low Density Residential
- ▨ R-40 - One Family Semi-Detached
- ◻ R-60 - Single Family Residential
- ▨ RT-12.5 - Townhouses



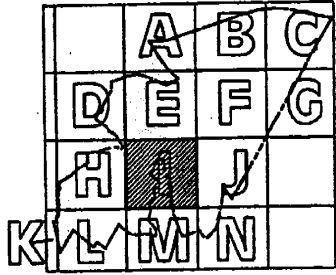
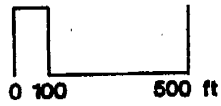
Proposed Zoning - Area I
(now adopted)

Map 44

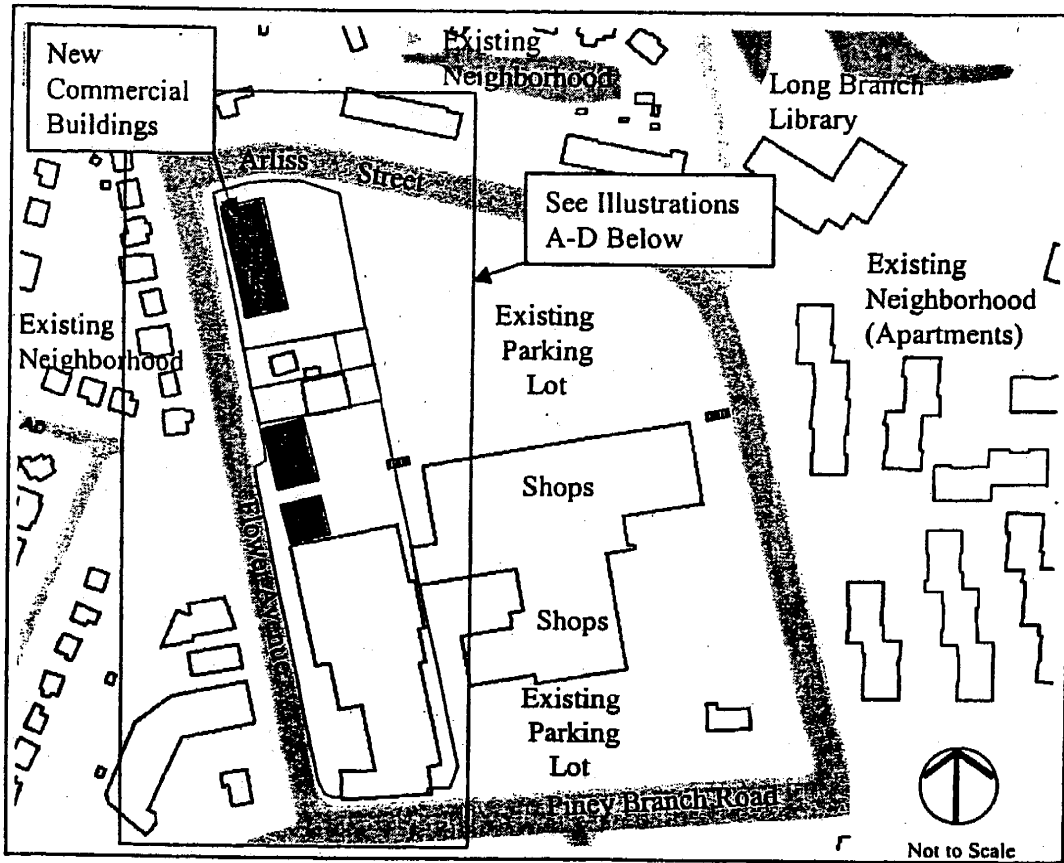


LEGEND

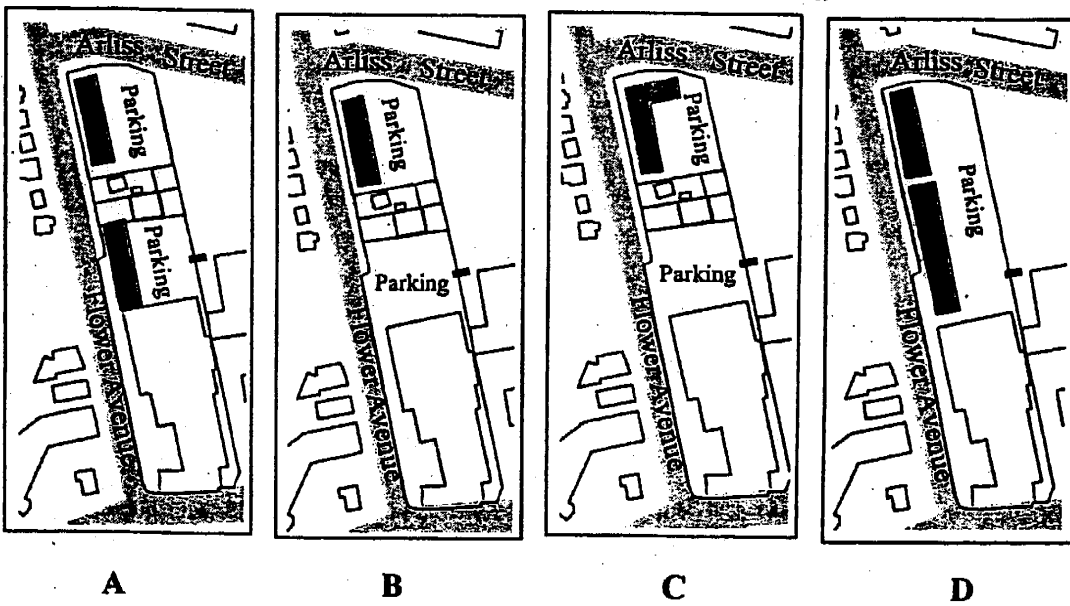
- Master Plan Boundary
- C-1 - Local Commercial
- C-2 - General Commercial
- R-10 - Multi-Family High Density Residential
- R-30 - Multi-Family Low Density Residential
- R-40 - One Family Semi-Detached
- R-60 - Single Family Residential
- RT-12.5 - Townhouses
- CROZ - Commercial Revitalization Overlay Zone



Flower Village and Center Illustrations of Street-Oriented Development along Flower Avenue Figure 2



Other Possible Locations of Buildings & Parking



ULI Washington



ULI Washington District Council
1890 Preston White Drive, Suite 103
Reston, VA 20191
703-390-9217
Fax 703-620-8889
coordinator@Washington.uli.org
www.Washington.uli.org

ULI—the Urban Land Institute
1025 Thomas Jefferson Street, N.W.
Suite 500 West
Washington, D.C. 20007-5201
800-321-5011
www.uli.org

February 9, 2006

Ms. Stacy Plotkin Silber
Partner
Holland & Knight LLP
3 Bethesda Metro Center, Suite 800
Bethesda, Maryland 20814

Dear Stacy:

As you know, ULI Washington provides Technical Assistance Panels (TAPs) to local jurisdictions and non-profit organizations facing complex real estate and land use issues. The TAP program brings together ULI members with diverse expertise who volunteer their time to provide unbiased, objective advice to the sponsoring jurisdiction.

On February 8 and 9, 2005 ULI Washington held a TAP for Montgomery County to study revitalization opportunities for the Long Branch community's commercial center. As part of the panel's discussions, they addressed the fact that Washington Adventist Hospital was considering Long Branch commercial center for the location of a medical office building. The panel's recommendations were as follows:

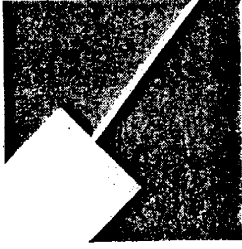
"The panel found this to be a unique opportunity of which the community should take advantage. While not guaranteed to bring additional medical office development to the community, it could be the lever to kick-off redevelopment.

A medical office building would generate daytime activity within Long Branch and would generate approximately 80 jobs. The panel felt that the office building would be best accommodated with shared parking that supported other retail uses. While the panel recognized community concerns that a 50,000 square foot building would be a stark contrast to the single family homes that line Flower Avenue, the panel pointed out that a medical office building would buffer the residential neighborhood from more active uses and if accompanied by a coordinated parking strategy, would alleviate some of the causes of congestion on both Piney Branch Road and Flower Avenue."

If you have any further questions regarding the panel's recommendations, please do not hesitate to contact me at (703) 390-9250.

Kindest regards,

Meghan M. Welsch
Director of Community Outreach



February 16, 2006

MEMORANDUM

TO: Linda Komes, Planner/Coordinator
Development Review

Rich Weaver, Planner/Coordinator
Development Review

VIA: Shahriar Etemadi, Supervisor
Transportation Planning *[Signature]*

FROM: Scott A. James, Planner/Coordinator *Saj*
Transportation Planning

SUBJECT: Washington Adventist Medical Office Building
Preliminary Plan #1-06024 Site Plan #8-06008
8702 Flower Avenue, Silver Spring
Silver Spring/Takoma Park Policy Area

FEB 21 2006

This memorandum is Transportation Planning staff's adequate public facilities (APF) review of the subject preliminary and site plan applications to build a medical office building of 57,900 square feet.

RECOMMENDATION

Transportation Planning staff recommends the following conditions of approval as part of APF test for transportation requirements related to Local Area Transportation Review (LATR):

1. Limit the development to 57,900 square feet of medical office space and associated 192 – space structured parking garage.
2. Dedicate up to 35 feet as measured from the centerline along Flower Avenue.
3. Dedicate up to 35 feet as measured from the centerline along Arliss Street.

4. Dedicate standard 25-foot straight-line truncation at the corner of Flower Avenue and Arliss Street, per Montgomery County Code requirements.
5. Provide parking for eight bicycles: two racks near the main entrance and four bicycle lockers located in a visible, well-lit secure location within the parking garage.
6. Continue to coordinate and confirm with Maryland Transit Administration no negative impact is anticipated due to proposed Bi-County Transitway alignments.

DISCUSSION

Site Location, Access, Circulation, and Parking

The proposed medical office building will occupy the corner of Arliss Street and Flower Avenue in East Silver Spring. Access to the site will be via two full service driveways, one connecting to Flower Avenue and the other accessing Arliss Street. On-site circulation will allow for vehicles to access the surface parking lot located to the rear of the building or the below grade structured parking garage. The proposed site layout allows for access to the parking garage from adjacent properties located along Flower Avenue for use during non-business hours. Pedestrian access to and across the site will use the existing sidewalks. The development will include streetscape improvements and landscaping along both Flower Avenue and Arliss Street.

Proposed Bi-County Transitway Alignments

The proposed Bi-County Transitway may select an alignment along Flower Avenue and/or Arliss Street for the section serving East Silver Spring. The applicant has incorporated possible future requirements for a dedicated transitway into the building location and right-of-way dedication for their development. MTA has confirmed in writing, that no conflicts are anticipated between the current alignments under discussion and the building footprint and vehicular access proposed. Staff will continue to work with the applicant and representatives of the MTA to insure coordination between this proposed development and any future selected BCT alignment.

Local Area Transportation Review

The proposed development of 57,900 square feet of medical office space is anticipated to generate 143 AM peak hour trips and 215 PM peak hour trips during a regular weekday peak periods. An LATR study was performed to determine the impact of the proposed development on the adjacent transportation infrastructure.

Four intersections adjacent to the development were selected for analysis: Flower Avenue at Wayne Avenue, Flower Avenue at Arliss Street, Flower Avenue at Piney Branch Road (MD 320) and Arliss Street at Piney Branch Road (MD 320). There were no previously approved nearby projects for inclusion in the calculation of background traffic CLV for the intersections under study. As shown in the table below, all studied intersections are estimated to operate within the established Silver Spring/ Takoma Park Critical Lane Volume (CLV) threshold of 1,600 vehicles.

The following table shows the CLV analysis results for the studied intersections:

<u>Roadway Intersection</u>	<u>Current CLV levels (AM / PM)</u>	<u>Projected Future CLV (AM / PM)</u>
Flower Avenue / Arliss Street	940 / 1,096	950 / 1,147
Flower Avenue / Wayne Avenue	861 / 954	895 / 978
Flower Avenue / Piney Branch Road	866 / 805	882 / 813
Arliss Street / Piney Branch Road	693 / 789	731 / 830

Master Plan Roadways and Bikeways

Flower Avenue (MD 195) intersects Wayne Avenue to the north and Piney Branch Road (MD 320) to the south. Flower Avenue and Arliss Street form a three-legged intersection to the north of the site. Arliss Street connects Flower Avenue to the west with Piney Branch Road (MD 320) to the south and east. Both Flower Avenue and Arliss Street are classified as Business streets with ultimate rights-of-way of 70 feet. Piney Branch Road is classified as a major arterial with ultimate right-of-way of 80 feet. Wayne Avenue is classified as a primary residential street at its intersection with Flower Avenue. No bikeway facilities are planned for any of these roads adjacent to the development. In the East Silver Spring Master Plan (adopted December 2000), Flower Avenue is designated an on-road bicycle facility between Franklin Avenue and Carroll Avenue. No additional signage or pavement markings are required.

Pedestrian Access

The signalized intersections within the traffic study area have pedestrian signal phasing for crosswalks. Intersection signal timing and signage is adequate for pedestrians at all intersections studied. The existing sidewalk along the frontage of the property on Flower Avenue will be reconstructed. A pedestrian connection will be provided across the site to Arliss Street to improve connectivity between the medical office building and the adjacent developments.

SAJ:gw

mno to Komes re Washington Adventist 1-06024

**MARYLAND TRANSIT ADMINISTRATION****MARYLAND DEPARTMENT OF TRANSPORTATION**

Robert L. Ehrlich, Jr., Governor • Michael S. Steele, Lt. Governor • Robert L. Flanagan, Secretary • Lisa L. Dickerson, Administrator

December 22, 2005

Ms. Mary E. O'Quinn
Planner Coordinator
Development Review Division
Montgomery County Department
of Park & Planning
8787 Georgia Avenue
Silver Spring, Maryland 20910-3760

Dear Ms. O'Quinn

As requested, the Maryland Transit Administration (MTA) has reviewed the proposed location of the Long Branch Medical Building adjacent to the future Bi-County Transitway (BCT). The Medical Center, as presently planned in the vicinity of Flower Avenue and Arliss Street appears to provide sufficient clearance for construction of the various alignment alternatives under study for the Bi-County Transitway.

MTA is currently studying surface and below surface alignment options in this segment of the project corridor. Attached for your use are Drawings No. 1 and No. 2, which indicate the proposed Bi-County Transitway alternatives along Flower Avenue and Arliss Street.

Drawing No. 1 indicates the proposed Bi-County Transitway surface options with the adjacent Montgomery County requirements, as follows:

- Arliss Street, seventy foot existing right of way (description begins on the south side).
Six foot sidewalk, six foot tree space, twelve foot through lane, 26 foot dedicated transitway, twelve foot through lane, eight foot parking lane, six foot tree space, six foot sidewalk. A minimum of eighty two foot (82' +/-) width is required for the ultimate build out. The six foot side walk on the south side is within the ten foot public utility easement width.
- Flower Avenue, seventy foot existing right of way (description begins on the east side).
Six foot sidewalk, six foot tree space, twelve foot through lane, 26 foot dedicated transitway, twelve foot through lane, six foot tree space, six foot sidewalk.

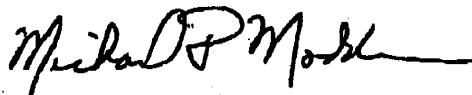
minimum of seventy foot (74' +/-) width is required for the ultimate build out, a portion of the side walk on the east side is within the ten foot public utility easement width.

Drawing No. 2 indicates the proposed tunnel option with the adjacent Montgomery County requirements, as follows:

- Arliss Street, seventy foot existing right of way (description begins on the south side). Six foot sidewalk, six foot tree space, twelve foot through lane, 40 foot dedicated transitway, twelve foot through lane, eight foot parking lane, six foot tree space, six foot sidewalk. A minimum of ninety seven foot (97' +/-) width is required for the ultimate build out. The six foot tree space is within the ten foot public utility easement width. The six foot sidewalk would require Montgomery County to acquire additional right of way on the south side, this does not impact the proposed Long Branch Medical Building structure as presently designed.

We appreciate the opportunity to review the proposed Medical Building development in the area of the Bi-County Transitway alternatives. We look forward to working closely with you and other Montgomery County staff, as the transitway study process moves forward. Please do not hesitate to contact me at 410-767-3694 or at mmadden@mtamaryland.com, if you have any questions or need additional information.

Sincerely,



Michael D. Madden
Project Manager
Office of Planning

Enclosures

cc: Greg Benz, Parsons Brinckerhoff
Joseph Romanowski, Jr., Rummel, Klepper & Kahl
Tom Autrey, M-NCPPC



**THE MARYLAND-NATIONAL CAPITAL PARK AND
PLANNING COMMISSION**

Department of Park & Planning, Montgomery County, Maryland
8787 Georgia Avenue, Silver Spring, Maryland 20910

MEMORANDUM

TO: Cathy Conlon, Development Review
Mary Beth O'Quinn, Development Review

VIA: Steve Federline, Supervisor, Environmental Planning *STF*

FROM: Amy Lindsey, Environmental Planning Division *AL*

DATE: December 1, 2005

SUBJECT: Preliminary Plan 120060240
Site Plan 820060080
Long Branch Medical Building

The Environmental Planning staff has reviewed the preliminary plan referenced above. Staff recommends approval of the preliminary and site plan of subdivision without conditions.

BACKGROUND

The 0.91-acre property is located in Montgomery County, at the intersection of Arliss Street and Flower Avenue. Currently, the site is a parking lot with commercial development bordering it and residential development across the street. The only vegetation present is the landscaped borders around the edges of the property. None of the trees are mature or specimens. No environmental concerns are evident on this property.

Forest Conservation

There is no forest on this property and this site is exempt from Forest Conservation Law as per 4-05333E, as a Small Property.

Environmental Buffers

The site does not include any streams, wetlands, or floodplains and there are no environmental buffers on the property.

EPD Recommendation to Dev Rev Div: XXX Approve w/conditions as noted below
 Hold for revision/additional information Disapproval

MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
DEVELOPMENT REVIEW COMMITTEE RECOMMENDATIONS

TO: Richard Weaver
Development Review Division

SUBJECT: Plan # 1-06024 & 8-06008, Name Long Branch Medical Building
DRC date: Monday, September 12, 2005

The above-referenced plan has been reviewed to determine if it meets requirements of the Guidelines for Environmental Management of Development in Montgomery County, and other county regulations that may apply. The following recommendations are made for the DRC meeting:

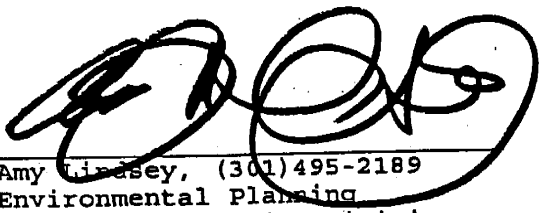
SUBMITTAL ADEQUACY
XXX Plan is complete. (see recommendations below)

EPD RECOMMENDATIONS:
XXX Approval.

Comments:

- #4-05333E*
1. Property is EXEMPT from Forest Conservation Law as per ~~4-05333E~~ (Small property).
 2. Applicant is encouraged to investigate green building technologies.
 3. Applicant is encouraged to use native plants in all landscaping.

SIGNATURE:


Amy Lindsey, (301)495-2189
Environmental Planning
Countywide Planning Division

DATE: September 12, 2005

cc: Bill Mytsak, A. Morton Thomas & Associates
Greg Fernebok, Flower Avenue Shopping Center

Reminder: Address your submissions/revisions to the Reviewer who completed the Comments sheet.
Put the Plan numbers on your cover/transmittal sheets.



DEPARTMENT OF PERMITTING SERVICES

Douglas M. Duncan
County Executive

Robert C. Hubbard
Director

RIGHT OF WAY PERMITTING AND PLAN REVIEW SECTION
DRC COMMENTS

September 12, 2005

1-06024
8-06008

Long Branch Medical Building

- Support truncation of right-of-way
- Support closure of existing entrance on Flower closest to Arliss.
- HC ramps constructed to new State ramp standards.





RECEIVED

JUL 15 2005

A. MORTON THOMAS

DEPARTMENT OF PERMITTING SERVICES

Douglas M. Duncan
County Executive

July 13, 2005

Robert C. Hubbard
Director

Mr. Bill Mytsak
A. Morton Thomas and Associates, Inc.
12750 Twinbrook Parkway
Rockville, MD 20852-1700

Re: Stormwater Management **CONCEPT** Request
for Long Branch Medical Building
Preliminary Plan #: Pending
SM File #: 218962
Tract Size/Zone: 0.91 Ac./CRD-2
Total Concept Area: 0.91 Ac.
Lots/Block: Pt of Lot 20
Watershed: Sligo Creek

Dear Mr. Mytsak:

Based on a review by the Department of Permitting Services Review Staff, the stormwater management concept for the above mentioned site is **acceptable**. The stormwater management concept consists of partial on-site water quality control via a separator sand filter. Onsite recharge is not required since this is redevelopment. Channel protection requirements and the remainder of the water quality requirements are waived due to site constraints.

The following items will need to be addressed **during** the detailed sediment control/stormwater management plan stage:

1. Prior to permanent vegetative stabilization, all disturbed areas must be topsoiled per the latest Montgomery County Standards and Specifications for Topsoiling.
2. A detailed review of the stormwater management computations will occur at the time of detailed plan review.
3. An engineered sediment control plan must be submitted for this development.
4. All filtration media for manufactured best management practices, whether for new development or redevelopment, must consist of MDE approved material.
5. All covered parking is to drain to a WSSC sanitary sewer system. Provide a copy of the mechanical drawings to verify where roof, surface and garage drains outlet.

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

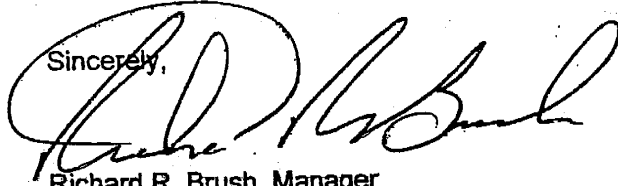
Payment of a stormwater management contribution in accordance with Section 2 of the Stormwater Management Regulation 4-90 is required.

This letter must appear on the sediment control/stormwater management plan at its initial submittal. The concept approval is based on all stormwater management structures being located outside of the Public Utility Easement, the Public Improvement Easement, and the Public Right of Way unless specifically approved on the concept plan. Any divergence from the information provided to this



office; or additional information received during the development process; or a change in an applicable Executive Regulation may constitute grounds to rescind or amend any approval actions taken, and to reevaluate the site for additional or amended stormwater management requirements. If there are subsequent additions or modifications to the development, a separate concept request shall be required.

If you have any questions regarding these actions, please feel free to contact David Kuykendall at 240-777-6332.

Sincerely,


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

RRB:dm CN218962 Long Branch Medical Building.DWK

cc: R. Weaver
S. Federline
SM File # 218962

QN -Waived; Acres: 0.91
QL - Onsite/Waived; Acres: 0.79/0.12
Recharge is not provided



FIRE MARSHAL COMMENTS

DATE: 1-20-06
TO: PLANNING BOARD, MONTGOMERY COUNTY
VIA:
FROM: CAPTAIN JOHN FEISSNER 240.777.2436
RE: APPROVAL OF ~ *LONG BRANCH MEDICAL #8-06008*

1. PLAN APPROVED.

- a. Review based only upon information contained on the plan submitted 1-20-06. Review and approval does not cover unsatisfactory installation resulting from errors, omissions, or failure to clearly indicate conditions on this plan.
- b. Correction of unsatisfactory installation will be required upon inspection and service of notice of violation to a party responsible for the property.

cc: Department of Permitting Services



DEPARTMENT OF PERMITTING SERVICES

Douglas M. Duncan
County Executive

February 15, 2006

Robert C. Hubbard
Director

Ms. Stacy Silber
Holland & Knight LLP
3 Bethesda Metro Center
Suite 800
Bethesda, Maryland 20814

Re: Adventist Health Care, Inc.
8809 Flower Avenue

Dear Ms. Silber:

You have asked that I confirm the permissibility of Adventist Health Care's proposed office use, and the required parking for such a building. As discussed below, Adventist's proposed office building is permitted within the C-1 zone, and the 55,800 square foot building requires 125 parking spaces.

You have indicated to me that Adventist proposed medical building will be approximately 55,800 square feet, and is located on the corner of Arliss and Flower Avenues in Silver Spring, Maryland. Of this space, you have indicated that the following uses will occupy the building, with the approximate square footages: (1) Urgent Care Center (5,000 sf); (2) Medical Offices (25,000 sf); (3) Surgery Center (5,000 sf); (4) Imaging Center (5,000 sf); and a primary care/specialty care clinic (10,000 sf), with the remaining space being back-of-house space. These uses are permitted within the C-1 zone under the category of "offices - professional, business," pursuant to section 59-C-4.2 of the Montgomery County Zoning Ordinance. The property also falls within the Takoma Park/East Silver Spring Commercial Revitalization Overlay Zone, which also permits, as of right, "general office" and "clinic" uses within the C-1 zone.

You have also asked that I confirm the parking category that should be used for calculating the parking requirements for the Adventist property. An office building, such as proposed by Adventist, is an "office, general office, and professional building or similar use" as defined in section 59-E-3.7 of the Zoning Ordinance. Pursuant to sections 59-E-3.7 and 59-E-3.2, Adventist must provide 2.4 parking spaces per 1,000 gross square feet (based on the property being located more than 1600' from metro and being located in the 'Southern Area' of the County).¹ As such, a 55,800 square foot building requires 134 parking spaces.

Please contact me should you have any questions.

Sincerely,

David K. Niblock
Permitting Services Specialist

¹ It is not appropriate to use the "Office, medical practitioner's" parking category, because that category is intended for buildings that just have individual doctor offices.





