

Resolution No. 14-1480
Introduced: October 21, 2002
Adopted: October 22, 2002

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION
OF THE MARYLAND-WASHINGTON REGIONAL DISTRICT
IN MONTGOMERY COUNTY

By: County Council

Subject: APPLICATION NO. G-799 FOR AMENDMENT TO THE ZONING ORDINANCE MAP, Stanley D. Abrams, Attorney for CTG Oil, Inc., Contract Purchaser, OPINION AND RESOLUTION ON APPLICATION

OPINION

Application No. G-799 requests reclassification from the Town Sector and C-5 Zones to the C-3 Zone of two parcels, P742 (0.43 acres, Town Sector Zone) and P770 (0.51 acres, C-5 Zone), comprising 40,811 square feet of land (.94 acres) located in the southeast quadrant of the intersection of relocated MD Route 118 and Middlebrook Road, between MD 118 and Walter Johnson Road, Germantown, in the 9th Election District. The application was filed under the Optional Method authorized by Code § 59-H-2.5, which permits binding limitations with respect to land use, density and development standards or staging.

The Hearing Examiner recommended approval of the application on the basis that the C-3 Zone at the proposed location would satisfy the requirements of the purpose clause; that the proposed reclassification would be compatible with existing and planned land uses in the surrounding area; and that the proposed reclassification to the C-3 Zone bears sufficient relationship to the public interest to justify its approval. The Planning Board and Technical Staff provided similar recommendations. The District Council agrees with these conclusions.

The subject property is located in the Germantown and Vicinity Planning Area, in the southeast quadrant of the intersection of MD 118 (Germantown Road) and Middlebrook Road, just northeast of Wisteria Drive. The subject property occupies a roughly rectangular, wedge-shaped area that bridges MD 118 and Walter Johnson Road and makes up part of a block bordered on the northeast

by Middlebrook Road and on the southwest by Wisteria Drive. The property has frontage on MD 118, a major highway with six lanes, but is precluded from vehicular access to MD 118 by record plat notation. Access to this and adjacent developed parcels is from Walter Johnson Road, a commercial business district street that terminates in a hammerhead (three-point turnaround) immediately north of the subject property.

The subject property is made up of two parcels of land. The northern parcel, P742, is undeveloped, measuring 0.43 acres, and is classified under the Town Sector Zone. This parcel is relatively level, a few feet lower in elevation than the adjacent MD 118, and is covered with mixed grassy vegetation. Used autos for sale are sometimes parked near the MD 118 frontage. The southern parcel, P770, measures 0.51 acres, is classified under the C-5 Zone (low density, office commercial), and is developed with a 1 ½ story frame house and a two-story detached garage/office. This parcel also is relatively level, rising in elevation approximately five feet from Walter Johnson Road to MD 118.

The surrounding area for this application includes all properties on the south side of MD 118 from Wisteria Drive to Middlebrook Road, plus the properties confronting the subject site on Walter Johnson Road that have a view of and can be viewed from the subject property. Immediately adjacent to the subject property to the north/northeast, on the corner of MD 118 and Middlebrook Drive, is a one-half-acre urban park owned and operated by the M-NCPPC. The park is attractively developed with a gazebo, game tables, benches, a trellis, a stone monument feature and walkways. Portions of the park are planted with evergreen and deciduous trees, including mature cypress and a red maple adjacent to the subject property. The main area for human activity in the park is within and around the gazebo, which is substantially screened by mature vegetation.

Immediately adjacent to the subject property on MD 118 to the south/southwest is a Jiffy Lube facility. Immediately south of the Jiffy Lube is a small retail center that includes a bank, restaurant, beer and wine store, tanning salon and other retail uses. Both the Jiffy Lube facility and the adjacent retail center are accessed from Walter Johnson Road, and are located on property classified under the

C-3 Zone. Confronting the subject property to the east/southeast across Walter Johnson Road is the unfinished Northlake Commerce Center, located in a C-O Zone and currently developed with two four-story office buildings facing Middlebrook Road, plus surface parking adjacent to Walter Johnson Road.

The proposed full-service car wash would consist of an enclosed automatic car-wash tunnel situated parallel to MD 118, a separate building at the south end of the site for interior vehicle cleaning, and four self-serve car wash bays in the center of the site. The automatic wash tunnel the Applicant intends to install is capable of processing 100 to 150 cars in an hour. The proposed hours of operation are 7 a.m. to 7 p.m. on weekdays, 9 a.m. to 5 p.m. on weekends. The Applicant anticipates that because his equipment would not require employees to manually prepare cars for washing, drive them through the tunnel, or manually dry them, he would need no more than five to seven employees to operate the facility, even during peak hours.

The Applicant proposes to limit development under the C-3 Zone by means of a schematic development plan ("SDP"). Binding elements of the SDP specify an automobile car wash as the only permitted use, with the following additional restrictions: maximum building coverage of 23% (9329 sq. ft.); maximum building height of 42 feet; minimum green area of 28% (11,261 sq. ft.); no storage of waste material, auto parts, refuse and/or motor vehicles in setback; signage to comply with Code §59-F; and Applicant to construct a masonry wall and landscaping adjacent to common boundary with M-NCPPC park as determined at time of site plan approval. The Applicant has informally agreed to add as an additional binding element a limitation on the number of employees consistent with his testimony at trial. This addition is reflected in the post-approval submission requirement outlined in the District Council Action below.

As noted above, the subject site is made up of two parcels with different zoning classifications. The northern parcel, P742, was originally classified under the R-R (Rural Residential) Zone by the 1958 County-wide comprehensive zoning. The parcel was reclassified to the Town Sector Zone in 1968 by Zoning Text Amendment F-148. This zoning classification has since been reconfirmed in Sectional Map Amendments F-939 (1974), G-404 (1984), G-539 (1987) and G-652 (1990). Testimony

at the hearing indicated that this zoning classification was made in connection with the overall Town Sector zoning for the Germantown Town Center. This particular parcel was physically cut off from the Town Center, however, by the construction of relocated MD 118.

The southern parcel, P770, was originally classified under the R-R (Rural Residential) Zone by the 1958 County-wide comprehensive zoning. The parcel was reclassified to the C-3 Zone by Sectional Map Amendment ("SMA") 939 in 1974, reconfirmed by SMAs G-404 (1984) and G-539 (1987). The parcel was reclassified from the C-3 Zone to the C-5 Zone in 1990 by SMA G-652, in keeping with the recommendation of the *Adopted and Approved 1989 Germantown Master Plan*.

The District Council concludes that the proposed rezoning would comply with the purpose clause of the C-3 Zone. The subject property satisfies the initial threshold requirement in two ways. First, it fronts on MD 118, a heavily traveled major highway with six lanes. Second, while it is not in a location recommended for the C-3 Zone by the master plan, it is adjacent to property currently zoned C-3 (the Jiffy Lube site). The proposed use requires a sufficiently large amount of land to accommodate washing facilities, circulation, and queuing areas. Given the nature of the use, it would not rely on adjacent uses for comparison shopping or pedestrian trade. Moreover, as an auto-service use, the car wash is clearly related to the traveler and highway user. Finally, fact that vehicular access would be available only from Walter Johnson Road would satisfy the intent stated in the purpose clause that "direct access to the highway be controlled by restricting development to service road access."

The District Council finds that the proposed development would be compatible with existing and planned land uses in the surrounding area. The proposed use would be compatible with most of the existing and planned land uses in the surrounding area, consisting of commercial, office and retail uses. The layout and building designs were specifically developed to be compatible with nearby uses, especially in the Germantown Town Center, in terms of bulk, height and architectural style. The MD 118 frontage would have the appearance of multiple store fronts with large windows, with the line of the building continued to the property boundary and around the corner by a masonry wall that would provide a noise buffer and visual screening. The Applicant requests a waiver of the 50-

foot setback requirement along MD 118 to allow a ten-foot building setback (a waiver that can be granted only by the Planning Board, at site plan review). If the waiver were granted, the building line along the site's MD 118 frontage would be consistent with the building line established at the corner of Wisteria Drive and MD 118, resulting in a ten-foot setback for all buildings on the south side of MD 118 in the block between Wisteria Drive and Middlebrook Road, except for the Jiffy Lube.

