




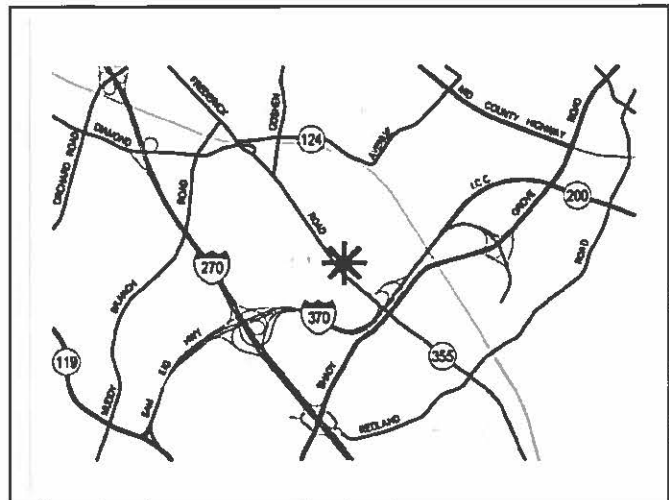
Bank of America Drive-Thru Conditional Use, CU 17-17

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Completed: 10/2/17

Description

- Request for a drive-thru associated with a bank;
- Located at 16531 Frederick Road, Gaithersburg;
- 8.28 acres zoned CRT-2.25 C-1.5 R-0.75 H-45, 2010 *Great Seneca Science Corridor Master Plan*;
- Applicant: Bank of America, National Association;
- Application Acceptance Date: June 9, 2017;
- Public Hearing by the Hearing Examiner: October 30, 2017.



Summary

- Staff recommends approval with conditions.
- Banks are permitted uses in the CRT Zone, and drive-thru windows are allowed as limited or conditional uses. Because the proposed drive-thru does not meet the limited use standards under Section 3.5.14.E.2.a, the Applicant is seeking conditional use approval.
- This project is exempt from Article II of the Forest Conservation Law under Section 22A-5(t).
- Pursuant to Section 7.7.1.C of the Zoning Ordinance, this application was reviewed using the development standards of the C-2 Zone in the 2004 Zoning Ordinance.
- On July 9, 2015, the Planning Board approved an Adequate Public Facilities determination for a 9,999-square foot expansion of general retail uses on the Property.

STAFF RECOMMENDATION

Staff recommends approval of CU 17-17 subject to the following conditions:

1. The Applicant must obtain a sign permit issued by the Department of Permitting Services or the Sign Review Board, as appropriate, and must file a copy of any such sign permit with the Office of Zoning and Administrative Hearings (OZAH).
2. The Applicant must provide at least two short-term bicycle parking spaces (inverted-U bike rack(s) or equivalent as approved by the Planning Department staff) near the proposed bank's main entrance.
3. Prior to issuance of the final use and occupancy permit for the proposed bank, the Applicant must provide the sidewalk connections and striped crosswalks shown on the conditional use plan.
4. Prior to issuance of any building permit, the City of Gaithersburg must approve any proposed improvements to the Property that lie within the City's municipal boundary. The Applicant must also provide the City of Gaithersburg with copies of all permits, plans and easement/maintenance documents reviewed and approved by the Department of Permitting Services for construction of the bank facility as required by the City.
5. Prior to the OZAH hearing, the Applicant must obtain approval of the stormwater management concept plan from the Department of Permitting Services (DPS), Water Resources Section.

PROJECT DESCRIPTION

Property Description

The Property is located on the east side of South Frederick Avenue (MD 355) between South Westland Drive and North Westland Drive. It is 8.28 acres zoned CRT-2.25 C-1.5 R-0.75 H-45 Zone, and comprises two parcels: the larger, 7.87-acre parcel is described as Parcel B, Block A of the Walnut Hill subdivision; the other parcel is 0.40 acres and described as "part of abandoned Route 355 from Equity Case 31265, adjacent to Parcel B". The smaller parcel is within the municipal boundary of the City of Gaithersburg¹.

The Property is generally rectangular with frontage on South Frederick Avenue (MD 355), South Westland Drive, and North Westland Drive. Vehicular access is available from all three roads. It is currently improved with the 99,857-square-foot Walnut Hill Shopping Center and an associated surface parking lot. The shopping center currently includes a grocery store, a Maryland Motor Vehicle Express facility, and various restaurants and retail/ service establishments. The Property also includes two existing pad sites, although the buildings on the pad sites appeared to be empty at the time of Staff's site visit on July 31, 2017.

¹ Because the City of Gaithersburg has zoning authority, the Applicant will need to seek approval from the City for the portion of the conditional use that lies within the municipal boundary.



Figure 1: Aerial view with Property outlined in red

Neighborhood Description

The Staff defined Neighborhood is generally bound by Central Avenue and Virginia Drive to the north, the rear lot lines of properties fronting on South Frederick Avenue to the west, O'Neill Drive and the I-370 interchange to the south, and Walnut Hill Road and various property lines to the east (Figure 3). The corporate limits of the City of Gaithersburg surround the shopping center site to the south, west, and northwest, and comprise most of the Neighborhood.

The Neighborhood has a diversity of uses, including residential development, but is primarily commercial and institutional in character. Three religious facilities are located within the Neighborhood, confronting the Property on the west side of South Frederick Avenue. The Neighborhood also includes an office building, a community center, a hotel, a self-storage facility, two gas stations, and various retail/service establishments and restaurants. Detached houses in the R-200 Zone abut the Property to the northeast, and garden apartments are in the southern corner of the Neighborhood, adjacent to O'Neill Drive. Staff did not identify any existing, approved conditional uses in the Neighborhood.