DEPARTMENT OF PERMITTING SERVICES

November 9, 2005

Douglas M. Duncan
County Executive

Robert C. Hubbard
Director

Gregory Fernebok
Sheridan Development
6931 Arlington Road Suite 500
Bethesda, MD 20814

Re: Adventist Healthcare, Long Branch Medical Building

Dear Mr. Fernebok,

Per our meeting today, we have reviewed Shalom Baranes Associates' height methodology for establishing the measuring point for the site bounded by Flower Avenue and Arliss Street as shown in the two attached exhibits. We agree that the measuring point for allowable building height shown at the top of curb at the midpoint of the site frontage facing Arliss Street is acceptable under Division 59-A-2, Section 59-A-2.1 of the Zoning Code (Exhibit 1). The grade elevation at this point is indicated at +309.84'.

Subject to approval by the Planning Board, the allowable building height is 42 feet measured to the high point of the flat roof as taken from the established measuring point on Arliss Street (Exhibit 2).

The allowable roof penthouse area is limited to 25% of the roof area as defined by the perimeter parapet of the three story medical building.

Sincerely,

David K. Niblock
Montgomery County
Department of Permitting Services



LONG BRANCH MEDICAL BUILDING

SILVER SPRING, MARYLAND

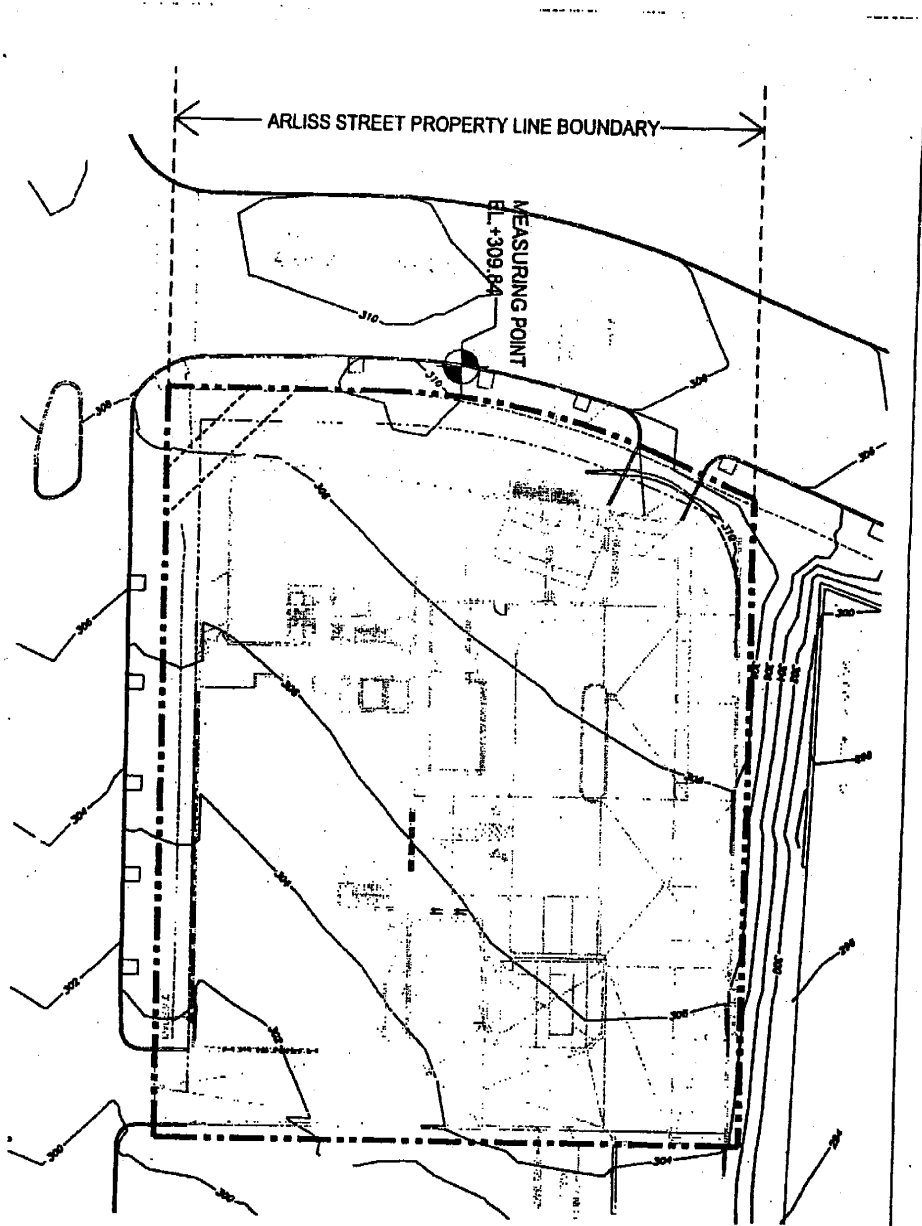
COPYRIGHT 2005

PRELIMINARY & SITE PLAN SUBMISSION: AUGUST 16, 2005

ADVERTISER: HEALTHCARE INC. / SHERIDAN DEVELOPMENT

shalem barajas associates

architects



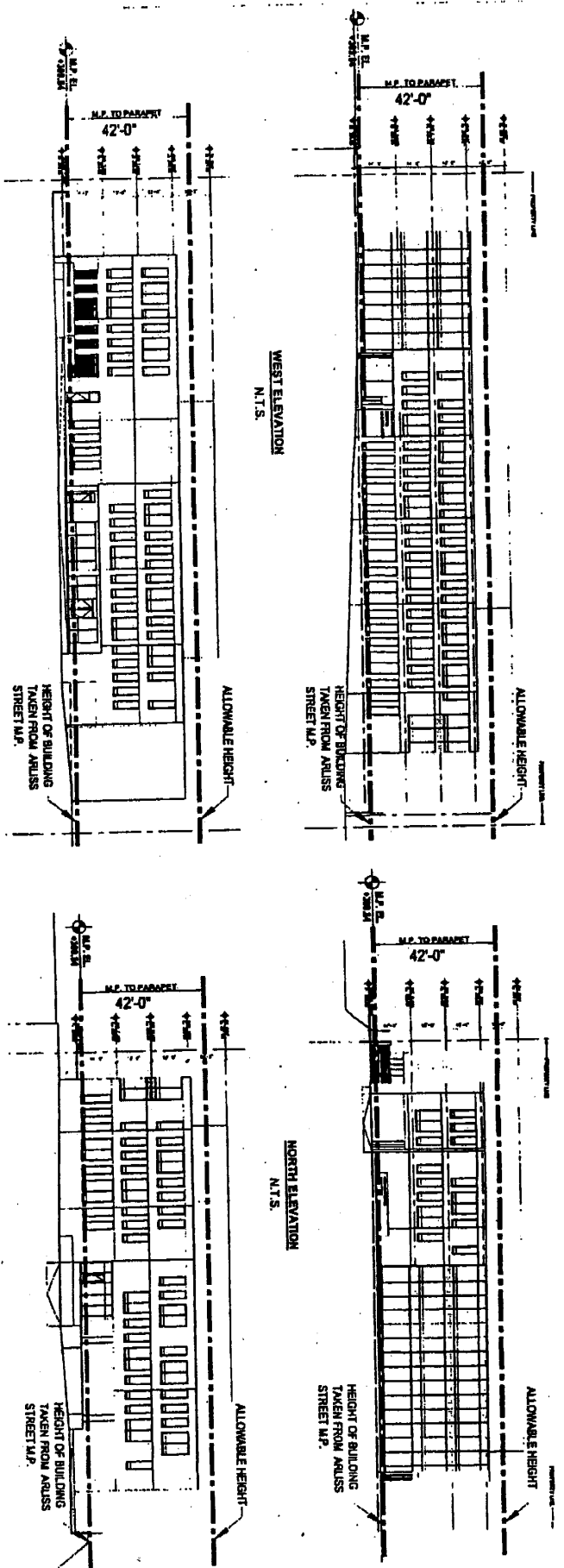
HEIGHT METHODOLOGY USING MEASURING POINT TAKEN AT THE MID-POINT OF ARLISS STREET FRONTAGE:

The proposed building measuring point is taken at the ending top of curb at the middle of the Arliss Street (EL.+309.84) footage as shown on the site plan and as allowed under:

Ordinance 20-2-2, Ordinance 20-2-3, Ordinance 20-2-4, Ordinance 20-2-5, Ordinance 20-2-6, Ordinance 20-2-7, Ordinance 20-2-8, Ordinance 20-2-9, Ordinance 20-2-10, Ordinance 20-2-11, Ordinance 20-2-12, Ordinance 20-2-13, Ordinance 20-2-14, Ordinance 20-2-15, Ordinance 20-2-16, Ordinance 20-2-17, Ordinance 20-2-18, Ordinance 20-2-19, Ordinance 20-2-20, Ordinance 20-2-21, Ordinance 20-2-22, Ordinance 20-2-23, Ordinance 20-2-24, Ordinance 20-2-25, Ordinance 20-2-26, Ordinance 20-2-27, Ordinance 20-2-28, Ordinance 20-2-29, Ordinance 20-2-30, Ordinance 20-2-31, Ordinance 20-2-32, Ordinance 20-2-33, Ordinance 20-2-34, Ordinance 20-2-35, Ordinance 20-2-36, Ordinance 20-2-37, Ordinance 20-2-38, Ordinance 20-2-39, Ordinance 20-2-40, Ordinance 20-2-41, Ordinance 20-2-42, Ordinance 20-2-43, Ordinance 20-2-44, Ordinance 20-2-45, Ordinance 20-2-46, Ordinance 20-2-47, Ordinance 20-2-48, Ordinance 20-2-49, Ordinance 20-2-50, Ordinance 20-2-51, Ordinance 20-2-52, Ordinance 20-2-53, Ordinance 20-2-54, Ordinance 20-2-55, Ordinance 20-2-56, Ordinance 20-2-57, Ordinance 20-2-58, Ordinance 20-2-59, Ordinance 20-2-60, Ordinance 20-2-61, Ordinance 20-2-62, Ordinance 20-2-63, Ordinance 20-2-64, Ordinance 20-2-65, Ordinance 20-2-66, Ordinance 20-2-67, Ordinance 20-2-68, Ordinance 20-2-69, Ordinance 20-2-70, Ordinance 20-2-71, Ordinance 20-2-72, Ordinance 20-2-73, Ordinance 20-2-74, Ordinance 20-2-75, Ordinance 20-2-76, Ordinance 20-2-77, Ordinance 20-2-78, Ordinance 20-2-79, Ordinance 20-2-80, Ordinance 20-2-81, Ordinance 20-2-82, Ordinance 20-2-83, Ordinance 20-2-84, Ordinance 20-2-85, Ordinance 20-2-86, Ordinance 20-2-87, Ordinance 20-2-88, Ordinance 20-2-89, Ordinance 20-2-90, Ordinance 20-2-91, Ordinance 20-2-92, Ordinance 20-2-93, Ordinance 20-2-94, Ordinance 20-2-95, Ordinance 20-2-96, Ordinance 20-2-97, Ordinance 20-2-98, Ordinance 20-2-99, Ordinance 20-2-100.

SITE PLAN

EXHIBIT 1



HEIGHT METHODOLOGY USING MEASURING POINT TAKEN AT THE MID-POINT OF ARLISS STREET FRONTAGE:

The proposed building measuring point is taken at the existing top of curb at the middle of the Arliss Street (El. +309.24) frontage as shown on the site plan and as shown under:

Section 16-2.2. Ordinance and Interpretation, Sec. 16-2-2.1. Definition.

Height of Building: The vertical distance measured from the level of approved street grade opposite the middle of the front of a building to the highest point of that building. The height of a building shall be measured from the existing ground level at the center of the front of the building to the highest point of the building. The height of a building shall be measured from the existing ground level at the center of the front of the building to the highest point of the building. The height of a building shall be measured from the existing ground level at the center of the front of the building to the highest point of the building. The height of a building shall be measured from the existing ground level at the center of the front of the building to the highest point of the building.

ADVENTIST HEALTHCARE INC. / SHERIDAN DEVELOPMENT
 shalom barajas associates architects

LONG BRANCH MEDICAL BUILDING
 SILVER SPRING, MARYLAND | PRELIMINARY & SITE PLAN SUBMISSION: AUGUST 18, 2005
 COPYRIGHT 2005

EXHIBIT 2



DEPARTMENT OF PERMITTING SERVICES

Douglas M. Duncan
County Executive

July 28, 2005

Robert C. Hubbard
Director

Ms. Stacy Silber
Holland & Knight LLP
3 Bethesda Metro Center
Suite 800
Bethesda, Maryland 20814

Re: Adventist Health Care, Inc.
8809 Flower Avenue

Dear Ms. Silber:

You have asked that I confirm the permissibility of Adventist Health Care's proposed office use, and the required parking for such a building. As discussed below, Adventist's proposed office building is permitted within the C-1 zone, and the 57,900 square foot building requires 139 parking spaces.

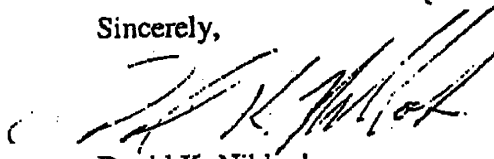
You have indicated to me that Adventist proposes to occupy a proposed 57,900 square foot office building on the corner of Arliss and Flower Avenues in Silver Spring, Maryland. Of this space, you have indicated that approximately 29,090 square feet will be occupied by doctors' offices, 13,870 square feet will be occupied by an outpatient surgical center, and 7,040 square feet will be devoted to a dialysis center. The remaining square footage is common area, storage, and other 'back of house' type space. These uses are permitted within the C-1 zone under the category of "offices - professional, business," pursuant to section 59-C-4.2 of the Montgomery County Zoning Ordinance. The property also falls within the Takoma Park/East Silver Spring Commercial Revitalization Overlay Zone, which also permits, as of right, a "general office" use within the C-1 zone.

You have also asked that I confirm the parking category that should be used for calculating the parking requirements for the Adventist property. An office building, such as proposed by Adventist, is an "office, general office, and professional building or similar use" as defined in section 59-E-3.7 of the Zoning Ordinance. Pursuant to sections 59-E-3.7 and 59-E-3.2, Adventist must provide 2.4 parking spaces per 1,000 gross square feet (based on the property being located more than 1600' from metro and being located in the 'Southern Area' of the County). As such, a 57,900 square foot building requires 139 parking spaces.



Please contact me should you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "David K. Niblock". The signature is stylized with several long, sweeping strokes.

David K. Niblock
Permitting Services Specialist

APPENDIX B

Laura Dembo
8715 Bradford Road
Silver Spring, Maryland 20901

February 10, 2006

Chairman Derick Berlage
Montgomery County Planning Board
8787 Georgia Avenue
Silver Spring, Maryland 20910

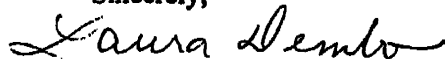
Re: Adventist HealthCare, Inc.
Medical Office Building

Dear Chairman Berlage:

I live in the Sligo Branview community, a couple blocks from Adventist's proposed medical building. I am writing to express my support for Adventist's proposed medical building. It is much needed in our community. I'm very interested in Adventist including a dialysis center as part of the overall use, and urge them to do so.

I appreciate your consideration of my support.

Sincerely,



Laura Dembo

FLEITAS, LLC

8534 Pinoy Branch Road
Silver Spring MD 20901
(301) 580-8834

January 25, 2006

Mr. Derick Berlage

Chairman

Maryland National Park & Planning Commission

8287 Georgia Avenue

Silver Spring MD 20910

Dear Mr. Berlage:

This letter is in support of the construction by Sheridan Development of the Adventist Medical Building at the corner of Flower Avenue and Arlius Street in the Long Branch Section of Silver Spring.

This office building would greatly increase the potential for daytime traffic in the Long Branch area, improving the prospects of the many restaurants and other stores that exist in this area. Further, a new attractive building will improve the chances of further development and improvements in our neighborhood.

Sincerely yours,



José N. Rodriguez
President, Fleitas, LLC
Central Square Shopping Center.

JNR/ma

LONG BRANCH

BUSINESS LEAGUE

8545 Piney Branch Road, Suite "C"
Silver Spring, MD 20901

January 30, 2006

Mr. Gregory B. Fernebak
President
Sheridan Development
6931 Arlington Road, #500
Bethesda, MD 20814

Dear Mr. Fernebak:

The Long Branch Business League supports your company's development of a Medical Office Building at the corner of Flower Avenue and Arliss Street, for the doctors associated with Washington Adventist Hospital. We believe that our business community will benefit from the employees and clients generated by the building.

We would appreciate if you could keep the League informed of the project's development and progress. As you know, we hold a monthly membership meeting on the second Wednesday of the month, in addition to quarterly board meetings.

Thank you for your attention to our request.

Sincerely,



Lisa A. Epps
President

Sligo Branview Community Association
Mary Cogan, President
Joe Fisher, Vice President
9217 Wendell Street
Silver Spring, Maryland 20901

January 18, 2006

Debbie Spielberg, Chair
Silver Spring Citizens Advisory Board
Phil Olivetti, Chair
Commercial and Economic Development Committee
Silver Spring Regional Center
8435 Georgia Avenue
Silver Spring, MD 20910

RE: Long Branch Medical Building

Dear Chairpersons Spielberg and Olivetti:

I am writing regarding the proposed Long Branch Medical Building to be located in the Sligo Branview community at the intersection of Flower Avenue and Arliss Street. The Sligo Branview Community Association, for the reasons to be discussed in this letter, does not support this project as currently proposed.

We are specifically concerned with the compatibility of this project with the nearby residential area. The architectural rendering provided by the applicant does not reflect the architectural style, building materials, or landscaping of the nearby homes. The sheer bulk of the building is out of character. According to the East Silver Spring 2000 Master Plan, any structure on this site should be compatible with the surrounding residential homes relative to height, bulk, setback, and landscaping. The proposed building would be 40 feet in height and would exceed the surrounding residential homes by 15 to 20 feet. The plans for the proposed building do not meet the Master Plan guidelines that were specifically intended to protect the surrounding residential area. This site faces residential homes on both Arliss Street and Flower Avenue.

The Master Plan also recognizes the heavy volume of traffic in this area. Traffic regularly backs up on Flower Avenue from Piney Branch, which is only a block from Arliss. It is a challenge to make a left onto Arliss Street from Flower Avenue. A traffic island has been installed on Flower Avenue at the corner of Arliss Street for pedestrian safety. In addition another was installed in the same block for the same reason. The proposed project seeks to have entrances on both of these streets not far from the intersection. Speed humps were installed on Flower Avenue, north of Wayne Avenue, in December 2005. The proposed medical building will only exacerbate the already hazardous traffic problems these traffic mitigation tools seek to address. In fact, many in the community do not feel that the current measures are adequate in addressing our existing traffic problems.

Our community has recently learned that an urgent care clinic is planned. This facility could potentially operate until late into the evening. This would impact the quiet use and enjoyment of surrounding residential homes. When this project was first proposed, the community was given the impression that medical offices, with limited operating hours, would be the ultimate use.

This project is seen by some as a potential catalyst for spurring the overall development of the surrounding commercial area near Flower Avenue and Piney Branch Road. We welcome such an effort. However, any development that is proposed must be done responsibly and with regard for all of the factors relative to the potential impact. Given the fact that the surrounding commercial is plagued by public drunkenness, limited parking, uncleanliness, and limited retail choices, it would seem more reasonable to address the entire area rather than impose something on the surrounding residential area simply because it is beneficial to the applicant and intended lessee. The applicant owns a significant portion of the commercial area in addition to the specific site for the proposed medical building. Thus, he is in a unique position to be part of a broader plan, along with a commitment from the County, to spur the rejuvenation of this commercial area.

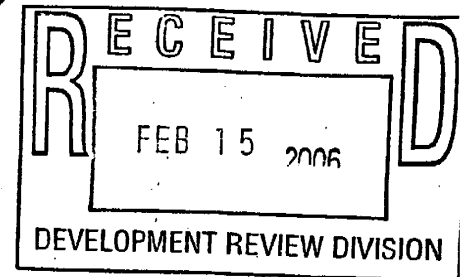
Thank you for giving Sligo Branview the opportunity to share our views regarding this matter. I look to our continued dialogue on this and other important matters affecting the Sligo Branview and broader Silver Spring community.

Sincerely,



Joe Fisher,
Vice-President
Sligo Branview Community Association

February 9, 2006



Derrick Berlage, Chairman
Montgomery County Department of Park and Planning
The Maryland-National Capital Park and Planning Commission
8787 Georgia Avenue
Silver Spring, MD 20910-3760

RE: *File Number - 1-06024 & 8-06008 - Long Branch Medical Building-Preliminary Plan and Site Plan*

Dear Chairman Berlage:

I am writing to become a party of record for file number 1-06024 & 8-06008 - Long Branch Medical Building - Preliminary Plan & Site Plan. In addition, I would like to express my concerns with this project as currently proposed.

This project is not compatible with the nearby residential homes. The *East Silver Spring Master Plan 2000* requires that any structure on this site should be compatible with the surrounding residential homes relative height, bulk, setback, and landscaping. The proposed building would be 40 feet in height with an additional 13 feet in height to allow for mechanical units. It would exceed the surrounding residential homes at least by 20 to 30 feet. The plans for the proposed building do not meet the Master Plan guidelines that were specifically intended to protect the surrounding residential area. This site faces residential homes on both Arliss St. and Flower Ave.

The Master Plan also recognizes the heavy volume of traffic in this area. A traffic island has been placed at the corner of Arliss and Flower for pedestrian safety. Another one has been placed on Flower Avenue, less than a block away, near Piney Branch. Speed bumps were installed on Flower Avenue, north of Wayne Avenue, in December. During rush hour, Flower Avenue traffic often backs up half way to Arliss Street. The proposed medical building will only exacerbate an already hazardous traffic problem.

This facility will include an urgent care facility that will operate until 10 p.m. six days a week. This would impact the quiet use and enjoyment of surrounding residential homes. When this project was first proposed, the community was given the impression that medical offices, with limited operating hours, would be the ultimate use. Also, given the fact that the surrounding commercial is plagued by limited parking, uncleanliness, limited retail choices, and deteriorating structures, it would seem more reasonable to address the entire commercial area. The ULI study, done at request of the Long Branch Task Force, spoke of an overall development plan for the area. This project is a piecemeal approach that has been used in this area for years and does not reflect that broader vision.

I respectfully request that the preliminary plan and site plan be considered separately to allow for adequate community input. Thank you for your consideration of this request.

Sincerely,

A handwritten signature in cursive script that reads "Gina M. Smallwood".

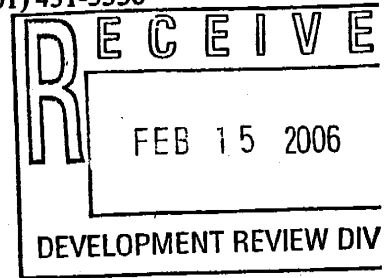
Gina M. Smallwood
8606 Barron Street
Takoma Park, MD 20912

Rolling Terrace Civic Association

8606 Barron Street
Takoma Park, MD 20912
(301) 431-3336

February 9, 2006

Derrick Berlage, Chairman
Montgomery County Department of Park and Planning
The Maryland-National Capital Park and Planning Commission
8787 Georgia Avenue
Silver Spring, MD 20910-3760
RE: File Number - 1-06024 & 8-06008 - Long Branch Medical Building - Preliminary Plan and Site Plan



Dear Chairman Berlage:

I am writing to become a party of record for file number 1-06024 & 8-06008 - Long Branch Medical Building - Preliminary Plan & Site Plan. In addition, I would like to express my concerns with this project as currently proposed.

This project is not compatible with the nearby residential homes. The *East Silver Spring Master Plan 2000* requires that any structure on this site should be compatible with the surrounding residential homes relative height, bulk, setback, and landscaping. The proposed building would be 40 feet in height with an additional 13 feet in height to allow for mechanical units. It would exceed the surrounding residential homes at least by 20 to 30 feet. The plans for the proposed building do not meet the Master Plan guidelines that were specifically intended to protect the surrounding residential area. This site faces residential homes on both Arliss St. and Flower Ave.

The Master Plan also recognizes the heavy volume of traffic in this area. A traffic island has been placed at the corner of Arliss and Flower for pedestrian safety. Another one has been placed on Flower Avenue, less than a block away, near Piney Branch. Speed bumps were installed on Flower Avenue, north of Wayne Avenue, in December. During rush hour, Flower Avenue traffic often backs up half way to Arliss Street. The proposed medical building will only exacerbate an already hazardous traffic problem.

This facility will include an urgent care facility that will operate until 10 p.m. six days a week. This would impact the quiet use and enjoyment of surrounding residential homes. When this project was first proposed, the community was given the impression that medical offices, with limited operating hours, would be the ultimate use. Also, given the fact that the surrounding commercial is plagued by limited parking, uncleanliness, limited retail choices, and deteriorating structures, it would seem more reasonable to address the entire commercial area. The ULI study, done at request of the Long Branch Task Force, spoke of an overall development plan for the area. This project is a piecemeal approach that has been used in this area for years and does not reflect that broader vision.

I respectfully request that the preliminary plan and site plan be considered separately to allow for adequate community input. Thank you for your consideration of this request.

Sincerely,

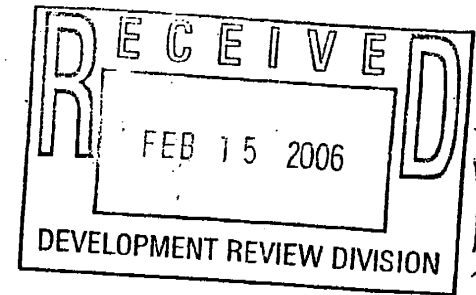
A handwritten signature in cursive script that reads "Gina M. Smallwood".

Gina M. Smallwood
President
Rolling Terrace Civic Association

February 9, 2006

Derrick Berlage, Chairman
Montgomery County Department of Park and Planning
The Maryland-National Capital Park and Planning Commission
8787 Georgia Avenue
Silver Spring, MD 20910-3760

RE: *File Number - 1-06024 & 8-06008 - Long Branch Medical Building - Preliminary Plan and Site Plan*



Dear Chairman Berlage:

I am writing to ensure that I am a party of record for File No. 1-06024 & 8-06008-Long Branch Medical Building - Preliminary Plan & Site Plan. In addition, I would like to express my concerns with this project as currently proposed. I request that the preliminary plan and site plan be considered separately.