Assessing compatibility with the adjacent park presents certain challenges, chief among them the potential for adverse noise effects. The SDP includes as a binding element the construction of a masonry wall along the property line between the site and the park to provide noise mitigation, as well as a visual buffer. The evidence demonstrated that the park, which overlooks the busy, signalized intersection of MD 118 and Middlebrook Road, currently is affected by traffic noise and fumes. Moreover, the loudest noise source at the subject site would be the dryers located at the far end of the car wash tunnel, approximately 160 feet from the park boundary. Written documentation submitted by the Applicant suggests that the noise generated by the dryers could be expected to measure 75 decibels at a distance of 100 feet from the dryers, without an intervening solid wall. The District Council is persuaded that, in collaboration with the Planning Board and its staff and with the help of a noise expert, the Applicant would be able to construct a masonry wall that would adequately mitigate the potential adverse noise effects of the proposed car wash.

The potential for an adverse visual effect on the park represents an additional compatibility concern. However, any such potential effect would be mitigated by the screening effect of the proposed masonry wall and existing, mature vegetation within the park.

The District Council further determines that the proposed zoning bears sufficient relationship to the public interest to justify it. The proposed rezoning is not consistent with the specific recommendation in the Master Plan for C-5 zoning on a portion of the subject site, but it is generally consistent with the goals stated in the Master Plan for the subject site and surrounding area. The proposed rezoning and development would not lead to fragmented retail development, which was the Master Plan's chief concern about classifying the subject site under the C-3 Zone. Moreover, the

controls imposed by the binding elements of the SDP and the requirement for site plan review would further Master Plan goals regarding visual compatibility with existing and proposed uses. Finally, the Planning Board and Technical Staff recommend approval.

The evidence indicates that the proposed use would not adversely affect public facilities. Water and sewer service are adequate and, in light of the expected 90% water reclamation rate of the car wash facilities, the impacts of the proposed rezoning would be negligible. The car wash would be required to comply with storm water management and forest conservation requirements. The SDP provides adequate on-site stacking space to satisfy the requirements of the Zoning Ordinance. Together with operational steps that the Applicant has committed to make – using cones and employees to direct traffic, and closing the self-service bays and/or the vacuuming building if necessary during peak periods – the on-site stacking and circulation are adequate to avoid off-site queuing that could adversely affect traffic on Walter Johnson Road. Potential adverse effects on traffic at the intersections of MD 118 with Wisteria Drive and Middlebrook Road would be fully mitigated by the binding traffic mitigation element stated on the SDP, and no other potential adverse transportation effects have been identified.

For these reasons and because to grant the instant zoning application would aid in the accomplishment of a coordinated, comprehensive, adjusted, and systematic development of the Maryland-Washington Regional District, the application will be granted in the manner set forth below.

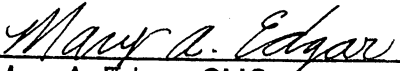
ACTION

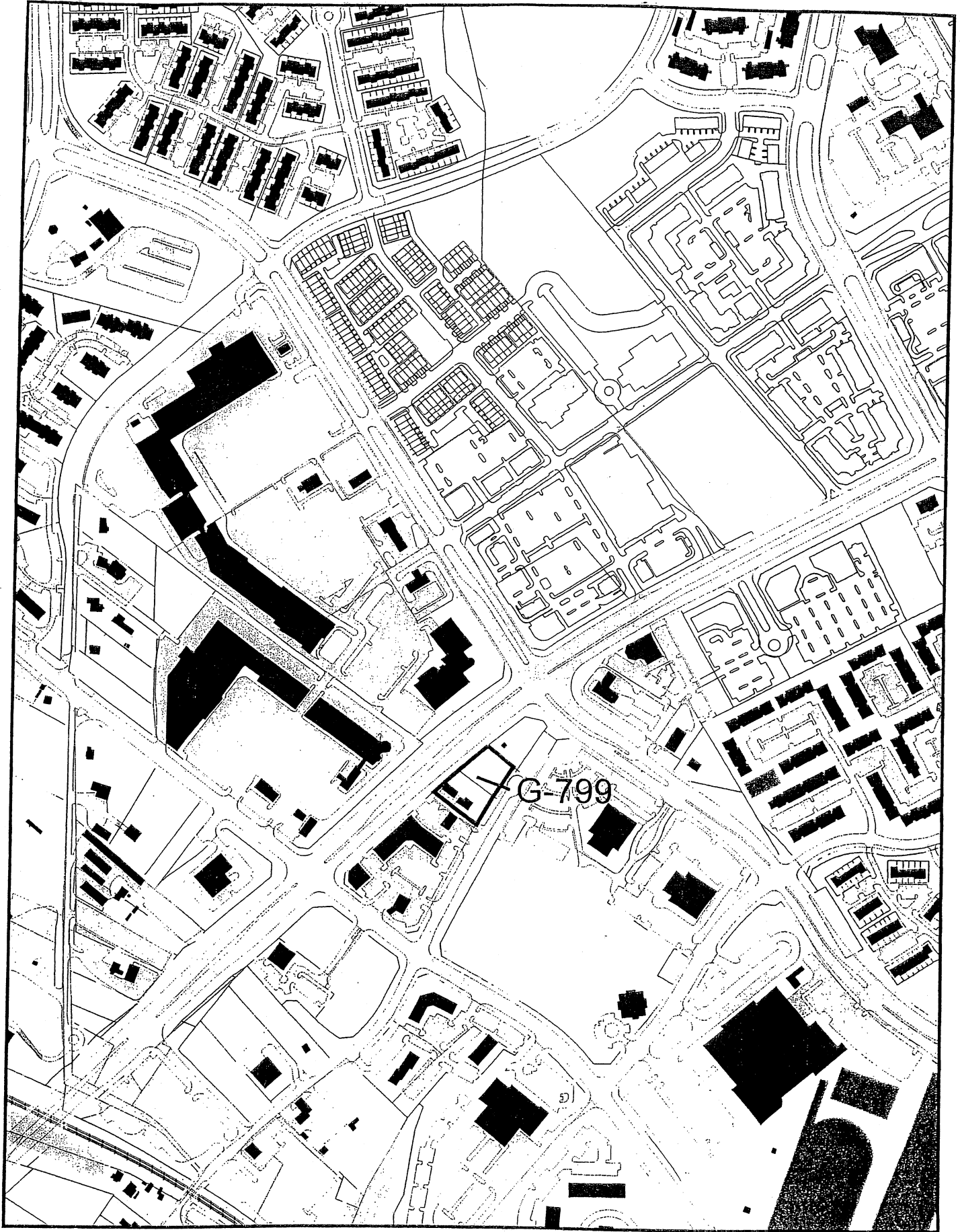
The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District located in Montgomery County, Maryland approves the following resolution:

Zoning Application No. G-799 for the reclassification from the Town Sector and C-5 Zones to the C-3 Zone of two parcels, P742 (0.43 acres, Town Sector Zone) and P770 (0.51 acres, C-5 Zone), comprising 40,811 square feet of land (.94 acres) located in the southeast quadrant of the intersection of relocated MD Route 118 and Middlebrook Road, Germantown, in the 9th Election District,