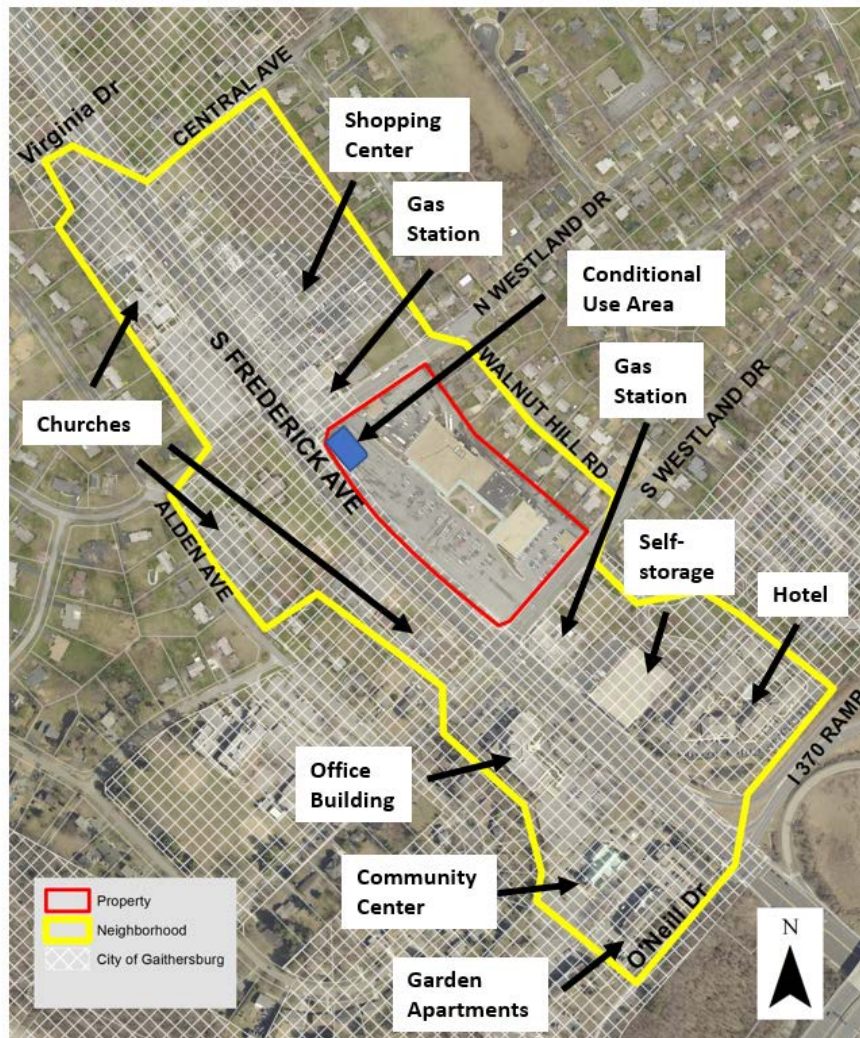


Figure 2: Neighborhood Map (Neighborhood outlined in yellow)

Zoning

The 2010 *Great Seneca Science Corridor Master Plan* retained the Property's C-2 (General Commercial) zoning. In 2014, the Property was rezoned to the CRT-2.25- C-1.5 R-0.75 H-45 Zone (Commercial Residential Town) by District Map Amendment G-956.

Proposed Use

The Applicant proposes, and has entered a ground lease, to develop a freestanding, one-story full-service Bank of America branch with two drive-thru lanes and walk-up ATM facilities in the northwestern corner of the Property on a 15,645-square-foot area of the existing shopping center parking lot (Figure 4).



Figure 3: Location of Proposed Use on the Property

The proposed building will be 3,120 square feet with space for tellers, offices, meeting rooms, a vault, and storage space. One or more walk-up ATMs are proposed within the building's vestibule, which will be accessible at any time. Two proposed drive-thru lanes are for drive-up ATM service underneath a canopy adjoining the building. The drive-thru lanes will provide queuing space to accommodate between eight and nine vehicles, including the two vehicles at the transaction positions. One pass-by lane is also proposed. The proposed building height is 21 feet, and the architecture will be consistent with other Bank of America branch facilities. The materials proposed for the building include stucco, glazed storefront, and a metal canopy.

The Applicant is proposing a pedestrian connection between the bank and the sidewalk along South Frederick Avenue. Crosswalks will provide a pedestrian connection between North Westland Drive, the shopping center, and the proposed bank. Four parking spaces, including one handicapped parking space, are proposed on the southeast side of the bank.

Due to existing long-term leases within the shopping center, the proposed bank building could not be located anywhere else on the Property since it would have blocked the view of the main shopping center from MD355, leaving only the "corners" of the shopping center site as viable pad-site locations. There is a separate retail pad building planned for the southwest corner, therefore the northwest corner of the property is the only remaining location for the proposed bank on the site. There is a main access drive aisle that runs through the shopping center from the North Westland Drive entrance/exit to the South Westland Drive entrance/exit that serves as the central "spine" for vehicular circulation on the site and must be maintained. The Applicant explored alternative configurations for relocating the drive aisle behind the building along the central north-south "spine", but the alternatives were unfeasible because the drive-thru lanes could not provide the required number of queuing spaces and there would be insufficient separation from the central "spine" resulting in unsafe circulation and increased vehicular conflicts.

In addition to trees and shrubs around the building, shade trees are proposed on both frontages (Figure 5). The photometric plan indicates lighting fixtures distributed around the proposed development. The Applicant intends to add a Bank of America sign to the existing monument sign at the corner of South Frederick Avenue and North Westland Drive.