This project is not compatible with the nearby residential homes. The *East Silver Spring Master Plan 2000* requires that any structure on this site should be compatible with the surrounding residential homes relative height, bulk, setback, and landscaping. The proposed building would be 40 feet in height with an additional 13 feet in height to allow for mechanical units. It would exceed the surrounding residential homes at least by 20 to 30 feet. The plans for the proposed building do not meet the Master Plan guidelines that were specifically intended to protect the surrounding residential area. This site faces residential homes on both Arliss St. and Flower Ave.

The Master Plan also recognizes the heavy volume of traffic in this area. A traffic island has been placed at the corner of Arliss and Flower for pedestrian safety. Another one has been placed on Flower Avenue, less than a block away, near Piney Branch. Speed bumps were installed on Flower Avenue, north of Wayne Avenue, in December. During rush hour, Flower Avenue traffic often backs up half way to Arliss Street. The proposed medical building will only exacerbate an already hazardous traffic problem.

This facility will include an urgent care facility that will operate until 10 p.m. six days a week and potentially 24 hours a day, seven days a week based upon documents filed with the application. This would impact the quiet use and enjoyment of surrounding residential homes. When this project was first proposed, the community was given the impression that medical offices, with limited operating hours, would be the ultimate use. Given the fact that the surrounding commercial area is plagued by inadequate parking, uncleanliness, limited retail choices, and deteriorating structures, it would seem more reasonable to address the entire commercial area. The ULI study, done at request of the Long Branch Task Force, spoke of an overall development plan for the commercial area. This project does not reflect that broader vision; instead it is a piecemeal approach that has been used in this area for years.

Thank you for your consideration of this request.

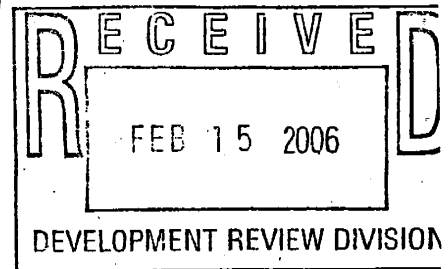
Sincerely,


Richard A. Gollub
8830 Sudbury Road
Silver Spring, MD 20901

February 8, 2006

Derrick Berlage, Chairman
Montgomery County Department of Park and Planning
The Maryland-National Capital Park and Planning Commission
8787 Georgia Avenue
Silver Spring, MD 20910-3760

RE: *File Number - 1-06024 & 8-06008 - Long Branch Medical Building - Preliminary Plan and Site Plan*



Dear Chairman Berlage:

I am writing to become a party of record for file number 1-06024 & 8-06008 - Long Branch Medical Building - Preliminary Plan & Site Plan. In addition, I would like to express my concerns with this project as currently proposed.

This project is not compatible with the nearby residential homes. The *East Silver Spring Master Plan 2000* requires that any structure on this site should be compatible with the surrounding residential homes relative height, bulk, setback, and landscaping. The proposed building would be 40 feet in height with an additional 13 feet in height to allow for mechanical units. It would exceed the surrounding residential homes at least by 20 to 30 feet. The plans for the proposed building do not meet the Master Plan guidelines that were specifically intended to protect the surrounding residential area. This site faces residential homes on both Arliss St. and Flower Ave.

The Master Plan also recognizes the heavy volume of traffic in this area. A traffic island has been placed at the corner of Arliss and Flower for pedestrian safety. Another one has been placed on Flower Avenue, less than a block away, near Piney Branch. Speed bumps were installed on Flower Avenue, north of Wayne Avenue, in December. During rush hour, Flower Avenue traffic often backs up half way to Arliss Street. The proposed medical building will only exacerbate an already hazardous traffic problem.

This facility will include an urgent care facility that will operate until 10 p.m. six days a week. This would impact the quiet use and enjoyment of surrounding residential homes. When this project was first proposed, the community was given the impression that medical offices, with limited operating hours, would be the ultimate use. Also, given the fact that the surrounding commercial is plagued by limited parking, uncleanliness, limited retail choices, and deteriorating structures, it would seem more reasonable to address the entire commercial area. The ULI study, done at request of the Long Branch Task Force, spoke of an overall development plan for the area. This project is a piecemeal approach that has been used in this area for years and does not reflect that broader vision.

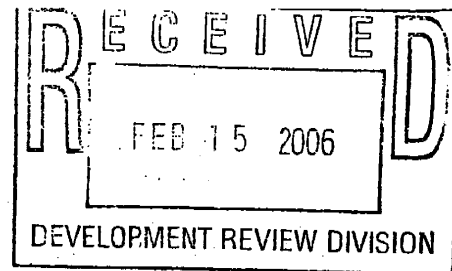
I respectfully request that the preliminary plan and site plan be considered separately to allow for adequate community input. Thank you for your consideration of this request.

Signed,

NAME
ADDRESS
CITY, STATE, ZIP

Carl Richardson
8818 Flower Avenue
Silver Spring, MD 20901

February 8, 2006



Derrick Berlage, Chairman
Montgomery County Department of Park and Planning
The Maryland-National Capital Park and Planning Commission
8787 Georgia Avenue
Silver Spring, MD 20910-3760

RE: File Number - 1-06024 & 8-06008 - Long Branch Medical Building - Preliminary Plan and Site Plan

Dear Chairman Berlage:

I am writing to become a party of record for file number 1-06024 & 8-06008 - Long Branch Medical Building - Preliminary Plan & Site Plan. In addition, I would like to express my concerns with this project as currently proposed.

This project is not compatible with the nearby residential homes. The *East Silver Spring Master Plan 2000* requires that any structure on this site should be compatible with the surrounding residential homes relative height, bulk, setback, and landscaping. The proposed building would be 40 feet in height with an additional 13 feet in height to allow for mechanical units. It would exceed the surrounding residential homes at least by 20 to 30 feet. The plans for the proposed building do not meet the Master Plan guidelines that were specifically intended to protect the surrounding residential area. This site faces residential homes on both Arliss St. and Flower Ave.

The Master Plan also recognizes the heavy volume of traffic in this area. A traffic island has been placed at the corner of Arliss and Flower for pedestrian safety. Another one has been placed on Flower Avenue, less than a block away, near Piney Branch. Speed bumps were installed on Flower Avenue, north of Wayne Avenue, in December. During rush hour, Flower Avenue traffic often backs up half way to Arliss Street. The proposed medical building will only exacerbate an already hazardous traffic problem.

This facility will include an urgent care facility that will operate until 10 p.m. six days a week. This would impact the quiet use and enjoyment of surrounding residential homes. When this project was first proposed, the community was given the impression that medical offices, with limited operating hours, would be the ultimate use. Also, given the fact that the surrounding commercial is plagued by limited parking, uncleanliness, limited retail choices, and deteriorating structures, it would seem more reasonable to address the entire commercial area. The ULI study, done at request of the Long Branch Task Force, spoke of an overall development plan for the area. This project is a piecemeal approach that has been used in this area for years and does not reflect that broader vision.

I respectfully request that the preliminary plan and site plan be considered separately to allow for adequate community input. Thank you for your consideration of this request.

Signed,

NAME

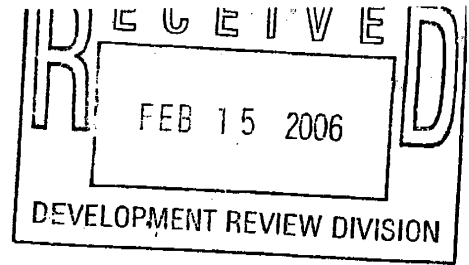
Elizabeth B Martin

ADDRESS

8727 Geren Rd

CITY, STATE, ZIP

Silver Spring, Md 20901



February 9, 2006

Derrick Berlage, Chairman
Montgomery County Department of Park and Planning
The Maryland-National Capital Park and Planning Commission
8787 Georgia Avenue
Silver Spring, MD 20910-3760

RE: File Number - 1-06024 & 8-06008 - Long Branch Medical Building - Preliminary Plan and Site Plan

Dear Chairman Berlage:

I am writing to become a party of record for file number 1-06024 & 8-06008 - Long Branch Medical Building - Preliminary Plan & Site Plan. In addition, I would like to express my concerns with this project as currently proposed. I request that the preliminary plan and site plan be considered separately.

This project is not compatible with the nearby residential homes. The *East Silver Spring Master Plan 2000* requires that any structure on this site should be compatible with the surrounding residential homes relative height, bulk, setback, and landscaping. The proposed building would be 40 feet in height with an additional 13 feet in height to allow for mechanical units. It would exceed the surrounding residential homes at least by 20 to 30 feet. The plans for the proposed building do not meet the Master Plan guidelines that were specifically intended to protect the surrounding residential area. This site faces residential homes on both Arliss St. and Flower Ave.

The Master Plan also recognizes the heavy volume of traffic in this area. A traffic island has been placed at the corner of Arliss and Flower for pedestrian safety. Another one has been placed on Flower Avenue, less than a block away, near Piney Branch. Speed bumps were installed on Flower Avenue, north of Wayne Avenue, in December. During rush hour, Flower Avenue traffic often backs up half way to Arliss Street. The proposed medical building will only exacerbate an already hazardous traffic problem.

This facility will include an urgent care facility that will operate until 10 p.m. six days a week and potentially 24 hours a day, seven days a week based upon documents filed with the application. This would impact the quiet use and enjoyment of surrounding residential homes. When this project was first proposed, the community was given the impression that medical offices, with limited operating hours, would be the ultimate use. Given the fact that the surrounding commercial area is plagued by inadequate parking, uncleanliness, limited retail choices, and deteriorating structures, it would seem more reasonable to address the entire commercial area. The ULI study, done at request of the Long Branch Task Force, spoke of an overall development plan for the commercial area. This project does not reflect that broader vision; instead it is a piecemeal approach that has been used in this area for years.

Thank you for your consideration of this request.

Signed,

Yolanda Sanchez

NAME

Yolanda Sanchez

ADDRESS

8914 Flower Ave

CITY, STATE, ZIP

Silver Spring, Md 20901

February 8, 2006

Derrick Berlage, Chairman
Montgomery County Department of Park and Planning
The Maryland-National Capital Park and Planning Commission
8787 Georgia Avenue
Silver Spring, MD 20910-3760

RE: File Number - 1-06024 & 8-06008 - Long Branch Medical Building - Preliminary Plan and Site Plan

Dear Chairman Berlage:

I am writing to become a party of record for file number 1-06024 & 8-06008 - Long Branch Medical Building - Preliminary Plan & Site Plan. In addition, I would like to express my concerns with this project as currently proposed.

This project is not compatible with the nearby residential homes. The *East Silver Spring Master Plan 2000* requires that any structure on this site should be compatible with the surrounding residential homes relative height, bulk, setback, and landscaping. The proposed building would be 40 feet in height with an additional 13 feet in height to allow for mechanical units. It would exceed the surrounding residential homes at least by 20 to 30 feet. The plans for the proposed building do not meet the Master Plan guidelines that were specifically intended to protect the surrounding residential area. This site faces residential homes on both Arliss St. and Flower Ave.

The Master Plan also recognizes the heavy volume of traffic in this area. A traffic island has been placed at the corner of Arliss and Flower for pedestrian safety. Another one has been placed on Flower Avenue, less than a block away, near Piney Branch. Speed bumps were installed on Flower Avenue, north of Wayne Avenue, in December. During rush hour, Flower Avenue traffic often backs up half way to Arliss Street. The proposed medical building will only exacerbate an already hazardous traffic problem.

This facility will include an urgent care facility that will operate until 10 p.m. six days a week. This would impact the quiet use and enjoyment of surrounding residential homes. When this project was first proposed, the community was given the impression that medical offices, with limited operating hours, would be the ultimate use. Also, given the fact that the surrounding commercial is plagued by limited parking, uncleanliness, limited retail choices, and deteriorating structures, it would seem more reasonable to address the entire commercial area. The ULI study, done at request of the Long Branch Task Force, spoke of an overall development plan for the area. This project is a piecemeal approach that has been used in this area for years and does not reflect that broader vision.

I respectfully request that the preliminary plan and site plan be considered separately to allow for adequate community input. Thank you for your consideration of this request.

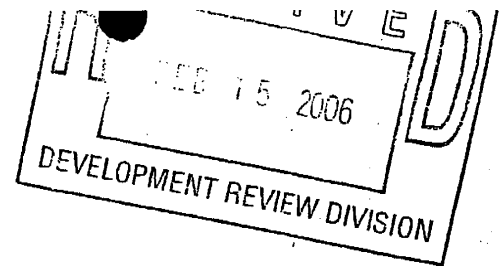
Signed,

NAME

ADDRESS

CITY, STATE, ZIP

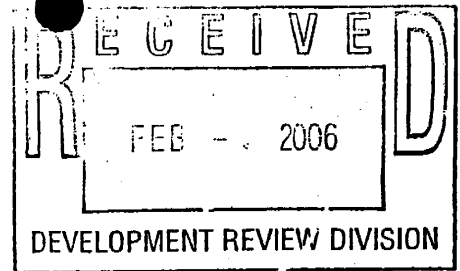
Rose Crenca
9101 Flower Avenue
Silver Spring, Md. 20901



February 8, 2006

Derrick Berlage, Chairman
Montgomery County Department of Park and Planning
The Maryland-National Capital Park and Planning Commission
8787 Georgia Avenue
Silver Spring, MD 20910-3760

RE: *File Number - 1-06024 & 8-06008 - Long Branch Medical Building - Preliminary Plan and Site Plan*



Dear Chairman Berlage:

I am writing to become a party of record for file number 1-06024 & 8-06008 - Long Branch Medical Building - Preliminary Plan & Site Plan. In addition, I would like to express my concerns with this project as currently proposed.

This project is not compatible with the nearby residential homes. The *East Silver Spring Master Plan 2000* requires that any structure on this site should be compatible with the surrounding residential homes relative height, bulk, setback, and landscaping. The proposed building would be 40 feet in height with an additional 13 feet in height to allow for mechanical units. It would exceed the surrounding residential homes at least by 20 to 30 feet. The plans for the proposed building do not meet the Master Plan guidelines that were specifically intended to protect the surrounding residential area. This site faces residential homes on both Arliss St. and Flower Ave.

The Master Plan also recognizes the heavy volume of traffic in this area. A traffic island has been placed at the corner of Arliss and Flower for pedestrian safety. Another one has been placed on Flower Avenue, less than a block away, near Piney Branch. Speed bumps were installed on Flower Avenue, north of Wayne Avenue, in December. During rush hour, Flower Avenue traffic often backs up half way to Arliss Street. The proposed medical building will only exacerbate an already hazardous traffic problem.

This facility will include an urgent care facility that will operate until 10 p.m. six days a week. This would impact the quiet use and enjoyment of surrounding residential homes. When this project was first proposed, the community was given the impression that medical offices, with limited operating hours, would be the ultimate use. Also, given the fact that the surrounding commercial is plagued by limited parking, uncleanliness, limited retail choices, and deteriorating structures, it would seem more reasonable to address the entire commercial area. The ULI study, done at request of the Long Branch Task Force, spoke of an overall development plan for the area. This project is a piecemeal approach that has been used in this area for years and does not reflect that broader vision.

I respectfully request that the preliminary plan and site plan be considered separately to allow for adequate community input. Thank you for your consideration of this request.

Signed,

A handwritten signature in black ink, appearing to read "Mary Cogan".

NAME

MARY COGAN

ADDRESS

9216 Mintwood Street

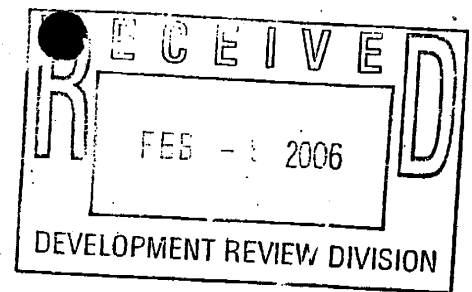
CITY, STATE, ZIP

Silver Spring, MD 20901.

February 8, 2006

Derrick Berlage, Chairman
Montgomery County Department of Park and Planning
The Maryland-National Capital Park and Planning Commission
8787 Georgia Avenue
Silver Spring, MD 20910-3760

RE: *File Number - 1-06024 & 8-06008 - Long Branch Medical Building - Preliminary Plan and Site Plan*



Dear Chairman Berlage:

I am writing to become a party of record for file number 1-06024 & 8-06008 - Long Branch Medical Building - Preliminary Plan & Site Plan. In addition, I would like to express my concerns with this project as currently proposed.

This project is not compatible with the nearby residential homes. The *East Silver Spring Master Plan 2000* requires that any structure on this site should be compatible with the surrounding residential homes relative height, bulk, setback, and landscaping. The proposed building would be 40 feet in height with an additional 13 feet in height to allow for mechanical units. It would exceed the surrounding residential homes at least by 20 to 30 feet. The plans for the proposed building do not meet the Master Plan guidelines that were specifically intended to protect the surrounding residential area. This site faces residential homes on both Arliss St. and Flower Ave.

The Master Plan also recognizes the heavy volume of traffic in this area. A traffic island has been placed at the corner of Arliss and Flower for pedestrian safety. Another one has been placed on Flower Avenue, less than a block away, near Piney Branch. Speed bumps were installed on Flower Avenue, north of Wayne Avenue, in December. During rush hour, Flower Avenue traffic often backs up half way to Arliss Street. The proposed medical building will only exacerbate an already hazardous traffic problem.

This facility will include an urgent care facility that will operate until 10 p.m. six days a week. This would impact the quiet use and enjoyment of surrounding residential homes. When this project was first proposed, the community was given the impression that medical offices, with limited operating hours, would be the ultimate use. Also, given the fact that the surrounding commercial is plagued by limited parking, uncleanliness, limited retail choices, and deteriorating structures, it would seem more reasonable to address the entire commercial area. The ULI study, done at request of the Long Branch Task Force, spoke of an overall development plan for the area. This project is a piecemeal approach that has been used in this area for years and does not reflect that broader vision.

I respectfully request that the preliminary plan and site plan be considered separately to allow for adequate community input. Thank you for your consideration of this request.

Signed,

NAME

ADDRESS

CITY, STATE, ZIP

Jim Reed
9228 Mintwood St.
Silver Spring, MD 20901

SLIGO BRANVIEW COMMUNITY ASSOCIATION
SILVER SPRING, MARYLAND 20901

RECEIVED
1928
NOV 10 2005

November 10, 2005

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

Derrick Berlage, Chairman
Montgomery County Department of Park and Planning
The Maryland-National Capital Park and Planning Commission
8787 Georgia Avenue
Silver Spring, MD 20910-3760

RE: Long Branch Medical Building: Case Numbers - 1-06024 & 8-06008
[Preliminary and Site Plan]

Dear Chairman Berlage:

I am writing to become a party of record for case numbers 1-06024 & 8-06008 -
Long Branch Medical Building - Preliminary Plan & Site Plan.

Thank you for your consideration of this request.

Regards,

Name Claudette W. Handberg

Address 124 East Hamilton Lane

Silver Spring, MD Zip Code Silver Spring, Md 20901

Zoning Committee
Sligo Branview Community Association
9101 Flower Avenue
Silver Spring MD 20901
February 14, 2006

RECEIVED
0187
FEB 14 2006

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

The Honorable Derrick Berlage, Chair
Montgomery County Planning Board
8787 Georgia Avenue
Silver Spring MD 20910

Dear Chairman Berlage:

We have four questions related to Site Plan 8-06008, Long Branch Medical Building, that need to be clarified as soon as possible.

1. Which parking regulations apply to Site Plan 8-06008? Developer documents in your file indicate that calculations for "Office, General" are used. Staff has informally indicated that Section 59E-3.2 of the Montgomery County Zoning Code are appropriate.

However, this building fits the definition of "Clinic," "Medical or dental clinic" or "Medical Office Building." (All terms use the same definition.) 59E-3.7, Schedule of Requirements, mandates, "Five spaces for each 1,000 square feet of the gross floor area of the building." (emphasis added) for a medical or dental clinic. Please give us the rationale for using any definition other than that for a medical clinic.

2. What is the gross floor area of this building? The developer has stated that parking will be based on "leasable sq. ft." However, Section 59-E 3.7, Schedule of Requirements, mandates "Five spaces for each 1,000 square feet of the gross floor area of the building."


Please give us your rationale for approving any requirement other than that quoted above.

3. Developer documents in your file for "Existing Land Use/Occupied House(s)" state this property is "A surface parking lot mainly used to store a few buses for the nearby house of worship."

In fact, this lot is currently used as parking for the "nearby house of worship" that is located on adjacent property also owned by the developer and for overflow parking from the developer's other adjacent retail businesses. Please require the developer to show how he will meet his current parking requirement if this lot is taken out of use as parking.

I look forward to your prompt reply and am available to meet with you to discuss these items.

Sincerely,

A handwritten signature in cursive script that reads "Rose Crenca".

Rose Crenca, Co-chair, Zoning Committee
Sligo Branview Community Association

Copy: Rose Krasnow
Development Review Committee

Hand Delivered 2-14-2006

APPENDIX C

Memo

To: Stacy Silber
From: Greg Fernebok
Date: 2/6/2006
Re: Long Branch Community Outreach

As part of the proposed development of the Adventist Healthcare Center at Long Branch, the development team has met with community members to discuss the project. I have personally met with the following:

1. Sligo Branview Community Association-

- a. July/August: Traded messages with Joe Fisher of Sligo Branview regarding scheduling meeting three times in July of 2005.
- b. October 26, 2005: Sligo Branview invited Adventist Hospital and I to speak with Sligo Branview's members on October 26, 2005. At this meeting Geoff Morgan with Adventist Hospital presented for the hospital and spoke in detail on the uses Adventist would be providing in the proposed building. Mr. Morgan also answered questions from the community. I also answered questions in reference to the construction of the building. Mary Cogan, President of the association asked that this meeting center around the uses inside of the proposed building and requested a second meeting that would center on the construction/development of the building. I agreed to make that presentation on November 9, 2005.
- c. November 9, 2005. On November 9, 2005, I and Robert Sponseller of Shalom Baranes & Associates (Project Architect) and Nicole White of Symmetra Design (Traffic Engineer) discussed our plans with Sligo Branview's members. As part of the presentation we walked the group through our presentation boards that showed the facade of the building, its location, street and landscape improvements, shadow study, cross sections of the building as it relates to other buildings and homes on Flower Avenue and Arliss Street, a facade. We also answered questions on the height, square feet of the building, parking spaces, traffic flow that exists and future traffic flow when the building is complete and other development related questions. Before the meeting Sligo Branview was provided a copy of the projects Traffic Study at their request.
- d. January 31, 2006. Based on comments made by the community in prior meetings, we revised our plans. At the January 31, 2006 meeting, we shared our revised plans, and explained the changes made in response to comments made by the community. The changes included:

- (1) Increased Building Setback. We increased the building setback to curb from 20 feet to 29 feet along both Ariss Street and Flower Avenue. The additional setback allowed the building to be further away from the residential homes and doubled the amount of Landscaping on the project. The setback also allowed the retention of additional mature trees lining Flower Avenue.
- (2) Reduced Building Height. We reduced the building height to 40 feet, from the original design at 42 feet.
- (3) Modified Building Materials. The façade originally had 60% masonry and 40% glass, the most recent design now is 80% masonry and 20% glass.
- (4) Modified Building Articulation. In addition, the façade was improved to show more residential sized windows, breakdown into additional building elements, and enhancement of the a residential feel to the building.

Attached is a copy of questions we answered for the Long Branch Citizens and circulated at this meeting. Also attached are copies of the Sligo Branviews Newsletter that they published after our first two meetings.

2. Silver Spring Citizens Advisory Board-

- (a) On September 21, 2005 we made a presentation along with our architect Shalom Baranes & Associates to the Commercial Development Committee of the Silver Spring Citizens Advisory Board on our project. As part of the presentation, I walked the group through our presentation boards that showed the facade of the building, its location, street and landscape improvements and a shadow study. We also answered questions on the height, square feet of the building, parking spaces and other development related questions.
 - (b) October 10, 2005 On October 10, 2005, Stacy Silber and I attended a meeting of the Silver Spring Citizens Advisory Board where the Commercial Development Committee recommended to the Board that they should support our project. The Board then voted in favor of supporting our project.
3. **Joe Rodriguez with the Long Branch Task Force-** In July of 2005 I met with Mr. Rodriguez and walked him through our plans that showed the facade of the building, its location, street and landscape improvements and a shadow study. We also discussed the height, square feet of the building, parking spaces and other development related questions. See Attached letter from Joe Rodriguez.
 4. **Long Branch Business League-** On June 15, 2005 I was invited to make a presentation to the Long Branch Business League. As part of the presentation, I walked the group through our presentation boards that showed the facade of the building, its location and street and landscape improvements. I also answered questions on the height, square feet of the building, parking spaces and other development related questions. I made the presentation to about 30 people, which included County Council Members Tom Perez and George Leventhal as well as members of the Long Branch community. See Attached letter from the Long Branch Business League.

3566847_v1

LONG BRANCH

BUSINESS LEAGUE

8546 Piney Branch Road, Suite "C"
Silver Spring, MD 20901

January 30, 2006

Mr. Gregory B. Fernebok
President
Sheridan Development
6931 Arlington Road, #500
Bethesda, MD 20814

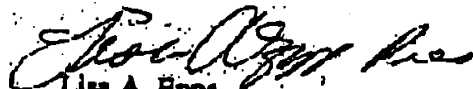
Dear Mr. Fernebok:

The Long Branch Business League supports your company's development of a Medical Office Building at the corner of Flower Avenue and Ayliss Street, for the doctors associated with Washington Adventist Hospital. We believe that our business community will benefit from the employees and clients generated by the building.

We would appreciate if you could keep the League informed of the project's development and progress. As you know, we hold a monthly membership meeting on the second Wednesday of the month, in addition to quarterly board meetings.

Thank you for your attention to our request.

