



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

Item #
12/4/08

MEMORANDUM

DATE: November 22, 2008

TO: Montgomery County Planning Board

VIA: Rose Krasnow, Chief *RK*
Development Review Division

Catherine Conlon, Subdivision Supervisor *CC*
Development Review Division

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

REVIEW TYPE: Preliminary Plan Amendments

APPLYING FOR: Amendments to: (1) delete proposed Chaffee Court, (2) abandon previously dedicated rights-of-way for Turkey Thicket Drive and Hubble Court and convert them to private roads, and (3) revise lot lines.

PROJECT NAME: Airpark North Business Park

CASE NOS. 12004018B and 12004018D

REVIEW BASIS: Pursuant to Chapter 50, the Subdivision Regulations

ZONE: I-4

LOCATION: On the east side of Snouffer School Road opposite the intersection with Alliston Hollow Way

MASTER PLAN: Gaithersburg and Vicinity

APPLICANT: Centerpark, aka Webb Tract, L.L.C./Center Park West, L.L.C.

ATTORNEY: Lerch, Early and Brewer

ENGINEER: Gutschick, Little and Weber

FILING DATE: March 20, 2008 (Amendment B) and August 25, 2008 (Amendment D)

HEARING DATE: December 4, 2008



Staff Recommendation: Approval of Preliminary Plan Amendments 12004018B and 12004018D with the following conditions:

- 1) Prior to recordation of the plat(s) for Turkey Thicket Drive, the Applicant must submit a copy of the County Council's resolution abandoning the previously dedicated right-of-way for Turkey Thicket Drive. The Abandonment Resolution number must be reflected on record plat(s). If it is ultimately determined by County Executive staff that County Council action is not required for road abandonment in this instance, the Resolution for this Planning Board action shall serve as approval of the abandonment.
- 2) The previously dedicated Hubble Court right-of-way is abandoned by this preliminary plan action. The Planning Board's Abandonment Resolution number must be reflected on record plat(s).
- 3) The Applicant must construct Hubble Court and Turkey Thicket Drive as private streets in conformance with the "Typical Section" as shown on submitted preliminary plans dated October 24, 2008. The sidewalk must be offset by a minimum of 5 feet from the pavement edge.
- 4) The Applicant (builder) must certify to the Montgomery County Department of Permitting Services (DPS), MNCPPC staff, and the future lot tenants by means of a covenant in the land records that all private streets in the development have been designed and constructed to the structural standards of a County tertiary road.
- 5) Prior to recordation of plat(s), the Applicant must provide proposed access easement language and the funding mechanism and road maintenance agreements to the Department of Parks staff for review and approval.
- 6) All other previous conditions of approval for Preliminary Plan 120040180 as contained in the Planning Board Opinion dated July 26, 2004, and as amended by Resolution dated October 18, 2007, remain in full force and effect.

SITE DESCRIPTION and SURROUNDING AREA:

Airpark North Business Park, formerly known as the "Webb Tract", is a 134-acre undeveloped property located within the boundaries of the 1985 *Gaithersburg Vicinity Master Plan*. The property is located on Snouffer School Road near Centerway Road and is zoned I-4 (low-intensity, light industrial). The site is entirely within the Great Seneca Creek watershed, a Use I watershed. The 134-acre site includes 27 acres of forest and a stream and associated floodplain and wetlands that bisect the property in a southwest to northeast fashion. There are 27.4 acres of stream buffer along this stream.

A vacated Army Reserve Center is located immediately adjacent to the subject property to the north and is also zoned I-4. Also adjacent to the northern boundary of the property is a residential development in Montgomery Village, which is in the Town Sector Zone. To the immediate east and south of the subject site is the M-NCPCC, Lois Green Farm Conservation Park, which is zoned R-200. The Montgomery County Airpark is located to the southeast of the subject site just beyond the park property. The land immediately surrounding the Airpark is zoned I-4 and is known as the Airpark Industrial Park. The subject property has considerable

frontage along Snouffer School Road. Across Snouffer School Road to the west of the site is a residential development, known as Hunter's Woods, in the R-200 zone. Alliston Hollow Way intersects with Snouffer School Road and is the sole point of access for the Hunter's Woods neighborhood.

CENTERPARK AMENDMENTS "B" AND "D"



Map compiled on November 21, 2008 at 11:11 AM | Site located on base sheet no - 227NW08

NOTICE

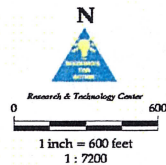
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MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING
 THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
 8787 Georgia Avenue - Silver Spring, Maryland 20910-3700

Key Map



PREVIOUS APPROVALS

Preliminary Plan Approval

The subject preliminary plan, shown in Figure 2 below, was originally brought before the Planning Board for a public hearing on July 15, 2004, and was approved for up to 559,300 square feet of research and development office use, up to 247,626 square feet of business park use (i.e., generally light industrial and commercial office uses), and up to 461,285 square feet of warehouse use, or a combination of non-residential development with an equivalent number of weekday morning and evening peak hour trips. The approval was granted subject to conditions as set forth in the Opinion of the Board mailed on July 26, 2004 (Attachment A).



Figure 2. Previously Approved Preliminary Plan

Subsequent to the approval of the preliminary plan, two amendments have been reviewed and approved by the Planning Board (12004018A and 12004018C). Both of these amendments involved extension of the time period required to complete an offsite parking lot project that was required as a condition of the original approval. They condition the applicant to engineer and construct a paved parking lot with an adequate entrance off of Snouffer School Road at the Park Master Planned location for the Park Natural Discovery Area, located south of the new park entrance road. Because of construction delays caused in primarily by parties other than the

applicant, the Board approved two requests (10224018A and 12004018C) to extend the time for the completion of the parking lot. At this time, the parking lot has been completed in compliance with the time allowed by the Planning Board in the most recent "C" amendment.

PROPOSED AMENDMENTS

The purpose of amendment 12004018B (Attachment B) is to convert two streets, Turkey Thicket Drive and Hubble Court, from public to private streets. The Applicant has outlined the reasons for this request in a letter dated March 5, 2008 (Attachment C). In short, the applicant believes it can better monitor the maintenance, parking restrictions, and landscaping of private streets than the County does on public streets. The applicant also desires a private street with a narrower pavement width because it can be built and landscaped in a more aesthetically pleasing style than a public street. The Applicant has expressed concerns about the potential for unrestricted parking on both sides of a public street and has documented these concerns with pictures from the nearby Airpark Industrial Park. (see pg. 4) The Applicant believes they can more strictly enforce parking restrictions, as well as provide superior maintenance and snow removal for an internal private street network.

As originally approved, Turkey Thicket Drive is to be built as a public street within dedicated right-of-way. In addition to serving the proposed development, this road is also the future access to the Lois Green Conservation Park to the east, as well as an Izaak Walton League facility further off to the north of the Subject Property. The applicant and Department of Parks staff have held numerous meetings to discuss the potential issues with providing access to a public Park from a private street and are not opposed to the conversion of the street from public to private provided that unrestricted public access is assured, and that adequate funding and agreements are provided to assure maintenance of the road in the future by the Centerpark property owners.

Included as Attachment D to this report is the staff report from the Department of Parks dated November 18, 2008. Access and maintenance of the private road is their main concern, as well as, the aesthetic quality of the road. By the conditions provided, Department of Parks staff will have the opportunity to review and approve all easements and agreements prior to recordation of the plats for these amendments.

Amendment 12004018D (Attachment E) is a minor amendment to eliminate a previously planned, but currently undedicated public road in favor of driveway access to four lots, and to slightly reconfigure lot lines. The Applicant has provided justification for this request in a letter dated August 5, 2008 (Attachment F). This amendment is in substantial conformance to the originally approved preliminary plan and staff supports the change.

DISCUSSION OF ISSUES

Abandonment Procedures

Since Turkey Thicket Drive and Hubble Court are platted rights-of-way they will need to be abandoned before a private street can be constructed. As part of their review, staff of the

Montgomery County Department of Transportation have raised a concern regarding the existence of a public use within the area that has been dedicated for Turkey Thicket Drive. Turkey Thicket Drive is to provide access to the lots approved in the southern half of the Subject Property as well as the Lois Green Park and the Izaak Walton League property. The alignment of the Turkey Thicket right-of-way was recorded by plat approximately one year ago and was placed roughly on the same alignment as a historically-used gravel lane that currently serves as access to the Property, to the Lois Green Conservation Park, and to property owned by the Izaak Walton League. According to aerial photos, vehicles have used this lane for some number of years prior to platting of the right-of-way.

Abandonment procedures are defined in Sections 49-62 through 49-68 of the Road Code and are also described in Section 50-15 of the Subdivision Regulations. The Road Code provides for two abandonment processes, one for rights-of-way that have never been in public use (Planning Board abandonment) and the other for rights-of-way that have been used by the public (County Council abandonment). The Montgomery County Department of Transportation in their November 18, 2008 letter has determined that a public use exists within the Turkey Thicket right-of-way and that, because of this, the right-of-way must be abandoned by the County Council. Hubble Court has no public use established within it and is recommended to be abandoned by the approval of this plan amendment.

The applicant believes that Turkey Thicket Drive can be abandoned by the Planning Board. In a letter submitted by the Applicant dated November 14, 2008 (Attachment G), the definition of "public use" as per a court case *Welker v. Strosnider* (1974) is discussed. The Maryland Court of Special Appeals explained that "nominal use" by the public of a dedicated roadbed does not constitute "public use". The Court concluded that since the County had not made any improvements to the right-of-way and the general public never "drove cars or trucks over the right-of-way", occasional use of the right-of-way by abutting property owners for ingress and egress, parking recreation or combination of these and similar uses does not constitute public use. The Applicant believes that the road has only sporadically been used by the public and provides five conclusions to support their determination that the Planning Board, through the review of these amendments, has the authority to abandon the Turkey Thicket dedication.