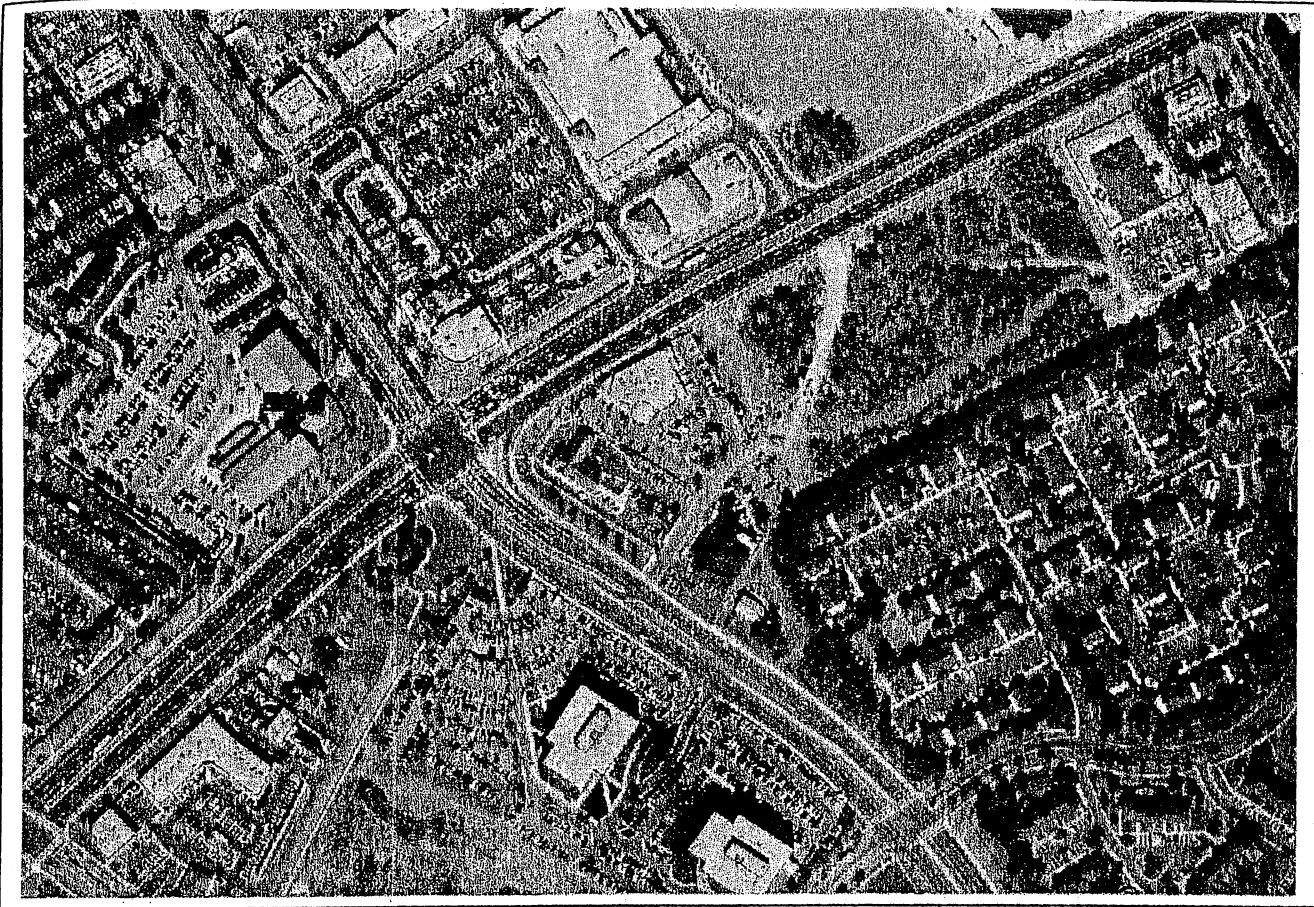
is hereby approved in the amount requested subject to the specifications and requirements of the revised schematic development plan recommended for approval above; provided that, within 10 days of receipt of the District Council's approval resolution, the Applicant must submit the revised schematic development plan, Ex. 55, for certification in accordance with §59-D-1.64, with an additional binding element stated on the face of the plan that limits the number of employees on site at any one time to seven or less; and provided, further, that upon receipt of the District Council's approval resolution the Applicant must immediately file the Declaration of Covenants, amended to add the binding element added to the schematic development plan pursuant to this paragraph, in accordance with §59-H-2.54.

This is a correct copy of Council action.


Mary A. Edgar, CMC
Clerk of the Council



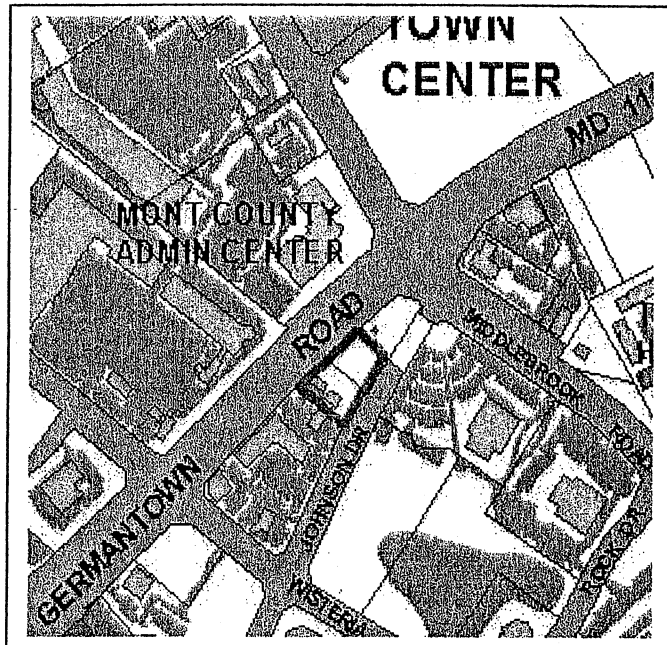
PROJECT DESCRIPTION: Surrounding Vicinity



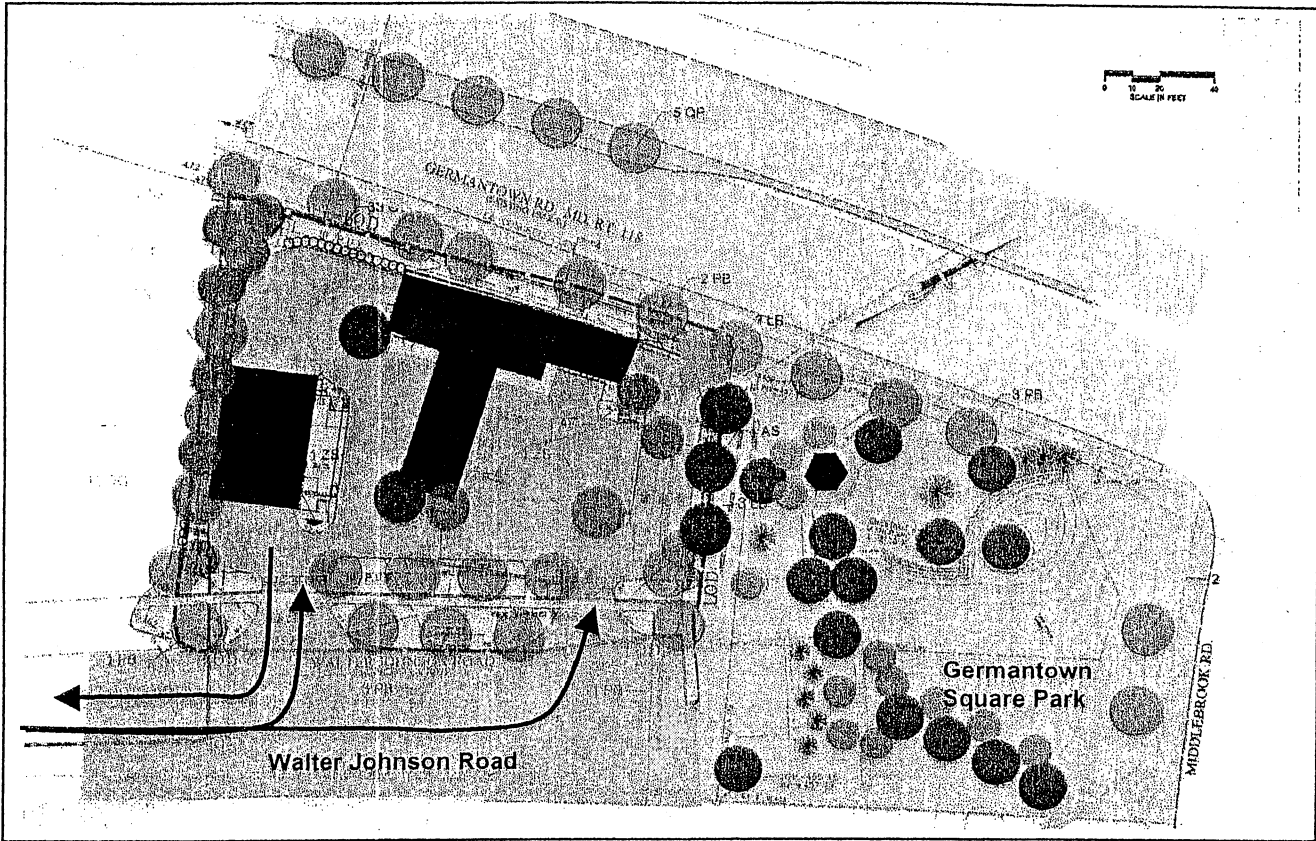
Germantown Town Center Vicinity Map

The subject property is located in Germantown at the southeast quadrant of the intersection of Germantown Road (MD118) and Middlebrook Road, just northeast of Wisteria Drive. The County Administration Center is located across MD118 to the north. Seneca Valley High School is located to the southeast along Middlebrook Road.