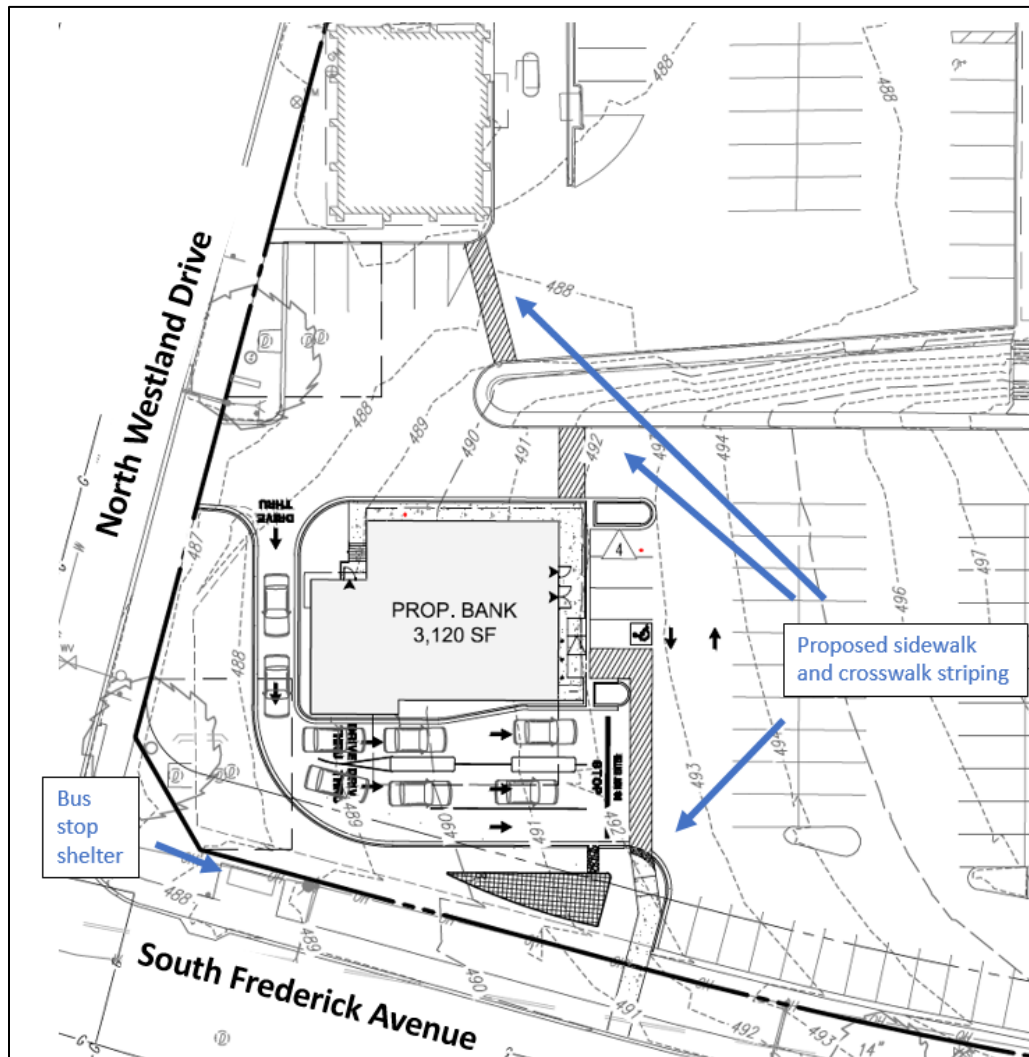


Figure 4: Conditional Use Plan

The proposed bank will typically operate from 7:00 a.m. to 8:00 p.m. Monday through Friday, 7:30 a.m. to 6:00 p.m. on Saturday, and 11:00 a.m. to 4:00 p.m. on Sundays. When the bank is closed to the public, secured access to the walk-up and drive-up ATMs will be available. A maximum of 20 full-time employees, or part-time equivalents, will be employed by the proposed bank, with no more than 12 employees working on site at any one time. Staffing levels are determined by customer flow, with 5 or 6 employees typically present during the bank's operating hours.

The proposed bank will not use dumpsters because the business requires protection of confidential financial data. Instead, a Bank of America courier visits the site daily to remove approximately one bag of kitchen garbage plus confidential trash, which is bagged separately and removed for shredding/recycling.