It is Staffs' determination that the gravel lane leading from Snouffer School Road through the Subject Property and to the MNCPPC property has, at a minimum, been used sporadically by the general public as an access to these properties both before and after the right-of-way was platted on its alignment. The lane is industrial in appearance with a concrete apron at Snouffer School Road and it remains passable for vehicles and pedestrians to this date. While it is not possible to determine actual use by the public, there are no existing prohibitions against vehicular or pedestrian access from Snouffer School Road, and the lane is likely used by some segment of the public as a means of access to the Park property and the Izaak Walton League facility. If the Board agrees with this staff contention, then the Road Code and Subdivision Regulations require that the right-of-way for Turkey Thicket Drive be abandoned through County Council action. Staff does not oppose the abandonment but does believe that it must be done by the County Council.

RESERVATION REQUEST BY THE REVENUE AUTHORITY

In a letter dated October 1, 2008, (Attachment H) the Montgomery County Revenue Authority requested a two year reservation period on two lots, identified as lots 14 and 15, Block A, on the approved preliminary plan to allow sufficient time to acquire them. These two lots are located in the identified Runway Protection Zone (RPZ) at the end of the runway at the Montgomery County Airpark. The Federal Aviation Administration, which provides funding to the Revenue Authority's airport, requires that land uses in the RPZ's be strictly controlled. This request for two additional years of reservation comes after the expiration of a previously-approved three year reservation period in which there was no action on part of the Revenue Authority to acquire the lots. The three year reservation period, conditioned as part of the original approval, expired in June of 2007.

Article 28 of the Annotated Code of Maryland, enables MNCPPC to provide for the reservation of lands for schools and other public building, parks, playgrounds, highways, roads, mass transit facilities, including busways and light rail facilities and other public proposes, "*provided no reservation of land for traffic, recreation or any other public purposes as herein provided shall continue for longer than three years*" without written approval of all persons holding or otherwise owning a legal or equitable interest in the property..."

An October 31, 2008 letter (Attachment I) from the Applicant vehemently argues that the Planning Board is precluded from placing the RPZ in reservation for any additional time and respectfully requests that there be no such requirement. Staff concurs that, in this instance, MNCPPC is prohibited from placing the lots into reservation for an additional two year period. Nonetheless, the applicant and Revenue Authority continue to have productive negotiations toward eventual acquisition.

ANALYSIS AND FINDINGS

Master Plan

The amendments propose no substantial changes to the development already approved. The proposed amendments will not result in additional development or in any way change the zoning on the property. The previous findings that the development is in conformance with the 1985 *Gaithersburg Vicinity Master Plan* remain applicable.

Compliance with the Subdivision Regulations and Zoning Ordinance

Since there is no additional development proposed as part of these amendments and only slight modifications to lot configuration, all previous findings for adequate public facilities, appropriateness of lot size, shape, width and area, and conformance to zoning standards remain valid. Because the road configuration has changed slightly, the Montgomery County Fire and rescue Services was required to re-review the plan to determine the adequacy of emergency vehicle access. They have approved a fire access plan and have submitted an approval recommendation dated October 30, 2008.

Similarly, since the amendments alter the configuration of the road network and request abandonment of previously dedicated right-of-way, the Montgomery County Department of Transportation has provided an updated memorandum dated November 18, 2008. They do not oppose the private streets requested by this Applicant but do suggest that since there is a public use in the right-of-way for Turkey Thicket Drive, the County Council process is the appropriate process to perform the abandonment.

CITIZEN CORRESPONDENCE

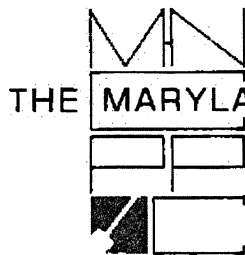
This plan submittal pre-dated any requirements for a pre-submission meeting with neighboring residents; however, written notice was given by the applicant and staff of the plan submittal and the public hearing date. As of the date of this report, no citizen letters have been received.

CONCLUSION

Staff supports abandonment of both Turkey Thicket Drive and Hubble Court; however, we believe that conditions warrant that the County Council process the abandonment of Turkey Thicket and that the Board can appropriately abandon Hubble Court by action on this amendment. The lot line adjustments envisioned by this application are very minor in nature and do not allow any additional development. Therefore, all previous findings of the Planning Board remain valid, and staff recommends approval of the currently proposed amendments with the conditions specified above.

Attachments:

- A) July 26, 2004 Opinion
- B) Amendment B Schematic
- C) Amendment B Justification
- D) Dept. of Parks memo
- E) Amendment D Schematic
- F) Amendment D Justification
- G) Abandonment Letter 11/14/08
- H) Revenue Authority Request Letter
- I) Opposition to Reservation Letter
- J) Approval Letters



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

Date Mailed: July 26, 2004
Action: Approved Staff Recommendation
Motion of Comm. Wellington, seconded by
Comm. Bryant with a vote of 4-0;
Comms. Berlage, Bryant, Robinson and
Wellington voting in favor; Comm. Perdue
absent

MONTGOMERY COUNTY PLANNING BOARD

OPINION

Preliminary Plan 1-04018
NAME OF PLAN: North Airpark Business Park

On 09/11/03, Airpark North Business Park submitted an application for the approval of a preliminary plan of subdivision of property in the I-4 zone. The application proposed to create 23 lots on 134.07 acres of land. The application was designated Preliminary Plan 1-04018. On 07/15/04, Preliminary Plan 1-04018 was brought before the Montgomery County Planning Board for a public hearing. At the public hearing, the Montgomery County Planning Board heard testimony and received evidence submitted in the record on the application. Based upon the testimony and evidence presented by staff and on the information on the Preliminary Subdivision Plan Application Form, attached hereto and made a part hereof, the Montgomery County Planning Board finds Preliminary Plan 1-04018 to be in accordance with the purposes and requirements of the Subdivision Regulations (Chapter 50, Montgomery County Code, as amended) and approves Preliminary Plan 1-04018.

Approval, Subject to the Following Conditions:

- 1) As outlined in the Transportation Planning memorandum dated July 2, 2004 (Attachment C), limit the preliminary plan to up to 559,300 square feet of research and development office use, up to 247,626 square feet of business park use (i.e., generally light industrial and commercial office uses), and up to 461,285 square feet of warehouse use, or a combination of non-residential development with an equivalent number of weekday morning and evening peak hour trips.
- 2) Satisfy Local Area Transportation Review (LATR) at the intersection of Goshen Road and Centerway Road by constructing separate northbound and southbound Goshen Road right-turn lanes prior to release of building permits for the last 10% of the total approved development (i.e., or up to 1,141,390 square feet of the total 1,268,211 square feet). As an alternative,

contribute the equivalent cost of the intersection improvement to the anticipated future Montgomery County Department of Public Works and Transportation's (DPWT) Capital Improvements Program (CIP) project to widen Goshen Road between Odendhal Avenue and Warfield Road, if construction funding is readily anticipated prior to release of the initial building permits.

- 3) Satisfy LATR at two intersections along Snouffer School Road at Centerway Road and Alliston Hollow Way/proposed northwestern main site access point at Street "A" by widening Snouffer School Road from two to four through lanes with a fifth lane for a separate left-turn lane at the approaches to these two intersections.
- 4) Satisfy Policy Area Transportation Review (PATR) by widening Snouffer School Road from two to four through lanes from Centerway Road to Goshen Road with a fifth center lane for a separate left-turn lane approaching intersecting streets. Include a five-foot sidewalk with a landscaped street panel on the northeast side. A sidewalk on the southwest side of Snouffer School Road would take or damage existing mature trees and is not recommended.

The contract to reconstruct Snouffer School Road from two through lanes to four through lanes from Centerway Road westerly across the site frontage (including installation of traffic signals at the two site access driveways if determined to be warranted by DPWT) shall be let prior to release of the first building permit. The contract to construct the remainder of the Snouffer School Road widening from the western property line to Goshen Road shall be let at the earlier of either of two occurrences:

- a. Prior to release of building permits for 75% or more of the total approved development.
 - b. Three years after the first building permit is released.
- 5) If determined to be warranted by DPWT, install traffic signals at two intersections along Snouffer School Road:
 - a. Existing Alliston Hollow Way/proposed northwestern main site access point at Street "A".
 - b. Existing access point to Green Farm Conservation Park/proposed southeastern site access point at Street "D".
 - 6) Dedicate approximately eight feet of right of way for 80 feet from the opposite right-of-way line along Snouffer School Road and provide a five-foot sidewalk along the property frontage.
 - 7) Provide a maximum of 30 bike racks with one or two racks at each of the 23 proposed buildings. The specific location of the bike racks is to be determined in coordination with Park and Planning's Bicycle Coordinator and DPWT.
 - 8) Pay the transportation - development impact tax with credits for the cost of the transportation improvement described in Condition No's. 2, 3, 4 and 5 as legally permitted.