Sincerely,



Lisa A. Epps
President

FLEITAS, LLC

8530 Piney Branch Road
Silver Spring MD 20901
(301) 588-6834

January 25, 2006

Mr. Derick Berlage

Chairman

Maryland National Park & Planning Commission
8287 Georgia Avenue
Silver Spring MD 20910

Dear Mr. Berlage:

This letter is in support of the construction by Sheridan Development of the Adventist Medical Building at the corner of Flower Avenue and Arlius Street in the Long Branch Section of Silver Spring.

This office building would greatly increase the potential for daytime traffic in the Long Branch area, improving the prospects of the many restaurants and other stores that exist in this area. Further, a new attractive building will improve the chances of further development and improvements in our neighborhood.

Sincerely yours,



José N. Rodriguez
President, Fleitas, LLC
Central Square Shopping Center.

JNR/ma

Washington Adventist Healthcare Center at Long Branch Questions from the Community

1. What are WAH's arrangements with the developer? WAH will be leasing the proposed Medical Office Building from the developer.
2. How long will Washington Adventist stay at this location? WAH will be leasing the proposed Medical Office Building for Twenty (20) years with One (1) Ten (10) year extension.
3. What services will they provide? Urgent Care- 3,500 Sq. Ft., Imaging- 5,500 Sq. Ft., Surgical Center (Two Operating Rooms, Four Procedure Rooms)- 13,336 Sq. Ft., General Medical Office Space- 15,664 Sq. Ft., Women's Services Clinic (prenatal Care, and women's health problems)-12,000 Sq. Ft.
4. How much space do they need? 50,000 Sq.Ft.
5. What is the minimum square feet WAH requires to sign a lease? 50,000 Sq.Ft Usable is the minimum required for the service they are providing in this building.
6. Can WAH use their existing property for this building since they have announced plans to move out? This property will be sold when the hospital relocates.
7. Can WAH use their old bookstore property? WAH does not own this property.
8. Can WAH use the current condo high-rise on hospital property or other property they own throughout Takoma Park and near the hospital? The condo high-rise is not owned by WAH but by individual doctors. The remainder of the property will be sold when the hospital relocates.
9. What specific services do they plan to offer? Urgent Care, Imaging, Surgical Center, General Medical Offices and a Womens Services Clinic (prenatal care, and women's health problems).
10. What do they mean by "primary care" and "urgent care" services? Urgent Care is a medical clinic that provides general medical services similar to a primary care doctor but works on a walk in basis. Examples of treatments include: Treatment for Flu, Cut your finger, fall down and break your wrist, sprained ankle. Urgent Care is open to the public and is a pay service either via insurance or patient direct payment.
11. What hours will these services be open? To Be Determined, 24 hours a day for some? To Be Determined, if the community needs these service 24 hours a day WAH could changes their hours to accommodate.

12. Why do they want to locate at Flower and Arliss? This location is central to the community WAH wants to provide services to. Way in which to bring services to community. Incorporates and implements visions of Long Branch Taskforce, ULI Tap Report and Park & Planning vision for revitalizing the area.

13. How did they choose Flower and Arliss? WAH has been extensively searching for a site to house these services in the Long Branch Community over the last two years. WAH looked at 50 possible sites before choosing the Flower & Arliss site,

14. Is it near their intended clients? Yes.

15. Who are their intended clients? The community in a five mile radius around this location is WAH's intended clients.

16. Is it chosen by default, i.e., developer driven? WAH has been extensively searching for a site to house these services in the Long Branch Community over the last two years. WAH looked at 50 possible sites before choosing the Flower & Arliss site. WAH contacted the developer directly and asked the developer to build the medical office building.

17. How will this building affect the surrounding area?

This building will be the first building proposed as part of the Master Plan redevelopment for the Long Branch Commercial Center. As such, it complies with the goals of the master plan proposed by the County. First, the building will place parking below grade and not visible from the street. Secondly, the building will anchor the corner of this commercial center, setting a reference point in terms of quality architectural & construction, a true Gateway to the Long Branch Community. Finally, in terms of traffic and circulation, the building will resolve a dangerous curb cut issue by removing the current entrance at the corner of Arliss and Flower and placing two site entries at the opposite corners of the site.

18. Some people have suggested that a WAH office building would "jump-start" economic development in Long Branch. What development do they expect to occur because of this building? From a development perspective the influx of money into a community begets new investments. An example would be Discovery Communications believing in Downtown Silver Spring. Once Discovery came, other businesses followed. The building will provide 90-110 new jobs in the Long Branch Community. The employees of these new jobs along with the clients using the building will patronize the Long Branch Commercial Center. This building will create a lunch/mid-day pedestrian traffic that doesn't currently exist.

19. Do they expect that nearby single-family homes and townhouses will be used for offices, labs, etc. If not, why not? The single family homes and townhouses could only be used for offices, labs, etc. if they get approval from Montgomery County for these uses in a residential zone.

20. Do they have any traffic safety concerns with two entrances so near the intersection? Why? Why not? We (Symmetra Design and A. Morton Thomas) do not have any traffic operational or safety concerns related to the location of the proposed site driveways. There are currently two curb cuts on Flower Avenue that provide access to the project site. The project would eliminate the closest curbcut on Flower Avenue and relocate it to Arliss Street at a greater distance from the intersection. The relocated driveway would allow for an improvement from existing conditions. The existing driveway on Flower Avenue that is located furthest from the intersection would remain. A sight distance evaluation of the driveways was completed as part of the preliminary plan application.

21. What county agencies and/or elected officials have they been meeting with and getting support from? We have met with Tom Perez, George Leventhal, Steve Silverman, Gary Stith, Roylene Roberts, Silver Spring Citizens Advisory Board, Melanie Isis, Long Branch Task Force Member Joe Rodriguez, Dave Niblock with Department Of Permitting Services, ULI Tap Study, County Executives Office and Park & Planning Staff.

22. What incentives are they requesting/expecting from Montgomery County? Washington Adventist Hospital is requesting grants in the amount of \$3,500,000.

23. Will use of this building be limited to those affiliated with WAH or will anyone be able to lease space? This building will be 100% leased by WAH.

24. Will WAH lease the entire building and sublet? Yes

25. Who will own/manage/staff urgent care center. The Urgent Care, Imaging Center and Womens Services Clinic (prenatal Care, and women's health problems) will be staffed by WAH. The General Medical Offices and the Surgical Center will be sub-leased by WAH and staffed by Private Doctors. The owner of the building will be the same owner of the Flower Avenue Shopping Center. Harvey Property Management will be the property manager .

26. What is the current Level of Service of the traffic at Flower and Arliss? Montgomery County uses Critical Lane Volume or CLV to assess the traffic operational conditions at intersections. CLV is based on peak hour turning movements, the number of lanes at an intersection, and the traffic control method (i.e. stop sign or traffic signal). A critical lane volume less than 1,600 is accepted by the Montgomery County Planning Board as the maximum critical volume for intersections within the Silver Spring/Takoma Park Policy area. The traffic level for the Flower and Arliss intersection is as follows:

Existing Critical Lane Volume (CLV) Results for the Flower Ave/Arliss Street
AM Peak CLV- 940, PM Peak CLV- 1096
Future Critical Lane Volume (CLV) Results for the Flower Ave/Arliss Street
AM Peak CLV- 950, PM Peak CLV- 1147

In both cases we are well within the acceptable limit.

27. Will the new traffic projected at this intersection now meet the warrants for a traffic light and can the installation be expedited? An engineering study of traffic conditions, pedestrian conditions, and physical characteristics of the location would need to be performed to determine whether installation of a traffic control signal is justified at this location (these studies are a little different than what was done for the adequate public facilities traffic study). A traffic control signal should not be installed unless one or more of the factors described in the Manual on Uniform Traffic Control Devices are met. Then if one or more of the warrants are satisfied, engineering judgment would need to be considered to determine the installation of a signal. Three of the warrants are based on vehicular traffic, one of the warrants is based on pedestrian volume, one of the warrants depends on proximity to a school crossing, and one depends on crash experience (others include coordinated signal system and roadway network). These factors would all have to be studied to determine if a signal is warranted at this location. At this time Park & Planning, Department of Public Works and State Highway have reviewed the project and not required additional traffic studies.

28. Will left-turning movements be allowed or prohibited from the proposed exits from the building? Left turn movements will be allowed from the proposed exits of the building. Left turn movements will be allowed at both site driveways in order to allow for full egress without causing unnecessary circulation and u-turns within the site vicinity. Left turn movements would only need to be eliminated if the movement would result in safety or operational concerns. The traffic projections and CLV analysis indicate there would not be operational issues. Also traffic signals at the adjacent intersections would allow for gaps in traffic to allow for left turns onto Flower Avenue during peak times of the day.

29. Can the architecture of the new building be required to be compatible with the architecture of the Flower Theater? The architectural concept for the building skin was to treat the building as two buildings, rather than one monolithic structure. This is accomplished by mixing two materials. The pattern of windows proposed is a soft pattern of vertical punched windows, in scale with the surrounding residential neighborhood. The primary exterior material, brick masonry, is used on many of the surrounding buildings and will allow the building to harmonize with its neighbors. Both in terms of scale and massing the building will be a good fit for its corner site. The building has been setback from its original location twenty feet from the street to twenty-nine feet. This setback is on Flower Avenue and Arliss Street. The building exterior design has been redesigned three times with the third redesign showing a building with 80% masonry/20% glass, up from the original design of 60% masonry/40% glass. The punch windows have been redesigned to have a more residential feel.

30. As the Center is to serve the community, can an OJT provision be required? WAH has in place an OJT program in all of their facilities.

Special
Issue

December
2005

Sligo Branviews

Newsletter of the Sligo Branview Community Association
SBCA listserv: <http://groups.yahoo.com/groups/sligobranview>

Calendar

Special Meeting to Vote on SBCA Response to Development Proposal

Wed. Dec. 7, 2005,
7:30 p.m. Long Branch
Library Meeting Room

Pay Dues to Vote

The debate about the Long Branch Medical Building proposal is open to every one. However, to vote on SBCA's official response to this issue, you must have paid your annual \$10 dues. See column page 4.

Long Branch Area Town Hall Meeting

Monday, Dec. 5, 7:30

Long Branch
Community Center,
7:30 p.m. Reception
8 p.m. Meeting
Sponsored by the
Montgomery County
Council. All Council
members are planning
to attend.



SBCA Holiday Party

Friday, Dec. 9,
7:30 to 10 p.m.
Highland View
Elementary School
See article page 4

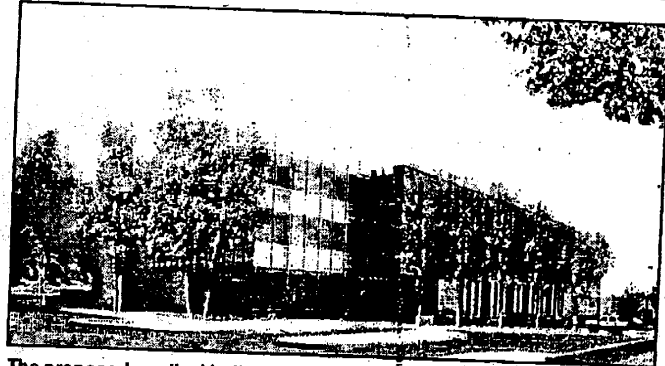
SBCA February General Meeting

Wed. Feb. 8, 7:30 p.m.
Long Branch Library

Long Branch Medical Building: Learn, Discuss, Vote on Dec. 7th

At the Dec. 7 special SBCA meeting on the Long Branch Medical Building, we will review, discuss and vote on a position regarding the proposal. Please come to learn more and vote.

The meeting will start with a review of the information the community learned at two recent SBCA meetings: the first on Oct. 26 with Geoff Morgan, vice president and chief operations officer of Washington Adventist Hospital (WAH), and the second on Nov. 9 when the featured speakers included property owner and developer Greg Fernebok, his architect and traffic-



Copyright: Shelton Baranes Associates

The proposed medical building will be at Flower Ave. and Arliss St.

study specialist, and representatives from Maryland National Capital Park and Planning Commission.

The agenda will allow time

for public comment and discussion of the proposal directed by a trained facilitator. Finally, those present will vote on an SBCA position. The position is not likely to be a simple yes or no, but a statement of conditions we would like to have met before we will endorse the building.

Continued on page 4

MNCCPC Approval Process

Where Does the Development Proposal Go From Here?

According to Maryland National Capital Park and Planning Commission (MNCCPC) site planner Mary Beth O'Quinn, the planning board will hold a public hearing on the proposed medical office building at Arliss St. and Flower Ave., and must issue its approval before the developer may apply for a building permit. No hearing has yet been scheduled.

Before the hearing, MNCCPC staff will prepare a report that contains recommendations intended to improve the project and to respond to community input. The report will be posted on the MNCCPC website 11 days before the hearing, at www.mc-mnccpc.org. At the hearing, the board will hear from MNCCPC staff, the public, the developer and the architect.

After the hearing, the board will issue an official opinion that includes any conditions the developer must meet.

Once the developer signs the approved document, all its terms and conditions will be legally binding on the developer.

Noreene Stehlik

Thanks to the volunteer staff of Sligo Branviews—residents who recognized that a variety of perspectives exist in the neighborhood and worked to put aside their personal opinions in an effort to give their neighbors as much unbiased and balanced information on this proposal as possible.

SBCA Finds Developer's Traffic Study Inadequate

Brett Roullier, an SBCA resident with degrees in urban planning and education, has worked for the DC Department of Transportation for 26 years. SBCA asked him to analyze the developer's traffic study and summarize his reactions in this report.

The developer's traffic study focuses on one aspect of traffic: critical lane vol-

Continued on page 4

Size, Impact, and Purpose of Proposed Building Concern SBCA Zoning Committee

The members of the SBCA zoning committee have expressed concerns about the proposed Long Branch Medical Building. The committee is co-chaired by Rose Crenca and Jeremy Schrefels and includes Joe Fisher, Marilyn Plety, Carol Richardson, and Brett Roullier. Following is a summary of their concerns.

The lot at Flower and Arliss is zoned C-1, which means it should be a neighborhood-serving commercial development. The Takoma Park/Silver Spring Commercial Revitalization Overlay Zone (CROZ) gives the Planning Board authority to increase or decrease some of the C-1 zone requirements under certain circumstances.

The code and master plan require that new development be "compatible with the adjacent neighborhood" in "height, bulk, building materials, setbacks, and landscaping."

The zoning code also says the purpose of the C-1 zone is "to provide locations for convenience shopping facilities in which are found retail commercial uses which have a neighborhood orientation and supply necessities usually requiring frequent purchasing with a minimum of consumer travel. Such facilities should ... reflect their neighborhood orientation [and] not be so large or so broad in scope of services as to attract substantial amounts of trade from outside the neighborhood."

Building Height: The maximum height allowed is 30 feet. The planning board may permit up to 42 feet if it finds the building is compatible with the neighborhood and consistent with the intent of the master plan. This building is proposed to have an average height of 40 feet.

Setback: Required setback is equal to the majority of lots fronting on that street. This plan appears to have a 10-foot setback; the majority of residential lots are set back about 25-30 feet. The commercial properties adjacent to the Flower-Arliss lot are set back about 75 feet and 40 feet. The planning board may reduce setback for a "mainstreet" type development. "Mainstreet" developments are retail shops next to wide sidewalks similar to typical main streets be-

Architect Robert Spon-seller, de-signer of the proposed Long Branch Medical Building, listens to a question from Rose Crenca, co-chair of the SBCA Zoning Committee.



fore the days of shopping malls.

Bulk and Building Materials: The proposed building would be about 195 feet wide on Flower, making it wider and taller than the row of seven townhouses on Arliss, which are about 140 feet wide and 25 feet tall. The proposed building materials are brick and glass facing Flower and glass facing Arliss.

Lighting, Signage, and Hours of Op-

eration: Sligo Branview has no information on plans for lighting or signage. However, plans include an urgent care center. Urgent care centers are open outside of normal business hours, late into the evening including weekends and holidays. Washington Adventist Hospital Chief Operations Officer Geoff Morgan said that the urgent care center would be open a minimum of 12 hours a day, but could be open as much as 24 hours a day, seven days a week. An urgent care center needs to be easily identifiable with both lighting and signage.

Pedestrian/Bicycle-Friendly, Sidewalks: The Master Plan says developments should "Enhance pedestrian and bicycle access to shops ... and other community facilities by providing a safe and attractive continuous system of sidewalks and paths"

Parking: Approximately 200 spaces will be provided for use by patients, their families and the building's 90 employees. Ramps would be 21 feet wide. There is no decision at this time about whether parking will be free or paid.

2000 Master Plan Recommendations for Development on Flower/Arliss Lot

Following are some points that the 2000 East Silver Spring Master Plan deemed important for residents' protection. The Commercial Revitalization Overlay Zone was applied to this site specifically to require a developer to consider these factors and to give neighborhood residents the ability and right to comment and even request special considerations or changes.

New development on the site should be compatible with the adjacent residential neighborhood. Consideration should be given to the views of homeowners that face the site across Flower Avenue, as well as the residential properties on Arliss Street.

Buildings on this site should be compatible with the adjoining residential neighborhood in terms of height, bulk, building materials, setbacks, and landscaping.

Townhouse development is appropriate on this site as a transition to the single-family residences located across Flower Avenue and Arliss Street.

Proposed development for this property must provide neighborhood-friendly pedestrian access.

The impact of illuminated signs, parking lots, bus stops, and second lights, as well as the combination of interior illumination levels and window sizes for the facing homes, should be minimized.

The impact of signage on the facing homes warrants particular attention with respect to size, color, and the amount and duration of illumination.

Developer, Architect Present Their Visions

At the Nov. 9th SBCA general meeting, Greg Fernebok, owner and manager of the Flower Avenue Shopping Center, LLC, and developer of the Washington Adventist Hospital (WAH) medical building proposed for the corner of Arliss Street and Flower Avenue, explained a few facts before turning the presentation over to the project's architect, Robert Sponseller.

Fernebok said his company has owned and managed the shopping center for over 21 years. The lot at the corner of Arliss Street and Flower Avenue was rezoned from residential to commercial (C-1) in 2000, and about a year ago WAH contacted Fernebok about developing this property, he said.

Robert Sponseller, principal architect with Shalom Baranes Associates, architects for the proposed project, described his plan for the three-story, 40-foot-high medical building with 57,000 square feet of space. Sponseller provided a 20-minute PowerPoint presentation and showed planned views, sectional views, and a color perspective.

Sponseller described his efforts to make the building more "pedestrian friendly." These include use of two different "skins" on the façade: glass on one section and a combination of brick and glass on the other section. The building also includes a variety of window sizes and random window placement. In addition,

the pedestrian entrance has been placed near the corner of the building at Flower and Arliss, while the heavy-activity areas, such as patient drop-off and the entrance to the urgent care center, have been located near the rear (Giant parking lot side) of the building.

The building will have three entry points: a pedestrian entrance on Flower Ave.; a patient drop-off point at the back of the building accessible from either Arliss or Flower; and an entrance through the underground parking lot. Entrance to the underground parking lot will be located at the back of the building, accessible from either Flower or Arliss. Approximately 200 parking spaces will be provided for patients, their families, and the building's anticipated 90 employees.

The parking lot currently on the property has been used in the past by worshippers attending the church housed in the old Flower Theater. If the medical building is approved and built, Fernebok said, worshippers will be allowed to park



Greg Fernebok answers questions from SBCA residents on Nov. 9.

for free during services.

The architect explained his elevations of the structures, showed the projected "shadow lines," and described how they will change throughout various seasons.

Drawings depicting the height relationships between the proposed medical building and the nearby structures were intended to be helpful, but some in the audience noted that they were inaccurate.

The project will incorporate 10 percent green space, including a grassy area along the Arliss St. side of the building where new street trees will supplement the existing landscape.

Cathy Washington

The Review Process May Be Contentious, but It's Good for Neighborhood, Says MNCPPC Rep

Gathering community input, negotiating with developers and analyzing community needs is contentious, but it's good for the community, according to Mary Beth O'Quinn, planner and coordinator with the Maryland National Capital Park and Planning Commission (MNCPPC).

If it weren't for the Commercial Revitalization Overlay Zone (CROZ) applied to the Flower/Piney Branch business area in the 2000 East Silver Spring Master

Plan, a developer could build whatever he wanted "simply by getting a building permit," says O'Quinn. Instead, the CROZ, which requires a site plan review and approval for all development in the area it covers, gives neighborhoods and the planning board a chance to be sure new development enhances rather than hinders economic growth and revitalization.

"This gives the neighborhood an opportunity to participate and the planning

board a chance to refine the design," explains O'Quinn, MNCPPC staff contact for the medical building project.

In analyzing a proposal, MNCPPC planners evaluate the building location and footprint, pedestrian and vehicular circulation, streetscaping, open spaces and setbacks, lighting, and compatibility with existing uses, says O'Quinn. Based on community input and staff recommendations, the MNCPPC planning board might

require physical or esthetic changes in a plan.

Mary Beth O'Quinn may be reached at marybeth.oquinn@mncppc-mc.org or 301-495-1322.

Beth Martin

Check It Out

Information about Montgomery County zoning codes is available at www.mc-mncppc.org/development/ourzoning/index.htm

The East Silver Spring master plan, adopted in 2000, is at www.mc-mncppc.org/community/plan_areas/silver_spring_takoma_park/master_plans/ess2/ess2_tot.htm

The Urban Land Institute report on the "superblock" bordered by Flower, Piney Branch, and Arliss is at http://www.residentinteractive.com/programs/module4_file_view_xfile_3500561

Beth Martin

Learn, Discuss, Vote

Continued from page 1

While no one in the neighborhood wants the public drunkenness on that corner to continue, residents disagree about the pros and cons of the proposal and many people are still forming their opinions. (See the box at right for a summary of some of the main ideas under discussion.)

The special meeting will be held Wednesday, Dec. 7 at 7:30 p.m. at the Long Branch Library in the upstairs meeting room.

Becky Lavash

Traffic Study

Continued from page 1

ume (CLV). The study projects that the development will generate 113 additional peak hour trips in the morning and 157 additional peak hour trips in the evening, with 28 percent of those drivers using the Franklin/Colesville intersection and 52 percent using the Piney Branch/University intersection. Currently both the Franklin/Colesville and University/Piney Branch intersections exceed the allowable traffic capacity and fail applicable traffic standards.

Although the Flower/Piney Branch and Arliss/Piney Branch intersections currently do not exceed CLV and the study does not project that they will, intersection flow could be compromised by all the turning movements that must be accommodated.

At a minimum, a level of service analysis should be completed for the Flower/Piney Branch intersection. This will not only let Sligo Branview community members know the current functional level of this intersection, it will also establish a baseline that can be used

Against the Proposal	For the Proposal
<ul style="list-style-type: none"> • Size: The plans call for a building that is taller than the 30-foot permitted in the Master Plan (see page 2) requiring a special exception from the planning board. Also, the 40-foot height of the proposed building is 15-20 feet higher than the houses that will face it. • Activity: Urgent care services are proposed for a minimum of 12 hours per day but could be extended to 24 hours per day. • Setback: The building is closer to the street than allowed in the Master Plan. • Parking: The building's proposed 200-plus parking spaces seem insufficient for the patrons of the building and the 90 predicted employees. • Traffic: The expected traffic increases seem unacceptable given current traffic concerns. • Appropriateness: Smaller, town-house style buildings would be more in keeping with the Master Plan. 	<ul style="list-style-type: none"> • Type of business: The medical services proposed for the building are more desirable than other businesses that could be built on that lot. • Service to community: Long Branch is medically underserved. The proposed medical services will help meet that need. • Property rights: The owner should be free to do as he wishes with his land. • Increased customer base: The employees and patrons of the building will shop at the other nearby businesses (the grocery and hardware stores, restaurants, barber shop, bank, liquor store, shoe store, etc.) The larger customer base could attract new business. • Neighborhood investment: We should welcome the millions of dollars that the developer and Washington Adventist Hospital are proposing to invest in the neighborhood.

for future evaluations.

Finally, no Saturday traffic analysis was undertaken. As the proposed medical building may be providing services on Saturdays, and community members have experienced heavy traffic congestion at this location on Saturdays, we would ask that a Saturday analysis also be provided.

The Master Plan also seeks "a safe, pleasant and convenient pedestrian and bicycle access to places people want to go." Flower Avenue is designated as a bikeway connector. A bikeway connector for the community on Flower becomes especially important in light of the Bi-County Transit Way proposal

that calls for a station at Flower/Piney Branch. However, there is no accommodation for bicycles in the medical building proposal nor is it given serious consideration in the traffic study. In fact, the traffic study references the bikeway in only one sentence as an on-road provision identified in the East Silver Spring Master Plan.

The increased traffic congestion and large number of motor vehicle turning movements resulting from the installation of an underground garage severely compromise bicycle safety adjacent to this project. The developer should include a design for a safe on-street bicycle lane alongside the project.

Pay \$10 Dues Now So You Can Vote at December 7th Meeting

Name: _____ Address: _____

Phone: _____ e-mail: _____

Make your check to "Sligo Branview Community Association." Mail your dues along with this form to: Joanne Weiss, 9222 Whitney St., Silver Spring, MD, 20901. Annual dues (Sept. through August) are \$10 per household. Dues may be paid at any time. Additional donations are gratefully accepted.

