



PLANNING COMMISSION

Wednesday, January 10, 2024

7:00 PM

Rockville City Hall

Mayor and Council Chambers

Meeting No. 01-2024

AGENDA

Shayan Salahuddin, Chair

Suzan Pitman

Sam Pearson

Eric Fulton

Jaime Espinosa

Jim Wasilak, Staff Liaison

Nicholas Dumais, Senior Assistant City Attorney

Rockville City Hall 111 Maryland Avenue

and

Virtually via WebEx

Watch LIVE on Comcast Cable Rockville Channel 11 and online at <https://www.rockvillemd.gov/>

SEE PAGE 3 FOR MORE INFORMATION

1. **Recommendation to Mayor and Council**
 - A. **Project Plan PJT2023-00016, for an Amendment to the Existing Planned Development to Permit Up to 4,400 Square Feet of Retail Uses in the PD-CB (Planned Development - Champion Billiards) Zone at 900 Rockville Pike**

 2. **Briefing**
 - A. **Zoning Ordinance Rewrite (ZOR) Project Update #2**

 3. **Commission Items**
 - A. **Staff Liaison Report**
-

- B. Old Business**
- C. New Business**
- D. Minutes Approval**
 - 1. December 13, 2023**
- E. FYI/Correspondence**

4. Adjourn

HYBRID MEETING AND PUBLIC HEARING PROCEDURE

The Planning Commission will be meeting in person in the Mayor and Council Chambers at Rockville City Hall. The public is invited to participate in person or virtually via Webex. Anyone wishing to participate virtually may do so per the instructions below.

PLANNING COMMISSION ONLINE MEETING AND PUBLIC HEARING PROCEDURES

I. Pre-meeting Platform: Webex

- A. Applicant Access: Provided by Community Planning and Development Services/IT
- B. Access for Oral Testimony and Comment: Provided by CPDS/IT (see below)

II. Pre-Meeting Preparations/Requirements:

- A. Written Testimony and Exhibits –
Written testimony and exhibits may be submitted by email to Jim Wasilak, Staff Liaison to the Planning Commission, at jwasilak@rockvillemd.gov or by mail to:

Eric Fulton, Chair
Rockville Planning Commission
111 Maryland Avenue
Rockville, MD 20850

and must be received no later than nine (9) days in advance of the hearing in order to be distributed with the Planning Commission briefing materials.

Written testimony and exhibits received after this date until 4:00 pm on the day before the hearing will be provided to the Planning Commission by email.

B. Webex Orientation for Applicants

- i. Applicants must contact the planning case manager assigned to the Application no later than five (5) days in advance of the hearing in order to schedule Webex orientation, which must be completed prior to the hearing.

C. Oral Testimony by Applicants and the Public

- i. Applicants – Applicants must provide to the planning case manager a list of presenters and witnesses who will testify on behalf of the Application. The list must be provided to the CPDS Staff project manager no later than five (5) days prior to the date of the hearing.
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- ii. Public Testimony/Comment on an Application – Any member of the public who wishes to comment on an application must submit their name and email address to the Staff

Liaison to the Planning Commission Jim Wasilak (jwasilak@rockvillemd.gov) no later than 9:00 am on the day of the hearing to be placed on the testimony list.

Members of the public who seek technical assistance from City staff must submit their name and email address to Jim Wasilak no later than two (2) days in advance of the hearing so that an orientation session may be scheduled.

If a member of the public is unable to meet the deadline to be placed on the testimony list, they can submit written testimony to the Staff Liaison to the Planning Commission by email to jwasilak@rockvillemd.gov.

III. Conduct of Online Meeting and Public Hearing:

A. Rules of Procedure –

The Meeting and Public Hearing will be held in accord with the Planning Commission Rules of Procedure, including the order of testimony and applicable time limits on testimony. The Rules may be viewed here:

<https://www.rockvillemd.gov/DocumentCenter/View/2023/Planning-Commission--Rules-of-Procedure?bidId=>

B. Oral Testimony –

During the hearing, the Chair will sequentially recognize each person on the testimony list and ask the host to allow the speaker to speak. Each speaker must wait to be specifically recognized by the Chair before speaking.

If during the hearing a party wishes to speak, or a speaker wishes to request the opportunity to engage in cross-examination following specific testimony, the party must contact the Staff Liaison/Host by email at jwasilak@rockvillemd.gov with the specific request. The Host/Staff Liaison will inform the Commission. The Chair will determine if the party may be heard.