Immediately adjacent to the property to the northeast is MNCPPC ½ -acre Germantown Square Park, which features an attractive landscaping with stone detailing and a gazebo. To the southwest is a Jiffy Lube service facility. The small retail center adjoining the Jiffy Lube contains a bank, restaurant, liquor store and additional retail uses, with vehicular access from Walter Johnson Drive.



PROJECT DESCRIPTION: Proposal



Proposal for Tony's Carwash showing vehicular ingress and egress from Walter Johnson Road

The proposed full-service car wash offers an enclosed automatic car-wash tunnel situated parallel to Germantown Road, a separate building at the south end of the site for interior vehicle cleaning, and four self-service car wash bays in the center of the site. The automatic wash tunnel is capable of processing 100 to 150 cars per hour. The proposed hours of operation are 7 am to 7 pm on weekdays and 9 am to 5 pm on weekends. The applicant anticipates that he would need no more than five to seven employees to operate the facility even during peak hours.

The layout and building design were specifically developed to be compatible with the Germantown Town Center development. The Germantown Road frontage has the appearance of multiple store fronts with large windows that face directly on the street, setback 10 feet from the property line (subject to approval of the waiver for building setback). This building setback, if approved, would continue the building line established by the adjacent retail stores.

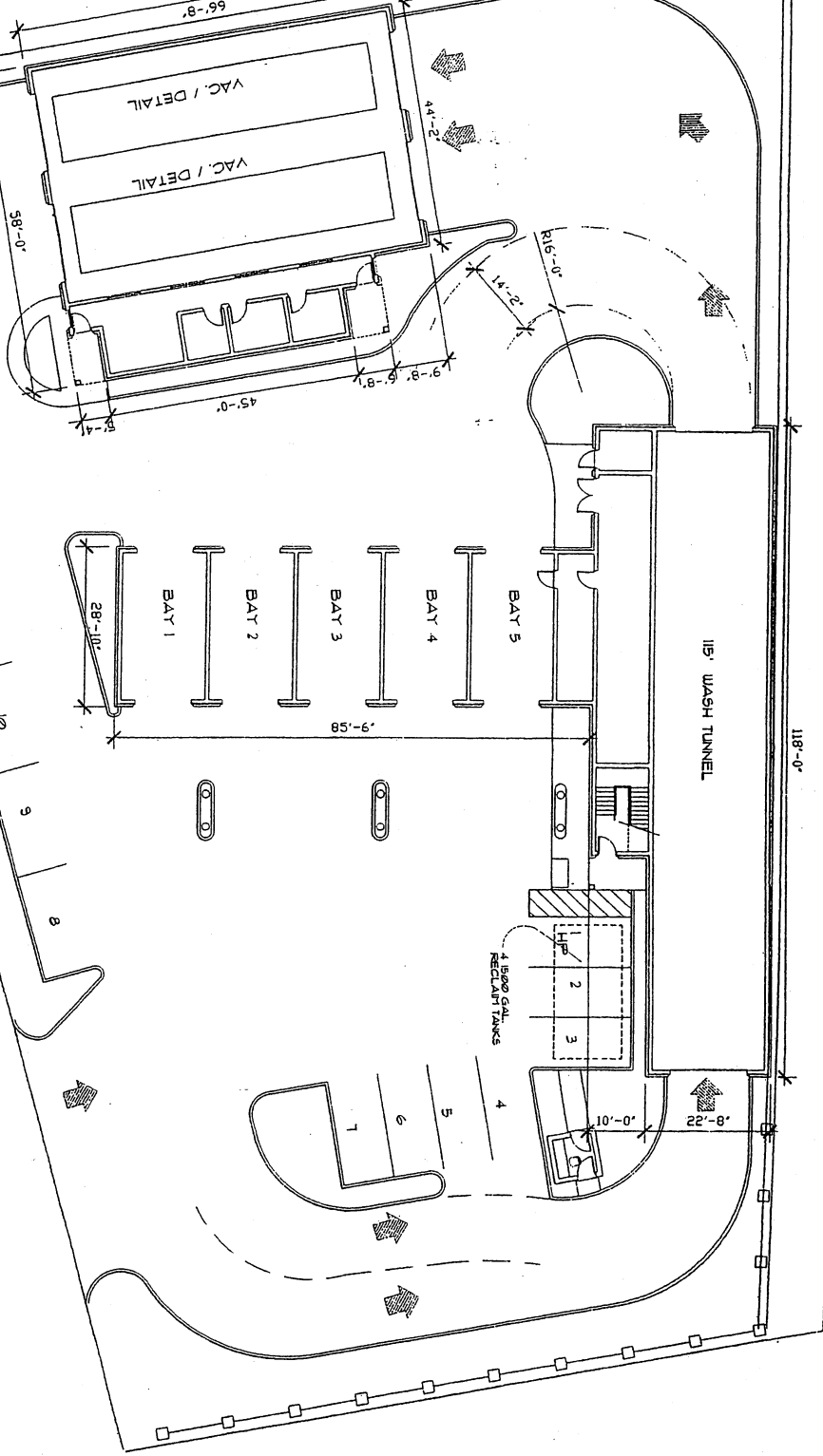
This placement is intended to reinforce the identity of the Town Center as a pedestrian friendly neighborhood. The building façade is extended along the street frontage by a screening wall that will wrap the site's north boundary and simultaneously provide noise mitigation for the public park on the corner.

PARCEL C
NORTH GERMANTOWN
PLA1 13683

Walter Johnson Road

PLAN / SITE
1" = 10'-0"

199.02' N 53°14'46"W



MD Rt. # 118

T O N Y ' S
CAR WASH

PITMAN & WARDLEY ARCHITECTS
32 CHURCH STREET
SALEM MASSACHUSETTS
978-744-8982

DATE: 7/14/97

REVISIONS:

DRAWN BY: CMB/DAC

DRAWING NUMBER:

L.1

COMMUNITY PLANNING
THE MARYLAND NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

RECEIVED
MAY 20 2003
RESOLVED
SILVER SPRING, MD.

Resolution No. 14-144
Introduced: October 1, 2002
Adopted: October 1, 2002

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION
OF THE MARYLAND-WASHINGTON REGIONAL DISTRICT
IN MONTGOMERY COUNTY

COMMUNITY PLANNING
AND NATIONAL CAPITAL
PARK AND PLANNING COMMISSION
RECEIVED
OCT 1 2002
SILVER SPRING, MD.

By: County Council

Subject: APPLICATION NO. G-788 FOR AMENDMENT TO THE ZONING ORDINANCE
MAP, Stanley D. Abrams, Attorney for I.O. Limited Partnership, L.L.P., Applicant.
OPINION AND RESOLUTION ON APPLICATION
Tax Account Nos. 02-00017523, 02-00018276

OPINION

Application No. G-788 requests reclassification from the O-M and R-200 Zones to the C-3 Zone of 1.6 acres known as Lot 1, Block A, Bowman Mill Subdivision, located at the southeast quadrant of the intersection of relocated MD Route 118 and Bowman Mill Drive, Germantown, in the 9th Election District. The application was filed under the Optional Method authorized under §59-H-2.5, which permits binding limitations with respect to land use, density and development standards or staging.

Two Hearing Examiner reports, dated December 7, 2001 and August 1, 2002, recommended denial of the application, as did Technical Staff of the Maryland-National Capital Park & Planning Commission. However, the Montgomery County Planning Board, after having initially recommended denial of the application, voted on May 23, 2002 to recommend approval. The Planning Board found that with the binding elements proffered by the Applicant in the schematic development plan (SDP), the potential impact of the rezoning can be adequately addressed in subsequent review processes including site plan and special exception. The Planning Board also questioned whether existing development in the area is consistent with the goal stated for the area in the *1989 Germantown Master Plan*, which was to establish a "quiet, green, pedestrian-oriented enclave." The Planning Board noted, in particular, that the MARC parking lots, with their expanse of asphalt occupying a significant amount of the land area adjacent to the Historic District, appear to be larger than was ever contemplated by the Master Plan. The District Council agrees with the Planning Board's conclusions.

The subject property is located in the Germantown and Vicinity Planning Area about a mile southwest of the I-270 interchange with MD Route 118, a six-lane divided highway that extends past the subject property and the Germantown Town Center. The subject property is located at the

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intersection of Bowman Mill Drive and Route 118, and contains about 257 feet of frontage along Route 118 and 249 feet of frontage along Bowman Mill Drive. The site forms a nearly square-shaped parcel and is relatively level, but about halfway into its depth it drops in elevation about six to eight feet toward a dedicated right-of-way for an unbuilt portion of Walter Johnson Road. The property is heavily wooded except for its northwest corner and the trees extend 30 to 40 feet in height. The site does not contain any streams, wetlands, floodplains or other significant environmental features.