Comments: _____



Sligo Branch Views

NOVEMBER 2005

Newsletter of the Sligo Branch Community Association
SBCA listserve: mailto:groups.yahoo.com/group/sligobranch

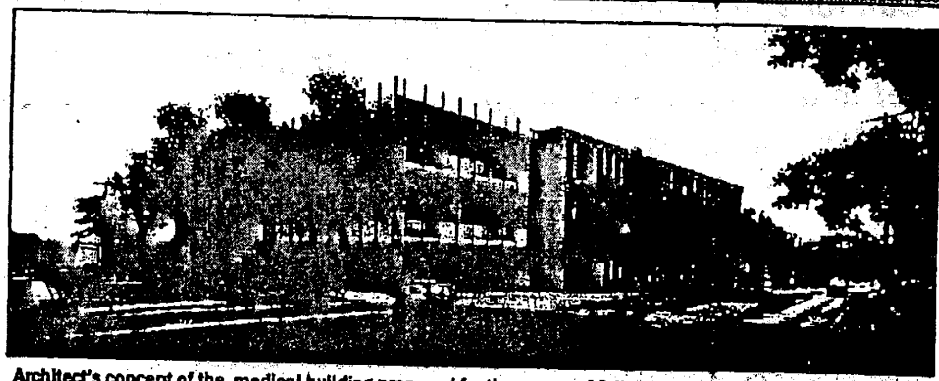
Next SBCA Meeting
Wednesday
Nov. 9, 2005
Catholic Center Branch
Library Meeting Room
Sagamore Branch
Pages 1-3 bottom left

One Mile Bar
of call
703-587-8857
weather related
information

Forum on Gang and
Youth Violence
Sat. Nov. 6
5pm-7pm
Sligo Middle School
See article page 5



SBCA Holiday Party
Friday, Dec. 9
7:30pm-10:00pm
Highland View
Elementary School
See article page 4



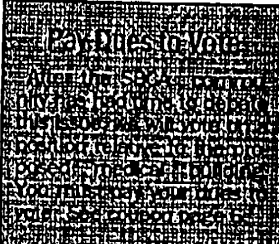
Shalom Baranes Associates

Architect's concept of the medical building proposed for the corner of Arliss Street and Flower Avenue.

Neighbors Grill WAH Vice President about Proposed Medical Building

Geoff Morgan, VP and Chief Operations Officer of Washington Adventist Hospital (WAH), attended a special two-hour community meeting on Oct. 26 to address neighborhood concerns and answer questions about WAH's proposal to build a medical building at Flower and Arliss. WAH would master-lease and sublet to the tenants, but the three-storey, 42-ft. tall building would be built and owned by the Flower Avenue Shopping Center LLC, the current owner of the shopping center. Greg Fernebok, one of the owners as well as the manager, also attended the meeting.

Morgan said the hospital needs at least 50,000 sq. ft. for:



- primary care (doctors' and dentists' offices),
 - an urgent care center,
 - ambulatory care (Outpatient Surgical suites),
 - a women's health clinic,
 - labs, x-ray and other imaging (CT, MRI, etc.).
- The facility will provide

more office space for WAH doctors since there is not enough room on their current 16-acre campus. Most hospitals have 25 to 30 acres, he said. Shady Grove Adventist, for instance, has 35 acres.

The proposed facility is also part of WAH's plan to meet the needs of the medically underserved population within its primary service area, a five-mile radius around Flower and Carroll where the hospital is located now, said Morgan. A "medically underserved" area is one which has a high number of uninsured or underinsured persons as well as a high percentage of persons covered by Medicaid or Medicare.

Community members had a variety of questions for Morgan and Fernebok, which are summarized below.

Medical Building Developer and Architect Top SBCA Nov. 9 Agenda

This month's meeting will feature further discussion of the proposed medical building at the corner of Arliss and Flower.

Greg Fernebok, owner and manager of the Flower Avenue Shopping Center and developer of the WAH medical building proposed for the site will be on the agenda, as

will Mary Beth O'Quinn, planner and coordinator with the Maryland National Capitol Park and Planning Commission (MNCPPC). Fernebok will also bring along his architect, Robert Sponeseller of Shalom Baranes Associates, to discuss the details of the building design.

Can't WAH use some of its current campus for these facilities when they move their hospital?

Morgan said that WAH must sell its current campus to pay for its new facilities. Whether the current campus will be used for housing, condos or offices has not yet been

Continued on page 3

From Road Improvements and Local Gardens to Proposed Office Construction – We're Growing

- **Call for volunteers: one hour per month**
- **Flower Avenue traffic calming construction set to begin late in October**
- **WAH's proposed development at Arliss Street and Flower Avenue**
- **Group votes to become 'Priority Place'**
- **Speaker offers gardening tips for this area**

Approximately 50 Sligo Branview community members, including several new residents, came to the first meeting of the 2005-06 season. Mary Cogan welcomed all those in attendance to the meeting, and emphasized the association's ongoing commitment to building community.

Call for Volunteers

A number of neighborhood improvements have been completed, are underway, or are planned in the future; these activities portend positive things ahead for our community. However, crime and poverty continue to be issues in and around the area, and combating these problems will require the ongoing commitment and active involvement of every resident. Mary encouraged everyone to think about giving one hour a month to the SBCA. Volunteer your time at one of the upcoming community events, attend community action meetings, or contribute your talent or resources. To get involved, contact a member of the board, (contact information on page 6) or just come to the next community meeting!

Treasurer's Report

Treasurer Joanne Weiss reported that the association had \$300 in net income last year. Of approximately 900 residents in the community, about 190 households paid dues last year. Dues help fund activities like the Halloween Parade and the Holiday Party, as well as the newsletter. To pay your dues, use the form on page 6 of the newsletter, or

use PayPal through the listserv (see address on page 1 under the masthead).

Flower Traffic Calming

Mary gave an update on the upcoming traffic calming construction on Flower Avenue. Construction is scheduled to begin in late October and should last about 2 weeks; construction will not occur during morning or evening rush hours. The sections of Flower that intersect East Melbourne and East Hamilton will be modified with traffic chokers on the east side of the street. This will shorten crossing distance for pedestrians and will improve sight distance for cars pulling out onto Flower.

Flower/Arliss Development

Joe Fisher and Carol Richardson urged community members to attend a special meeting on Wednesday, October 26 with the president of Washington Adventist Hospital to discuss plans to construct an office building on the corner of Flower Avenue and Arliss Street. This proposed building may set the tone for future development in the area, and it is imperative that our voices are heard. Carol asked everyone to become a "person of record" in this process. Please visit the listserv to learn about why this is important and how to register.

Priority Place

Meeting attendees agreed to support a Department of Housing and Community Affairs "priority place" request on behalf of the Sligo Branview community.

This is a government designation that will help prioritize state funding and provide access to planners for future development efforts. Joe will draft a letter for Mary's signature to be sent to the department, stating our interest in being declared a priority place.

Gardening in our Area

Susan Harris, Master Gardener and President of the Takoma Park Horticultural Club, was the guest speaker. She brought a number of handouts and shared valuable tips and information about gardening in our area. Susan explained some of the mistakes gardeners might make, like choosing small plants before large ones (larger plantings are needed to provide structure for a garden), planting only one of everything, and crowding plants in the garden.

Susan also shared some low maintenance tips:

- Water deeply, not frequently,
- Plant in the fall, while plants have time to establish their root system,
- Choose drought-tolerant plants,
- Don't plant in pots—these require too much watering,
- Commit to weeding for one-half hour every week.

If you are interested in joining the Takoma Park Horticultural Club, visit www.takomahort.org or send a \$12 check made out to THC to Wendy Bell, 7211 Willow Avenue, Takoma Park, MD, 20901.

SBCA minutes by Stephanie Singer

Opinions Needed

We want to know what you think!
 Give us feedback about our Sligo
 Branview community events
 SBCA's 2005-06 calendar
 2005-06 calendar
 Share your ideas, suggestions
 you will
 Sligo Branview
 Community

WAH Medical Building

Continued from page 1

decided. WAH wants to buy a 25-30 acre site for its new campus which will have space for a 300-bed acute hospital and about 250,000 square feet of office space. Morgan said WAH's goal is to complete the new hospital by 2010.

Why not use other Adventist-owned land in Takoma Park or at Carroll Avenue and University Boulevard?

Morgan said WAH does not own either property.

Will there be any government subsidy for this building?

Morgan said that funds have been requested from the county but that he "couldn't speak to that."

What is an urgent care center? What would its hours be?

According to Morgan, an urgent care center is a free-standing clinic that sees patients that a doctor's office can't handle but that are not at the level of an emergency room visit, such as simple fractures (fingers) and sutures.

Urgent care centers have longer hours than most doctors' offices, but no decision has yet been made about hours for the proposed center. Morgan said this center could be open 16 to 24 hours depending on community need.

Why has WAH not come to Sligo Branview to discuss their plans?

Morgan said the project was approved by Adventist Health Care "only a month ago." An audience member pointed out that the date shown on the preliminary site plan was August 17, 2005, and there had to have been some time before that when architects and others were working on the plan. Morgan agreed that WAH has been working closely with the developer for some time. He said WAH welcomed SBCA's invitation to speak.

Morgan also stated that the president of WAH had met with the Long Branch Task Force and received their endorsement. However, Sligo Branview members, who had been members of the Long Branch Task Force, pointed out that that "meeting" was a short presentation during which WAH merely said it would like to locate an office building "somewhere" in the Long Branch service area. SBCA members also said there was no substantive discussion about a specific site or details about the building and its services beyond providing "medical offices." Long Branch Task force members also pointed out that the Long Branch Task Force was a county-appointed body

composed of many different stakeholders; not a substitute for direct outreach to the community.

If approved, when would the office building at Flower and Arliss be built? In about two years.

Why not include this office space in the new hospital?

It might take longer than 2010 to get the new hospital built, Morgan said, and WAH wants this space sooner.

Why is the building located so close to the street where it would be intrusive to homes across the street?

Building location is dictated by the site. There is no other feasible location for it on this site.

The 2000 Master Plan indicates this area has an existing traffic problem, and the current volume has necessi-

tated "traffic calming" on Flower. How much might traffic increase as a result of this new project?

Fernebok said his independent traffic consultant [Symmetra Design] conducted a study of "Critical Lane Volume" during peak-hour turning movements and found that the roads can handle the traffic that might be generated.

Will the proposed two levels of underground parking simply create a new haven for the people who hang out drinking, sleeping, etc. on shopping center property now? And will it be safe?

Fernebok said the parking lot would be equipped with a monitored gate that will be locked when the building is closed.

Will it be paid parking?

"That isn't decided yet," Fernebok said.

Compiled by Marilyn Piety, Carol Richardson, and Joe Fisher



Pictured above, Park Clean-up Day chair Joanne Weiss (left), Regina Thomas, and others braved the rain to collect trash. At right, costumed kids from the neighborhood played at Fire Engine Park following their parade.



Photos by Bruce Weiss and Beth Martin

Twenty Bags of Trash, Dozens of Hobgoblins—October Was a Scary Month for Long Branch

It was hard to tell which was scarier in October—Sligo Branview's ghosts and goblins in the Halloween parade or the 20 bags of trash that neighborhood volunteers pulled out of Long Branch Creek and the surrounding park.

On Saturday, October 22, a group of Park Clean-Up Day volunteers that included Michael Cohen, David Cohen, Cathy Shields, Cindy Stock, Regina Thomas, Ed Weber, Bruce and Joanne Weiss worked despite the dis-

mal rainy weather to clean up the area around Long Branch Library.

"I do believe the litter is increasing," Ed Weber, a Clean-Up day veteran, commented on the SBCA listserv. "If we were to shorten the time between pick ups maybe the end result would be less litter and a cleaner park."

Thanks to Joanne Weiss for organizing this year's effort.

A week later, on Sunday, Oct. 30, nearly 300 neighborhood kids, adults and dogs gathered in Upper Long Branch (Fire Engine) Park for the annual SBCA Halloween Parade and Party.

"It's grown every year," said Sarah Neally, who organized the first two Halloween parades in 2001 and 2002.

Thanks to this year's party and parade organizers Cgri Vanchieri and Debra Wall. Great job!

Sidewalk on Flower Avenue; One Family's Success Story

If you catch the #19 bus from the Silver Spring metro, you may have noticed a change in your evening commute—the bus stop at the intersection of Wayne and Flower now has a sidewalk!

The Montgomery County Department of Public Works and Transportation (DPWT) installed a sidewalk on the east side of the 8900 and 9000 blocks of Flower Avenue last month. The project came about as the result of residents'

petitions and actions in support of sidewalks on their street.

Mara Youdelman and her husband, Brian Hopkins, are two of the Flower Avenue residents who were instrumental in securing the sidewalk on Flower between Wayne Avenue and Schuyler Road.

"We had been concerned about the safety of pedestrians on the east side of Flower for some

time," says Mara. "Anyone walking on that side of the street was taking their life into their own hands."

In fall 2004, as they were distributing flyers about the proposed speed table project on Flower, Brian and Mara began conducting a poll to assess their neighbors' interest in a new sidewalk. In the end, everyone on their block (9000) signed a petition in support of the sidewalk.

Armed with unanimous block agreement and a letter of support from the Sligo Branview Community Association, they approached the Division of Capital



Photo by Beth March

Mara Youdelman and Brian Hopkin's efforts to get a sidewalk along Flower Avenue paid off. Now they feel safe walking Jacob in front of their house.

Development (the section within DPWT that oversees sidewalk construction). Thanks to the earlier efforts of residents on the 8900 block of Flower, DPWT had already scheduled sidewalk construction on that section of Flower between Arliss Street and Wayne Avenue so DPWT agreed to continue the sidewalk to Schuyler Road.

"We feel safe walking in front of our house now," Mara says. "I can take my son outside for a stroll and not have to worry about being run over by a wayward car."

Or the Metro bus, for that matter.

Stephanie Singer

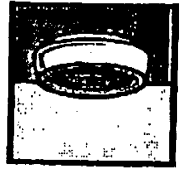
Sidewalks, Street Lights, Speed Tables
How to Get What You Want

...information on various...
 ...DPWT by phone...
 ...301-224-7270...
 ...for a guide to County services...
 ...call the DPWT... (240) 777-7065...
 ...branch—called Resident's Guide...

Forethought Now Can Keep Your Family and House Safe from Cold-Weather Fire Hazards

With cold weather here, now is the most important time of year for a home safety check up.

- Be sure to change the batteries, vacuum the dust and test your smoke detector monthly. If it is more than 10 years old, seriously consider replacing it. There should be a working smoke detector on every level of your home!



- Make sure your chimney has been properly cleaned before use and have a working Carbon Monoxide (CO) detector in your home.

- Make sure any space heating device has adequate room in front so as not to ignite anything. Follow all of the manufacturer's recommendations for use.

Every year, people in Montgomery County are seriously injured because these simple steps are not followed!

Go to www.mcfs.org and click on "Safety in our Neighborhood" for more information or contact Brock Cline at 301-920-0402.

Brock Cline



A year-long renovation of Oak View Elementary School has given students a new sense of pride in their school and a healthier learning environment, according to Principal Peggy Salazar. The renovation includes:

- enough classroom space to move the music, ESOL and Special Ed classes inside the building and get rid of the portables;
- an enlarged kitchen and cafeteria, a new computer lab, four new classrooms, and offices for resource personnel;
- new administrative offices, staff lounge and health room.

Oak View Students and Staff Return to a Larger, More Healthful Building Following \$5-million Renovation

When students and teachers returned to Oak View Elementary School this fall after a year-long hiatus in temporary quarters, they walked into a building that was familiar, yet significantly different. Built in 1948, the Oak View building had not undergone any major improvements since 1985. It was badly in need of work when the student body moved out after the 2003-04 school year. Students were bused to temporary quarters at Fairland Elementary School off U.S. 29 for the 2004-05 school year.

Now the building has a new entrance and administrative offices, updated ventilation, sprinkler and security systems, enough new classrooms so that no classes have to meet in portables, and an enlarged kitchen, cafeteria and computer lab.

"Montgomery County was also very generous with money for furniture and equipment," says Principal Peggy Salazar, who has been at the school since 2001. The school has been outfitted with new equipment in every room, she explains, adding, "This boosts the morale of the teachers and students. They really do deserve to have nice, new things."

And the students have responded, Salazar continues. "The kids very well respect their new space. There really is a new atmosphere in the building, an air of 'we're really serious now, we're getting down to business and we have to take care of our nice new building.'"

That new atmosphere extends beyond the students' attitudes, however, to a healthier environment for the building's

inhabitants. One of the major goals of the work was to abate a mold and mildew problem that plagued the school. When workers dug up the outside walls to waterproof the ground floor they discovered that each classroom had an open pipe leading to the outside, part of an abandoned ventilation system that had never been capped. And when they stripped the inside walls to add a new heating system, they discovered damp, moldy insulation that had never dried after a roof problem was fixed several years ago. "We had

wondered why the building was making us all sick," says Salazar, adding that this year the incidence of colds and absenteeism is definitely down.

"As a small school in a neighborhood, we were very lucky," observes Salazar. "A lot more work was done than originally planned."

Still to be done are a renovation of the playground, landscaping in front and a clean-up of the back end of the property where woods have attracted dumping.

Beth Martin

Bring a Dessert to Share

You're Invited—Holiday Plans Feature Two Groups of Neighborhood Musicians

Music will set the mood at the SBCA's fourth annual holiday party on Dec. 9th, 7:30 to 10 p.m. at Highland View Elementary School. Two local groups of musicians will perform: Five-n-Time, acappella singers, and Whitney-Wire, who play instrumental folk music. Those who wish to folk dance are welcome!

"This party is a great way to meet neighbors without an agenda," says Joanne Weiss, who is organizing this year's celebration.

Everyone in the neighborhood is invited to attend the party. Bring a

dessert to share. Cookies and other "portable" foods are the preferred items. Drinks will be provided.



Please volunteer to help with set up (starting at 6:30 on the night of the event), clean-up (from 10-10:30 p.m.)

decorating, or hospitality. E-mail Joanne Weiss at jbw78@1977.usna.com or call her at (301) 587-9233.

Concerned About Gangs and Violence? Attend Nov.5th Forum

The SBCA is looking for six to 10 volunteers interested in learning more about youth violence and gangs in the Long Branch area to attend a community forum on the topic. The forum is scheduled for Saturday, Nov. 5th at Sligo Middle School on Dennis Avenue from 9:30 a.m. to 1 p.m. and will feature



a variety of local and national officials. A light lunch will be included.

Sponsored by

Tom Perez, Montgomery County Council President, the forum will include presentations by the county Department of Health and Human Services, the police department and the public schools. County Executive Doug Duncan and Chief Tom Manger of the Montgomery County Police Department will be on hand, as will Congressman Chris Van Hollen, who has been asked to discuss the federal government's role in responding to gang violence and securing federal funds for the Crossroads Youth Opportunities Center.

County officials will examine the Joint Task Force report on gangs and youth violence and discuss the underlying

causes of the problem. They will also cover the impact of youth violence on public safety and recommend solutions. The Montgomery County Schools will explain their prevention and intervention strategies to safeguard students.

Facilitated break out sessions will be led by Montgomery County Public School Study Circles.

The forum is open to anyone concerned about gang prevention and youth

violence. If you can attend on behalf of SBCA, contact Mary Cogan at (301) 588-7771 or via e-mail at mary.cogan@verizon.net.

You can pre-register by e-mailing calltoaction2005@yahoo.com.

For more information about the forum, contact Victor B. Salazar at (240) 603-3238, or via e-mail at either cptvictor03@netzero.com or at vsalazar@fandhlaw.com.

2005-2006

How to Contact SBCA Officers

The SBA Board consists of four trustees, two elected each year to serve two-year terms.

Brock Cline, Wire Avenue, brockcline@starpower.net

Becky Lavash, East Schuyler Avenue, becky58a@yahoo.com

Jeremy Schreifels, Flower Avenue

Officers serve one-year terms. The 2005-2006 officers include:

Mary Cogan, President, Mintwood Street, mary.cogan@verizon.net

Joe Fisher, Vice President, Wilmer Street

Joanne Weiss, Treasurer, Whitney Street

Carol Richardson, Recording Secretary, Flower Avenue,

crichardson_2000@yahoo.com

Cathy Washington, Corresponding Secretary, Wilmer Street

Support your community—Pay your \$10 annual dues *now!*

Name: _____ Address: _____

Phone: _____ e-mail: _____

Make your check to "Sligo Branview Community Association." Mail your dues along with this form to: Joanne Weiss, 9222 Whitney St., Silver Spring, MD, 20901. Annual dues (Sept. through August) are \$10 per household. Dues may be paid at any time. Additional donations are gratefully accepted.

Comments: _____



CHECKLIST Site Plan / Project Plan Review

Plan # 820060080 Name: Long Branch Medical Bldgs.

Zone: C-1/CRD2 Tract Area: .91 ac. Proposed Use: med. ofc.

Number of Units: - Square Footage: 55,800 sf

Development Method: _____ Other: _____

Referral Comments:

M-NCPPC	Staff		Date		Other Agencies	
	Staff	Date	Staff	Date	Staff	Date
Transportation	✓	2.16.06	MTA	12.22.05	MTA	
Environmental	✓	12.1.05	DPS (SWM)	7.13.05	✓	
Community Planning	✓	2.16.06	DPS (Traffic)	9.12.05	✓	
Historic Planning	NA		Public School	NA	NA	
Park Planning	NA		Utility			
Research/Housing	NA		Fire & Rescue	1.20.06	✓	
			DPW & T			

Development Standards / Requirements

- Zoning Requirements
- Development Data Table
- Recreation Calculation
- MPDU Calculation
- TDR Calculation
- Timing/Phasing Conditions
- Building Restriction Lines
- Building Height
- Master Plan Conformance

Prior Approvals

- Development Plan
 - Record Plat
 - Preliminary Plan
 - Prior Site Plan Approvals
- concurrent

Community Input

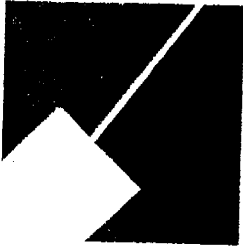
- Civic Association
- Individuals

Supervisor Review: R.A.E. 2.24.06

Chief Review: _____



M-NCPPC



MONTGOMERY COUNTY DEPARTMENT OF

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

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

ATTACHMENT FIVE

Date Mailed: SEP 26 2006

Public Hearing Date: March 9, 2006

Action: Approved Staff
Recommendation

Motion of Commissioner Bryant,
seconded by Commissioner Robinson,
with a vote of 3-1;
Chairman Berlage and Commissioners
Bryant and Robinson voting in favor.
Commissioner Wellington voting
against, and Commissioner Perdue
necessarily absent.

MONTGOMERY COUNTY PLANNING BOARD

OPINION

Preliminary Plan No. 120060240 (formerly 1-06024)
NAME OF PLAN: Long Branch Medical Building

The date of this written opinion is SEP 26 2006 (which is the date that this opinion is mailed to all parties of record). Any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this written opinion, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules of Court – State).

I. INTRODUCTION

On August 18, 2005, Flower Avenue Shopping Center, LLP ("Applicant") submitted an application for the approval of a preliminary plan of subdivision of property in the C-1 zone. The application proposed to create one (1) lot on 0.91 acres of land located in the Flower Village Center at the southeast quadrant of the intersection of Flower Avenue and Arliss Street ("Property" or "Subject Property"), within the *2000 East Silver Spring Master Plan* area and the Takoma Park/East Silver Spring Commercial Revitalization Overlay Zone. The application was designated Preliminary Plan No. 120060240 (formerly 1-06024) ("Application" or "Preliminary Plan"). On March 9, 2006, the Preliminary Plan was brought before the Montgomery County Planning Board for a

public hearing.¹ At the public hearing, the Montgomery County Planning Board heard testimony and received evidence submitted in the record on the application.

The record for this Application ("Record") closed at the conclusion of the public hearing, upon the taking of an action by the Planning Board. The Record includes: the information on the Preliminary Plan Application Form; the Planning Board staff-generated minutes of the Subdivision Review Committee meeting(s) on the Application; all correspondence and any other written or graphic information concerning the Application received by the Planning Board or its staff following submission of the Application and prior to the Board's action at the conclusion of the public hearing, from the Applicant, public agencies, and private individuals or entities; all correspondence and any other written or graphic information issued by Planning Board staff concerning the application, prior to the Board's action following the public hearing; and all evidence, including written and oral testimony and any graphic exhibits presented to the Planning Board at the public hearing.

II. SITE DESCRIPTION

The Subject Property, identified as "Part of Lot 20," is located in the Flower Village Center in the southeast quadrant of the intersection of Flower Avenue and Arliss Street. The confronting properties to the west across Flower Avenue (MD 195), a State highway with a 70-foot wide right-of-way, consist of two-story, single-family detached homes in the R-60 zone. To the north, across Arliss Street, which is classified as a business street with a 70-foot wide right-of-way, the confronting properties consist of one (1) two-story single-family detached home, which faces Flower Avenue and, further east, a row of eight town homes in the RT-12.5 zone. Adjacent property to the east is developed with a Giant grocery store and large surface parking lot. Directly south of the Subject Property is a two-story single-family detached building, zoned C-1, which houses a dental appliance business. Further south is El Gavilan Restaurant, the former Flower Theatre, which is now occupied by a church, and various retailers in the Flower Village Center, including a County liquor store.

The Property contains a total tract area of 0.91 acres, is zoned C-1, and is located within the *2000 East Silver Spring Master Plan* ("Master Plan") area and the Takoma Park/East Silver Spring Commercial Revitalization Overlay Zone ("CROZ" or "Overlay Zone").

¹ At the hearing, the Planning Board reviewed both this Application as well as Site Plan No. 820060080 (formerly 8-06008) for the same project.

III. PROJECT DESCRIPTION

The Application proposes the creation of one (1) lot for the construction of a building that will support medical-related uses, with an area of 55,800 square feet, which is slightly less than the area recommended for the approved traffic study.² Access to the site will be from Arliss Street and Flower Avenue directly. The Applicant avers that the proposed building will be occupied by Adventist Health Care, Inc ("Tenant"). As demonstrated in materials submitted by the Applicant, it is not uncommon for office buildings to be located on the edge of commercial districts across from single-family residential uses. As Planning Board staff ("Staff") concluded in its memorandum to the Planning Board dated February 24, 2006 ("Staff Report"), the proposed use is permitted under the current zoning and is consistent with the revitalization goal of the CROZ and the Master Plan.

Under the CROZ, site plan review is required to help achieve development that is consistent with the vision and design guidance in the Master Plan. Although the Applicant did not request a reduction for the Subject Property, the Planning Board has the authority to reduce setbacks to accomplish Master Plan objectives. Under the CROZ, the Planning Board also can approve building heights in excess of the normal 30-foot limit in the C-1 zone. The Board may approve building heights up to 42 feet, for commercial development, upon findings of compatibility with the neighborhood and consistency with the intent of the Master Plan. The project proposes a building height of 40 feet.