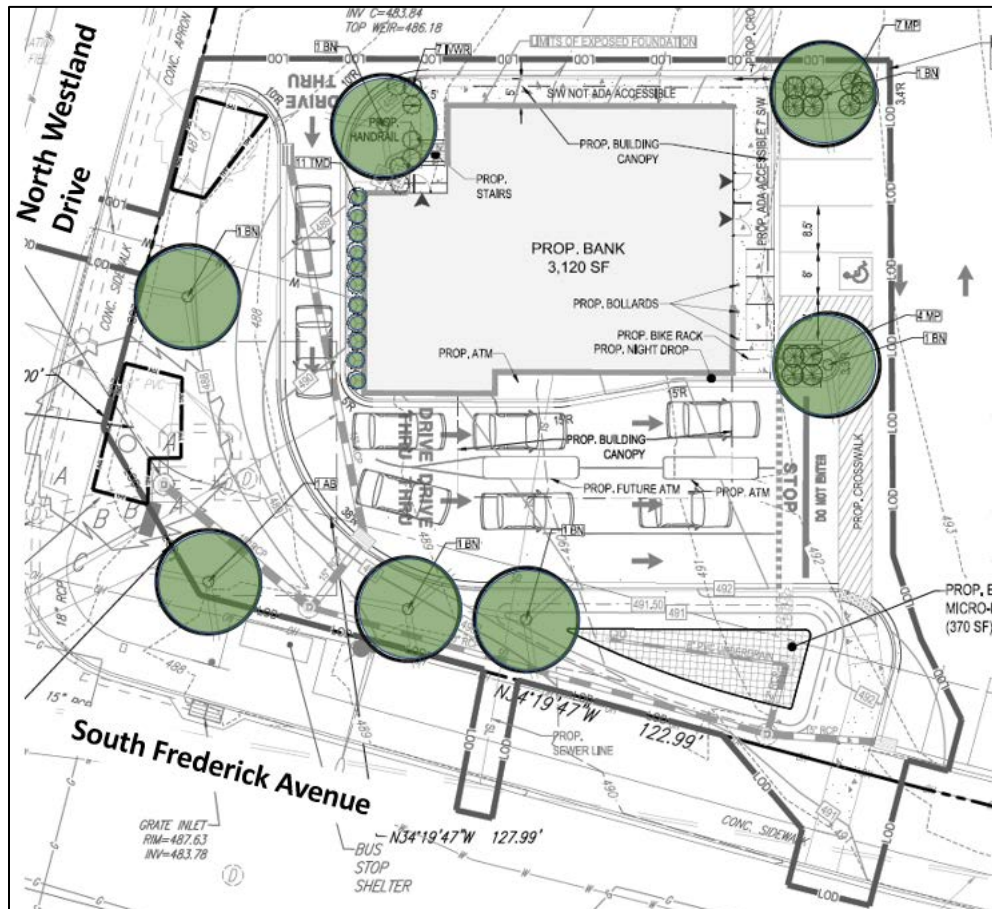


Figure 5: Proposed Landscape Plan

Master Plan

The Property is within the boundary of the 2010 *Great Seneca Science Corridor Master Plan*, which designates the Property as part of the “Rosemont, Oakmont, and Walnut Hill” area. The Plan recognizes the Property’s existing retail/commercial use and confirmed the C-2 (General Commercial) Zone on the Property and makes a recommendation to “improve stormwater management, reduce impervious surface, increase street tree planting and incorporate other low impact development and green building techniques if the Walnut Hill Shopping Center redevelops” (page 71). Although this project is not a redevelopment of the shopping center, the Applicant will upgrade the stormwater management facilities to comply with current regulations using Environmental Site Design (ESD) techniques to the maximum extent practicable. The proposed development is therefore in substantial conformance with the Master Plan.

Transportation

Access, Circulation

The shopping center's existing six vehicular access points are being retained on all three frontages. Customers will access the proposed bank's drive-thru lanes from the shopping center's north-south "spine" aisle. Queuing space for approximately 8 or nine vehicles will be available in addition to a third bypass lane. Walk-in customers will park in the existing parking lot and access the proposed bank from the south side of the building.

Master-Planned Roadway, Bikeway, and Transitway

The 2010 *Great Seneca Science Corridor Master Plan* designates South Frederick Avenue as a six-lane major highway, M-6, with a recommended 120-foot right-of-way. The existing right-of-way is between 120 and 123 feet wide along the property frontage with a 16-foot wide raised median and a shared-use path along the east side of South Frederick Avenue. The *Great Seneca Science Corridor Master Plan* and the 2005 *Countywide Bikeways Functional Master Plan* recommend a shared use path, SP-64 along South Frederick Avenue.

South Westland Drive, North Westland Drive, and Walnut Hill Drive are not listed in the Master Plan. South Westland Drive is a secondary residential street with a 60-foot wide right-of-way. North Westland Drive is functionally a primary residential street with a 70-foot wide right-of-way between Frederick Avenue and Walnut Hill Drive. Walnut Hill Drive is parallel to Frederick Avenue and is a tertiary residential street with a 50-foot wide right-of-way.

The 2013 *Countywide Transit Corridors Functional Master Plan* recommends Bus Rapid Transit (BRT) along this segment of MD 355. The nearest BRT station is recommended to be located at the intersection of MD 355 and Shady Grove Road.

Transit Service

Ride On bus routes 55 and 59 operate along the Property's South Frederick Avenue frontage:

1. Route 55 operates between the Germantown Transit Center and the Shady Grove Metrorail Station with 30-minute headways between buses on weekdays and weekends.
2. Route 59 operates between the Montgomery Village Center and the Rockville Metrorail Station with 30-minute headways between buses on weekdays and weekends.

Two bus stops are located along the frontage of the Shopping Center, one at the intersection of South Frederick Avenue and North Westland Drive, and one at South Frederick Avenue and South Westland Drive.

Pedestrian and Bicycle Facilities

The east side of South Frederick Avenue has a ten-foot-wide shared-use path with no green panel along the Property frontage, and the west side has a five-foot-wide sidewalk with a 3-foot-wide green panel. Near the Property, both sides of North Westland Drive have twelve-foot-wide sidewalks with no green panels, and both sides of South Westland Drive have eight-foot-wide sidewalks with no green panel. The

only existing lead-in sidewalk to the shopping center is in front of the proposed building adjacent to North Westland Drive.

In addition to striped crosswalks across several drive aisles, the Applicant proposes to add a lead-in sidewalk to the bank from South Frederick Avenue. Short-term bicycle parking is proposed near the bank's main entrance.

Queuing Analysis and Traffic Operations

Access to the proposed drive-thru is internal to the Property, and the pick-up window is located along the south side of the proposed building allowing the drive-thru lane to have a substantial queuing area. The conditional use plan shows a single approach lane that is approximately 60 feet long that then opens to an exit lane and two drive-thru lanes, each approximately 60 feet long. It is estimated that each of the two drive-thru lanes can accommodate two or three vehicles and an additional two or three vehicles can be accommodated in the single lane queuing area along the north side of the building. This results in a total of eight or nine vehicles that can be adequately accommodated within the drive-thru area.

Due to the proximity of the proposed drive-thru entrance and the nearby site access point from North Westland Drive, operational and queuing analyses were conducted at the site access point. The traffic impact analysis (TIA) and queuing analysis, using the Highway Capacity Manual (HCM), demonstrate that the addition of the proposed drive-thru will not be impacted by queuing at the site access point on North Westland Drive because the intersection will continue to operate with little or no delay. The access point will allow free-flow movement into the drive-thru and into the shopping center's main north-south "spine" aisle.