- 9) All road right-of ways shown on the approved preliminary plan shall be dedicated and constructed, by the applicant, to the full width mandated by the Master Plan, and to the design standards imposed by all applicable road codes. Only those roads (or portions thereof) expressly designated on the preliminary plan, "To Be Constructed By _____" are excluded from this condition.
- 10) Compliance with the conditions of approval for the preliminary forest conservation plan. The applicant must satisfy all conditions prior to recording of plat(s) or MCDPS issuance of sediment and erosion control permits.
- 11) Compliance with the Montgomery County Department of Permitting Services (MCDPS) requirements for complex structures, as determined by MCDPS.
- 12) Record plat to reflect a Category I easement over all areas of forest conservation and stream valley buffers.
- 13) Access and improvements as required to be approved by MCDPWT prior to recordation of plat(s).
- 14) Compliance with conditions of MCDPS stormwater management approval letter dated, June 29, 2004.
- 15) On-site lighting plan to be submitted to MNCPPC staff prior to release of individual building permits that show conformance to Illuminating Engineers Society of North America (IESNA) standards. Light fixture to have zero cutoff and no light intrusion into neighboring residential properties.
- 16) Applicant to construct, at Applicant's expense, a paved entrance road to the Lois Green Conservation Park along the south side of the Applicant's property to extend from Snouffer School Road at a location approved by appropriate State, County and M-NCPPC transportation staff, into parkland and ending just past the current driveway entrance to the historic house. Limits of disturbance for the road grading and construction on Park property to be located outside of stream buffers, and applicable engineering plans to be approved by M-NCPPC staff. Both sides of the entrance road and any park areas disturbed by its construction to be planted and landscaped as approved by M-NCPPC staff with the goal of creating an aesthetically pleasing, park like entrance. Applicant's plantings to be maintained and guaranteed by Applicant for at least three (3) years.
- 17) Applicant to engineer, construct and maintain a stormwater management facility sufficient to accommodate stormwater from the constructed park entrance road, the southeast corner of Applicant's property, and the future parking area and improvements to be constructed by M-NCPPC on the portion of Green Conservation Park draining to this facility. M-NCPPC to supply Applicant with concept drawings adequate to determine the needed stormwater control capacity. Applicable engineering plans to be approved by M-NCPPC staff. Necessary easements to allow Applicant to maintain the portions of stormwater facility on parkland to be provided by M-NCPPC.

- 18) The entrance road's stream crossing to be constructed to minimize impacts on the stream and downstream aquatic resources.
 - 19) Prior to the end of the validity period for the first stage, (see conditions #27), applicant to dedicate to M-NCPPC, the land that lies on the south side of the newly constructed park entrance road (not to include the stormwater facility proposed at the corner of the new road and Snouffer School Road, or RPZ).
 - 20) Prior to the end of the validity period for the first stage, (see conditions #27), Park entrance monument and signage to be provided by Applicant and located at the corner of Snouffer School Road and the new park entrance road. Monumentation and signage to be approved by M-NCPPC staff.
 - 21) Prior to the end of the validity period for the first stage, (see conditions #27), applicant to engineer and construct a paved parking lot, and an adequate entrance off of Snouffer School Road for such parking lot, at the Park Master Planned location for the Park Natural Discovery Area, located south of the new park entrance road.
 - 22) Prior to the end of the validity period for the first stage, (see conditions #27), applicant to provide engineering and construction of an adequate stormwater management facility for such parking lot and entrance. Parking lot size, configuration and exact location to be determined by M-NCPPC staff but shall not be larger than 44 parking spaces. Design to include adequate turn around area for buses. All designs and engineering plans to be approved by M-NCPPC staff. If Applicant is unable to obtain the needed permits and approvals for such parking lot at this location, Applicant shall construct the parking lot on park property at a location off of the new park entrance road to be determined by M-NCPPC staff.
 - 23) A plat of reservation for all lots and property affected by the RPZ for a period not to exceed three years to allow potential purchase by the Montgomery County Revenue Authority and/or Federal Aviation Administration (FAA).
 - 24) Prior to recordation of plat(s) for Lots 14 through 17, relocation of Street "D" as shown on the approved preliminary plan, as necessary, to avoid the Montgomery County Airpark's Runway Protection Zone (RPZ), to the extent required by the Federal Aviation Administration or the Montgomery County Revenue Authority.
 - 25) Prior to recordation of initial plat, applicant to provide staff with a copy of an executed agreement between the FAA and/or the Montgomery County Revenue Authority and applicant regarding the right to over flight, noise and vibration associated with the Montgomery County Airpark, and to address the other conditions as prescribed in the Revenue Authority's letter dated, July 8, 2004, as applicable.
 - 26) Compliance with approved landscape plan for Snouffer School Road frontage
 - 27) The Preliminary Plan will remain valid for one hundred forty-five (145) months from the date of mailing of the Planning Board Opinion. Record plats must be recorded in phases based upon the following schedule:
-

- Phase I (expires 37 months from the date of mailing of the Planning Board Opinion): 200,000 square feet of the approved density.
- Phase II (expires 73 months from the date of mailing of the Planning Board Opinion): 400,000 square feet of the approved density.
- Phase III (expires 109 months from the date of mailing of the Planning Board Opinion): 300,000 square feet of the approved density.
- Phase IV (expires 145 months from the date of mailing of the Planning Board Opinion): all remaining development.

Prior to the expiration period, the final record plat for all remaining lots within each phase must be recorded, or a request for extension must be filed.

- 28) The Adequate Public Facility (APF) review for the Preliminary Plan will remain valid for one hundred forty-five (145) months from the date of mailing of the Planning Board Opinion.
- 29) No plat(s) to be recorded prior to thirteen (13) months from the mailing date of the Planning Board opinion.
- 30) Prior to recordation of initial plat, applicant to resubmit landscape plan for the Snouffer School frontage to MNCPPC technical staff to address long term screening with overstory and understory of the buildings fronting on Snouffer School Road.
- 31) Concurrent with condition ^(#29)~~#30~~, MNCPPC to explore the purchase of, or easement on, Lot #7 to provide access for local neighborhood to Lois Green Farm Conservation Park.
- 32) Other necessary easements shall be shown on the record plats.

Amendment B

12004018B

PRELIMINARY PLAN AMENDMENT 12004018B
CENTERPARK (FORMERLY AIRPARK NORTH BUSINESS PARK)

JANUARY 2008



PRELIMINARY PLAN AMENDMENT:

1. Convert underground stormwater management to surface stormwater management.
 2. Shorten Hubble Court.
 3. Reduce width of Hubble Court and Turkey Thicket Drive.
 4. Convert Hubble Court and Turkey Thicket Drive from Public to Private.
 5. Reconfigure lot lines based on revised streets and stormwater facilities.
 6. Reconfirm total building area and trip limits.
- DOES NOT include any County Service Park facilities whatsoever.
 - DOES NOT re-zone the property.
 - DOES NOT modify the total building area and trip limits.
 - DOES NOT modify setbacks or required buffers.

Notes: Buildings and parking layouts are illustrative. Modifications may occur prior to approval.



Miller & Smith.

ONE VISIT CAN CHANGE EVERYTHING

March 5, 2008

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

Regarding: Statement of Justification for Amendment B for the Centerpark (formerly the Airpark North) Preliminary Plan (12004018) and Road Abandonment Applications

Dear Ms. Conlon,

Miller and Smith is proposing a limited plan amendment to the preliminary plan for the Centerpark (formerly the Airpark North) Preliminary Plan of Subdivision (12004018) and to convert 2 streets from public to private through the road abandonment procedure (Section 49-68 - to be approved by the Planning Board.) The amendment is limited to the eastern portion of the property to reduce the length and width of streets, convert unbuilt public streets to private streets, and reconfigure approved lot lines to adjust to changes in streets and stormwater management parcels. The amendment does not affect the development standards or the overall amount of development permitted on the site.

In summary the amendment:

1. **Converts underground stormwater management (SWM) facilities to surface SWM facilities** – in the hierarchy of SWM facilities, surface facilities are preferred more than underground facilities. The reconfiguration of the lots has created opportunities to relocate these facilities.
2. **Increases the green area** – the conversion of underground SWM to surface SWM results in green area well in excess of the 20% required in the I-4 zone.
3. **Shortens the length of Hubble Court (Street E)** – reducing the length of Hubble Court provides additional land for surface stormwater management facilities while improving the efficiency of site grading and drainage.

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703-821-2500 ■ 703-821-2040 FAX
www.millerandsmith.com

4. **Reduces the width of Turkey Thicket Drive (Street D) and Hubble Court (Street E)** – the use of a narrow road section provides opportunities to reduce on-street parking while maintaining adequate travel lanes. Parking can be accommodated on one side of each street to ensure flexibility, but not create an unrestricted parking area. The approved plan used Montgomery County Standard Section 213.01 and the proposed plan uses Section MC-214.02 for Hubble Court. Turkey Thicket Drive used a modified Standard Section 213.02 (with a requested design exception for an open section on the south side as required in the approval) and the proposed plan uses Section 213.02 (with the same design exception).
5. **Converts Turkey Thicket Drive and Hubble Court to private** – the use of private streets with public ingress/egress easements allows the business park to be operated in a clean and professional manner by controlling on-street parking of heavy vehicles, enhanced landscaping treatments, providing a more suitable park entrance, and improving snow removal at a savings to the County.
6. **Reconfigures lot lines based on road changes and stormwater management** – the general lot layout is slightly modified as needed.
7. **Does not rezone the property** – the property retains the existing I-4 zone as recommended in the *Gaithersburg and Vicinity Master Plan*.
8. **Does not increase the amount of development permitted by the approved preliminary plan and maintains the trip limits** – No changes in the maximum amount of development is requested.
9. **Does not reduce any of the setbacks from neighboring properties** – No changes in the minimum setbacks are requested.
10. **Does not change the height limits permitted by the approved preliminary plan** – No changes in the maximum height limits are requested.
11. **Does not reduce forested buffers from neighboring properties** – No changes in the forested buffers are requested.

The application complies with the findings required for approval of preliminary plans amendments and road abandonments. These findings are summarized below.

1. ***The Preliminary Plan substantially conforms to the master plan.***
The revision does not substantially change the approved preliminary plan. As determined by the Planning Board at the initial hearing for this project, the plan is in conformance with the land use recommendations of the 1985 *Gaithersburg and Vicinity Master Plan*. The staff report for the approved preliminary plan states “a new zone, the I-4 Zone, was

created specifically for land around the airpark. The Sectional Map Amendment (SMA) that implemented the 1985 Plan's recommendations was adopted in 1986 and officially rezoned the subject project to I-4 as well as the 300-acre Airpark Industrial Park..."