The subject property was classified under the R-R Zone by the 1958 countywide comprehensive zoning. Subsequently, the R-R Zone was changed to the R-200 Zone, although the density remained the same. This residential zoning density was reconfirmed by comprehensive zonings in 1974, 1984 and again in 1987. A portion of the subject property was reclassified to the O-M Zone under LMA G-509 in 1987. The last comprehensive zoning was applied in 1990 and confirmed the existing split zoning designation for the site.

The surrounding area is bounded on the northwest by Route 118, on the northeast by Wisteria Drive, on the southeast by the regional stormwater management facility and on the south by the back ridge line of the Germantown Historic District. This area includes the *1989 Germantown Master Plan's* Analysis Area TC-6 and the Historic District.

The land use and zoning pattern of the area reflects a variety of uses classified under office and residential zones. Land uses within the Germantown Historic District are primarily historic single-family homes and a bank building. The District also includes the MARC commuter railroad station, which is a replica of the original station that burned down. There are some four pedestrian crossovers that connect the Historic District with Analysis Area TC-6. The uses within Analysis Area TC-6 include two individual historic resources, the Pumphrey/Mateney House, which has been converted to commercial use, and the site of the former Madeline Waters House, which burned down some years ago. Other uses include the parking lots for the MARC station, the Verizon Telephone Dial Center, and several low-intensity office uses. Portions of the area also contains streetscape, trees and low-scale, ornamental Washington-type streetlights.

In an attempt to maintain a connection between the Historic District south of the railroad tracks and the individual historic resources located north of the tracks, a bridge over the railroad was converted to pedestrian use and re-designed to be compatible with the historic resources. It contains brick paving stones, ornamental Washington-type streetlights, historic-type benches and iron fencing. The bridge is a popular amenity in the area and is used by area residents and commuters.

Bowman Mill Drive also was constructed in a manner designed to be consistent with and complement Germantown's historic resources. It is a two-lane road flanked by pedestrian walkways,

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street trees and ornamental Washington-type streetlights. The design of this road and the pedestrian bridge, however, do not change the fact that the MARC parking lots are a predominant land use. They run the complete length of Bowman Mill Drive, in part confronting the property that is the subject of this application, and they surround the Pumphrey Mateney House on three sides. On the north side of the railroad tracks, the brick walkway leading to the pedestrian bridge rests on a small island between parking lots.

The Applicant proposes to limit development under the C-3 Zone by means of an SDP. The plan contains binding elements that include a 3,100-square foot one-story building, a maximum building coverage of 5.5% of the site, a minimum green area of 35% of the site, and several prohibited uses. The prohibited uses include storage of waste material, auto parts, refuse and motor vehicles within any required setback; automobile, truck, boat and trailer sales, service and rentals; building supply stores; eating and drinking establishments including drive-ins; heavy equipment sales and service; and billiard parlors, bowling alleys, miniature golf courses, and roller rinks. Proposed signage will comply with the county code and no major motor vehicle repair operations will be conducted on-site.

The proposed building would have access from Bowman Mill Drive and the future extension of Walter Johnson Road. These would be the only access points and would provide for access to parking and the uses that are eventually authorized for the site. Some 13,753 square feet of the site will be dedicated for the extension of Walter Johnson Road. It is the Applicant's present intention to develop the property with an automobile filling station with twelve pumps, a canopy cover and a convenience store. The convenience store would occupy about 1,850 square feet of the proposed building as retail space and the balance of the building would be used for bathrooms, office space and storage. The automobile filling station use would require a special exception from the Board of Appeals and, therefore, is not a binding element of the SDP.

The District Council concludes that the proposed location complies with the requirements of the C-3 Zone. The subject property meets the initial threshold requirement stated in the purpose clause of the C-3 Zone, because it is adjacent to a six-lane highway. In addition to this threshold requirement, the purpose clause of the C-3 Zone states that the zone is intended "to provide sites for commercial uses related to the traveler and highway user that may require large land areas, but do not depend on adjacent uses for comparison shopping or pedestrian trade; and sites for commercial facilities which are related to the traveler and highway user." Code § 59-C-4.360. The potential uses are indisputably commercial facilities related to the traveler and highway user, fully consistent with the requirements of the C-3 Zone. Given that the subject site would have direct access only from Bowman Mill Drive and the future Walter Johnson Road, the proposed rezoning is also consistent with the intent

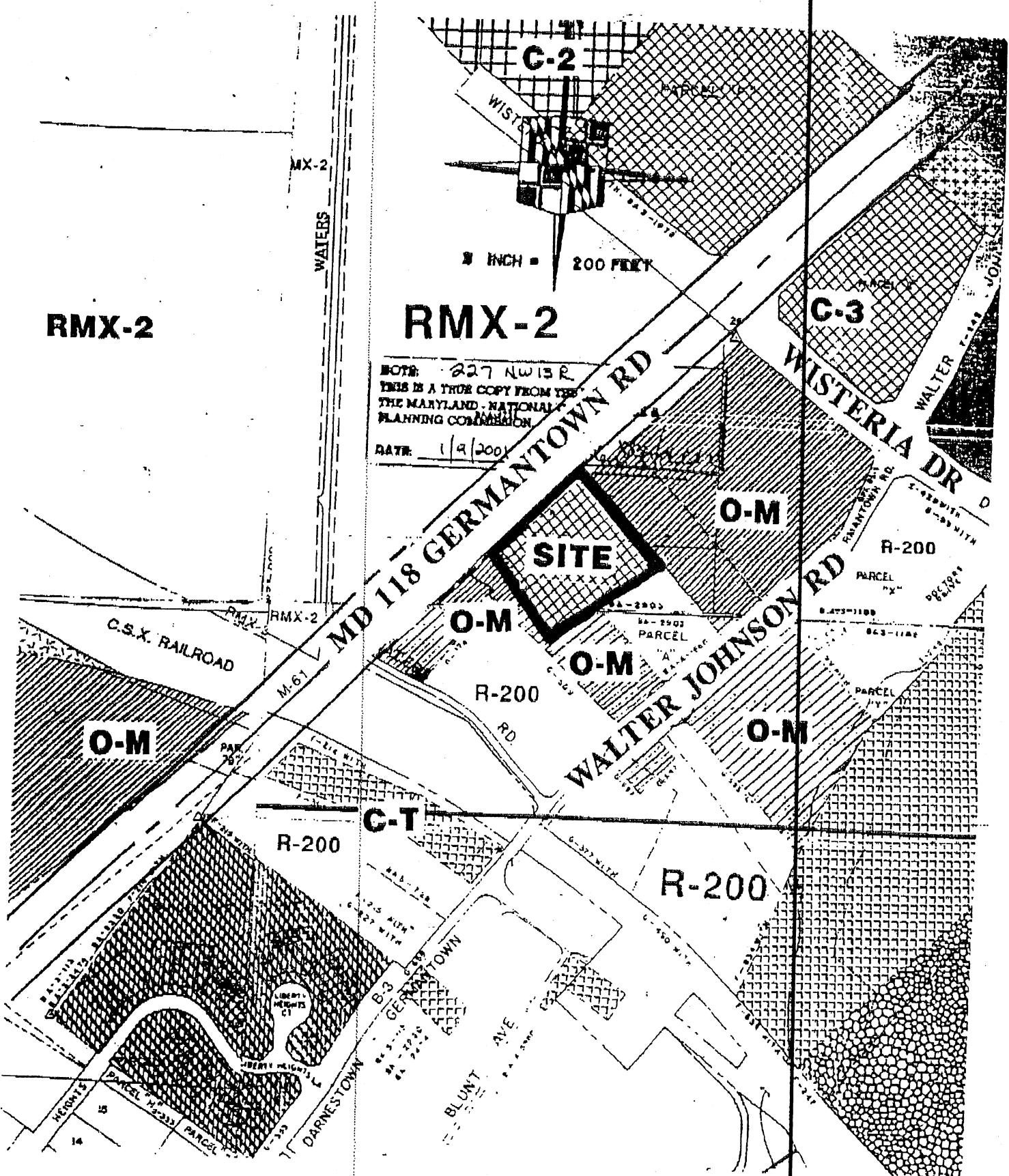
Page 4.

Resolution No. 14-1447

of the C-3 Zone that "direct access to the highway be controlled by restricting development to service road access." See Code § 59-C-4.360.