To enhance safety for pedestrians and other vehicles in the shopping center parking lot, pavement markings and signs are proposed that will alert motorists leaving the drive-thru lanes to stop before proceeding into the drive aisle.

Transportation Adequate Public Facilities

As a non-residentially zoned parcel recorded before January 1, 1982, and registered by the property owner in 1989, the Property was considered a "loophole" property under Emergency Bill 25-89 and Subdivision Regulation 89-1 (Loophole Legislation) in Section 3-31(a)(1), which was enacted on July 24, 1989, and expired 12 years later in 2001.

The Planning Board approved an Adequate Public Facilities (APF) finding for the shopping center on June 4, 2015, for an expansion of 9,999 square feet of general retail space for a total of 109,856 square feet. A traffic study was required to satisfy the Local Area Transportation Review test because 9,999 square feet of general retail space generated more than 30 peak-hour vehicular trips. The traffic study analyzed four nearby intersections and the six access points into the shopping center. All intersections had congestion levels below the maximum allowed congestion standard for the Derwood Policy Area.

For the Local Area Transportation Review test for the Conditional Use, a retail addition of 3,120 square feet generates six additional weekday trips during the morning peak period from 6:30 a.m. to 9:30 a.m. and 24 additional trips during the evening peak period from 4:00 p.m. to 7:00 p.m.

Policy Area Review

As part of the APF determination for the prior approval, the Transportation Policy Area Review (TPAR) test required a TPAR payment to the Montgomery County Department of Permitting Services (DPS) at building permit of 25% of the transportation impact tax because the site was located within the Derwood Policy Area. However, as of March 1, 2017, under the 2016-2020 Subdivision Staging Policy the higher development impact tax must be paid instead of the TPAR payment for all new building permits. The timing and amount of the development impact tax payment will be determined by Chapter 52 of the Montgomery County Code.

Environment

Environmental Guidelines

There are no forests, wetlands, or other environmental features on the Property.

Forest Conservation

This application is exempt from the Forest Conservation Plan requirements under Section 22A-5(t) of the Forest Conservation Law (Plan #42015228E) because it is a modification to existing non-residential development.

Community Outreach

The Applicant has satisfied noticing requirements with signs posted along the South Frederick Avenue and North Westland Drive frontages. Staff has received no correspondence about this application.

ANALYSIS

Although a bank with a drive-thru was allowed by right in the C-2 Zone under the Zoning Ordinance in effect when the shopping center was developed in 1967, the current Zoning Ordinance, which became effective on October 30, 2014, made a bank and a drive-thru two separate uses. A bank is now allowed by right in the site's current CRT Zone, a drive-thru is allowed only as a Limited or Conditional use per *Section 3.1.6. Use Table*. A drive-thru is allowed as a limited use if it meets the requirements of Section 3.5.14.E.3, Use Standards. If a drive-thru cannot meet the limited use standards under Section 3.5.14.E.2.a.i through iv, a conditional use may be filed under Section 3.5.14.E.2.b. Since the proposed drive-thru cannot meet all the limited use standards cited above, the Applicant is seeking a conditional use approval for the drive-thru portion of the project as a new use on the site. However, the 3,120-square-foot bank portion of the project is an allowed use in the current CRT Zone as well as the previous C-2 Zone, it qualifies as an expansion of the existing shopping center and grandfathered under Section 7.7.1.C.2. Therefore, it is reviewed under the standards and procedures of the old Zoning Ordinance as allowed by the development standards of the C-2 Zone.

FINDINGS

Conditions for Granting a Conditional Use

Section 7.3.1.E Necessary Findings²

To approve a conditional use application, the Hearing Examiner must find that the proposed development:

Section 7.3.1.E.1.a. *satisfies any applicable previous approval on the subject site or, if not, that the previous approval must be amended;*

The Walnut Hill Shopping Center was originally constructed in 1967 and has never been subject to Preliminary or Site Plan approval.

The Planning Board made an Adequate Public Facilities (APF) determination for the Property in 2015, allowing for an expansion of the existing Shopping Center by 9,999 square feet, for a total of 109,856 square feet of non-residential development on the Property. Since the proposed 3,120-square-foot bank is within the amount of non-residential development approved by the Planning Board's Resolution MCPB No. 15-78, no further APF review is required for the proposed project.

Section 7.3.1.E.1.b. *satisfies the requirements of the zone, use standards under Article 59-3, and to the extent the Hearing Examiner finds it necessary to ensure compatibility, meets applicable general requirements under Article 59-6;*

Requirements of the Zone: Development Standards of the C-2 Zone from the 2004 Zoning Ordinance

Pursuant to Sections 7.7.1.C.1 and 7.7.1.C.2 of the current Zoning Ordinance, existing development in a CRT Zone may expand up to the lesser of 10% of the gross floor area approved for the site on October 30, 2014, or 30,000 square feet, following the procedures and standards of the property's C-2 zoning in effect on October 29, 2014. The Applicant is proposing to add 3,120 square feet of non-residential development, which is less than 10% of the 99,857 square feet of development that existed on the Property as of October 30, 2014.

Since this review is limited to the "conditional use area" of the Property, the proposed bank building meets the development standards of the C-2 Zone as shown in Table 1 below.

² Section 7.3.1.E.2 thru Section 7.3.1.E.5 are not applicable to this application and are not included in this report.