2. *Public facilities will be adequate to support and service the area of the proposed subdivision.*

As found during the review of the initial application for this project, all public facilities were found to be adequate. The revision does not increase demands on public facilities beyond that of the approved preliminary plan. Since no additional vehicular trips are proposed, Resolution 16-376 indicates "an application to amend a previously approved preliminary plan of subdivision does not require a new test for adequacy of public facilities if...the number of trips which will be produced by the revised plan is not greater than the number of trips produced by the original plan."

3. *The size, shape, and orientation of the proposed lots are appropriate for the location of the subdivision.*

The revision maintains a variety of lot sizes suitable for uses in the zone. The shapes of the lots are modified to reflect changes in road and stormwater management layout in a manner compatible with lots in the subdivision and the zone.

4. *The Application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A.*

At the initial hearing, the approved preliminary plan was reviewed for compliance with Chapter 22A of the Montgomery County Code and found to comply with all requirements of that Chapter by the Planning Board. The combination of forest retention and reforestation exceeds the minimum requirements and creates the 7.37-acre "surplus that can be used for banking" referenced in the original staff report. The amendment maintains a substantial surplus, to be used for banking, with minor modifications to the limits of disturbance shown in the Forest Conservation Plan amendment as a result of modifications to the stormwater management outfall locations.

5. *The Application meets all applicable stormwater management requirements and will provide adequate control of stormwater runoff from the site. This finding is based on a determination by the Montgomery County Department of Permitting Services ("MCDPS") that the Stormwater Management Concept Plan meets MCDPS' standards.*

The Montgomery County Department of Permitting Services reviewed and approved a stormwater management concept for the entire project at the initial review. Revisions to the concept to convert underground SWM facilities to surface SWM facilities are under review. The first review has been completed with minimal comments. This concept meets or exceeds the requirements of the initial approval.

6. *The Application for road abandonment demonstrates that the right-of-way is not necessary for anticipated future public use or will not adversely affect the public interest.*

The road abandonments for unbuilt streets D and E are proposed to permit the conversion to private streets with full public access assured through ingress/egress easements. This conversion maintains future public use and is beneficial to the public interest. The use of private streets allows the business park to be operated in a clean and professional manner by controlling on-street parking of heavy vehicles and by permitting enhanced landscaping treatments that are not possible in a public ROW. Nearby industrial streets consistently have long term parking of trucks and trailers as shown in the following photos.



Cessna Avenue - Airpark Industrial Park



Bonanza Way - Airpark Industrial Park

Required parking will be provided on the individual properties as required by Code. Since Turkey Thicket Drive (Street D) also provides access to the Lois Y. Green Farm Conservation Park, the ability to restrict heavy vehicle parking will provide a more suitable park entrance. It also removes the industrial streets from public maintenance responsibility and reduces public expenditures for snow plowing and general maintenance. This permits the property owners association to quickly clear snow in advance of the normal low priority that industrial streets have during a snow event. Section 49-68 (e) authorizes the Planning Board to adopt a “resolution that the right-of-way may be abandoned by incorporating the abandoned land into an amended plat of subdivision.”

7. The private streets will acquire the status of a public road which permits the approval of lots fronting on a private street.

The proposal to convert the Streets D and E from public streets to private streets results in lots fronting on streets that are owned by the property owners association. These streets meet the requirements for public streets for the purpose of lot frontage requirements.

Section 50-29(a)(2) of the Subdivision Regulations provides that individually recorded lots “shall abut on a street or road which has been dedicated to public use, or which has acquired the status of a public road.” As found in other cases, “the proposed streets which provide frontage to individually recorded lots can meet the minimum standards necessary to make the finding that they have the status of a public road...” The proposed private streets meet this requirement by virtue of the access easements, the proposed road sections, ease of vehicular circulation, and the interconnection of individual properties. Therefore, no waiver of subdivision regulations is required to meet lot frontage requirements on private streets.

The proposed plan reflects the general layout and road network that was approved by the Planning Board as part of the preliminary plan of the subject property. The conversion of the roads from public to private provides public and private benefits and has no material effect on continuing to meet the applicable subdivision requirements.

Conclusion

The proposed amendment provides an improved layout, function, and aesthetic appearance to the eastern portion of the subject property. The stormwater management function improves through increased usage of surface facilities and increased open space. The changes in the road network maintain public access and circulation while providing improved control over heavy vehicle

Ms. Catherine Conlon
March 5, 2008
Page 6 of 6

parking and permitting enhanced landscaping. These improvements are all achieved while reducing required public expenditures to serve the business park.

Please contact me at 703-821-2500 x271 or cellison@millerandsmith.com if you have any questions.

Sincerely,



Charles D. Ellison, Jr.
Webb Tract L.L.C.

Certification

I, Charles D. Ellison, Jr., hereby certify that the information set forth in each statement of justification is true, complete, and correct to the best of my knowledge, information, and belief.



Charles D. Ellison, Jr.
Webb Tract L.L.C.

cc: Richard Weaver
Nancy Sturgeon
Doug Powell

MEMORANDUM

November 17, 2008

**TO: Richard Weaver, Subdivision Review, Development Review Division
Cathy Conlon, Subdivision Supervisor, Development Review Division**

**FROM: Doug Powell, Plan Review Coordinator, Park Planning and
Stewardship Division, Department of Parks**

SUBJECT: Centerpark Amendment B, Plan #12004018B

The Department of Parks does not oppose the Applicant's proposed amendment to change the entrance road being constructed for Centerpark, Lois Y. Green Conservation Park, and Isaak Walton League access, from a publicly owned and maintained road to a privately owned and maintained road, provided that unrestricted public access is assured, and that adequate funding is provided and agreements included that assure maintenance of the road in the future by the Centerpark property owners.

BACKGROUND

In 2001 the Planning Board approved the Lois Y. Green Farm Conservation Park Master Plan that sets forth a number of important goals necessary to improve the parkland including making it accessible and usable for the public and protecting its natural resources. A primary goal set forth in the Plan was to establish an entrance road in a safe location off of Snouffer School Road that would serve as the primary access to the park and the historic structures located on the parkland. The Plan explored different land acquisition options to achieve this goal but also envisioned the possibility of sharing an access road with the "Webb Tract" (now referred to as Centerpark) when it was developed. This was the option chosen during the Preliminary Plan discussions. The Preliminary Plan, approved by the Planning Board in 2004, requiring construction of a public road entrance by the Applicant, in a safe location along the southern edge of the industrial park property, that would serve as the primary park entrance as well as serving a portion of the planned industrial park. The area between the new road and the Green Conservation Park is to be dedicated as parkland. Conditions were included in the approval to assure the entrance road would be landscaped and designed to have a park-

like appearance and that adequate stormwater management would be provided for the road and future planned development on the adjacent portions of Green Conservation Park.

In order to provide a more park like appearance for the road, and to better control truck parking along the entrance road, Applicant seeks to amend the Preliminary Plan to provide for construction of a private road that would also serve as access to the Park and to Isaak Walton League facilities. The road would then be owned and maintained by the Centerpark property owners rather than the County Department of Transportation. The Department of Parks staff therefore requests the following Conditions of Approval.

CONDITIONS OF APPROVAL

- Applicant to construct, at Applicant's expense, a paved entrance road to the Lois Green Conservation Park along the south side of the Applicant's property to extend from Snouffer School Road at a location approved by appropriate State, County and M-NCPPC transportation staff, into parkland and ending just past the current driveway entrance to the historic house. Limits of disturbance for the road grading and applicable engineering plans for construction to be approved by M-NCPPC Department of Parks staff. Both sides of the entrance road and any park areas disturbed by its construction to be planted and landscaped as approved by Department of Parks staff with the goal of creating an aesthetically pleasing, park like entrance. Applicant's plantings to be maintained and guaranteed by Applicant for at least three (3) years.
- If the entrance road is to be privately owned and maintained by the Centerpark property owners, Applicant shall provide adequate easements and other documentation and assurances that provide for unrestricted public access to the parkland along the road. Applicant to further provide for adequate funding and establish acceptable requirements for assurance of future road maintenance by the property owners. Applicant to provide proposed easements, funding and road maintenance agreements, and other requested documentation acceptable to M-NCPPC Department of Parks staff for review and approval. All of said easements, agreements and required documentation shall be approved by Department of Parks staff prior to permitting for construction of the entrance road.
- Applicant to engineer, construct and maintain a stormwater management facility sufficient to accommodate stormwater from the constructed park entrance road, the southeast corner of Applicant's property, and the future parking area and improvements to be constructed by M-NCPPC on the portion of Lois Y. Green Conservation Park draining to this facility. M-NCPPC to supply Applicant with concept drawings adequate to determine the Park's needed stormwater control capacity. Applicable engineering plans to be

approved by M-NCPPC Department of Parks staff. Necessary easements to allow Applicant to maintain the portions of stormwater facility on parkland to be provided by M-NCPPC.

- The entrance road's stream crossing to be constructed to minimize impacts on the stream and downstream aquatic resources.
- Applicant to dedicate to M-NCPPC, the land that lies on the south side of the newly constructed park entrance road (not to include the stormwater facility proposed at the corner of the new road and Snouffer School Road).

Miller & Smith.

ONE VISIT CAN CHANGE EVERYTHING

Attachment F
(3 pages)

August 15, 2008

Ms. Catherine Conlon
Subdivision Supervisor
The Maryland-National
Capital Park and Planning Commission
Development Review Division
1787 Georgia Avenue
Silver Spring, MD 20910

Regarding: Statement of Justification for Amendment D for the Centerpark (formerly the Airpark North)
Preliminary Plan (12004018D)

Dear Ms. Conlon,

Centerpark West, L.L.C. is proposing a limited plan amendment to the preliminary plan for the Centerpark (formerly the Airpark North Business Park) Preliminary Plan of Subdivision (12004018D). The purpose of the amendment is the elimination of one unrecorded and un-built public street (Street B - Chaffee Ct.) and the resultant modification of the internal boundaries of Lots 1 to 4 on the western portion of the property. The attached plan illustrates the proposed revisions. The amendment does not affect the development standards or the overall amount of development permitted on the site.