The District Council finds that the proposed development will be compatible with existing and planned land uses in the surrounding area. The moderate-intensity uses authorized by the C-3 Zone are not inconsistent with a transitional area between the intensive uses of the Town Center core areas and the neighboring Historic District. The restrictions of the SDP require a minimum 35% green area on the subject site and a low-scale building along the same lines as other buildings in the area. The proposed rezoning and development will not have an adverse impact on the Germantown Historic District, which is located, on average, roughly 1,000 feet from the subject property, on the other side of the railroad tracks, in another master plan analysis area (Clopper Village). Visibility from most of the Historic District to the subject site is limited because of intervening uses and trees. The proposed rezoning and development will not have an adverse impact on either of the two individual historic resources: the closest of these, the Pumphrey-Mateney House, is located 800 feet from the site and is screened from it by the Verizon dial center building and trees. Moreover, the evidence indicated that the integrity of the historic resources in the area has been compromised by developments in the immediate vicinity, including new townhouses visible on a ridgeline, the MARC parking lots, and a postal service distribution facility located slightly north/northeast of the Historic District.

The proposed rezoning and development would be in general harmony with the Master Plan goals for this area, particularly when considered in light of existing development in the immediate vicinity. Although the master plan does not recommend the C-3 Zone for this location, it recommends the C-3 Zone for nearby locations within Town Center core areas. Moreover, the Planning Board called into question the appropriateness of following Master Plan goals that do not comport with development that has already taken place in the area. The Master Plan calls for a quiet, pedestrian-oriented enclave in Analysis Area TC-6, as a buffer for the Historic District. This has largely been achieved along Walter Johnson Drive, as development there has been limited to a pedestrian scale. However, the construction of Bowman Mill Drive changed the character of the subject property and the surrounding area. It turned the subject property into a strategically located corner lot, with dual access off of Bowman Mill Drive and the future Walter Johnson loop road, whereas the Master Plan assumed that the loop road would be sole access point to the property. The new intersection created at Bowman Mill Drive and relocated Route 118 has a different character from and affects the rest of the enclave, making it less pedestrian-oriented. In addition, although MARC-related parking was contemplated for this location in the Master Plan, the present vast expanse of parking areas is larger than anticipated, and arguably has changed the quiet, passive and pedestrian-oriented character called for in the Master Plan.

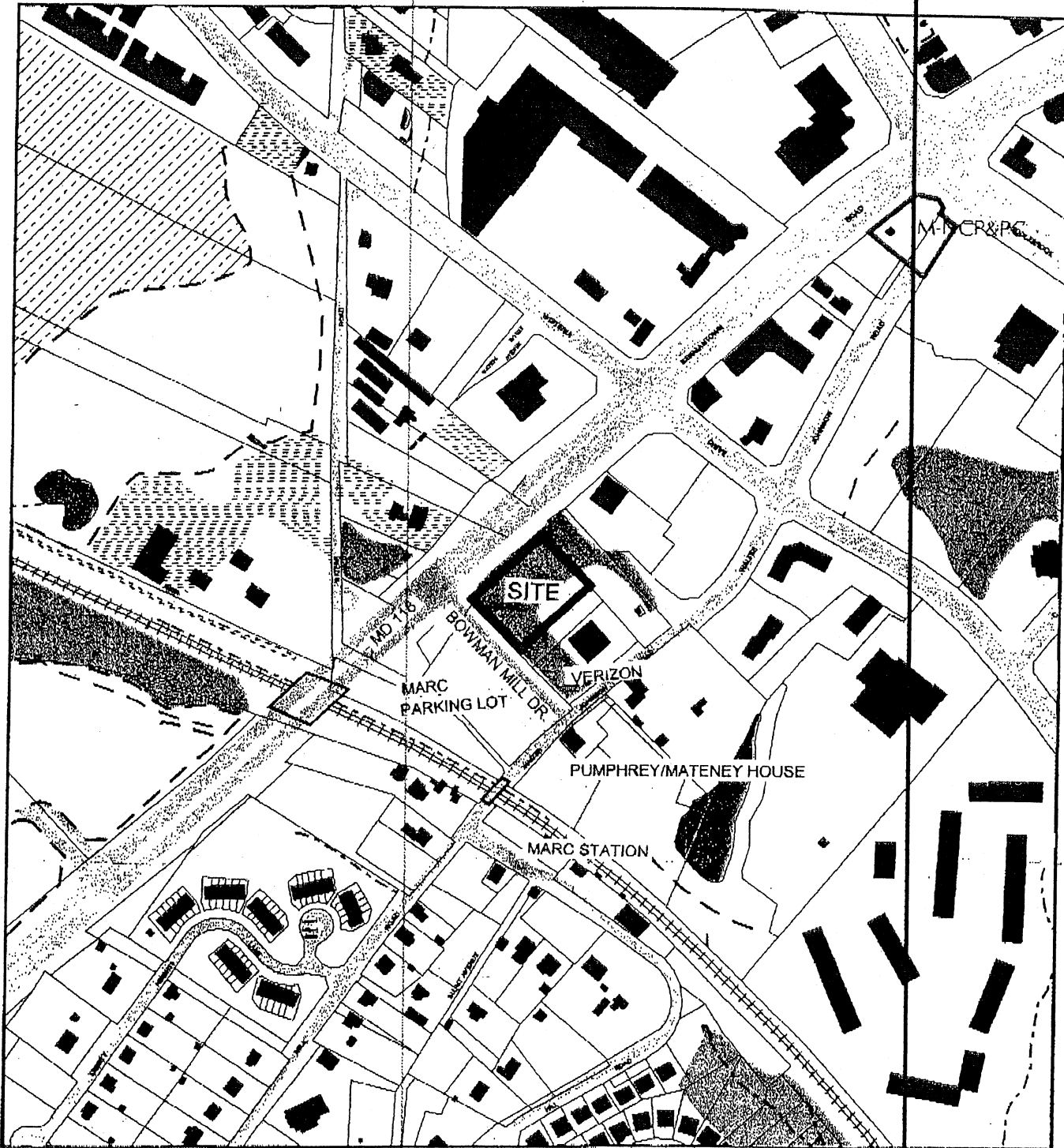


NOTE: 227 NW15R
 THIS IS A TRUE COPY FROM THE
 THE MARYLAND - NATIONAL
 PLANNING COMMISSION
 DATE: 1/9/2001

EXISTING ZONING

VICINITY MAP FOR

S-2568



Map compiled on April 16, 2003 at 11:58 AM | Site located on base sheet no - 227NW13

NOTICE

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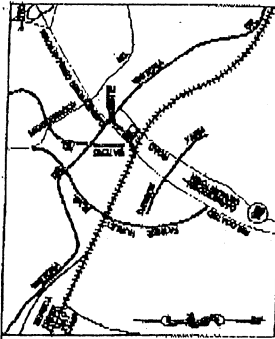
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Key Map



MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

2777 Georgia Avenue - Silver Spring, Maryland 20910-4700



SITE PLAN DATA TABULATION

ITEM	PROVIDED	BY	DATE	REMARKS
1. SITE PLAN	NO	OWNER	10/15/02	
2. SURVEY	NO	OWNER	10/15/02	
3. ENGINEERING	NO	OWNER	10/15/02	
4. PERMITS	NO	OWNER	10/15/02	
5. UTILITIES	NO	OWNER	10/15/02	
6. EROSION CONTROL	NO	OWNER	10/15/02	
7. TRAFFIC SIGNALS	NO	OWNER	10/15/02	
8. SIGNAGE	NO	OWNER	10/15/02	
9. LIGHTING	NO	OWNER	10/15/02	
10. LANDSCAPE ARCHITECTURE	NO	OWNER	10/15/02	
11. TREE REMOVAL	NO	OWNER	10/15/02	
12. TREE REPLANTING	NO	OWNER	10/15/02	
13. FLOOD CONTROL	NO	OWNER	10/15/02	
14. HISTORIC PRESERVATION	NO	OWNER	10/15/02	
15. ENVIRONMENTAL IMPACT STATEMENT	NO	OWNER	10/15/02	
16. AIR QUALITY	NO	OWNER	10/15/02	
17. NOISE	NO	OWNER	10/15/02	
18. VISUAL QUALITY	NO	OWNER	10/15/02	
19. CULTURAL RESOURCES	NO	OWNER	10/15/02	
20. OTHER	NO	OWNER	10/15/02	