Table 1: Development Standards		
	Required/ Allowed under Sec. C-4.35 of 2004 Zoning Ordinance	Existing/Proposed
Building Height (max)	42'	36'
FAR (max)	1.5	0.20
Setbacks (min)		
Front	10'	42'
Rear setback	30' (Not less than required in adjoining R-200 zone)	46'
Green Area (min)	10%	7.4%*

*The shopping center was constructed in 1967 under the C-2 Zone which, at the time, did not have a green area requirement. The 15,645-square foot "conditional use area" proposes a green area of 30.3%.

Outside of the "conditional use area", the remainder of the shopping center property, including the site design of the parking lot, is conforming under Section 7.7.1.A.1, and will continue to meet the development standards of the C-2 Zone in effect at the time of the shopping center's development.

Use Standards for a Drive-Thru under Article 59-3

A Drive-Thru is allowed as a Limited or Conditional Use in the CRT Zone. The proposed drive-thru does not satisfy the following limited use standards under Section 3.5.14.E.2.a:

- iii. *A drive-thru service window, drive aisle, or queuing area located between the street and the front main wall of the main building is prohibited.*
- iv. *A drive-thru service window, drive aisle, or stacking area may be located between the street and the side wall of the main building on a corner lot if permanently screened from any street by a minimum 3 foot high wall or fence.*

Under Section 3.5.14.E.2.a.vi, a conditional use application may be filed with the Hearing Examiner if the limited use standards cannot be met. Therefore, the Applicant is requesting conditional use approval under Section 3.5.14.E.2.b, and the application must satisfy the following standards:

- i. *The use at the proposed location will not create a traffic hazard or traffic nuisance because of its location in relation to similar uses, necessity of turning movements in relation to its access to public roads and intersections, or its location in relation to other buildings or proposed buildings on or near the site and the traffic patterns from such buildings or cause frequent turning movements across sidewalks and pedestrian ways, thereby disrupting pedestrian circulation within a concentration of retail activity.*

As described in the Analysis section, the internal circulation within the shopping center and on the proposed pad site will remain safe and efficient with the addition of the with drive-thru facilities. The pad site is located immediately to the southwest of the nearest shopping center access point from North Westland Drive, at a location that will be relatively isolated from the other parts of the shopping center. Vehicles entering and exiting the drive-thru lanes will not create a traffic hazard for customers shopping at other establishments within the shopping center. Pavement markings will signal vehicles exiting the drive-thru lanes to stop, allowing for pedestrians to safely use the new lead-in sidewalk connecting the sidewalk along South Frederick Avenue with the entrance to the proposed bank. Access to the proposed bank's drive-thru area is internal to the shopping center site, and adequate queuing space will be provided. Operational and queuing analysis demonstrate that the nearby shopping center access point will also remain safe and efficient.

- ii. The use of the proposed location will not preempt frontage on any highway or public road in a way that reduces the visibility and accessibility of an interior commercial area zoned or proposed for commercial use that is oriented to the same highway or public road.*

Most of the stores in the existing shopping center are located southeast of the proposed bank, so the visibility of the existing establishments from South Frederick Avenue will remain unchanged. Pedestrian accessibility of the shopping center will be enhanced with the addition of a new lead-in sidewalk and marked crosswalks within the parking lot.

- iii. Product displays, parked vehicles, and other obstructions that adversely affect visibility at intersections, or at entrances and exits to and from the Drive-Thru are prohibited.*

The Applicant does not propose product displays, vehicle parking, or other obstructions that would adversely affect visibility at the Property's ingress and egress driveways. Parked vehicles will be separated from the proposed drive-thru entrances and exits by a drive aisle or physical barrier, allowing appropriate visibility of the drive-thru lane. No intersections will be impacted because access to the drive-thru area is from the interior of the existing shopping center parking lot.

- iv. When a Drive-Thru occupies a corner lot, the ingress or egress driveways must be located a minimum of 20 feet from the intersection of the rights-of-way, and such driveways must not exceed 25 feet in width. In areas where no master plan of highways has been adopted, the street line must be considered to be a minimum of 60 feet from the centerline of any abutting street or highway.*

The drive-thru occupies a corner lot. The ingress and egress driveways for the drive-thru are within the shopping center parking lot, and the nearest access point for the shopping center, from North Westland Drive, is over 90 feet from the intersection of North Westland Drive and South Frederick Avenue.

Parking Requirements under Section 6.2.4

Table 2: Parking Requirements under Section 6.2.4		
	Required	Proposed
Vehicle Parking		
Proposed Bank	11 (3.5 spaces per 1,000 SF of GFA)	11 total 4 (conditional use area); 7 (shopping center)
Overall Shopping Center	352	586
Bicycle Parking		
Proposed Bank	1	2

Queuing under Section 6.2.7

As described in the analysis section, eight vehicles can be accommodated in the drive-thru lanes, satisfying the requirement for three queuing spaces for each drive-thru lane.

Signage under Division 6.7

The Applicant did not provide a sign design, but indicated that a Bank of America sign would likely be added to the existing monument sign on the corner of North Westland Drive and South Frederick Avenue.

Section 7.3.1.E.1.c. *substantially conforms with the recommendations of the applicable master plan;*

As described in the Analysis section, the Application substantially conforms with the recommendations of the 2010 *Great Seneca Science Corridor Master Plan*.

Section 7.3.1.E.1.d. *is harmonious with and will not alter the character of the surrounding neighborhood in a manner inconsistent with the plan;*

The Neighborhood is primarily auto-oriented commercial and institutional in nature, and the proposed use will be harmonious with the existing uses. As described in the Analysis section, the proposed use is consistent with the recommendations of the Master Plan.