IV. SUMMARY OF TESTIMONY AND EVIDENCE IN RECORD

At the public hearing, Staff recommended approval of the Application based on the findings and subject to the conditions listed in it's the Staff Report. Staff reminded the Board that the Applicant had reduced the size of the proposed building from 57,900 square feet to 55,800 square feet. The Applicant, represented by legal counsel, generally concurred with Staff's findings and conditions. Several individuals, including representatives of the Tenant, the County Executive, and local organizations, offered testimony in support of the Application.

A number of citizens, including members of the SBCA, offered testimony in opposition to the Application. The citizens' concerns primarily focused on the compatibility of the proposed building with the surrounding residential neighborhood, especially with regard to height and mass, the adequacy of proposed parking facilities, the impact of the development on local traffic volume, and the project's overall conformance with the Master Plan and the CROZ. A few citizens, expressed concern that the proposed development will be regionally focused, asserted that the Master Plan calls for a

² The originally proposed building size of 57,900 square feet served as the basis for the traffic study. See "Transportation" below.

neighborhood-serving use on the Subject Property. Further, some citizens noted ambiguity concerning the proper definition of the proposed building and the nature and scope of the medical services to be provided.

The Record contains several letters and e-mails submitted by the individuals and organizations that offered testimony at the hearing as well as concerned citizens who could not attend. The correspondence focused primarily on the points highlighted by the various speakers at the hearing.

V. FINDINGS

Having given full consideration to the recommendations of its Staff, which the Board hereby adopts and incorporates by reference; the recommendations of the applicable public agencies;³ the Applicant's position; and other evidence contained in the Record, which is hereby incorporated in its entirety into this Opinion, the Montgomery County Planning Board:

- a) Finds, pursuant to Montgomery County Code Section 50-35(l), that Preliminary Plan No. 120060240 (formerly 1-06024) substantially conforms to the *2000 East Silver Spring Master Plan*.

Pursuant to the *East Silver Spring Master Plan*, approved and adopted in December of 2000, the Subject Property was rezoned from R-60 to C-1/CROZ. The rest of the block was rezoned from C-2 to C-1/CROZ. The entire block bounded by Flower Avenue, Piney Branch Road, and Arliss Street was consolidated as the commercial core for Long Branch and now features uniform commercial zoning. Whereas the earlier *1977 Silver Spring-East Master Plan* described the Subject Property, then zoned R-60, as a buffer between the adjoining neighborhood and the C-2 property in Long Branch, the *2000 East Silver Spring Master Plan* on page 76 describes Arliss Street as representing "a transition area between the townhouses on the north side of the street and the commercial retail activity of the Flower Village Center." The Master Plan further recommends that Arliss Street be streetscaped to improve its role as a transitional element.

The Master Plan on page 39 describes the Flower Village Center as "a major neighborhood center and community focal point for neighborhoods in both

³ The application was referred to outside agencies for comment and review, including the Washington Suburban Sanitary Commission (WSSC), the Montgomery County Department of Public Works and Transportation (MCDPWT), and the Montgomery County Department of Permitting Services (MCDPS), and the various public utilities. All of these agencies recommended approval of the application.

East Silver Spring and Takoma Park." The Master Plan further notes on page 29 that sensitivity needs to be shown when adding land uses next to commercial centers by providing that "[n]ew or expanded structures should be sensitive to the character and the scale of adjoining neighborhoods. Buildings should not be significantly larger than nearby structures."

Staff concluded in its Staff Report that the Subject Property, because it was rezoned to C-1/CROZ, comprises part of the commercial center and does not represent a new use to be located next to a commercial center. Nevertheless, the Master Plan provides specific guidance to ensure that the Subject Property is developed in a way that is sensitive to the nearby neighborhood. For example, the Master Plan contains illustrations on page 40 depicting various potential ways to achieve the street-oriented development recommended by the Plan. The proposed building resembles alternative C in these illustrations, which were included as Attachment C to the Staff Report.

In addition, the Master Plan states, on page 39, that "[c]onsideration should be given to the views of homeowners that face the site across Flower Avenue, as well as the residential properties on Arliss Street."⁴ The Master Plan then identifies a number of factors affecting the compatibility of new development on the Subject Property with the adjoining residential neighborhood, including height, bulk, building materials, setbacks, and landscaping, which are discussed below. The Board incorporates herein its findings on compatibility and consistency with the master plan, which are contained in the Planning Board's Resolution for the accompanying Site Plan, No. 820060080. Those findings are supplemented by the Board's master plan conformance findings below.

1. Height and Bulk: Although the Master Plan states that townhouse development on the Subject Property would be appropriate as a transition to the residences across Flower Avenue and Arliss Street, the Board concludes that townhouses are not the only type of development that would be appropriate for the Property. The Board concurs with Staff's position that other types of buildings could also be appropriate if designed to be compatible with the adjacent residential neighborhood. Staff advised the Board that, although the proposed building will be clearly identifiable as an office building, it has been designed with two wings to avoid

⁴ The Master Plan further notes on page 39 that the recommendations listed thereon pertain specifically to site plan review. Staff, however, analyzed these particular recommendations in both its Preliminary Plan and Site Plan Staff Reports.

appearing as a monolithic structure; building articulation and materials will be used to break up the building mass.

The Master Plan provides that the purposes of the CROZ shall be achieved, in part, by limiting building heights to 30 feet. As mentioned previously, however, the Planning Board may permit building heights up to 42 feet for commercial development if the Planning Board finds the proposed development "to be compatible with the neighborhood and consistent with the intent of th[e] Master Plan."⁵ The proposed building will be 40 feet in height. Flower Avenue slopes downward as it approaches Piney Branch Road; and, therefore, the roof of the proposed building will be approximately 20 feet taller than the top of the Flower Theatre.

Furthermore, the roof will be 15 feet higher than the peaks of the roofs on the single-family detached homes across Flower Avenue and 12 feet higher than the peak of the roof on the home across Arliss Street. Staff advised the Board that this is an acceptable height difference given (a) the 115-foot distance between the face of the proposed building and the existing single-family detached homes across Flower Avenue and (b) the 115 to 120-foot distance between the face of the proposed building and the homes across Arliss Street. The distance between the face of the proposed building and the homes on the north side of Arliss Street increases as one moves east from Flower Avenue. In addition, Staff mentioned in the Staff Report that the Applicant's shadow study demonstrates that the building will not significantly impact the homes across either street or other commercial structures.

2. Setbacks: Although they are permitted in the CROZ, the Applicant has not requested any setback reductions. On the contrary, the building has been pushed back further than the required 10-foot setback along the two street frontages, providing an opportunity for additional landscaping along the edges. The proposed building setback along Flower Avenue aligns with the face of the Flower Theater down the block. The illustrations on page 40 of the Master Plan depict proposed buildings on the Subject Property located close to the street.
3. Location of the Building on the Site and Entrances to the Building: The siting of the proposed structure within the Property is consistent with the location recommended in Figure 2.C. of Master Plan, at page 40. Additionally, the proposed building and the main entrance to the building are oriented to the street as called for by the Master Plan.

⁵ Master Plan at 37.

4. Neighborhood-Friendly Pedestrian Access to the Building: Staff advised the Board that, in its expert opinion, the main entrance to the proposed building is at an appropriate location on Flower Avenue. The Board concurs. An existing concrete pedestrian refuge on Flower Avenue will facilitate pedestrian crossings to the proposed building. Pursuant to the streetscape recommendations contained on page 76 of the Master Plan, the proposed project includes a "neckdown" on Arliss Street at Flower Avenue. This feature will facilitate a shorter crossing distance on Arliss Street for Long Branch residents who may wish to walk to the proposed building or the other uses in the commercial core. The retention of on-street parking along Arliss Street also serves to buffer pedestrians from vehicles.

The Master Plan streetscape recommendations also call for shared-use--i.e., pedestrian and bicyclist--sidewalks along Flower Avenue. The Application proposes a 15-foot-wide sidewalk (11 feet clear at the tree pits), which will accommodate both pedestrians and bicyclists. This shared-use sidewalk will facilitate access to the proposed building as well as other uses on the block. A Class III bike route (signed, shared roadway) is also recommended on Flower Avenue. The Site Plan includes bike storage facilities at an appropriate location.

5. Vehicular Circulation and Parking on Site that is Sensitive to Pedestrians: An existing curb cut on Flower Avenue near the corner of Flower Avenue and Arliss Street will be removed to improve safety. Vehicular access points will be limited to a single entrance on Flower Avenue and a single entrance on Arliss Street, both of which will be located away from the Flower/Arliss intersection and at opposite corners of the site. Drivers who cannot find surface parking behind the proposed building will be able to go directly into structured parking. A covered patient drop-off area that is internal to the site will remove the drop-off function from adjoining roadways.

As recommended on page 39 of the Master Plan, the parking for the proposed building does not "separate the building from the street." The location of the proposed building screens both the parking and the loading area from the residential uses across Flower Avenue and Arliss Street.

Arliss Street and Flower Avenue are business streets with 70-foot minimum rights-of-way. No additional dedication is required.

6. Landscaping: The mature street trees along Flower Avenue will be preserved or replaced in kind. As noted by Staff in the Staff Report, the proposed landscaping along Flower Avenue and Arliss Street will make it

more enjoyable to walk along both streets while the landscape materials along the building frontages will add color and variety throughout the year.

7. Building Materials: Testimony and evidence of record shows that approximately 80 percent of the proposed building's façade will be masonry, primarily brick, with vertical punch out windows typical of residential construction for the purpose of breaking up the mass of the building. The remaining portion will feature a glass corner curtain wall.
8. Illumination: The Applicant proposes to provide an architectural shading system for the proposed building along both street frontages. This shading system will significantly reduce the transmission of interior lighting to the exterior of the building after sunset.
9. Signage: Rather than using the neon signage typical of commercial buildings, the proposed building will use backlit signage to minimize its intrusiveness.

The Board finds, with regard to proposed land uses next to commercial centers, that the Master Plan at page 29 recommends that "[n]ew or expanded structures should be sensitive to the character and the scale of adjoining neighborhoods" and that proposed buildings "should not be significantly larger than nearby structures." Acknowledging Staff's position that the Application does not entail a new use, the Board nonetheless finds that the Master Plan requires that any new development demonstrate sensitivity to the existing adjacent residential neighborhood.

The Board further finds, although the recommendations listed on page 39 of the Master Plan pertain specifically to site plan review, that the Application demonstrates sufficient "consideration . . . to the views of homeowners that face the site across Flower Avenue, as well as the residential properties on Arliss Street[.]" and is compatible with the adjacent residential neighborhood with regard to factors such as height, bulk, building materials, setbacks, and landscaping. As stated above, the Board expressly incorporates herein its findings on compatibility that were made as a part of the Board's approval of the concurrently reviewed site plan application. The Record contains testimony and correspondence from citizens and community groups expressing concern regarding the compatibility of the proposed building with the surrounding residential neighborhood. The Board finds, however, that the Applicant participated in meetings with the SBCA and altered its Application by lowering the height of the proposed building, increasing setbacks, and incorporating more masonry in the façade, among other changes. Based on the foregoing, the Board finds that the proposed building is compatible with

the adjacent neighborhood; and, therefore, is in substantial conformance with the Master Plan.

The Board notes that the Master Plan, at page 76, describes Arliss Street as "a transition area between the townhouses on the north side of the street and the commercial retail activity of the Flower Village Center." The Board finds that there are several examples throughout the County of compatible commercial structures separated from existing adjacent residential development by rights-of-way deemed to serve as transition areas. The Board finds that the transition area represented by Arliss Street, as well as the distance between the proposed facility and the faces of the residential units across Flower Avenue, adds to the compatibility of the project.

The Board further finds, based on the above, that the 40-foot height proposed for the development is compatible with the neighborhood and consistent with the intent of the Master Plan and is thus appropriate pursuant to the recommendation on page 37 of the Master Plan allowing for building heights of up to 42 feet for commercial development in the CROZ.

The Board also finds that the proposed development will be primarily a neighborhood-serving facility to the extent required by the Master Plan. The Board finds that the local neighborhood will fall within the "catchment area" of the proposed facility, with respect both to the provision of medical services and the accrual of economic benefit.⁶ Several citizens had testified that the proposed facility will primarily serve the greater region and not the local neighborhood, thereby going against the recommendations in the Master Plan. Among other recommendations for enhancing commercial centers in the East Silver Spring area, the Master Plan on page 36 provides the following:

- Recognize that the Silver Spring Central Business District is a community-oriented downtown for the surrounding residential neighborhoods, including East Silver Spring, and, therefore, additional commercial zoning in East Silver Spring is generally not appropriate. Revitalization of the existing commercial areas will better serve the local neighborhoods.

Several citizens pointed to the recommendation quoted above in arguing that commercial development on the Subject Property should be limited to

⁶ In dissenting from the Board's approval of the Application, Commissioner Wellington asserted, among other concerns, that the proposed building would be incompatible with adjacent development and would not be primarily neighborhood-serving.

neighborhood-serving uses only. In addition, citizens referred the Board to the purposes of the C-1 Zone as stated in Code § 59-C-4.340, which provides in part:

It is the purpose of the C-1 zone to provide locations for convenience shopping facilities in which are found retail commercial uses which have a neighborhood orientation and which supply necessities usually requiring frequent purchasing with a minimum of consumer travel. Such facilities should be located so that their frequency and distributional pattern reflect their neighborhood orientation. In addition, such facilities should not be so large or so broad in scope of services as to attract substantial amounts of trade from outside the neighborhood.

The Board finds that the provisions cited above must be considered within the full context of the Master Plan recommendations. For example, the Master Plan on page 36 sets forth the following recommendations:

- Rezone the R-60 property at the southeast quadrant of Flower Avenue and Arliss Street to C-1.
- Include all commercially zoned land at Flower Village and at Clifton Park Crossroads in the Commercial Revitalization Overlay Zone (CROZ).

The Board finds that the Master Plan recommendation that "additional commercial zoning in East Silver Spring is generally not appropriate" does not apply to the Subject Property because the Master Plan specifically recommends such rezoning in the preceding recommendations. Furthermore, the Board finds that the Master Plan envisioned the possibility of commercial development beyond a neighborhood-serving scope by recommending support for, among other things, "a diverse range of commercial services in East Silver Spring, such as . . . regionally serving businesses." Master Plan at 36 (emphasis added). Moreover, the purpose clause of the C-1 Zone merely recommends that facilities not be "so large or so broad in scope of services as to attract substantial amounts of trade from outside the neighborhood." The Board finds no evidence in the record demonstrating that the proposed facility is so large or will provide such a broad scope of services that a substantial number of its users will be from outside the neighborhood. On the contrary, the Board heard testimony from the President of the Washington Adventist Hospital that the County commissioned a study, which identified the subject location as being in need of the type of service proposed and that it was his expectation that the primary users of the facility would be from the Long Branch community.

Community Based Planning Staff advised the Board at the Hearing that there is no requirement in the Master Plan that the subject site be developed with an exclusively neighborhood-serving use.

Based on the foregoing, the Board finds that the Master Plan does not limit commercial development on the Subject Property to a neighborhood-serving scope; and, additionally, that the proposed facility, through its mix of uses and pedestrian-friendly features, will serve both local and regional populations, as recommended by the Master Plan.

- b) Finds, pursuant to Montgomery County Code Section 50-35(k), that public facilities will be adequate to support and service the area of the proposed subdivision.

The Board finds, based on the approved traffic study, that local roads will be adequate to support and service the proposed facility. A Local Area Traffic Review (LATR) study was performed to determine the impact of the proposed development on the adjacent transportation infrastructure. Based on the original proposal for 57,900 square feet of medical office space, the LATR revealed that the development would generate 143 AM peak hour trips and 215 PM peak hour trips during regular weekday peak periods.

Four intersections adjacent to the development were selected for analysis: Flower Avenue at Wayne Avenue; Flower Avenue at Arliss Street; Flower Avenue at Piney Branch Road; and Arliss Street at Piney Branch Road. There were no previously approved projects located nearby to be included within the calculation of background traffic Critical Lane Volume (CLV) levels for the intersections under study.

As shown in the table included on page 6 of the Staff Report, all of the subject intersections are estimated to operate within the established Silver Spring/Takoma Park CLV threshold of 1,600 vehicles.

- c) Finds, based on uncontested evidence of record and pursuant to Montgomery County Code Section 50-29(a)(1), that the size, width, shape, and orientation of the proposed lot are appropriate for the location of the subdivision.
- d) Finds, based on uncontested evidence of record, that the Application is exempt from the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A, as per the Environmental Planning Staff memorandum dated June 24, 2005 and captioned No. 4-05333E.
- e) Finds, based on uncontested evidence of record, that the Application meets all applicable stormwater management requirements and will provide

adequate control of stormwater runoff from the site. This finding is based on the determination by MCDPS that the Stormwater Management Concept Plan meets MCDPS standards.

- f) Finds that all other objections not raised prior to the closing of the Record are waived.

VI. CONDITIONS OF APPROVAL

Finding Preliminary Plan No. 120060240 (formerly 1-06024) in accordance with the purposes and all applicable regulations of Montgomery County Code Chapter 50, the Planning Board APPROVES Preliminary Plan No. 120060240 (formerly 1-06024), subject to the following conditions:

- 1) Approval under this preliminary plan is limited to a 55,800 gross square foot office building
- 2) No clearing or grading prior to site plan signature set approval.
- 3) Final approval of the location of the building, on-site parking, and site circulation will be determined at site plan.
- 4) A landscape and lighting plan must be submitted as part of the site plan application for review and approval by Technical Staff.
- 5) Site Plan No. 820060080 (formerly 8-06008) shall be approved by the Board and signed by Development Review Staff prior to the approval of the record plat.
- 6) Road dedication as shown on Preliminary Plan to be reflected on record plat.
- 7) Compliance with conditions of MCDPWT letter dated December 2, 2005, unless otherwise amended.
- 8) Compliance with the conditions of approval of the MCDPS Stormwater Management approval dated July 13, 2005.
- 9) The Adequate Public Facility (APF) review for the Preliminary Plan will remain valid for sixty-one (61) months from the date of mailing of the Planning Board opinion.
- 10) Other necessary easements.

This Preliminary Plan will remain valid for 36 months from its Initiation Date (as defined in Montgomery County Code Section 50-35(h), as amended). Prior to the expiration of

this validity period, a final record plat for all property delineated on the approved Preliminary Plan must be recorded among the Montgomery County Land Records or a request for an extension must be filed.

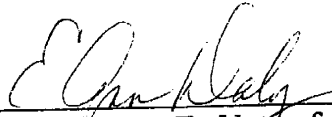
* * * * *

RAW

APPROVED AS TO LEGAL SUFFICIENCY
1 AB
M-NCPPC LEGAL DEPARTMENT
DATE 8/29/06

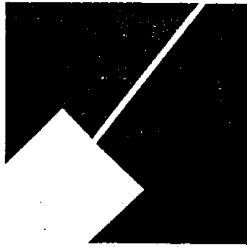
CERTIFICATION OF BOARD ADOPTION OF OPINION

At its regular meeting, held on **Thursday, September 7, 2006**, in Silver Spring, Maryland, the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission, **ADOPTED** the above opinion, on motion of Commissioner Bryant, seconded by Commissioner Wellington, with Commissioners Bryant, Robinson, and Wellington voting in favor, and with Chairman Hanson and Commissioner Perdue abstaining. This Opinion constitutes the final decision of the Planning Board and memorializes the Board's findings of fact and conclusions of law for **Preliminary Plan No. 120060240, Long Branch Medical Building.**



Certification As To Vote of Adoption
E. Ann Daly, Technical Writer

M-NCPPC



MONTGOMERY COUNTY DEPARTMENT OF

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

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

ATTACHMENT SIX

SEP 28 2006

MCPB No. 06-13
Site Plan No. 820060080
Long Branch Medical Building
Date of Hearing: March 9, 2006

MONTGOMERY COUNTY PLANNING BOARD

RESOLUTION¹

WHEREAS, pursuant to Montgomery County Code ("Code") Division 59-D-3, the Montgomery County Planning Board ("Planning Board" or "Board") is required to review site plan applications; and

WHEREAS, on August 18, 2005, Flower Avenue Shopping Center, LLP ("Applicant") filed an application for approval of a site plan for 55,800 gross square feet of medical office space on 0.91 gross acres of C-1-zoned land located in the southeast quadrant of the intersection of Flower Avenue and Arliss Street in the Flower Village Center and within the *2000 East Silver Spring Master Plan* area and the Takoma Park/East Silver Spring Commercial Revitalization Overlay Zone ("Property" or "Subject Property"); and

WHEREAS, the Applicant's site plan application was designated Site Plan No. 820060080 (formerly 8-06008), Long Branch Medical Building ("Application"); and

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and the staffs of other governmental agencies, on March 9, 2006, Staff presented the Application to the Planning Board at a public hearing ("Hearing") for its review and action;² and

WHEREAS, on March 9, 2006, the Planning Board concurrently considered Preliminary Plan No. 120060240 (formerly 1-06024) for the Subject Property ("Preliminary Plan"), and approved the Preliminary Plan subject to conditions before acting on the Site Plan; and

¹ This Resolution constitutes the written opinion of the Board in this matter and satisfies any requirement under the Montgomery County Code for a written opinion.

² The Planning Board reviewed this Application concurrently with Preliminary Plan No. 120060240 at the Hearing.

WHEREAS, prior to the Hearing, on February 21, 2006, Staff had issued a memorandum to the Board setting forth its analysis and recommendation for approval of the Application subject to certain conditions ("Staff Report" or "Report"); and

WHEREAS, at the Hearing, the Planning Board heard testimony and received evidence submitted for the record ("Record") on the Application and approved the Application on the motion of Commissioner Bryant, seconded by Commissioner Robinson, with a vote of 3-1, Chairman Berlage and Commissioners Bryant and Robinson voting in favor of the motion, Commissioner Wellington voting against the motion, and Commissioner Perdue being necessarily absent.

NOW, THEREFORE, BE IT RESOLVED THAT, pursuant to the relevant provisions of Code Chapter 59, the Montgomery County Planning Board APPROVES Site Plan No. 820060080 for a maximum of 55,800 gross square feet of medical office space on 0.91 gross acres in the C-1 Zone and the Takoma Park/East Silver Spring Commercial Revitalization Overlay Zone, subject to the following conditions:

1. Preliminary Plan Conformance

The proposed development shall comply with the conditions of approval for Preliminary Plan No. 120060240 reviewed concurrently with the subject Site Plan.

2. Building Height

The building shall be built in strict conformance with Site Plan No. 820060080 and shall be no more than 40 feet in height measured from the top of the curb at the midpoint of the site frontage facing Arliss Street to the high point of the flat roof, as depicted on Sheet A.04 of the Shalom Baranes Associates plans dated February 16, 2006.

3. Architecture

The building shall be constructed in substantial conformance with the architectural plans and elevations prepared by Shalom Baranes Associates, as revised and dated February 14, 2006, and February 16, 2006, and as subsequently amended to include additional architectural details to establish a sympathetic relationship with the nearby Flower Theatre.

4. Transportation Division Memo

The proposed development is subject to the conditions set forth in the M-NCPPC Transportation Planning Division memorandum dated February 16, 2006.

5. Signature Set

Prior to signature set approval of Site and Landscape/Lighting Plans, the following revisions shall be included and/or information provided, subject to staff review and approval:

- a. Provide a designated pedestrian route from the parking garage to Flower Avenue and the surrounding retail area. The pedestrian route shall be separated from vehicular travelways and will provide a safe route from the underground parking garage to the businesses along Flower Avenue.
- b. The top of building elevation and all building and yard setbacks from the Development Data Table shall be clearly shown on the Site Plan.
- c. Provide construction details for the enlargement of the existing tree pits along Flower Avenue and a detail of the tree pit, including an amended soil panel, and ground cover planting.
- d. Provide the streetscape treatment along Arliss Street as proposed by the Department of Housing and Community Affairs and as approved by the Department of Public Works and Transportation.
- e. Demonstrate that the driveway aprons will be constructed using exposed aggregate concrete for a continuous treatment within the Flower Avenue and Arliss Street rights-of-way.
- f. Add another shade tree 30 feet on center north of the last proposed shade tree along Flower Avenue.
- g. Replace the Zelkovas along Flower Avenue with a flowering tree.
- h. Provide construction details for retaining walls, special pavement areas, signage, lighting, railings, bike racks, etc. All facades of retaining walls above grade shall be brick clad.
- i. Provide the proposed spacing for all shrubs in the plant list.

- j. Demonstrate that all light fixtures shall be full cut-off fixtures or shall be able to be equipped with deflectors, refractors or reflectors on all fixtures causing potential glare or excess illumination, specifically on the perimeter fixtures abutting the adjacent residential property.
- k. Locate required bicycle and motorcycle parking on the Plans.
- l. Provide the internal green area calculations on the Site Plan and show that the minimum requirements of one shade tree for every 350 square feet of internal green area have been provided.
- m. Ensure that all trees planted over structure will have enough soil volume to encourage growth and maintain the health of the trees.
- n. Add special paving, such as stamped concrete, to the island in the parking lot and at the building's entrance from the parking lot.

6. Signage

All illuminated signage shall be backlit and located as shown on the approved Site Plan. Details of the signage shall be added to the Signature Set. The pedestrian route from the underground parking structure to Flower Avenue shall be clearly signed.

7. Public Parking

The parking garage will have an attendant, and will be available to the public at all times that the building is open.

8. Building Glare

Mecho shades will be used on all building windows along Flower Avenue and Arliss Street.

9. Forest Conservation

The property is exempt from the Forest Conservation requirements by letter dated June 24, 2005.

10. Stormwater Management

The proposed development is subject to Stormwater Management Concept approval conditions dated September 8, 2005.

11. Development Program

Applicant shall construct the proposed development in accordance with the Development Program. A Development Program shall be reviewed and approved by M-NCPPC staff prior to approval of signature set of site plan. The Development Program shall include a phasing schedule as follows:

- a. All elements of the Site Plan, except for the street trees and streetscape treatment, shall be completed prior to issuance of the occupancy permit. Applicant shall provide the use and occupancy permit to M-NCPPC staff in order to inspect the site for streetscape, including the street trees, streetlights and pavers, as well as on-site landscaping, lighting, and paver materials.
- b. Street tree planting for Flower Avenue and Arliss Street shall progress as site construction is completed, but no later than six months after completion of the building.
- c. Clearing and grading shall correspond to the construction phasing, to minimize soil erosion.
- d. Phasing of dedications, stormwater management, sediment/erosion control, pedestrian paths, trip mitigation or other features.