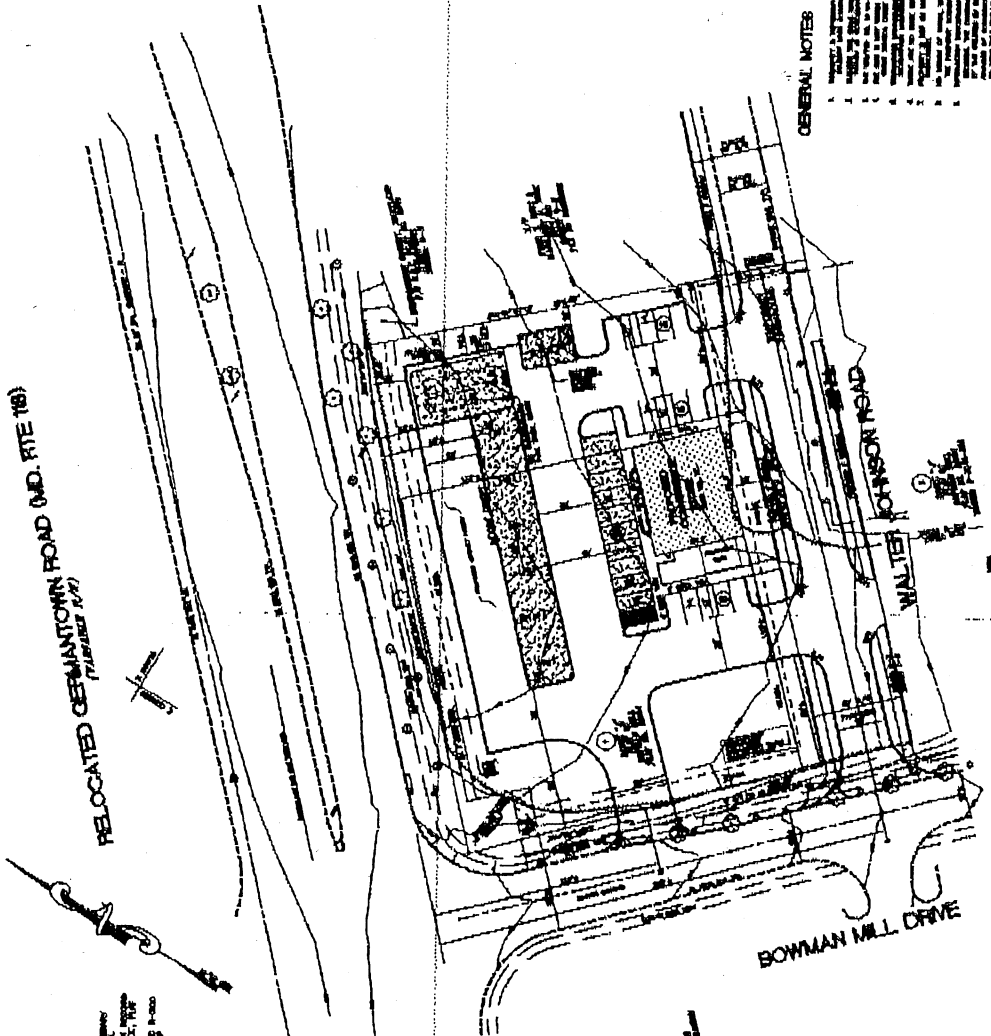
SPECIAL EXCEPTION PLAN
AUTOMOBILE FILLING STATION
AND CONVENIENCE STORE
 RELOCATED CEMANTOWN ROAD (MD. RTE 180)
 AND BOWMAN MILL DRIVE

Submitted by: [Name]
 Prepared by: [Name]
 Date: [Date]

City of [Name]
 Department of [Name]

BENCHMARK
 ALL BENCHMARKS SHOWN ON THIS PLAN ARE TO BE USED AS A REFERENCE POINT FOR THE LOCATION OF ALL STRUCTURES AND UTILITIES SHOWN ON THIS PLAN. THE BENCHMARKS ARE TO BE MAINTAINED AT ALL TIMES AND ANY DAMAGE TO THEM IS TO BE REPAIRED IMMEDIATELY.

LEGEND
 [Symbol] EXISTING CURB
 [Symbol] EXISTING SIDEWALK
 [Symbol] EXISTING DRIVEWAY
 [Symbol] EXISTING DRIVE
 [Symbol] EXISTING SIDEWALK
 [Symbol] EXISTING DRIVEWAY
 [Symbol] EXISTING DRIVE
 [Symbol] EXISTING SIDEWALK
 [Symbol] EXISTING DRIVEWAY
 [Symbol] EXISTING DRIVE



SITE DATA
 [Symbol] EXISTING CURB
 [Symbol] EXISTING SIDEWALK
 [Symbol] EXISTING DRIVEWAY
 [Symbol] EXISTING DRIVE
 [Symbol] EXISTING SIDEWALK
 [Symbol] EXISTING DRIVEWAY
 [Symbol] EXISTING DRIVE

AUTO FILLING STATION
CONVENIENCE STORE
FLOOR AREA TABULATION

GENERAL NOTES

1. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE MARYLAND CONSTRUCTION CODE AND THE MARYLAND PUBLIC WORKS ACT.
2. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS FROM THE APPROPRIATE AGENCIES.
3. THE CONTRACTOR SHALL MAINTAIN ACCESS TO ALL ADJACENT PROPERTIES AT ALL TIMES.
4. THE CONTRACTOR SHALL PROTECT ALL EXISTING UTILITIES AND STRUCTURES.
5. THE CONTRACTOR SHALL MAINTAIN ADEQUATE DRAINAGE AND EROSION CONTROL MEASURES.
6. THE CONTRACTOR SHALL MAINTAIN ADEQUATE TRAFFIC CONTROL AND SIGNAGE.
7. THE CONTRACTOR SHALL MAINTAIN ADEQUATE LIGHTING.
8. THE CONTRACTOR SHALL MAINTAIN ADEQUATE LANDSCAPE ARCHITECTURE.
9. THE CONTRACTOR SHALL MAINTAIN ADEQUATE TREE REMOVAL AND REPLANTING.
10. THE CONTRACTOR SHALL MAINTAIN ADEQUATE FLOOD CONTROL MEASURES.
11. THE CONTRACTOR SHALL MAINTAIN ADEQUATE HISTORIC PRESERVATION MEASURES.
12. THE CONTRACTOR SHALL MAINTAIN ADEQUATE ENVIRONMENTAL IMPACT STATEMENT MEASURES.
13. THE CONTRACTOR SHALL MAINTAIN ADEQUATE AIR QUALITY MEASURES.
14. THE CONTRACTOR SHALL MAINTAIN ADEQUATE NOISE MEASURES.
15. THE CONTRACTOR SHALL MAINTAIN ADEQUATE VISUAL QUALITY MEASURES.
16. THE CONTRACTOR SHALL MAINTAIN ADEQUATE CULTURAL RESOURCES MEASURES.
17. THE CONTRACTOR SHALL MAINTAIN ADEQUATE OTHER MEASURES.

APPROVED: [Signature]
 DATE: [Date]

BOARD OF APPEALS
for
MONTGOMERY COUNTY
100 Maryland Avenue, Room 217
Rockville Maryland 20850
(240) 777-6600
(www.montgomerycountymd.gov/council/board.html)

Case No. S-2577

PETITION OF TOLER FUNERAL HOME

NOTICE OF MOTION TO AMEND PETITION

Please take notice that the Board of Appeals is in receipt of a letter, dated June 20th 2003, from Stanley D. Abrams, Esquire, making a motion to amend the petition. The letter states in part:

“Site Plan/Landscape Plan Amendments

- (1) Eliminate parking in front of the building and move those spaces to the parking area facing E. Randolph Road and to an area adjacent to the proposed garage in the rear of the building.
- (2) Eliminate the existing driveway access closest to the intersection of E. Randolph Road and Fairland Road.
- (3) Reduce the width of the internal driveways to 20' wide.
- (4) Eliminate the driveway connection between the rear garage area and parking area on E. Randolph Road
- (5) Relocate the underground holding tank to an area near the north side of the house/garage.

Prehearing Statement Amendments

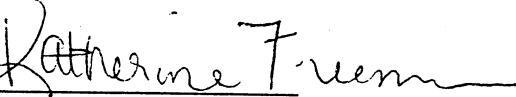
- (1) Conform description of proposed improvements to use to conform to the above described amendments
- (2) Studies of property values of single family residential properties adjoining the Hines-Rinaldi Funeral Home (11900 New Hampshire Avenue, Silver Spring) and Pumphrey Funeral Home (300 W. Montgomery Avenue, Rockville) from the Montgomery County Assessment records to demonstrate no adverse impact on property values of property adjacent to funeral home use.