Section 7.3.1.E.1.e. *will not, when evaluated in conjunction with existing and approved conditional uses in any neighboring Residential Detached zone, increase the number, intensity, or scope of conditional uses sufficiently to affect the area adversely or alter the predominantly residential nature of the area; a conditional use application that substantially conforms with the recommendations of a master plan does not alter the nature of an area;*

There were no existing, approved conditional uses identified within the Staff defined Neighborhood. The Neighborhood is commercial and institutional, rather than residential, in character and the proposed use is consistent with that character. As described in the Analysis section, the conditional use

substantially conforms with the recommendations of the Master Plan, and thus does not alter the nature of the area. The Plan recognized the Property's existing retail/commercial use and confirmed the C-2 (General Commercial) Zone on the Property.

Section 7.3.1.E.1.f. *will be served by adequate public services and facilities including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage, and other public facilities. If an approved adequate public facilities test is currently valid and the impact of the conditional use is equal to or less than what was approved, a new adequate public facilities test is not required. If an adequate public facilities test is required and:*

- i. if a preliminary subdivision plan is not filed concurrently or required subsequently, the Hearing Examiner must find that the proposed development will be served by adequate public services and facilities, including schools, police and fire protection, water, sanitary sewer, public roads, and storm drainage; or*
- ii. if a preliminary subdivision plan is filed concurrently or required subsequently, the Planning Board must find that the proposed development will be served by adequate public services and facilities, including schools, police and fire protection, water, sanitary sewer, public roads, and storm drainage;*

A preliminary plan is not required for the proposed development, so the Hearing Examiner must find that the development will be served by adequate public services and facilities. The proposed development will have no impact on schools. Montgomery County Fire Station #8 is approximately 2.5 miles from the Property, and the District 6 Montgomery County Police Station in Derwood is 4.1 miles away. The Property is served by public water (Water Category W-1) and sewer (Sewer Category S-1). As described on pages 8-11 of this report, the public roads are adequate to serve the proposed development. Approval of this conditional use is contingent upon approval of the Stormwater Management Concept Plan, per condition number three.

Section 7.3.1.E.1.g. *will not cause undue harm to the neighborhood as a result of a non-inherent adverse effect alone or the combination of an inherent and a non-inherent adverse effect in any of the following categories:*

- i. the use, peaceful enjoyment, economic value or development potential of abutting and confronting properties or the general neighborhood;*
- ii. traffic, noise, odors, dust, illumination, or a lack of parking; or*
- iii. the health, safety, or welfare of neighboring residents, visitors, or employees.*

The following physical and operational characteristics are necessarily associated with drive-thru bank facilities: (1) the building housing the bank, (2) parking facilities, (3) lighting, (4) noise generated by vehicles using the drive-thru, (5) vehicular trips to and from the site by patrons and employees, and (6) long hours of operation.

Non-inherent adverse effects may result from a situation unique to the physical location, operation, or size of a proposed use. Staff has not identified any non-inherent adverse impacts from the proposed use. There is no expected undue harm to the neighborhood because of any non-inherent adverse effect, or a combination of inherent or non-inherent adverse effects.

The proposed drive-thru will not disturb the use, peaceful enjoyment, economic value, or development potential of abutting and confronting properties or the general neighborhood. The proposed development is consistent with the auto-centric nature of this segment of South Frederick Avenue.

The proposed drive-thru will not cause undue harm to the neighborhood due to traffic, noise, odors, dust, illumination, or a lack of parking. As described in the Analysis section, traffic will be accommodated by the existing road network. The noise, odor, dust, and illumination associated with the drive-thru will be comparable to similar facilities. Additional noise generated by vehicles using the drive-thru lanes will be negligible. The illumination for the Property will be appropriate for a drive-thru bank that abuts a major highway, and adequate parking is provided to serve the use.

There will be no undue harm to the health, safety, or welfare of neighboring residents, visitors, or employees because the proposed Conditional Use meets all applicable development standards, and has adequate and safe circulation in and around the site.

Section 7.3.1.E.6. *The following conditional uses may only be approved when the Hearing Examiner finds from a preponderance of the evidence of record that a need exists for the proposed use due to an insufficient number of similar uses presently serving existing population concentrations in the County, and the uses at the location proposed will not result in a multiplicity or saturation of similar uses in the same general neighborhood:*

- a. Funeral Home; Undertaker;*
- b. Hotel, Motel;*
- c. Shooting Range (Outdoor);*
- d. Drive-Thru*
- e. Landfill, Incinerator, or Transfer Station; and*
- f. a Public Use Helipad, Heliport or a Public Use Helistop.*

The Applicant submitted a Need Study, dated July 28, 2017, produced by the real estate consultants Lipman, Frizzell & Mitchell LLC. The study finds an imbalance of demand over supply for full service, drive-thru banking facilities in the Walnut Hill neighborhood. Further, the study concludes that the proposed drive-thru bank will not result in a multiplicity or saturation of similar uses in the same neighborhood because the neighborhood currently lacks such a banking facility. The location will provide convenient vehicular access in lieu of traveling into congested commercial areas north and south of the Walnut Hill Neighborhood.

CONCLUSION

The proposed drive-thru complies with the general conditions and standards for a conditional use. The proposed use is consistent with the goals and recommendations of the 2010 *Great Seneca Science Corridor Master Plan*, and it will not alter the character of the surrounding neighborhood. Further, it will not result in any unacceptable noise, traffic, or environmental impacts on surrounding properties. Staff recommends approval with conditions.