12. Clearing and Grading

No clearing, grading, or demolition prior to M-NCPPC approval of signature set of plans.

BE IT FURTHER RESOLVED, that all site development elements shown on Long Branch Medical Building plans stamped by the M-NCPPC on February 16, 2006, shall be required except as modified by the above conditions of approval; and

BE IT FURTHER RESOLVED, that this Resolution incorporates by reference all evidence of record, including maps, drawings, memoranda, correspondence, and other information; and

BE IT FURTHER RESOLVED, that, having given full consideration to the recommendations and findings of its Staff, which the Board hereby adopts and incorporates by reference, and other evidence contained in the Record, which is hereby incorporated in its entirety into this Opinion, the Montgomery County Planning Board FINDS:

1. *The site plan is consistent with an approved development plan or a project plan for the optional method of development if required.*

The Planning Board finds that the Application is exempt from this requirement insofar as the C-1 Zone requires neither a development plan nor a project plan.

2. *The site plan meets all of the requirements of the zone in which it is located, and is consistent with an urban renewal plan approved under Chapter 56.*

The Planning Board finds that the Application meets all of the standards and requirements of the C-1 Zone, as modified by the Takoma Park/East Silver Spring Commercial Revitalization Overlay Zone ("CROZ"). In its Staff Report, Staff presented a data table, which listed the Zoning Ordinance development standards requirements for the C-1 Zone and the CROZ and the development standards proposed for approval. The Board finds, based on the aforementioned data table and other relevant information contained in the Staff Report describing the requirements of the C-1 Zone and the CROZ, Staff and Applicant Hearing testimony, and letters submitted into the record by the Applicant, from its counsel and a representative of the Department of Permitting Services. The development standards approved by the Planning Board are set forth below:

APPROVED DEVELOPMENT STANDARDS

<u>Development Standard</u>	<u>Approved by Planning Board for Site Plan No. 820060080 and Binding on Applicant</u>
<u>Lot Area</u>	
Tract Area	0.91 ac. (39,657 sf)
Gross Lot Area (ac)	0.91 ac. (39,657 sf)
Public Dedication: Flower Avenue	
Public Dedication: Intersection Truncation	0.007 ac. (312.49 sf)
Net Lot Area	0.90 ac. (39,344.51 sf)
<u>Density</u>	
Building Coverage (footprint)	18,600 sf
Building Area (building sf)	55,800 sf
<u>Green Area</u>	
Green Space %	18% (7,143 sf)
Internal Parking Lot Green Space	11% (776 sf)
Impervious Area	82% (32,514 sf)
<u>Building Height</u>	40 feet

Building Setbacks (linear feet)

Street Front:

From Flower Avenue	18'-6"
From Arliss Street	Varies, min. 11'-0"

Other Lot Lines:

Setback	
Yard Dimensions (east)	10'-0"
Yard Dimensions (south)	25'-0"

Parking (Based on office, general office, and professional buildings or similar uses: 2.4 spaces/1,000 sf³)

Automobile	190
bicycle/motorcycle spaces	12/4

Pursuant to Code § 59-C-18.213, all development in the CROZ "must comply with the standards and requirements of the underlying zone, except as modified by the [CROZ]." Of relevance to this Application, the CROZ modifies the standards of the C-1 Zone with respect to building height. Specifically, and in relevant part, Code § 59-C-18.213(c) provides that, within the CROZ, building height is limited to 30 feet; "[h]owever, the Board may allow a building height . . . up to 42 feet for commercial development . . . if the Planning Board finds that such buildings are compatible with the neighborhood and consistent with the intent of the applicable master plan. The *2000 East Silver Spring Master Plan* ("Master Plan"), which recommended the creation of the CROZ, contains similar language on page 37. As discussed in detail below, the Planning Board finds that the proposed building is both compatible with the surrounding neighborhood and consistent with the intent of the Master Plan, and that a building height of 40 feet is thus permissible. Evidence of record suggests that the measuring point for the height of the building will be on Arliss Street. Staff advised the Board that, because the subject property is a corner lot, the measuring point for height may be measured from either Flower Avenue or Arliss Street. The Board concurs with the Staff position and concludes that the height of the building may be measured from Arliss Street; and, therefore, the Board finds that the proposed building meets the requirements of the CROZ with respect to height notwithstanding the fact that the actual height above grade may exceed 42 feet at certain points along Flower Avenue and other locations.

With respect to conformance with Zoning Ordinance parking requirements, the Board finds, based on evidence and testimony of record, that the Staff Report

³ As per Code Sections 59-E-3.7, and 59-E-3.2.

utilizes the correct standard for calculating the minimum parking requirement. That standard, of 2.4 spaces per 1,000 gross square feet, is contingent on the classification of the use as "office, general office, and professional buildings or similar uses." Code § 59-E-3.7. Among the evidence relied upon in arriving at its position on the adequacy/conformance of parking question is the position of the Department of Permitting Services, which was articulated in two letters to the Applicant's counsel, and the testimony of Staff at the Hearing, both of which are discussed below.

3. *The locations of the buildings and structures, the open spaces, the landscaping, recreation facilities, and the pedestrian and vehicular circulation systems are adequate, safe, and efficient.*

The Planning Board finds that the locations of the building and structures, the open spaces, the landscaping, recreation facilities, and the pedestrian and vehicular circulation systems proposed in the Application, as amended by the conditions, are adequate, safe, and efficient.

- a. Building and Structures

The Planning Board finds that the location of the proposed building, as amended by the conditions, is adequate, safe, and efficient. The Subject Property is located in the southeast quadrant of the intersection of Flower Avenue and Arliss Street. Both streets feature 70-foot rights of way. The confronting properties to the west consist of two-story single-family detached homes, while the confronting properties to the north include one two-story single-family detached home and a row of eight townhouses. Adjacent properties to the south and east feature commercial and retail uses. The Property currently is developed as a surface parking lot.

Acknowledging the mix of uses in the Flower Village Center, the Master Plan states on page 39 that "[i]t is important that new development contribute to a unified, coordinated, street-oriented treatment" for the portion of Flower Avenue bounded by the Subject Property. Illustrations on page 40 of the Master Plan depict acceptable locations for buildings and parking on the subject site; the location of the proposed building closely resembles the design portrayed in Illustration "C". The building is sited on the Subject Property to align with the existing commercial buildings along Flower Avenue. In response to community concerns, the Applicant has increased the setbacks for the building and provided an improved streetscape and garden area at its base.

b. Open Spaces

The Planning Board finds that the location of the open spaces, as amended by the conditions of approval, is adequate, safe, and efficient. The Application proposes that approximately 18 percent of the site will consist of green space, exceeding the 10 percent minimum required for green area the C-1 Zone under Code Section 59-C-4.344. The green space consists largely of a landscape garden area at the foundation of the building along the Flower Avenue and Arliss Street frontages, a landscape strip, and an internal parking lot landscape area. The entrances to the building will include areas with special paving and bicycle racks.

The proposed stormwater management concept consists of on-site water quality control via a separator sand filter. Onsite recharge is not required since this project is considered to be a redevelopment. Channel protection also is not required because the post development peak discharge is less than or equal to 2.0 cfs.

c. Landscaping and Lighting

The Planning Board finds that the landscaping and lighting, as amended by the conditions, is adequate, safe, and efficient.

Landscaping

The landscaping features new streetscape planting, foundation planting around the base of the building on the Flower Avenue and Arliss Street frontages, and perimeter landscape strip planting on the southern and eastern lines of the Subject Property. All above-grade portions of the retaining walls will be clad with brick on both sides.

The streetscape along Flower Avenue will be improved by replacing the aging Bradford Pear trees and by enlarging the tree pits and modifying the planting soil. The existing exposed aggregate paving will be continued across the proposed driveway entrances to form a continuous pedestrian zone along the street. The Application retains the current street lighting along Flower Avenue. An existing electrical pole, however, will be removed.

Staff informed the Board that the Montgomery County Department of Housing and Community Affairs ("DHCA") has developed a new streetscape treatment for Arliss Street. The treatment consists of panels

of scored concrete panels within exposed aggregate concrete bands, street trees placed approximately every 30 feet on center, and decorative streetlights installed every 60 feet on center. Staff advised the Board that the Applicant will use the standards as approved by DPWT.

Lighting

The Master Plan provides on page 39 that “[t]he impact of illuminated signs, parking lots and street and façade lights, as well as the combination of interior illumination levels and window sizes on the facing homes, should be minimized.” The lighting plan addresses safety and security issues within the site and seeks to mitigate negative glare onto the adjacent properties. On-site lighting consists of a mix of freestanding fixtures in the surface parking lot, wall-mounted fixtures on the south and east facades, recessed lighting in the building overhang, and street lighting. The Applicant will provide all of the windows facing Flower Avenue and Arliss Street with light-filtering Mecho shades. In addition, the Applicant asserts that it will require the building’s cleaning crew to draw the shades every evening as part of their contract.

d. Recreation Facilities

The Planning Board finds that the Application is exempt from this requirement, as recreation facilities are not required for non-residential development.

e. Pedestrian and Vehicular Circulation Systems

The Planning Board finds that the pedestrian and vehicular circulation systems, as amended by the conditions, are adequate, safe, and efficient. Although specifically targeted at redevelopment within the Flower Village Center, the Board notes that the Master Plan on page 39 requires both “neighborhood-friendly pedestrian access” and “vehicular circulation and parking that is sensitive to on-site pedestrian circulation”. The Master Plan further provides that “[p]arking should not separate the building from the street.” With regard to the CROZ, the Master Plan also states, on page 39 that:

future development with site plan review will provide for increased flexibility regarding parking requirements and, therefore, greater likelihood that properties can be developed to the full extent allowed within the commercial zone.

Finally, Code Section 59-C-4.345 generally requires that C-1-zoned land feature off-street parking pursuant to Code Article 59-E.

The Board finds that the Application encourages the development of active urban streets and improves the quality of the pedestrian environment by enhancing the streetscape as prescribed in the new DHCA streetscape standards and envisioned by the Master Plan. The Application provides for a total of 190 parking spaces, with 24 spaces located on a small surface lot and the balance in an underground parking garage. The surface parking lot is located behind the building and is partially covered by the upper floors of the northern wing of the building. Three entrances provide vehicular access to the site, including ingress and egress from Flower Avenue, near the southern boundary of the Subject Property, ingress and egress from Arliss Street, near the eastern boundary, and ingress via an existing access drive from an adjacent parking lot to the south.

A main entrance off Flower Avenue, a rear entrance from the surface parking lot, and an elevator and stairs from the underground garage allow for pedestrian access to the building. Anticipating that patrons of the commercial center may park in the parking garage during times of heavy use, the Application provides for egress through the southwest corner of the building from the P-1 level of the parking garage to the Flower Avenue sidewalk. The streetscape improvements along Flower Avenue and Arliss Street mentioned above, along with a "neckdown," to be added near the intersection of the two streets, facilitate pedestrian access between the adjacent residential neighborhood and the commercial center.

The Board notes that the Record contains a contested issue regarding the provision of parking in the Application. Several citizens submitted letters and offered testimony indicating that the Application failed (a) to account adequately for the loss of parking resulting from the conversion of the Subject Property from its current developed state as a surface parking lot and (b) to provide parking sufficient to satisfy the requirements of either a "medical office building" or a "clinic." The Applicant, in both its testimony at the Hearing and in its March 8, 2006 letter submitted for the Record, countered the former claim by, among other things, citing the results of the parking analysis it had commissioned.

With regard to the latter point, both the Applicant and those citizens contesting its parking calculation referred to a February 15, 2006 letter from the Montgomery County Department of Permitting Services (DPS) to the Applicant (the "DPS Letter"), contained in the Record, which states

that the Applicant is required to provide a minimum of 134 parking spaces for its project. According to the DPS Letter, the building proposed for development falls most appropriately under the category of "Offices, professional and business" in Code Section 59-C-4.2 as a permitted use in the C-1 Zone. Based on this use, DPS determined that the Applicant's building fits within the definition of "Office, general office, and professional buildings or similar uses" provided in Code Section 59-E-3.7. Pursuant to that provision and Section 59-E-3.2, DPS concluded that the Applicant is required to provide a minimum of 2.4 parking spaces per 1,000 gross square feet, which in this instance equals 134 spaces.

Opposing testimony challenged the DPS calculations on the basis that the proposed building does not constitute a "professional and business" office, "general office," or "professional building," but rather more closely resembles a "medical office building," "medical or dental clinic," or "clinic," as those terms are defined in Code Section 59-A-2.1. Under Code Section 59-E-3.7, a "medical or dental clinic" requires five parking spaces per 1,000 gross square feet. Based on these provisions, the speakers asserted that the Applicant is required to provide 279 parking spaces for its project. Other citizens emphasized the impact that the development would have on local traffic patterns.

At the Hearing, Staff advised the Board that it agreed with the interpretation regarding the building's use provided by DPS in its two letters to the Applicant. Staff observed that the proposed building contains a mix of uses (offices, urgent care center, imaging center, primary care office) and is not properly defined as a clinic, which, in Staff's opinion is a building filled with examination rooms where users made appointments and there was frequent patient turnover. Staff asserted that this building will not have the constant patient turnover that a traditional clinic would experience; for example, the surgery center, the imaging center, and the urgent care center all involve longer stays than one would experience in a traditional clinic with examination rooms. A representative of the Applicant, the President of the Washington Adventist Hospital confirmed Staff's view that, given the mix of uses, patient turnover in the proposed facility would be lower than in a traditional medical office.

In its March 8, 2006 letter, the Applicant claimed that the building would be characterized by a mix of uses and, as such, could not be defined simply as a "medical or dental clinic." In addition, the Applicant proffered a revision to one of the conditions of approval to allow public access to the underground parking garage at all hours that the building is open.

Based on the above-discussed testimony and other relevant evidence of record, and having considered the conflicting views contained therein regarding the proper classification of the building's use, the Planning Board concludes that the Staff recommendation and analysis with respect to the appropriate use category and the related parking requirement is correct; and, therefore, the Application provides adequate off-street parking.

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

The Planning Board finds that the proposed building and its use, as amended by the conditions, are compatible with other uses and other site plans and with existing and proposed adjacent development. The Master Plan notes on page 29 that sensitivity needs to be shown when adding land uses next to commercial centers by providing that "[n]ew or expanded structures should be sensitive to the character and the scale of adjoining neighborhoods" and that "[b]uildings should not be significantly larger than nearby structures." The Master Plan recommends that, during the Board's compatibility analysis at site plan review, consideration should be given to the views from residential properties confronting the Flower Village Center across Arliss Street and Flower Avenue; and, specifically, attention should be paid to compatibility relative to the adjoining residential neighborhood "in terms of in terms of height, bulk, building materials, setbacks, and landscaping. To achieve compatibility, the Master Plan also calls for any proposed redevelopment of the Flower Village Center to provide: "(1) building location and entrances oriented to the street, (2) neighborhood-friendly pedestrian access, and (3) vehicular circulation and parking that is sensitive to on-site pedestrian circulation."

The body of the Staff Report includes Staff's compatibility analysis, which is enhanced by the detailed analysis—grounded in the above-mentioned Master Plan considerations—of Community Based Planning Staff, which is included in a February 16, 2006 memorandum that is included as an attachment to the Staff Report. The Board adopts and incorporates into its compatibility finding the analysis and recommendations contained in those two documents and other evidence and testimony of record set forth below.

Structure

Testimony and evidence of record demonstrates that, in response to community concerns and the requirements of the Master Plan, the building has been designed to incorporate building materials and details that complement both the adjacent commercial buildings and the confronting residential properties. The

mass of the building has been broken down by the use of punched windows and articulation of the façade elements. Testimony of record shows that at least 80% of the building's façade will be brick, similar to that of the confronting residences. A penthouse structure housing mechanical equipment has been set back and should not be visible from the street. Parking is located behind the building or within an underground parking garage and also will not be visible from the street. The exposed aggregate concrete sidewalk treatment will be extended across driveway aprons to further enhance the streetscape. As mentioned above, the Applicant has increased the setbacks for the building, which will be aligned with the Flower Theater, located further down the block. The increased setback also permits the installation of an improved streetscape and garden area between the building and Flower Avenue.

As also stated previously, all windows facing Flower Avenue and Arliss Street will include light-filtering Mecho shades to prevent glare at night to adjacent homes. All illuminated signage will be backlit to prevent glare. In addition, the Applicant has submitted a shadow study that shows no detrimental impact on the adjacent community as a direct result of the height of the proposed building. According to the study, the greatest shadow impact from the proposed three-story building will be at 3 p.m. on the winter solstice, at which time the building's shadow will reach just across Arliss Avenue to the front yards of the confronting townhouses.

Staff noted in its Report and testimony that the 40-foot-tall building will be at least 12 to 15 feet higher than the confronting single-family detached homes across Flower Avenue. Staff remarked, however, that the building's façade would be approximately 115 to 120 feet from the fronts of the confronting properties across both Flower Avenue and Arliss Street. Staff observed that using intervening rights-of-way to transition from taller commercial buildings to shorter neighboring residential structures is a common technique employed elsewhere in the region.

The Board also finds persuasive the testimony and presentation of Applicant's architect on the question of compatibility. That testimony discussed changes made to the design, including lowering of the building height, and focused on, among other things: the wide separation between the face of the proposed building and confronting structures, which, he contended, would give the sense of a smaller building from the vantage point of the neighboring residents; the use of punched windows in a brick façade, which reflects the residential construction; the setting back of the penthouse structure from the edge of the building, which should serve to eliminate visibility from the adjoining streets; landscaping, and the screening of the parking area, through landscaping and the form of the building.

Based on the above, the Board finds that the proposed building is compatible with other uses and other site plans and with existing and proposed adjacent development.

Use

The three-story, L-shaped building will contain 55,800 square feet of medical space, including: 25,000 square feet of medical office space, a 5,000 square foot urgent care center, a 5,000 square foot surgical center, a 5,000 square foot imaging center, and a 10,000 square foot primary/specialty care clinic, with the remainder serving as ancillary support space.

As discussed in detail above above, the Planning Board heard testimony contesting the classification of use utilized by Staff for purposes of analyzing the minimum parking requirements for the proposed development. Although referred to by different parties as a "medical building," "professional building," "general office" building, "medical office building," and "clinic," the Board notes that the facility will contain a mix of uses. As discussed above, Staff asserted at the Hearing that the term "clinic," as defined in the Code, refers to the more traditional concept of a medical facility filled with examination rooms that generates a large and steady flow of foot traffic and thereby necessitates, for instance, a greater parking allowance. Agreeing that the proposed facility does not fit the traditional definition of a clinic, the Board notes the changing nature of outpatient medical care, including an ever-greater emphasis on the efficient provision of services, and that several similar facilities exist in the region that also cannot easily be categorized as clinics.

In the context of compatibility of use, however, the Board observes that the Master Plan recommends that both "clinic" and "general office" uses should be allowed by right in commercial centers that are zoned C-1, such as the Subject Property. Master Plan at 37. (The CROZ implements those recommendations.) In the same section, the Master Plan recommends that certain uses, such as automobile-related uses, not be allowed on C-1 Zoned property confronting or adjoining a residential zone. Such language—and the fact that the uses are permitted by right in C-1-zoned property in the CROZ—suggests that the Master Plan considers uses such as those proposed for the subject development compatible with adjoining or confronting residential uses.

Several citizens testified that the proposed facility will primarily serve the greater region and not the local neighborhood, thereby going against the recommendations in the Master Plan. Among other recommendations for enhancing commercial centers in the East Silver Spring area, the Master Plan on page 36 provides the following:

- Recognize that the Silver Spring Central Business District is a community-oriented downtown for the surrounding residential neighborhoods, including East Silver Spring, and, therefore, additional commercial zoning in East Silver Spring is generally not appropriate. Revitalization of the existing commercial areas will better serve the local neighborhoods.

Several citizens pointed to the recommendation quoted above in arguing that commercial development on the Subject Property should be limited to neighborhood-serving uses only. In addition, citizens referred the Board to the purposes of the C-1 Zone as stated in Code § 59-C-4.340, which provides in part:

It is the purpose of the C-1 zone to provide locations for convenience shopping facilities in which are found retail commercial uses which have a neighborhood orientation and which supply necessities usually requiring frequent purchasing with a minimum of consumer travel. Such facilities should be located so that their frequency and distributional pattern reflect their neighborhood orientation. In addition, such facilities should not be so large or so broad in scope of services as to attract substantial amounts of trade from outside the neighborhood.

The Board finds that the provisions cited above must be considered within the full context of the Master Plan recommendations. For example, the Master Plan on page 36 sets forth the following recommendations:

- Rezone the R-60 property at the southeast quadrant of Flower Avenue and Arliss Street to C-1.
- Include all commercially zoned land at Flower Village and at Clifton Park Crossroads in the Commercial Revitalization Overlay Zone (CROZ).

The Board finds that the Master Plan recommendation that "additional commercial zoning in East Silver Spring is generally not appropriate" does not apply to the Subject Property because the Master Plan specifically recommends such rezoning in the preceding recommendations. Furthermore, the Board finds that the Master Plan envisioned the possibility of commercial development beyond a neighborhood-serving scope by recommending support for, among other things, "a diverse range of commercial services in East Silver Spring, such as . . . regionally serving businesses." Master Plan at 36 (emphasis added). Moreover, the purpose clause of the C-1 Zone merely recommends that facilities

not be "so large or so broad in scope of services as to attract substantial amounts of trade from outside the neighborhood." The Board finds no evidence in the record demonstrating that the proposed facility is so large or will provide such a broad scope of services that a substantial number of its users will be from outside the neighborhood. On the contrary, the Board heard testimony from the President of the Washington Adventist Hospital that the County commissioned a study, which identified the subject location as being in need of the type of service proposed and that it was his expectation that the primary users of the facility would be from the Long Branch community. Community Based Planning Staff advised the Board at the Hearing that there is no requirement in the Master Plan that the subject site be developed with an exclusively neighborhood-serving use.

Based on the foregoing, the Board finds that the Master Plan does not limit commercial development on the Subject Property to a neighborhood-serving scope; and, additionally, that the proposed facility, through its mix of uses and pedestrian-friendly features, will serve both local and regional populations, as recommended by the Master Plan.

Based on the foregoing, the Board finds that the proposed use of the building is compatible with other uses and other site plans and with existing and proposed adjacent development.

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

The Planning Board finds that the Application is exempt from the applicable requirements contained in Chapter 22A, as per the Environmental Planning Staff memorandum dated June 24, 2005 and captioned No. 4-05333E. The Board further finds that the Application is exempt from the applicable requirements contained in Chapter 19.

BE IT FURTHER RESOLVED, that the Planning Board's approval of the Application is based on the following additional findings required by Montgomery County Code Section 59-C-18.215 for the approval of site plans within the Takoma Park/East Silver Spring Commercial Revitalization Overlay Zone:

1. *The site plan is consistent with the recommendations in the applicable master or sector plan for the area.*

The Planning Board finds that the Application, as amended by the conditions, is consistent with the recommendations in the *2000 East Silver Spring Master Plan*. The Master Plan on page 39 describes the Flower Village Center as "a major neighborhood center and community focal point for neighborhoods in both East

Silver Spring and Takoma Park.” The Master Plan also provides on the same page the following recommendations:

1. Site plan review should ensure that new development is compatible with the adjacent residential neighborhood. Consideration should be given to the views of homeowners that face the site across Flower Avenue, as well as the residential properties on Arliss Street. Buildings on this site should be compatible with the adjoining residential neighborhood in terms of height, bulk, building materials, setbacks, and landscaping.
2. To achieve compatibility, proposed redevelopment for this property must provide: (1) building location and entrances oriented to the street, (2) neighborhood-friendly pedestrian access, and (3) vehicular circulation and parking that is sensitive to on-site pedestrian circulation. Parking should not separate the building from the street.

As the previous findings demonstrate, the Application meets the Master Plan requirements regarding compatibility. The proposed 40-foot-tall building is compatible with the adjacent residential neighborhood with regard to height by virtue of its increased setbacks, enhanced landscaping, and separation from confronting residential properties across wide transitional rights-of-way. The effect of the building's bulk is reduced by the use of punched windows and other methods. The building incorporates design elements that are sympathetic to adjacent residential and commercial structures as well as the nearby Flower Theatre. The Application follows the Master Plan recommendation for building location and promotes neighborhood-friendly pedestrian access through the effective positioning of building entrances. The Application provides vehicular circulation and parking that is sufficient to accommodate both building visitors and members of the general public while remaining sensitive to on-site pedestrian circulation. As evidenced by the Record, the Applicant has given significant consideration to the concerns of neighboring citizens and adjusted its Application in accordance with their views.

The Board finds that the Application is consistent with all other relevant recommendations in the Master Plan, including those discussed in the § 59-D-3 site plan findings section of this opinion concerning the use of commercial development to revitalize the Flower Village Center. The Board incorporates into this CROZ Master Plan consistency finding, any other findings made in the foregoing § 59-D-3 site plan findings.

2. *The site plan meets all of the purposes and requirements of this overlay zone as well as the applicable requirements of the underlying zone.*

The Planning Board finds that the Application, as amended by the conditions, meets all of the purposes and requirements of the CROZ. The Board incorporates into this CROZ finding, all applicable findings and bases for findings that are set forth in the foregoing § 59-D-3 site plan findings.

Code Section 59-C-18.211(a) provides that the purposes of the CROZ are to:

- (1) Foster economic vitality and attractive community character in areas needing revitalization;
- (2) Promote an enhanced pedestrian environment and an improved circulation system to pedestrians and bicycles as well as motor vehicles;
- (3) Ensure consistency with the master plan vision for specific existing commercial areas;
- (4) Provide for the combination of residential with commercial uses.