Add Two (2) Additional Witnesses

- (a) Mr. Michael R. Snyder – Professional Engineer who will testify as to Storm Water Management and Water and Sewer matters.
- (b) Herbert H. Toler, Jr. – Associate Pastor, People Community Baptist Church.”

Broadmore Hills Community Services
Valencia Civic Association
Montvale Homeowners Association
Morningside Homeowners Association
Paint Branch Farms Citizens Association
Brooks Farm Homeowners Association
Columbia Road Citizens Association
Cloverly/Fairland/White Oak Community Action Committee
Greater Colesville Citizens Association
Layhill Alliance, Inc.

County Board of Appeals

By 
Katherine Freeman
Executive Secretary

All parties who make submissions, after an initial filing, in Special Exception, Variance and Administrative Appeals cases, must furnish copies of the submission to all other parties in the case. For the purpose of this requirement, a party includes: (1) Counsel of record who have formally entered their appearance; (2) The People's Counsel for Montgomery County if he has filed Noticed of Intention to Participate in the case; (3) Any person to whom the Board of Appeals has granted Intervener status; and (4) The Applicant, Petitioner or Appellant in the case.

Submissions must be accompanied by a written statement certifying that copies have been sent to all parties. Effective September 6, 2002, failure to supply such written certification will result in refusal of the submission

ABRAMS, WEST & STORM, P.C.

ATTORNEYS AT LAW

SUITE 760N

4550 MONTGOMERY AVENUE

BETHESDA, MARYLAND 20814-3304

(301) 951-1550

FAX: (301) 951-1543

M-NCPPL

M. GREGG DIAMOND
OF COUNSEL

KENNETH R. WEST
STANLEY D. ABRAMS
HARRY C. STORM
CATHY G. BORTEN
JAMES L. PARSONS, JR.

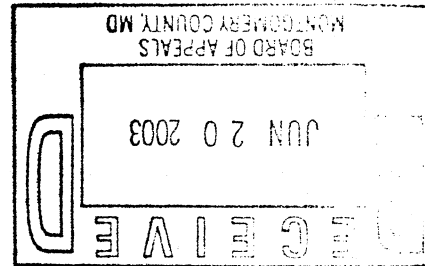
PRACTICING IN MARYLAND AND
THE DISTRICT OF COLUMBIA

WRITER'S DIRECT DIAL NUMBER
(301) 951-1540
EMAIL "sabrams@awsdlaw.com"

June 20, 2003

VIA HAND DELIVERY

Donald Spence, Esq., Chairman
Montgomery County Board of Appeals
County Council Office Building
100 Maryland Avenue, 2nd Floor
Rockville, Maryland 20850



**RE: Amendment to Petition S-2577
Toler Funeral Home**

Dear Chairman Spence:

Pursuant to §59-A-4.24 of the Zoning Ordinance, the Petitioner in the above captioned case moves the board to approve the following amendments to the subject request including the special exception site plan, landscape plan and prehearing statement:

Site Plan/Landscape Plan Amendments

- (1) Eliminate parking in front of the building and move those spaces to the parking area facing E. Randolph Road and to an area adjacent to the proposed garage in the rear of the building
- (2) Eliminate the existing driveway access closest to the intersection of E. Randolph Road and Fairland Road.
- (3) Reduce the width of the internal driveways to 20' wide.
- (4) Eliminate the driveway connection between the rear garage area and parking area on E. Randolph Road
- (5) Relocate the underground holding tank to an area near the north side of the house/garage.

Prehearing Statement Amendments

- (1) Conform description of proposed improvements to use to conform to the above described amendments
- (2) Studies of property values of single family residential properties adjoining the Hines

- Rinaldi Funeral Home (11900 New Hampshire Avenue, Silver Spring) and Pumphrey Funeral Home (300 W. Montgomery Avenue, Rockville) from the Montgomery County Assessment records to demonstrate no adverse impact on property values of property adjacent to funeral home use.

- (3) Add two (2) additional witnesses
 - (a) Mr. Michael R. Snyder - Professional Engineer who will testify as to Storm Water Management and Water and Sewer matters.
 - (b) Herbert H. Toler, Jr. - Associate Pastor, Peoples Community Baptist Church

Enclosed herewith are the following:

- (1) Revised Site Plan
- (2) Revised Landscape Plan
- (3) Preliminary Forest Conservation Plan
- (4) Simplified NRI/FSD
- (5) Valuation survey's of Assessment Records adjacent to Hines-Rinaldi and Pumphrey Funeral Homes

In large part these amendments are presented as a result of comments from the planning commission staff and comments of community organization representatives. Enclosed herewith are copies of the revised site plan and landscape plan and Mr. Snyder's and Dr. Toler's resumes.

If you have any questions, please do not hesitate to contact me.

Sincerely,



Stanley D. Abrams
Counsel for Petitioner

SDA:dw
Enclosure

cc: Al Toler
Jim Crawford
Martin Klauber, Esq.
Joel Gallihue
Eugene Kessler
David Michaels
All abutting confronting property owners

**Historical Property Values Of
Properties Located In Relation To
Pt Par A, Quaint Acres
11900 New Hampshire Avenue
Hines-Rinaldi Funeral Home**

**Blk A, Lot 10
11815 Gordon Road (rear)**

1997	241,683
1998	243,266
1999	244,850
2000	236,290
2001	236,290
2002	236,290
2003	276,333
2004	316,376
2005	356,420

**Blk A, Lot 9
11809 Gordon Road (directly to rear)**

1997	241,640
1998	243,740
1999	245,840
2000	251,166
2001	256,492
2002	261,820
2003	287,863
2004	313,906
2005	339,950

**Blk A, Lot 8
11805 Gordon Road (directly to rear)**

1997	356,246
1998	356,492
1999	356,740
2000	357,590
2001	358,440
2002	359,290
2003	414,000
2004	468,710
2005	523,420

Blk A, Lot 7
700 Quaint Acres (diagonal to rear)

1997	396,050
1998	396,050
1999	396,050
2000	398,276
2001	400,502
2002	402,730
2003	473,326
2004	543,922
2005	614,520

Blk A, Lot 6
11807 New Hampshire (diagonally across)

1997	150,340
1998	150,340
1999	150,340
2000	154,596
2001	158,852
2002	163,110
2003	184,233
2004	205,356
2005	226,480

Blk A, Lot 7
11809 New Hampshire Ave (directly across)

1997	162,930
1998	162,930
1999	162,930
2000	163,633
2001	164,336
2002	165,040
2003	186,256
2004	207,472
2005	228,690

Blk A, Lot 8
11811 New Hampshire Ave (directly across)

1997	154,930
1998	154,930
1999	154,930
2000	158,793
2001	162,656
2002	166,520
2003	191,393
2004	216,266
2005	241,140

Blk A, Lot 9
11813 New Hampshire Ave (diagonally across)

1997	145,390	
1998	145,390	
1999	145,390	
2000	149,273	146,443*
2001	153,156	147,496*
2002	157,040	148,550*
2003	170,926	159,730*
2004	193,302	170,910*
2005	215,680	182,090*

*2nd set of numbers is shown on separate sheet as Phased-In Final Market value, with a processed date of 4/17/03 (vs. 11/09/02 for original, higher set of numbers). Lower number appears to be result of appeal

**Historical Property Values Of
Properties Located In Relation To
P303, 300 W. Montgomery Avenue
Pumphrey Funeral Home**

P250

301 W. Montgomery Ave. (across)

1998	339,830
1999	343,900
2000	347,970
2001	411,533
2002	475,096
2003	538659

P249

229 W. Montgomery Ave. (across)

1998	212,250
1999	214,430
2000	216,610
2001	245,190
2002	273,770
2003	302,350

N305

310 W. Montgomery Ave. (adjacent)

1998	329,643
1999	333,346
2000	337,050
2001	364,393
2002	391,736
2003	419,080

P302

222 W. Montgomery Ave. (adjacent)

1998	237,096
1999	239652
2000	242,210
2001	293,116
2002	344,022
2003	394,930

N342

12 Wall Street (rear, diagonal)

1998	259,183
1999	261,996
2000	264,810
2001	297,996
2002	331,182
2003	364,370

Lot 1

11 Williams Street (directly to rear)

1998	178,720
1999	178,720
2000	178,720
2001	194,190
2002	209,660
2003	225,130