In summary, the amendment:

1. **Eliminates unrecorded and un-built Street B (Chaffee Ct.)** – the approved plan shows a public street that serves only one lot that does not enjoy public street frontage. A pipestem lot will ensure that adequate access and public road frontage are provided to Lot 3.
2. **Amends the internal lot lines of Lots 1 to 4** – the area of the Street B (Chaffee Ct.) will be incorporated into the lots, as appropriate.
3. **Does not rezone the property** – the property retains the existing I-4 zone as recommended in the *Gaithersburg and Vicinity Master Plan*.
4. **Does not increase the amount of development permitted by the approved preliminary plan and maintains the trip limits** – No change in the maximum amount of development is requested.
5. **Does not reduce any of the setbacks from neighboring properties** – No changes in the minimum setbacks are requested.
6. **Does not change the height limits permitted by the approved preliminary plan** – No changes in the maximum height limits are requested.

8401 Greensboro Drive Suite 300 ■ McLean, VA 22102

703-821-2500 ■ 703-821-2040 FAX

www.millerandsmith.com

7. **Does not reduce forested buffers from neighboring properties** – No changes in the forested buffers are requested.

The application complies with the findings required for approval of preliminary plan amendments. These findings are summarized below.

1. ***The Preliminary Plan substantially conforms to the master plan.***
The revision does not substantially change the approved preliminary plan. As determined by the Planning Board at the initial hearing for this project, the plan is in conformance with the land use recommendations of the 1985 *Gaithersburg and Vicinity Master Plan*. The staff report for the approved preliminary plan states “a new zone, the I-4 Zone, was created specifically for land around the airpark. The Sectional Map Amendment (SMA) that implemented the 1985 Plan’s recommendations was adopted in 1986 and officially rezoned the subject project to I-4 as well as the 300-acre Airpark Industrial Park...”
2. ***Public facilities will be adequate to support and service the area of the proposed subdivision.***
As found during the review of the initial application for this project, all public facilities were found to be adequate. The revision does not increase demands on public facilities beyond that of the approved preliminary plan. Since no additional vehicular trips are proposed, Resolution 16-376 indicates “an application to amend a previously approved preliminary plan of subdivision does not require a new test for adequacy of public facilities if:...the number of trips which will be produced by the revised plan is not greater than the number of trips produced by the original plan.”
3. ***The size, shape, and orientation of the proposed lots are appropriate for the location of the subdivision.***
The revision maintains a variety of lot sizes suitable for uses in the zone. The shapes of the lots are modified to reflect the elimination of Street B (Chaffee Ct.) in a manner compatible with lots in the subdivision and the zone.
4. ***The Application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A.***
At the initial hearing, the approved preliminary plan was reviewed for compliance with Chapter 22A of the Montgomery County Code and found to comply with all requirements of that Chapter by the Planning Board. The combination of forest retention and reforestation exceeds the minimum requirements and creates a “surplus that can be used for banking” as referenced in the original staff report. The amendment maintains a substantial surplus, to be used for banking, with no modifications to the limits of disturbance shown in the Forest Conservation Plan for the pending amendment associated with preliminary plan amendment B.

5. *The Application meets all applicable stormwater management requirements and will provide adequate control of stormwater runoff from the site. This finding is based on a determination by the Montgomery County Department of Permitting Services ("MCDPS") that the Stormwater Management Concept Plan meets MCDPS' standards.*

The Montgomery County Department of Permitting Services reviewed and approved a stormwater management concept for the entire project at the initial review. This application does not modify the approved concept or the pending stormwater management concept amendment associated with preliminary plan amendment B.

Conclusion

The proposed amendment provides an improved layout to the western portion of the subject property and reduces public expenditures by eliminating a public road that serves one lot.

Please contact me at 703-821-2500 x185 or bspalding@millerandsmith.com if you have any questions.

Sincerely,



Robert J. Spalding, AICP
Centerpark West, L.L.C.

Certification

Bob Spalding, hereby certify that the information set forth in each statement of justification is true, complete, and correct to the best of my knowledge, information, and belief.



Robert J. Spalding, AICP
Centerpark West, L.L.C.

cc: Richard Weaver
Nancy Sturgeon
Doug Powell



ATTORNEYS

ROBERT G. BREWER, JR.
RGBREWER@LERCHEARLY.COM

MEMORANDUM

To: Richard Weaver, M-NCPPC
Catherine Conlon, M-NCPPC
Greg Leck, MCDOT
Sam Farhadi, MCDOT

From: Robert G. Brewer, Jr. *RGB*
April H. Birnbaum *AHB*

Re: Abandonment of Turkey Thicket Drive
Interpretation of the Term "Public Use"
Preliminary Plan Amendment No. 1-2004018B

Date: November 14, 2008

We understand that there is some concern regarding the Montgomery County Planning Board's (the "Board") ability to review the proposed abandonment of the dedicated, unimproved Turkey Thicket Drive (the "Road"). Accordingly, the following Memorandum provides a summary of our legal research findings, which support the appropriateness of the Board's review of the Road's abandonment.

To compile this Memorandum, we reviewed Maryland case law on the abandonment of rights-of-way, with a focus on the Maryland appellate courts' interpretation of the term "public use." The term "public use" plays a significant role in the abandonment of the Road because its interpretation determines whether the Board or the Montgomery County Council (the "Council") will consider the abandonment petition. The Board's review of the abandonment petition is preferable to the Council's review of the abandonment petition because it is more efficient by accomplishing the abandonment as part of the referenced preliminary plan amendment.

Section 50-15 of the Subdivision Regulations of the Montgomery County Code (the "Subdivision Regulations") and sections 49-62 through 49-68 of Chapter 49 of the Montgomery County Code (the "Road Code") govern the abandonment of dedicated rights-of-way. As you know, these Sections provide two alternative methods for the approval of an abandonment petition.

First, section 50-15(c) of the Subdivision Regulations and sections 49-62 through 49-63 of the Road Code explain that if a right-of-way has been in public use, then the Council, rather than the Board, maintains the authority to approve the abandonment petition. Section 49-62 notes that a "person...may file an application with the [Montgomery County]

Department of Transportation” to petition the Council to review an abandonment petition for a right-of-way that has been in public use. Section 49-63 further clarifies that the Council can abandon a right-of-way that has been in public use if it finds that the right-of-way is “no longer necessary for present public use or anticipated public use in the foreseeable future.”

Second, section 50-15(c) of the Subdivision Regulations and section 49-68 of the Road Code explain that if a right-of-way has not been in public use, then the Board maintains the authority to approve the abandonment petition. Under section 49-68, a person may petition the Board to abandon a right-of-way that has not been in public use through a preliminary plan of subdivision, which “state[s] the reason for the proposed abandonment and show[s] any proposed relocation or realignment of the right-of-way, where applicable.” To approve an abandonment petition, the Board must determine that a road is not necessary for anticipated public use, and that an alternative location will not adversely affect the public interest. Accordingly, it is important to examine the factors that the government agency may consider in its determination of whether the Road has been in public use, which are discussed in Maryland case law on abandonment.

I. Review of Maryland Abandonment Case Law

The most recent, seminal case in Maryland on the issue of abandonment is *Welker v. Strosnider*,¹ a 1974 Maryland Court of Special Appeals Case. In *Welker*, property owners petitioned for the abandonment of part of Long Branch Parkway, a paper street in Silver Spring which was dedicated for the development of a public road but was never developed as such. At the time the property owners petitioned for abandonment, the public predominantly used Long Branch Parkway for pedestrian and bicycle access, and as an extension of the adjacent Long Branch Park. Several Washington Suburban Sanitary Commission (“WSSC”) sewer lines also ran beneath the Long Branch Parkway.

The Maryland Court of Special Appeals upheld the property owners’ petition for abandonment because it concluded that the public’s nominal use of the dedicated road did not constitute “public use.” The Court explained that Montgomery County never “moved in bulldozers, graders, and steamrollers” to improve the road and that the general public never drove “cars and trucks over the right-of-way.” Moreover, the Court reasoned that use of area “merely by the abutting landowners...for ingress and egress, parking, recreation, or any combination of these and similar uses does not constitute public use.” WSSC consented to the abandonment, so long as it would be assured that all necessary easements and rights-of-way for maintenance, repair, and replacement were not jeopardized. In addition, as a condition of abandonment, the property owners had to grant an easement for a public pedestrian walkway and extend the area dedicated to green space.

¹ 22 Md. App. 401 (Ct. Spec. App. 1974).

Welker cites other key Maryland appellate cases, which similarly interpret the term “public use” within the context of a petition for abandonment of a dedicated right-of-way. For example, in *Glenarden v. Lewis*,² the Maryland Court of Appeals granted a petition for abandonment submitted by landowners surrounding a paper street. The street had not undergone construction or improvements, was overgrown with underbrush, and only had the possibility of pedestrian activity, rather than vehicular traffic. The Court held that slight evidence of walking on the area where the paper street is located does not constitute a clear intention on behalf of the public to accept the offer to dedicate the road. Moreover, the Court construed the term “public use” as “more than nominal utilization... the user must continuously (for 20 years) use the road so that there is a clear intention on the part of the public to accept the dedication.”³

Other Maryland abandonment cases require that a petition for abandonment satisfy a “no damage test” to persons other than the petitioner(s). In *Mayor and Council of Rockville v. Geeraert*,⁴ the Maryland Court of Appeals denied a landowners’ petition to abandon a right-of-way because it found that the abandonment failed the “no damage test.” Specifically, the Court concluded that the abandonment would deny the abutting lot owner’s rear access to an existing street, eliminate several paths used by school children, and force the public to pay for a right-of-way for a proposed pedestrian walkway and bicycle path. Similarly, in *Maryland-National Capital Park and Planning Commission v. McCaw*,⁵ the Court determined that the proposed right-of-way abandonment failed the “no damage test” because of a concern over an increased burden on local taxpayers. Here, the Court found that the Park and Planning Commission would have to pay an additional cost for condemning the land that contained the abandoned right-of-way for a regional park since the dedicated street would no longer belong to the public.