C. Continuance of Hearing –

The Planning Commission, at its discretion, reserves the right to continue the hearing until another date.

HELPFUL INFORMATION FOR STAKEHOLDERS AND APPLICANTS

I. GENERAL ORDER OF SESSION FOR DEVELOPMENT APPLICATIONS

1. Staff presentation
2. City Board or Commission comment
3. Applicant presentation (10 min.)
4. Public comment (3 min, or 5 min for the representative of an association)
5. Planning Commission Discussion and Deliberation
6. Decision or recommendation by vote

The Commission may ask questions of any party at any time during the proceedings.

II. PLANNING COMMISSION BROADCAST

- Watch LIVE on Comcast Cable Rockville Channel 11 and online at: www.rockvillemd.gov
- Replay on Comcast Cable Channel 11:
 - Wednesdays at 7:00 pm (if no live meeting)
 - Sundays at 7:00 pm
 - Mondays, Thursdays and Saturdays at 1:00 pm
 - Saturdays and Sundays at 12:00 am (midnight)
- Video on Demand (within 48 hours of meeting) at: www.rockvillemd.gov/VideoOnDemand.

III. NEW DEVELOPMENT APPLICATIONS

- For a complete list of all applications on file, visit: www.rockvillemd.gov/DevelopmentWatch.

VI. ADDITIONAL INFORMATION RESOURCES

- Additional resources are available to anyone who would like more information about the planning and development review process on the City’s web site at: www.rockvillemd.gov/cpds.

Maryland law and the Planning Commission's Rules of Procedure regarding ex parte (extra-record) communications require all discussion, review, and consideration of the Commission's business take place only during the Commission's consideration of the item at a scheduled meeting. Telephone calls and meetings with Commission members in advance of the meeting are not permitted. Written communications will be directed to appropriate staff members for response and included in briefing materials for all members of the Commission.



Agenda Item #:	<u>1</u>
Meeting Date:	<u>January 10, 2024</u>
Responsible Staff:	<u>Li Alligood</u>

SUBJECT:

Project Plan PJT2023-00016, for an Amendment to the Existing Planned Development to Permit Up to 4,400 Square Feet of Retail Uses in the PD-CB (Planned Development - Champion Billiards) Zone at 900 Rockville Pike

RECOMMENDATION
(Include change in law or Policy if appropriate in this section):

Staff recommends that the Planning Commission recommend approval of Project Plan PJT2023-00016 to the Mayor and Council, subject to the findings and conditions outlined in the staff report.



Overview

Case: Danshes Center on the Pike – Project Plan PJT2023-00016

Location: 900 Rockville Pike

Staff: Li Alligood, AICP
Community Planning and Development Services
240.314.8223
lalligood@rockvillemd.gov

Applicant: J. Danshes, LLC

Filing Date: April 4, 2023

**Planning
Commission
Date:** January 10, 2024

Discussion

J. Danshes, LLC. (“Applicant”) has filed this Project Plan Amendment to construct a 4,400 square foot commercial building and associated site improvements on the property located at 900 Rockville Pike and previously approved as the Champion Billiards Planned Development (PD). The PD was initially approved by the Mayor and Council by Resolution No. 14-06, which allowed for the development of up to 12,574 square feet of furniture/retail sales in a two-story building. The development approved at that time was never constructed and the site remains vacant.

In order to allow this project as proposed, an amendment to the PD is required. Per Section 25.14.17, PD amendments require the filing of a Project Plan amendment application.

In accordance with Section 25.07.07 of the Zoning Ordinance, Mayor and Council and Planning Commission were previously briefed on this project plan application. The Planning Commission will now consider the request and make a recommendation to the Mayor and Council on the application. Should Mayor and Council ultimately approve the amendment to the PD and Project Plan, the development process will continue with a Level 2 Site Plan.