ATTACHMENTS

1. Conditional Use Plan
2. APF Planning Board Resolution
3. Forest Conservation Exemption Letter

ATTACHMENT 2



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

July 2, 2015

Mr. John Daniel
Standard Properties, Inc.
5500 Mac Arthur Blvd., NW
Washington, DC. 20016

Re: Forest Conservation Exemption 42015228E; Walnut Hill Shopping Center

Dear Mr. Daniel:

Based on the review by staff of the Montgomery County Planning Department, the Forest Conservation Exemption Request submitted on June 23, 2015, for the plan identified above, is confirmed. The project site is exempt from Article II of the Montgomery County Code, Chapter 22A (Forest Conservation Law), Section 22A-5(t) because the site is a modification to an existing non-residential developed property: (1) no more than 5,000 square feet of forest is ever cleared at one time or cumulatively after an exemption is issued, (2) the modification does not result in the cutting, clearing, or grading of any forest in a stream buffer or located on property in a special protection area which must submit a water quality plan, (3) the modification does not require approval of a preliminary plan of subdivision, and (4) the modification does not increase the developed area by more than 50% and the existing development is maintained.

The Montgomery County Planning Department inspection staff should be contacted before construction to verify the limits of disturbance and to determine if any tree protection is required. The property owner, construction superintendent, forest conservation inspector, and the Department of Permitting Services (DPS) sediment control inspector should attend this pre-construction meeting.

If you have any questions regarding these actions, please feel free to contact by email at david.wigglesworth@montgomeryplanning.org or at (301) 495-4581.

Sincerely,

David Wigglesworth

Sr. Planner
Development Applications & Regulatory Coordination

CC: Bradford Fox (Bohler Eng.)
Matt Jones (Bohler Eng.)
42015228E

ATTACHMENT 3



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

MCPB
Agenda Date: 6/23/16
Consent Agenda Item

MEMORANDUM

TO: Montgomery County Planning Board

FROM: Gwen Wright, Planning Director *GLMN*

VIA: Glenn Kreger, Chief, Area 2 Division, 301-495-4653 *SK*
Khalid Afzal, Supervisor, Area 2 Division, 301-495-4650 *KA*
Ed Axler, Planner Coordinator, Area 2 Division, 301-495-4536 *EA*

SUBJECT: Correction of Resolution for the Walnut Hill Shopping Center Adequate Public Facilities finding, MCPB No. 15-78.

Attached is a redlined version of the Resolution MCPB No. 15-78 for Adequate Public Facilities finding for the Walnut Hill Shopping Center expansion. The Resolution was mailed out to all parties of record on July 16, 2015.

The corrected resolution deletes Condition No. 3 because the Montgomery County Department of Transportation and the State Highway Administration comments are not relevant for developments that do not require a preliminary plan or site plan approval by the Planning Board. Since this approval was for Adequate Facilities finding only, Condition No. 3 is not applicable.

This modification will ensure consistency with the intended conditions of approval. Staff is requesting the Planning Board's approval so that the corrected resolution can be mailed out to all parties of record.



MONTGOMERY COUNTY PLANNING BOARD
THE MARYLAND NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB No. 15-78
Adequate Public Facilities Determination
Walnut Hill Shopping Center
Date of Hearing: July 9, 2015

JUL 11 2016

CORRECTED RESOLUTION

WHEREAS, under Montgomery County Code Chapter 8-32, Article IV, the Montgomery County Planning Board (Planning Board or Board) is authorized to make an Adequate Public Facilities (APF) determination; and

WHEREAS, on April 9, 2015, Standard Properties ("Applicant") filed an application for approval of an APF determination for expansion of the existing Walnut Hill Shopping Center by 9,999 square feet for a total of 109,856 square feet of non-residential development on approximately 7.87 acres in the CRT2.25 C1.5 R7.5 H45 Zone, located along Frederick Avenue (MD 355), between North Westland Drive and South Westland Drive ("Property") in the 2010 *Great Seneca Science Corridor Master Sector Plan* ("Master Plan") area; and

WHEREAS, Planning Board staff ("Staff") issued a memorandum to the Planning Board, dated June 25, 2015, setting forth its analysis and recommendation for approval, of the Application subject to certain conditions ("Staff Report"); and

WHEREAS, on July 9, 2015 the Planning Board held a public hearing on the Application, and at the hearing the Planning Board heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, at the Hearing, the Planning Board voted to approve the Application, subject to certain conditions, by the vote certified below.

NOW, THEREFORE, BE IT RESOLVED THAT, pursuant to Montgomery County Code Chapter 50, the Planning Board approves the Adequate Public Facilities determination subject to the following conditions:

- 1) This transportation APF determination is limited to an expansion of general retail use by 9,999 square feet from the existing 99,857 to the total of 109,856 square feet.
- 2) The Applicant must satisfy the Transportation Policy Area Review (TPAR) test by making the TPAR payment to the Montgomery County Department of Permitting Services (MCDPS) equal to 25% of the development impact tax.

3) ~~The Planning Board has accepted the recommendations of the Montgomery County Department of Transportation (MCDOT) in its letter dated May 21, 2015, and the Maryland State Highway Administration (SHA) letter dated May 15, 2015, and hereby incorporates them as conditions of the APF approval. The Applicant must comply with each of the comments as set forth in the letters, which may be amended by MCDOT or SHA provided that the amendments do not conflict with other conditions of the APF approval.~~

BE IT FURTHER RESOLVED that for the purpose of these conditions, the term Applicant shall also mean the developer, the owner, or any successors in interest to the terms of this approval.

BE IT FURTHER RESOLVED, that this Adequate Public Facilities determination will remain valid for 85 months from its initiation date (as defined in Montgomery County Code Section 8-32), and that prior to the expiration of this validity period, a request for an extension must be filed; and

BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the effective date of this Resolution is July 16, 2015 (which is the date that this the original Resolution is was mailed to all parties of record); and

BE IT FURTHER RESOLVED, that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

* * * * *

CERTIFICATION

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission on motion of Commissioner Fani-González, seconded by Vice Chair Wells-Harley, with Chair Anderson, Vice Chair Wells-Harley, and Commissioner Fani-González voting in favor, and Commissioners Dreyfuss and Presley absent at its regular meeting held on Thursday, June 23, 2016, in Silver Spring, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board