² 261 Md. 1 (1971).

³ See also *Chapman v. Rogan*, 222 Md. 12 (1960) (opining that the public’s use of an alley did not constitute dedication to the public use where the only uses of the alley consisted of occasional visits by public vehicles, cars and delivery trucks going to and from properties abutting on the alley, and as a footway for taking trash and garbage cans out for collection); *State Road Comm. v. Teets*, 210 Md. 213 (1956) (determining that there was no “public use” of a strip designated as a road way where each lot owner used the road “as if it were his own as a means of access to the public road, as a parking place, as a recreation area, or as a combination of two or more such purposes”).

⁴ 261 Md. 709 (1971).

⁵ 246 Md. 662 (1967).

II. Application of Case Law to the Road's Use and Potential Abandonment

Based upon our review of the Maryland case law, the following conclusions can be drawn regarding the potential abandonment of the Road:

- (a) The Road's use by abutting property owners for ingress and egress does not constitute public use because the abutting property owners are using the Road as a private road or easement. The private road is recorded in the land records of Montgomery County at liber 260, folio 27. In addition, Miller and Smith will grant the abutting property owners the necessary easements for ingress and egress if a petition for abandonment of the Road was granted.
- (b) Because the County never constructed or improved the Road, the Road is a paper street similar to the paper streets approved for abandonment in *Welker* and *Glenarden*.
- (c) The public's nominal use of the Road for access to Lois Green Conservation Park does not constitute "public use," as interpreted by the Maryland courts. The public's use of the Road is sporadic, rather than continuous, and therefore, the public never expressed a clear intention to accept the Road's dedication.
- (d) Although sewer lines traverse the Road, WSSC should consent to the abandonment since Miller and Smith will grant it all of the necessary easements and rights-of-way for maintenance, repair and replacement of the sewer lines.
- (e) The abandonment petition will pass the "no damage test," as discussed in the previously cited Maryland case law. Unlike in *Geeraert*, pedestrian and vehicular access to the Lois Green Conservation Park will be improved, rather than damaged, with the installation of a private version of Turkey Thicket Drive: a wider, safer, and more convenient means of access than the Road. In addition, Miller and Smith will grant abutting lot owners easements for ingress and egress. Moreover, because Miller and Smith will fund the construction and maintenance costs for a private version of Turkey Thicket Drive, the public will not be financially damaged in any way by the abandonment.

In conclusion, the public's use of the Road fails to satisfy the Maryland courts' interpretation of the term "public use." Accordingly, Montgomery County should determine that the Road has not been in public use. This determination would allow the Board to review the Road's petition for abandonment, rather than the Council. Given the easements that Miller and Smith is willing to provide to abutting lot owners and WSSC, the Board should then determine that the Road is not necessary for anticipated public use and that an alternative private road will not adversely affect the public interest. If the Board determines that the Road is not necessary for anticipated public use and that an alternative private road will not adversely affect the public interest, then the Board would be able to approve the Road's petition for abandonment.

To: Richard Weaver
Fr: John Luke
2 PAGES



Attachment H
(2 pages)

MONTGOMERY COUNTY REVENUE AUTHORITY

October 1, 2008

Charles D. Ellison, Jr.
Webb Tract, LLC
Miller & Smith
8401 Greensboro Drive, Suite 300
McLean, VA 22102

RE: Montgomery County Airpark Runway Protection Zone (RPZ)
Webb Tract Property Impact
Gaithersburg, Maryland

Dear Mr. Ellison:

Thank you for meeting with me to discuss the progress of your proposed Centerpark Development on the parcel known as the Webb Tract located northwest of the Montgomery County Airpark. As we discussed, the Montgomery County Revenue Authority is the owner of the Airpark and operates it as a public use general aviation and reliever airport for Montgomery County and the National Capital Region. The Revenue Authority receives Federal and State funds for improvements to the Airpark, and the FAA has programmed funds for initiation of preliminary work to identify portions of the Webb Tract located within the Runway 14 Runway Protection Zone (RPZ) for acquisition by the Revenue Authority to most effectively prevent incompatible land use in the RPZ.

The FAA recommends that the RPZ be owned by airports and for the land use in the RPZ to be clear or strictly controlled. The preliminary funding provided by the FAA will allow for the Revenue Authority to prepare surveys, appraisals, and negotiations to attempt to determine the fair market value of the land necessary to be acquired to protect the RPZ. It is the desire of the Revenue Authority and the FAA to reach an amicable settlement, which will speed up the funding and reimbursement process. Based on review of previous development plans, it appears that the Revenue Authority would like to acquire approximately four (4) to six (6) acres of the Webb Tract for the RPZ. The land area may vary depending on lot configuration, terrain, and impact to remnant parcels.

The land acquisition process follows Federal guidelines for land acquisition in which your rights as a land owner are to be respected and preserved. For this purpose, the Revenue Authority has contracted through its engineering consultant, Delta Airport Consultants, Inc., to administer the preliminary land acquisition process. Delta personnel will administer the project and manage the sub-consultant tasks such as property surveys

Charles D. Ellison, Jr. – Webb Tract, LLC
October 1, 2008
Page 2 of 2

and subdivision plan preparation, environmental audits, and appraisals and negotiations. Delta has administered such land acquisition projects for nearly 30 years and has extensive experience in working with airports and personnel who are relinquishing land for airport use.

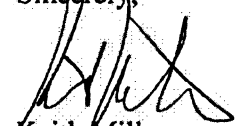
I have requested that Delta's staff personnel meet with you to discuss the land acquisition process. The Delta Project Manager will be Mr. Gary Shipley, P.E., who will be assisted by Mr. Matthew Kundrot, P.E. and Ms. Tara Eschenfelder. They can be reached at Delta's office in Richmond, Virginia at (804) 275-8301. We understand an initial meeting is planned for October 2, 2008 at your site trailer.

It is our desire to complete the appraisal and negotiation process by early 2009 so an application can be made for Federal funds for the acquisition in the spring of 2009. At this time, the availability of funds in 2009 has not yet been determined by Congress and the FAA. It is our sincere desire to obtain funds within two (2) years to complete this acquisition.

We appreciate your patience and coordination with the Revenue Authority since 2003 when Webb Tract development plans were presented to us for review. It is our desire to work toward our mutual success as we also support development to strengthen the local economy. The Airpark serves local business and industry and provides direct access to the entire nation from the heart of Montgomery County.

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

Sincerely,



Keith Miller
Executive Director

cc: Thomas A. Priscilla, Jr. FAA/WADO
Ashish J. Solanki, MAA
Gary S. Shipley, P.E., Delta Airport Consultants, Inc.



ATTORNEYS

ROBERT G. BREWER, JR.
RGBREWER@LERCHEARLY.COM

October 31, 2008

By E-Mail and Regular Mail

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

Re: Opposition to Runway Protection Zone Reservation Continuance Request
Airpark North Business Park (Centerpark)
Preliminary Plan No. 1-2004018B

Dear Ms. Conlon:

On behalf of our client, Webb Tract, L.L.C./Center Park East, L.L.C. (the "Applicant"), the owner of the Airpark North Business Park, now known as Centerpark (the "Property"), this letter objects to the request of the Montgomery County Revenue Authority on behalf of the Montgomery County Airpark to Mr. Richard Weaver, of the Development Review Division at the Maryland-National Capital Park and Planning Commission ("M-NCPPC") (hereinafter "Revenue Authority Request"), to return the Runway Protection Zone ("RPZ") area of the Property to public use reservation for an additional two years.

As you are aware, the Property is a 134-acre, undeveloped parcel located on Snuffer School Road near Centerway Road in Gaithersburg, Maryland. The Applicant originally received preliminary plan approval for the Property on July 26, 2004. The Planning Board Opinion for the Property's preliminary plan approval included the following condition of approval (No. 23): "a plat of reservation for all lots and property affected by the RPZ for a period not to exceed three years to allow potential purchase by the Montgomery County Revenue Authority and/or Federal Aviation Administration (FAA)." Accordingly, the Applicant complied with this condition of approval; as indicated on Plat No. 23635,¹ M-NCPPC placed 5.02 acres of the Property in reservation for public use for a Runway Protection Zone (the "Reservation Area") for a period of three years until July 25, 2007. The Revenue Authority has not made any offer to purchase the Reservation Area since 2004 despite numerous opportunities to do so.

¹ Plat No. 23635 is attached as Exhibit A.

On March 12, 2008, the Applicant filed an Amendment to Preliminary Plan 1-04018 (Preliminary Plan No. 1-2004018B) to implement minor design changes to Centerpark East. Since this time, we received notice of the Revenue Authority Request, which requests to place the Reservation Area back into reservation for two additional years. Specifically, the Revenue Authority Request attempts to use the Applicant's filing of the Preliminary Plan Amendment as an opportunity to reconsider the reservation specified in the original preliminary plan's conditions of approval.

M-NCPPC is estopped from placing the Reservation Area into reservation for an additional two years. An extension of the reservation would constitute an unconstitutional taking of the Property without payment of just compensation to the Applicant. The reservation would deprive the Applicant of all reasonable uses of the Property for two additional years, and would result in an effective reservation period of over six years (from July, 2004). Thus, the reservation would exceed the statutory and constitutional limitations placed upon reservations, as contained in County and State laws and as interpreted by Maryland and other state courts.

I. M-NCPPC's Authority to Place Property in Reservation is Limited by the Duration of the Reservation because the Property Owner is Deprived of all Reasonable Use of its Property during the Reservation Period.