Code Section 59-C-18.211(b) states that these purposes can be achieved, among other ways, by “[p]roviding for flexibility of certain development standards” while “[a]llowing or limiting uses consistent with the master plan vision for specific commercial areas.” These provisions reflect the recommendations contained on page 37 of the Master Plan. Incorporating relevant portions of its previous findings, the Board finds that the Application achieves the purposes of the CROZ by providing commercial development in an area requiring revitalization, promoting both an enhanced pedestrian environment and improved circulation system through the use of an appropriate streetscape design, the placement of efficient ingress/egress points, the provision of sufficient parking, and remaining consistent with the Master Plan recommendations concerning the Flower Village Center.

With regard to specific development standards in the CROZ, both the Master Plan and Code Section 59-C-18.213(c) permit the Board to allow building heights up to 42 feet for commercial development within the CROZ if the Board finds that “such buildings are compatible with the neighborhood and consistent with the intent of the applicable master plan.” The Board finds, incorporating relevant portions of its discussion above, that the proposed 40 foot high building is

compatible with the neighborhood and consistent with the intent of the Master Plan and meets the requirements of the CROZ.

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

For the reasons set forth in its § 59-D-3 compatibility finding, above, the Planning Board finds that the proposed building and its use, as amended by the conditions, are compatible with other uses and other site plans and with existing and proposed adjacent development.

BE IT FURTHER RESOLVED, that this site plan shall remain valid as provided in Montgomery County Code Section 59-D-3.8; and

BE IT FURTHER RESOLVED, that the date of this written opinion is SEP 28 2006 (which is the date that this opinion is mailed to all parties of record); and

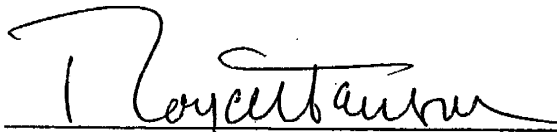
BE IT FURTHER RESOLVED, that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this written opinion, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, *Maryland Rules*).

* * * * *

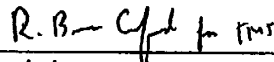
At its regular meeting, held on **Thursday, September 7, 2006**, in Silver Spring, Maryland, the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission ADOPTED the above Resolution, on motion of Commissioner Bryant, seconded by Commissioner Wellington, and with Commissioners Bryant, Robinson, and Wellington voting in favor, and with Chairman Hanson and

Commissioner Perdue abstaining. This Resolution constitutes the final decision of the Planning Board and memorializes the Board's findings of fact and conclusions of law for **Site Plan No. 820060080, Long Branch Medical Building.**

Adopted by the Montgomery County Planning Board this 7th day of September, 2006.



Royce Hanson
Chairman, Montgomery County Planning Board



Trudye M. Johnson
Executive Director

APPROVED AS TO LEGAL SUFFICIENCY

TAB

M-NCPPC LEGAL DEPARTMENT

DATE 9/13/06

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850
240-777-6600

(www.montgomerycountymd.gov/mc/council/board.html)

**Case No. A-6133
APPEAL OF SLIGO BRANVIEW COMMUNITY ASSOCIATION
BY MARY COGAN, ET AL.**

OPINION OF THE BOARD

(Oral argument on Motions to Dismiss held May 17, 2006)
(Effective Date of Opinion: September 18, 2006)

Case No. A-6133 is an administrative appeal filed by William J. Chen, Jr., Esquire, on behalf of the Sligo-Branview Community Association and other individual appellants ("Appellants") who live near the proposed building located at 8809 Flower Avenue, East Silver Spring, Maryland 20901 ("the Property"). Appellants charge administrative error on the part of the County's Department of Permitting Services ('DPS'), and appeal from a letter issued by DPS and dated February 15, 2006, which they assert is an administrative decision establishing the number of parking spaces required for Intervener's proposed use.

Pursuant to Section 59-A-4.4 of the Montgomery County Zoning Ordinance, codified as Chapter 59 of the Montgomery County Code (the "Zoning Ordinance"), and Section 2-112 of the Montgomery County Code, the Board scheduled a public hearing on this appeal for May 24, 2006. Following the prehearing conference and after receiving preliminary Motions to Dismiss this appeal from Counsel for Adventist HealthCare, Inc. ("Adventist") and Flower Avenue Shopping Center, LP ("FASC") (both of whom had been permitted to intervene and who are collectively referred to herein as the "Intervenors") and Counsel for DPS, on May 17, 2006, pursuant to its authority in Section 2A-8 of the Montgomery County Code, the Board heard oral argument on these preliminary Motions to Dismiss. William J. Chen, Jr., Esquire, represented the Appellants. Stacy P. Silber, Esquire, and Robert R. Harris, Esquire, represented the Intervenors. Assistant County Attorney Malcolm Spicer represented DPS.

Decision of the Board: Motion to Dismiss **granted**; administrative appeal **dismissed**.

RECITATION OF FACTS

The Board finds, based on undisputed evidence in the record, that:

1. The subject Property is known as 8809 Flower Avenue, East Silver Spring, Maryland 20901 (Part of Lot 20, Block 1, Cissell's Addition to Silver Spring Subdivision), and is located in the C-1 zone.
2. Intervenors desire to construct of a 55,800 square foot building on the subject Property. On August 18, 2005, Intervenors filed applications for approval of a Preliminary Plan of Subdivision (No. 120060240) and Site Plan (No. 820060080) with the Maryland-National Capital Park and Planning Commission ("MNCPPC").
3. As part of the Planning Board process, Intervenors sought advice from Mr. David Niblock, Permitting Services Specialist with DPS, regarding the parking required for the proposed building. Mr. Niblock sent letters to Counsel for the Intervenors regarding this matter on July 28, 2005, and on February 15, 2006. See Exhibits 8(d) and (e). Intervenors provided the Niblock letters to MNCPPC staff for their reference in reviewing the Intervenors' proposed Site Plan.¹
4. On February 21, 2006, the MNCPPC staff released its staff report on Site Plan No. 820060080.
5. Appellants filed this administrative appeal on March 6, 2006, asserting that in determining the number of required parking spaces, the February 15, 2006 Niblock letter erroneously classified the proposed building as an "office building" instead of a "medical clinic."
6. On March 9, 2006, the Montgomery County Planning Board held a public hearing on Preliminary Plan No. 120060240 and Site Plan No. 820060080. At that time, the Planning Board approved Site Plan 820060080.
7. The approved Site Plan will enable Intervenors to apply to DPS for a building permit.

SUMMARY OF ARGUMENTS

8. Counsel for the Intervenors stated that the Zoning Ordinance gives the Planning Board express decision making authority with respect to site plans,² and that any appeal of a decision of the Planning Board lies with the Circuit Court, not with the Board of Appeals. Counsel then argued that to allow the Board to review individual staff recommendations used by the Planning Board in approving a preliminary plan or site

¹ Intervenors state that neither the Planning Board nor its staff required or requested these letters, but that they had provided these letters to Planning Board staff for their reference. Intervenors state that the staff report contained letters from many different agencies on a number of topics.

² See Section 59-D-3.4(a): "A public hearing must be held by the Planning Board on each site plan application. The Planning Board must approve, approve subject to modifications, or disapprove the site plan not later than 45 days after receipt of the site plan, but such action and notification is not required before the approval of a preliminary plan of subdivision involving the same property. The Planning Board then must notify the applicant in writing of its action. In reaching its decision the Planning Board must determine whether ... (2) the site plan meets all of the requirements of the zone in which it is located...."

plan would effectively allow Appellants to preempt the established process for appealing Planning Board decisions. Counsel argued that if side appeals could exist, a chaotic result would ensue, asserting that even if the Board had jurisdiction to review these individual staff determinations, the exercise of such jurisdiction would wreak havoc on the Planning Board process, since the resolution of those appeals might conflict with Planning Board approval. Counsel further argued that the use of the appeal process to circumvent the authority of the Planning Board was certainly not the intent of the Zoning Ordinance, and, per generally accepted principles of statutory construction, the Board should seek a harmonious construction of the various statutory provisions in order to avoid what Counsel characterized as an absurd result.

Counsel stated that the Planning Board does not seek interpretations from DPS regarding parking, and is not bound by such interpretations if and when they are received, but rather can accept or reject them. Counsel stated that the Planning Board in this case considered all the recommendations from all the varied agencies, including recommendations regarding the parking requirements,³ in voting to approve this Site Plan.

Counsel argued that the Niblock letters are not "decisions," stating that they do not decide or permit anything, but rather provide information as to what Mr. Niblock believes is the proper parking classification. Counsel asserted that it is a well-settled principle of law that administrative orders are not reviewable until and unless they impose an obligation, deny a right, or fix some legal relationship as a consummation of the administrative process. Counsel argued that the Niblock letters do none of these things, stating that "the Niblock letters are not a decision because they do not change any legal rights or duties. The applicant can build no building, can obtain no building permit with this letter...." See Tr. at page 8. Counsel argued that because the Niblock letters do not constitute a final agency decision, they are not ripe for appeal. Counsel reiterated that it is the approval of Site Plan that is the appealable event, and suggested that Appellants could also properly appeal any building permit issued pursuant to the approved Site Plan.

9. Counsel for DPS argued that the letters do not constitute "administrative decisions" such as are contemplated by Section 59-A-4.3(a) of the Zoning Ordinance. Counsel stated that in the instant case, the Niblock letter is not making any decision, but rather was submitted to Planning Board staff, which in turn made a recommendation to the Planning Board, which ultimately made the final decision regarding this Site Plan. Indeed, Counsel asserts that the Appellants acknowledge that any decision, if there is a decision to be made, will be made by the Planning Commission. Counsel contends that the Niblock letters are not agency action, and are certainly not "final" action necessary for appeal.

Counsel stated in his Motion to Dismiss that to allow appeals of letters, especially letters which are not decisions and which are just confirmatory of earlier

³Intervenors' Reply Brief in Support of their Motion to Dismiss states that the Planning Board had recommendations regarding parking from its staff and from Mr. Niblock. See Exhibit 14 at page 3.

correspondence, would create a chaotic condition. To illustrate, during the hearing Counsel stated that if every individual determination that is being made in the course of the issuance of a building permit and that happens to find its way into a piece of correspondence were subject to appeal, DPS would have 10 appeals before they could issue a permit for anything. Counsel argued that the Court's decision in *United Parcel Service v. People's Counsel for Baltimore County* (336 Md.569, 650 A.2d 226 (1994)) is directly on point and supports his Motion to Dismiss, despite being in a different jurisdiction with somewhat different statutory language. Counsel noted that the *UPS* case relies extensively on the *National Institutes of Health Federal Credit Union v. Hawk* case (47 Md.App. 189, 422 A.2d 55(1980)), which is a Montgomery County case dealing specifically with Section 59-A-4.3 of the Zoning Ordinance.⁴

10. Counsel for the Appellants argued that the specific language in Section 59-A-4.3(a) of the Zoning Ordinance, entitled "Filing of Appeals," is clear on its face, plain and unambiguous:

(a) Appeals to the Board may be made by any person, Board, association, corporation or official allegedly aggrieved by the grant or refusal of a building or use and occupancy permit or by any other administrative decision based or claimed to be based, in whole or in part, upon this chapter, including the zoning map. (emphasis added to reflect argument made by Counsel).

Counsel asserted that this language allows an appeal of the Niblock letter. Counsel stated that "this chapter" refers to Chapter 59, the Zoning Ordinance, and that the Niblock letter refers to specific sections of Article 59-E, the County's off-street parking and loading requirements, and other sections of the Zoning Ordinance. Counsel noted that "administrative decision" is not defined in the Zoning Ordinance. Counsel argued that section 59-A-4.3(a) does not require a "final" agency decision or that the agency decision grant or determine any permission or license, and stated that the County Council could have added language imposing such conditions if that is what was intended. Counsel cited case law to support his argument that under generally accepted principles of statutory construction, where the language is clear on its face, the Board cannot read into it qualifications and/or limitations that do not exist. Counsel argued that the clear language of this provision, authorizing the appeal of administrative decisions based on Chapter 59, supercedes any claim by opposing counsel that this matter is somehow not "ripe" for appeal.

Counsel noted that Section 59-D-3.23(e) of the Zoning Ordinance requires that the Site Plan include a calculation of the required number of parking spaces, and that it is the applicant's responsibility to provide that information. Counsel stated that it was the applicants' choice to ask staff at DPS (Mr. Niblock) for the off-street parking calculation, and noted that they could have gone to a private traffic engineer or land planner for this calculation instead. Counsel argued that it was this choice to seek the

⁴ Counsel states that in *Hawk*, the Court concluded that a letter written [by the Director of the Department of Environmental Protection] in response to a citizen's request to revoke a Use and Occupancy permit was not an appealable decision under Section 59-A-4.3.

parking calculation from a County agency which opened them up to this administrative appeal.

Counsel stated that the Niblock letter contains a calculation of the off-street parking requirements that is based on the information he received from the applicant in the Planning Board proceedings. Counsel provided an affidavit from one of his clients which indicated that she was told by MNCPPC technical staff that the Niblock letter was the basis for the staff determination as to off-street parking requirements. See Exhibit 10(e). Counsel argued that because the Niblock letter was used for the Site Plan parking calculation, and in light of the language in Section 59-A-4.3(a), the letter is clearly an administrative decision.⁵

Counsel stated that appealing the approved Site Plan in the Circuit Court would be a much more costly proposition than was this targeted administrative appeal, and noted that if the Board were to grant the Motions to Dismiss, the correctness of the off-street parking requirements for this building would undoubtedly be back before the Board in a year or two in the context of an administrative appeal to the building permit.

11. On rebuttal, Co-counsel for the Intervenors noted that the Zoning Ordinance specifically charges the Planning Board with making decisions about parking in Site Plan cases. Counsel cited to Section 59-E-2.1 of the Zoning Ordinance, which states that "Designs and plans for areas to be used for automobile off-street parking shall be subject to approval by either the planning board or the director in accordance with the parking facilities plan procedures of section 59-E-4.1", and to Section 59-E-4.1, which says that:

"[f]or any use that requires 25 or more parking spaces, a parking facilities plan must be submitted:

(a) For development that requires site plan approval as contained in Division 59-D-3, a required parking facilities plan must be submitted to the Planning Board for review and approval as part of the site plan review process.

..."

Co-counsel then reiterated that it was the Planning Board that made the decision with respect to parking in this case, and that the Niblock letter was one of many things considered by the Planning Board in making that decision.

Finally, Co-counsel argued that if the Board were to accept the Appellants' contention that the Niblock letter was an appealable decision, that it would be the July 2005 Niblock letter, and not the February 15, 2006 reaffirmation of the July letter, which should have been appealed, and that any appeal of July letter would not be timely.

⁵ In response to suggestions from opposing Counsel that the February 15, 2006 Niblock letter was merely confirmatory of the July, 2005, Niblock correspondence, Counsel for the Appellants argued that the February 15 letter was a self-contained, free-standing decision, independent of the earlier July letter, and stated that his clients did not even know about the July letter.

CONCLUSIONS OF LAW

1. Section 2-112(c) of the Montgomery County Code provides the Board of Appeals with appellate jurisdiction over appeals taken under specified sections and chapters of the Montgomery County Code, including sections 2B-4, 4-13, 8-23, 15-18, 17-28, 18-7, 22-21, 23A-11, 24A-7, 25-23, 29-77, 39-4, 41-16, 44-25, 46-6, 47-7, 48-28, 49-16, 49-39A, 51-13, 51A-10, 54-27, and 58-6, and chapters 27A and 59.

2. Section 2A-2(d) of the Montgomery County Code provides that the provisions in Chapter 2A govern appeals and petitions charging error in the grant or denial of any permit or license or from any order of any department or agency of the County government exclusive of variances and special exceptions, appealable to the County Board of Appeals, as set forth in Section 2-112, Article V, Chapter 2, as amended, or the Montgomery County Zoning Ordinance or any other law, ordinance or regulation providing for an appeal to said board from an adverse governmental action.

3. Under Section 2A-8 of the Montgomery County Code, the Board has the authority to rule upon motions and to regulate the course of the hearing. Pursuant to that section, it is customary for the Board to dispose of outstanding preliminary motions at the outset of the hearing. In the instant matter, because granting of the Motions to Dismiss would eliminate the need for further proceedings (and the attendant preparation for those proceedings), the Board took the unusual step of bifurcating this hearing such that the Board would hear oral argument on and would vote on the Motions to Dismiss one day and then, if the Motions were not granted, would take up the balance of the case during a second day of hearings.

4. In this appeal, Appellants urge the Board to view the February 15, 2006, letter from DPS Permitting Services Specialist Niblock to counsel for the Intervenor, which states that it "confirms" the parking category to be used to calculate the parking requirements for the Intervenor's proposed building, as an appealable "administrative decision." After reviewing the letter and considering the arguments of counsel, the Board finds that the February 15 letter confers no rights, but rather simply informs the Intervenor that DPS would view Intervenor's proposed building as an "office, general office, and professional building or similar use" as defined in Section 59-E-3.7 of the Zoning Ordinance for the purposes of calculating the required parking. The Board finds that the February 15, 2006, DPS letter does not make a decision with respect to any application for a permit, license, or approval – that decision was yet to be made by the Montgomery County Planning Board. Nor does this letter conclusively determine the number of parking spaces that would be required for the proposed use. Again, the Zoning Ordinance makes clear that in this context, the number of parking spaces is a decision that must be made by the Planning Board, which was free to accept, modify, or reject DPS' parking calculation in making their determination.⁶ Indeed, before it could approve the Intervenor's Site Plan, the Planning Board was required by Section 59-D-

⁶ See sections 59-E-2.1 and 59-E-4.1 of the Zoning Ordinance.

3.4(a)(2) of the Zoning Ordinance to determine whether or not the Site Plan met all of the requirements of the zone.

Maryland courts have previously addressed the types of decisions that constitute events or decisions from which appeals can be taken. Counsel for DPS and the Intervenor cite *United Parcel Service, Inc. v. People's Counsel* (336 Md. 565, 650 A.2d 226 (1994)), as well as *National Institutes of Health Federal Credit Union v. Hawk* (47 Md. App. 189, 422 A.2d 55 (1980)), as authority for the Board to grant their Motions to Dismiss. The Board finds the reasoning in these cases persuasive.

In *United Parcel Service, Inc. v. People's Counsel for Baltimore County*, 336 Md. 569, 650 A.2d 226 (1994), the Maryland Court of Appeals explained what constituted an appealable decision for purposes of Article 25A, Section 5(U) of the Annotated Code of Maryland.⁷ In the *United Parcel Service* case, neighboring landowners appealed from the zoning commissioner's letter responding to their objection to his previous approval of a building permit application. In his letter, the commissioner explained and defended his prior decision to approve the building permit. The Court reasoned that an appealable event must be a final administrative decision, order or determination. The Court held that the commissioner's response letter was not an "approval" or "permission," but merely the reaffirmation of his prior approval or decision.⁸ The Court reasoned that the words of the State law "obviously refer to an operative event which determines whether the applicant will have a license or permit, and the conditions or scope of that license or permit" The court found that the operative event occurred when the building permit was approved and issued, not when the commissioner sent his explanatory letter. "If this were not the case an inequitable, if not chaotic, condition would exist. All that an appellant would be required to do to preserve a continuing right of appeal would be to maintain a continuing stream of correspondence, dialogue, and requests ... with appropriate departmental authorities even on the most minute issues of contention with the ability to pursue a myriad of appeals ad infinitum." 336 Md. at 584, quoting *National Institutes of Health Federal Credit Union v. Hawk*, 47 Md. App. 189, 422 A.2d 55, 58-59 (1980) cert. denied 289 Md. 738 (1981).

As stated above, the Board's authority is limited to the review of some "operative event" – that is, the affirmative approval or denial of some permit or other form of

⁷ The Board finds that the Court's reasoning in this regard is applicable to the instant case even though as a technical matter, the Board's authority to hear appeals is derived from Article 28 of the Annotated Code, section 8-110(a)(4), which states that the "decisions of the administrative office or agency in Montgomery County shall be subject to an appeal to either the board of appeals or other administrative body as may be designated by the district council. In either county, the appeal shall follow that procedure which may from time to time be determined by the district council."

⁸ The Board notes that the Court in the *UPS* case relied heavily on the *Hawk* decision, which was a Montgomery County case. In considering an appeal under Section 59-A-4.3 of the Montgomery County Zoning Ordinance, the Court in *Hawk* applied similar reasoning, and quoted with approval an underlying Hearing Examiner report, which had concluded that "The 'decision' which is the subject of [the] Appeals . . . is not a final administrative decision, order or determination. It is at most a reiteration or reaffirmation of the final administrative decision or order of the department granting the original Use and Occupancy Certificate." *National Institutes of Health Federal Credit Union v. Hawk*, 47 Md. App. 189, 195, 422 A.2d 55, 58-59 (1980) cert. denied 289 Md. 738 (1981).

permission. This Board is convinced, given that the subdivision and site plan approval processes are regulated by the Montgomery County Planning Board and not by DPS, that the February 15 letter from DPS to counsel for the Intervenor, while it was undoubtedly considered by MNCPPC staff and the Planning Board in reviewing and ultimately approving the subject Site Plan, was not binding on those bodies in making their decisions, and did not, by itself, convey any rights or permission on the Intervenor. Thus the Board concludes that the February 15 letter was not a final, appealable administrative determination as is required for review.

In addition, the Board notes that it has been asserted that if the DPS letters were found to be administrative decisions, then the February 15, 2006 letter simply "confirmed" the earlier July 28, 2005 correspondence with respect to parking, and as such, under the *UPS* and *Hawk* cases, should be dismissed. Because this Board had concluded for other reasons that the February 15th letter containing DPS' conclusions with respect to parking did not constitute an appealable event, the Board does not reach this issue.

5. The Board is not persuaded by Appellants' argument that Section 59-A-4.3(a) of the Zoning Ordinance should be read as on its face allowing this appeal of the February 15 letter. Section 59-A-4.3(a) of the Montgomery County Zoning Ordinance provides that appeals to the Board may be made by any person, Board, association, corporation or official allegedly aggrieved by the grant or refusal of a building or use and occupancy permit or by any other administrative decision based or claimed to be based, in whole or in part, upon this chapter, including the zoning map. Appellants argue that this language simply says "administrative decision," and that if a "final" decision were intended, the Council could have so specified.

It is well established that the "decision" of an administrative agency that is subject to judicial review is the *final* decision or order of the case. *Dorsey v. Bethel A.M.E. Church*, 375 Md. 59, 75, 825 A.2d 388, 397 (2003); *State v. State Board of Contract Appeals*, 364 Md. 446, 457, 773 A.2d 504, 510 (2001); *Board of License Comm. v. Corridor*, 361 Md. 403, 418, 761 A.2d 916, 924 (2000); *Montgomery County v. Broadcast Equities*, 360 Md. 438, 452, 758 A.2d 995, 1002 (2000); *Holiday Spas v. Montgomery County*, 315 Md. 390, 395, 554 A.2d 1197, 1199 (1989).

The action of an administrative agency, like the order of a court, is "final" only if it determines or concludes the rights of the parties, or if it denies the parties means of further prosecuting or defending their rights and interests in the subject matter in proceedings before the agency, thus "leaving nothing further for the agency to do." *Kim v. Comptroller*, 350 Md. 527, 533-534, 714 A.2d 176, 179 (1998); *Driggs Corp. v. Md. Aviation*, 348 Md. 389, 407, 704 A.2d 433, 442 (1998); *Holiday Spas v. Montgomery County*, supra, 315 Md. at 395-396, 554 A.2d at 1199-1200; *Md. Comm'n on Human Relations v. B.G & E. Co.*, 296 Md. 46, 56, 459 A.2d 205, 211 (1983). The requirement for a "final" decision is not negated because the review sought is administrative rather than judicial. *Crofton Partners v. Anne Arundel County*, 99 Md. App. 233, 243, 636 A.2d 487 (1994).

As previously stated, the Board finds that DPS' February 15 letter did not, and indeed could not, determine or conclude the rights of the parties – that could only be done by the Planning Board. Appellants urge this Board to disregard the case law requiring a final decision in favor of a literalist reading of Section 59-A-4.3(a) which would, if embraced, allow an endless stream of appeals on minute issues of no consequence where there is any disagreement or contention. This is clearly what the Court in *Hawk*⁹ and *UPS* was seeking to avoid, and this Board will not adopt that interpretation.

6. Pursuant to section 2A-8(i)(5) of the Montgomery County Code, the Board began the hearing by disposing of all outstanding preliminary motions and preliminary matters. Pursuant to this section and the Board's authority under section 2A-8(h) to rule upon motions, the Board granted Intervenors' and DPS' Motions to Dismiss the instant matter.

7. The Motions to Dismiss Case A-6133 are granted, and Case A-6133 is consequently **DISMISSED**.

On a motion by Member Wendell M. Holloway, seconded by Member Angelo M. Caputo, with Vice Chairman Donna L. Barron and Member Caryn L. Hines in agreement, and Chair Allison I. Fultz necessarily not participating, the Board voted 4 to 0 to grant the Motions to Dismiss and thus to dismiss the appeal, and adopted the following Resolution:


BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland that the opinion stated above be adopted as the Resolution required by law as its decision on the above entitled petition.



Donna L. Barron
Vice-Chair, Montgomery County Board of Appeals

⁹ The Court in *Hawk*, dealing with the appeal provisions in Section 59-A-4.3(a) of the Zoning Ordinance and Section 2-112 of the Montgomery County Code, states that "The appeal provisions in the County Code and Zoning Ordinance dealing with administrative proceedings before various County departments and agencies clearly relate in their respective procedure to a point in time when the finality of the review process is conceded...." *National Institutes of Health Federal Credit Union v. Hawk* (47 Md. App. 189, 195-6, 422 A.2d 55, 59 (1980)).

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 18th day of September , 2006.



Katherine Freeman
Executive Director

NOTE:

Any request for rehearing or reconsideration must be filed within ten (10) days after the date the Opinion is mailed and entered in the Opinion Book (see Section 2A-10(f) of the County Code).

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County in accordance with the Maryland Rules of Procedure (see Section 2-114 of the County Code).