Section 7-116(a) of Article 28 of the Annotated Code of Maryland enables M-NCPPC to adopt subdivision regulations, which can provide for "the reservation of lands for schools and other public buildings and for parks, playgrounds, highways, roads, mass transit facilities, including busways and light rail facilities, and other public purposes, *provided no reservation of land for traffic, recreation or any other public purposes as herein provided shall continue for longer than three years* without the written approval of all persons holding or otherwise owning any legal or equitable interest in the property; and provided further that the properties reserved for public use shall be exempt from all State, county, and local taxes during the period" (emphasis added). Moreover, section 50-31(a) of the Subdivision Regulations of the Montgomery County Code (the "Subdivision Regulations") governs the reservation of land for public use. The Subdivision Regulations state that reservations "for a period of three years may be required for road or street rights of way, public school and building sites, parks, playgrounds or other recreational areas or other public purposes." Section 50-31(a) also notes that M-NCPPC's placement of property into public reservation "shall be by resolution of the Commission, stating the period during which the reservation shall be effective [3 years]."

It is important to note that during the reservation period, the property's owner is deprived of all reasonable use of its property. Section 50-31(a) explains:

During the reservation period, a person must not erect a building or structure on the reserved land. A person must not remove or destroy trees, topsoil, or cover; grade; build a storm drainage structure that discharges water on the reserved land, except according to a storm drainage plan approved by the Department of Permitting Services or the Washington Suburban Sanitary Commission; or put reserved land to any use, except after written approval of the Board. Nothing in this section prohibits the owner from removing weeds or trash from reserved property, or from selling after approval by the Board parts of the land necessary for water, sewer, or road right-of-way for public agencies.

II. Maryland and other state Courts Consistently Interpret a Reservation for Public Use as an Unconstitutional Taking of a Landowner's Property, for which Just Compensation is Required.

In *Maryland-Nat'l Capital Park and Planning Comm'n v. Chadwick*, 286 Md. 1, 405 A.2d 241 (Md. 1979), the Maryland Court of Appeals held that M-NCPPC's placement of a property owner's land in reservation for up to three years, during which time the property owner is deprived of all reasonable use of its property, constitutes a unconstitutional taking of the property. The Court compelled M-NCPPC to pay the property owners just compensation for the property placed in reservation and emphasized that M-NCPPC may not indefinitely withhold permission for the otherwise permitted development of land simply because its long-range plans provide for a different use.

Later, in *Howard County v. JJM, Inc.*, 301 Md. 256, 482 A.2d 908 (Md. 1984), the Court upheld *Chadwick* and opined that a Howard County statute requiring a right-of-way reservation of an unlimited duration for a proposed state road, during which time the landowners are precluded from making any effective use of the property placed in reservation, is an unconstitutional taking of the property. The Court construed the reservation as an exaction and reasoned that Howard County failed to show a reasonable nexus between the exaction and the proposed subdivision because of the reservation's unlimited duration and restrictions on uses.

A review of reservation case law from other jurisdictions reveals that numerous states limit the duration and severity of government imposed reservations of private property for public use. For example, in *Lomarch Corp. v. Mayor of Englewood*, 51 N.J. 108, 237 A.2d 881 (N.J. 1968), the Supreme Court of New Jersey stated that a City of Englewood ordinance, which placed private property in subdivision in reservation for a period of only one year, would be unconstitutional "absent an intent to compensate the landowner." More recently, in *Hoepker v. Madison Planning Comm'n*, 563 N.W.2d 145, 209 Wis.2d 633 (Wis. 1997), the Supreme Court of Wisconsin explained that a City of Madison ordinance, which placed private property in subdivision in an open space reservation for a period of five years, could constitute an unconstitutional taking that

requires just compensation if Madison failed to show an "essential nexus" between the reservation and the impact of the proposed subdivision.

III. To Comply with the Statutory and Constitutional Limitations Placed Upon Reservations, as Contained in County and State Laws and as Interpreted by Maryland and other State Courts, M-NCPPC is Estopped from Placing the Reservation Area into Reservation for an Additional Two Years.

M-NCPPC is precluded from placing the Reservation Area into reservation for an additional two years. The Applicant already complied with the Planning Board's condition of approval to place the Reservation Area into reservation for three years: the term limit expressly contained in Section 7-116(a) of Article 28 of the Annotated Code of Maryland. "No reservation of land...for longer than three years" clearly means a three year time limit and nothing more. Moreover, the reservation period expired more than one year ago and the Applicant's submission of a Preliminary Plan Amendment for minor design changes does not provide the opportunity for M-NCPPC to reinstate the reservation. An extension of the reservation would (a) constitute an unconstitutional taking of the Property without payment of just compensation to the Applicant and (b) inequitably deprive the Applicant of all reasonable uses of the Property for two additional years.

For all of these reasons, the Applicant respectfully requests that the Development Review Division deny the Revenue Authority's request to continue the RPZ's reservation for public use. Please be aware that Miller and Smith met again with the Revenue Authority recently about this matter and reiterated its continuing willingness to entertain a purchase offer as soon as one can be made. Thank you very much for your consideration. With regards,

Very truly yours,

Robert G. Brewer, Jr.

cc: Mr. Richard Weaver
Mr. Charles D. Ellison
Chas Stuart, Esq.
Mr. Robert J. Spalding
Mr. John Luke (Revenue Authority)

FLAT NO: **23635**

SURVEYOR'S CERTIFICATE

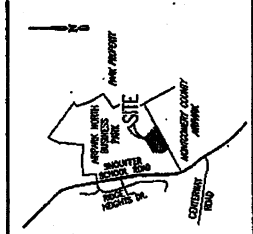
I HEREBY CERTIFY THAT THE PLAN SHOWN HEREON IS CORRECT; THAT IT IS A RESERVATION PLAN OF PART OF THE LAND ACQUIRED BY RESS TRACT, L.L.C., A STATE OF MARYLAND LIMITED LIABILITY COMPANY FROM HAROLD J. BOBBS BY DEED DATED APRIL 26, 2001 AND RECORDED AMONG THE LAND RECORDS OF MONTGOMERY COUNTY, MARYLAND IN LIBER 21169 AT FOLIO 653.

THAT THE TOTAL AREA INCLUDED IN THIS RESERVATION PLAN IS 218,897 SQUARE FEET OR 5.02 ACRES OF LAND.



DATE: 3-14-2007

Donald L. Collier
DONALD L. COLLIER
PROFESSIONAL LAND SURVEYOR
MARYLAND REG. NO. 20014



VICINITY MAP
NOT TO SCALE

CERTIFICATE

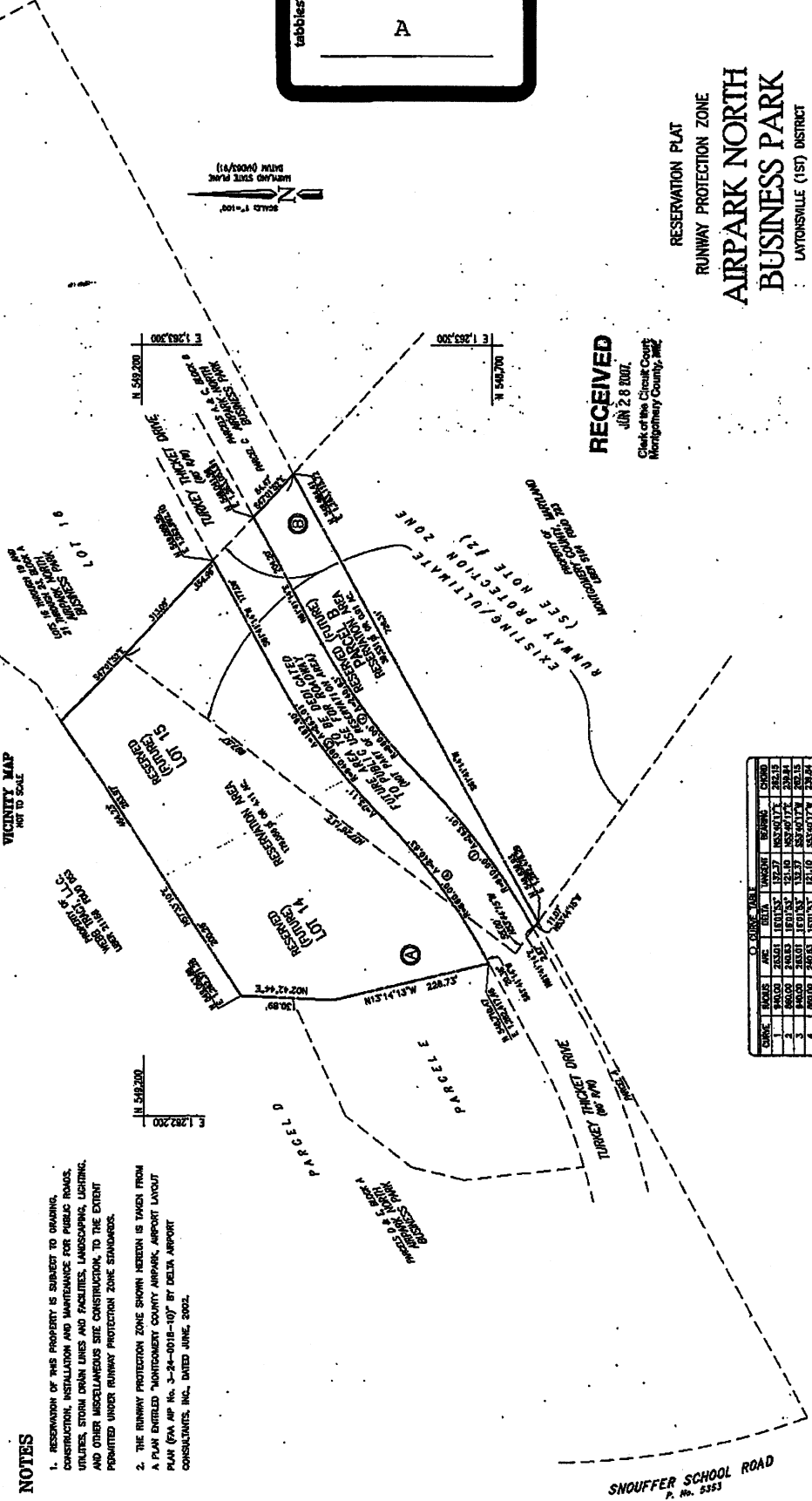
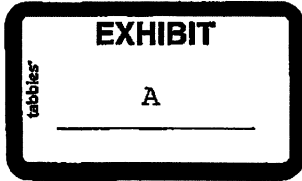
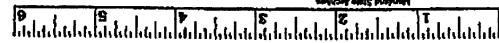
I HEREBY CERTIFY THAT PURSUANT TO THE PROVISIONS OF ARTICLE 28, SECTION 7-115, ANNOTATED CODE OF MARYLAND, 1983 REPLACEMENT VOLUME AND SECTION 80-31, MONTGOMERY COUNTY CODE (1972 REPLACEMENT VOLUME), AND THE REGULATIONS FOR THE SUBDIVISION OF LAND FOR THE MONTGOMERY-WASHINGTON REGIONAL AIRPORT IN MONTGOMERY COUNTY, MARYLAND, ADOPTED BY THE COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND, ON OCTOBER 17, 1981 AND BY VIRTUE OF ITS AUTHORITY TO ADMINISTER SAID REGULATIONS, THE MONTGOMERY COUNTY PLANNING BOARD BY OPINION DATED JULY 26, 2004 HAS DECLARED THE 5.02 ACRES OF LAND SHOWN HEREON TO BE A RESERVATION FOR PUBLIC USE AS DEEMED NECESSARY FOR A RUNWAY PROTECTION ZONE, SAID PUBLIC RESERVATION TO CONTINUE IN FULL FORCE AND EFFECT FOR A PERIOD OF THREE (3) YEARS UNTIL JULY 26, 2007.

DATE: Feb 1, 2007

R.B. C.A.
R.B. C.A.
EXECUTIVE DIRECTOR
MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

NOTES

- RESERVATION OF THIS PROPERTY IS SUBJECT TO GRADING, CONSTRUCTION, INSTALLATION AND MAINTENANCE FOR PUBLIC ROADS, UTILITIES, STORM DRAIN LINES AND FACILITIES, LANDSCAPING, LIGHTING, AND OTHER MISCELLANEOUS SITE CONSTRUCTION, TO THE EXTENT PERMITTED UNDER RUNWAY PROTECTION ZONE STANDARDS.
- THE RUNWAY PROTECTION ZONE SHOWN HEREON IS TAKEN FROM A PLAN ENTITLED "MONTGOMERY COUNTY AIRPARK, AIRPORT LAYOUT PLAN (P.A. MAP No. 3-24-0016-107" BY DELEN AIRPORT CONSULTANTS, INC., DATED JUNE, 2002.



CHUCK	BARBARA	DAVID	WANDA	BARBARA	CHUCK
1	860.00	753.00	172.37	852.00	282.15
2	860.00	753.00	172.37	852.00	282.15
3	860.00	753.00	172.37	852.00	282.15
4	860.00	753.00	172.37	852.00	282.15

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JUN 28 2007
Check of the Circuit Court
Montgomery County, MD

RESERVATION PLAN
RUNWAY PROTECTION ZONE
**AIRPARK NORTH
BUSINESS PARK**
MONTGOMERY COUNTY, MARYLAND
FEBRUARY, 2007 SCALE: 1"=100'

CPJ
Associates
Charles P. Johnson & Associates, Inc.
A Member of the Johnson & Johnson Companies
10000 Rockledge Drive, Suite 100
Montgomery, MD 20894
Tel: 301-279-1000
Fax: 301-279-1001
www.cpj.com



2-07106
141018 Reservation T-4

TAX MAP 61121

THE MONTGOMERY-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
MONTGOMERY COUNTY PLANNING BOARD
Approved: May 10, 2007
William H. Brown
WILLIAM H. BROWN
ASST. SECRETARY-TREASURER
MONTGOMERY COUNTY PLANNING BOARD
MONTGOMERY COUNTY, MARYLAND
MONTGOMERY COUNTY FILE NO. 628-55

RECEIVED
MAY 28 2007
628-55



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

Attachment J
 (5 pages)

November 12, 2008

MEMORANDUM

TO: Richard Weaver, Planner/Coordinator
 Development Review Division

VIA: Shahriar Etemadi, Supervisor
 Transportation Planning Division

FROM: Ed Axler, Planner/Coordinator
 Transportation Planning Division

SUBJECT: Preliminary Plan No. 12004018D
 CenterPark (a.k.a. North Airpark Business Park or Webb Tract)
 Montgomery Village/Airpark Policy Area

[Handwritten signature]
 EA

RECEIVED
 NOV 13 2008
 DEVELOPMENT REVIEW

This memorandum supplements Transportation Planning staff's previous memorandum date November 3, 2007, regarding the Adequate Public Facilities (APF) review of the subject preliminary plan amendment.

ADDITIONAL RECOMMENDATION

We recommend the following additional condition as part of the APF test for transportation requirements related to approval of the subject preliminary plan amendment:

Transportation Planning staff supports the relocation of right-of-way for the existing vehicular access and a public access easement across a private road, the proposed Turkey Thicket Drive. This easement is necessary to provide access through the CenterPark property from Snouffer School Road to M-NCPPC's park property. As part of the subdivision process for Preliminary Plan No. 12004018D, the public access easement must be shown on record plat, unless MCDOT finds that additional County procedures are necessary.

EA:tc

cc: Sue Edwards
 Kevin Foster
 Bob Spalding

mno to Weaver re CenterPark 12004018D supplemt.doc



DEPARTMENT OF TRANSPORTATION

Isiah Leggett
County Executive

Arthur Holmes, Jr.
Director

November 18, 2008

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

RE: Preliminary Plan #1-2004018B&D
Centerpark, Amended

Dear Ms. Conlon:

We have completed our review of the preliminary plan dated "June 2008" for the amendment 'D' and preliminary plan revised on 10/24/08 for amendment 'B'. These plans were reviewed by the Development Review Committee at their meetings on October 6, 2008 and May 12, 2008 respectively. We recommend approval of the plan subject to the following comments:

1. All comments of our detailed review letter on preliminary plan 1-04018 dated 07/06/2004 remain in effect unless specifically changed below.
2. We have received the applicant's request for abandonment of Turkey Ticket Drive through Planning Board. At this point considering the "existing public uses" of this road (existing park access and electric line) we still believe this abandonment should be pursued through County Council.
3. We do not have any objection on elimination of Chaffee Court.
4. Coordinate with County Executive special assistant and Department of General Services regarding Public Services Training Academy relocations.
5. Private common driveways and private streets shall be determined through the subdivision process as part of the Planning Board's approval of a preliminary plan. The composition, typical section, horizontal alignment, profile, and drainage characteristics of private common driveways and private streets, beyond the public right-of-way, shall be approved by the Planning Board during their review of the preliminary plan. Also homeowners' documents to establish each driveway user's (property owner's) rights & responsibilities with respect to use, maintenance, & liability of the common driveway.


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

Division of Traffic Engineering and Operations

101 Orchard Ridge Drive, 2nd Floor • Gaithersburg, Maryland 20878
Customer Service 240-777-6000 • Main Office 240-777-2190 • 240-777-6013 TTY • 240-777-2080 FAX
trafficops@montgomerycountymd.gov

Ms. Catherine Conlon
Preliminary Plan No. 1-2004018B&D
Date November 18, 2008
Page 2

Sincerely,



Gregory M. Leck, P.E., Manager
Development Review Group
Division of Traffic Engineering and Operations

m:/subdivision/farhas01/preliminary plans/1-2004018B&D, Centerpark_amendment.doc

Enclosures ()

cc: Robert Spalding, Webb Tract/Centerpark East/Centerpark West
Kevin Foster, Gutschick, Little & Weber
Robert Brewer, Lerch, Early & Brewer
Joseph Y. Cheung; DPS RWPPR
Sarah Navid; DPS RWPPR
Shahriar Etemadi; M-NCPPC TP
Sam Farhadi, DOT DTEO
Preliminary Plan Folder
Preliminary Plans Note Book



IZAAK WALTON LEAGUE OF AMERICA, INC.

LOIS GREEN - SLIGO CHAPTER

8721 Snuffers School Road, Gaithersburg, MD 20879

Walters
(PSC)

May 19, 2008

Ms. Cathy Conlon, Subdivision Supervisor
MNC-PPC
8787 Georgia Avenue
Silver Spring, MD 20910

Re: Centerpark Roads Privatization


Dear Ms. Conlon:

The Lois Green-Sligo Chapter of the Izaak Walton League of America would like to lend our endorsement of the proposal by Miller and Smith to privatize the roads for their project, Centerpark, off of Snuffer School Road in Gaithersburg. This project is adjacent to our property and Miller and Smith have been very communicative in every aspect of their development and have kept us informed of their plans. We appreciate their good neighbor methods.

It is our understanding that Miller and Smith intends to keep the road infrastructure of this office park private and under the care and management of a Property Owner's Covenant. The goals that they intend to achieve by doing this are consistent with those of the LGS/IWLA in that this will enable Miller and Smith to used enhanced landscaping to beautify the road, they can enforce towing of unauthorized vehicles and the Property Owner's Association can maintain snow and trash removal in a timely fashion. Although LGS/IWLA will not now or ever be a participant in the POA, we feel our needs are better served by this arrangement as well. We have been told by Miller and Smith that the POA will maintain Turkey Thicket Drive on its property and that M-NCPPC will maintain the road on their property.

Should you need any further clarification or comment on this matter, please feel free to contact me at my home number: 301-869-4943. I would be happy to discuss this matter in greater detail with your organization.

Sincerely yours,


Anita C. Stonebraker,
Chapter President

Defender of Soil, Woods, Waters, Air and Wildlife
Printed on recycled paper