Site Description

- Location:** 900 Rockville Pike
- Planning Area:** Planning Area 9 – Rockville Pike
- Land Use Designation:** OCRM – Office, Commercial and Residential Mix
- Zoning District:** PD-CB (Planned Development – Champion Billiards), equivalent zone of MXCD (Mixed-Use Commercial District)
- Existing Use:** Vacant
- Proposed Use:** 4,400 square feet of retail space
- Site Area:** 25,700 square feet or 0.59 acres
- Building Height:** 27 feet

Surrounding Land Use and Zoning

Location	Zoning	Planned Land Use	Existing Use
North	MXCD – Mixed-Use Commercial District	OCRM – Office Commercial Residential Mixed	Edmonston Drive and Mobil Gas Station
East	R-60 Single Unit Detached, Residential	RD – Residential Detached	Railroad/WMATA Tracks and Single Detached Residential
South	MXCD – Mixed-Use Commercial District	OCRM – Office Commercial Residential Mixed	6-Story Office Building

Location	Zoning	Planned Land Use	Existing Use
West	MXCD – Mixed-Use Commercial District	OCRM – Office Commercial Residential Mixed	Rockville Pike/MD-355

See the “Aerial Map,” “Land Use Map,” and “Zoning Map” attachments for details.

Project Description

The Applicant proposes to amend the Champion Billiards PD to allow for the development of 4,400 square feet of retail with ancillary surface parking in lieu of the approved development of a retail store for furniture. The total height of the proposed building is approximately 27 feet. The building is oriented towards Rockville Pike and Edmonston Drive, with the surface parking located to the south of the building. Access to the development would be shared with the property to the south via a recorded public access easement (“access easement”) connecting to Rockville Pike/MD 355. See the “PJT Plan Set,” “Application,” and Statement of Justification” attachments for details.

Approximately 33% (or 6,500 square feet) of the subject property would remain as open space, of which 15.4% (or 2,984 square feet) would function as public use space.

The owner of the adjacent property has and continues to dispute the location of the access easement on the adjacent property. City staff has evaluated historical records and has concluded that, regardless of its exact location, the access easement is intended to provide access to 900 Rockville Pike and that the development, as proposed, complies with City regulations and the terms of the access easement.

Previous Related Actions

- Preliminary Development Plan Application PDP2006-00011 was approved by Mayor and Council on October 23, 2006, by Resolution No. 14-06. The site was authorized for 12,574 square feet of furniture/retail sales in a two-story building with sole access from the service drive public access easement to the south. The adopted resolution is included as the “Champion Billiards PD Resolution No. 14-06” attachment.
- Use Permit Application USE2006-00702 was approved by the Planning Commission on July 25, 2008. This permit authorized the development approved by PDP2006-00011 and preliminarily approved a Final Record Lot Plat.¹ A condition of this approval required the establishment of an 18-foot public access easement on the subject property.
 - The property owners to the south appealed the decision due to the proposed and approved sole access to the site from the service drive public access easement across their property. This approval was ultimately upheld and remanded to the Planning Commission for additional findings.

¹ This Record Lot Plat has not been recorded.

- A revised Planning Commission decision for USE2006-00702 was issued on October 25, 2011, with additional findings in support of the proposed access. This approval has since expired.
- Project Plan Application PJT2018-00015 requested a modification to the 2006 Planned Development to construct a 6,984-sf building (including 6,084 sf retail and 900 sf office) and associated parking. The Planning Commission recommended approval of the application. After multiple briefings and hearings, Mayor and Council requested that City staff and the Applicant work with the Maryland Department of Transportation State Highway Administration (MDOT SHA) and Montgomery County Bus Rapid Transit (BRT) project teams to determine the appropriate amount of right-of-way dedication along Rockville Pike.
 - Because the proposed development changed significantly during those discussions due to the additional right-of-way dedication required to accommodate the BRT alignment and bicycle and pedestrian infrastructure, the Applicant withdrew the application and submitted the current application in its place.
 - The property owners to the south submitted testimony in opposition to the proposed development, including a memo prepared by Miles and Stockbridge. This memo has been resubmitted by Mr. Whalen as part of the record for his application.

Project Analysis

On April 24, 2023, the Development Review Committee (DRC) provided a comprehensive set of review comments to the Applicant.

Master Plan

The City of Rockville’s Comprehensive Plan, [Rockville 2040](#) (“the 2040 Plan”) includes goals, policies, and actions that support development of this area. The application is located within Planning Area 9 (Rockville Pike). As detailed in the Findings below, the proposed development is consistent with the 2040 Plan.

Rockville Pike Neighborhood Plan

The 2016 [Rockville Pike Neighborhood Plan](#) (“Pike Plan”), which is part of the Comprehensive Plan, contains goals, policies, and actions specific to Planning Area 9. As detailed in the findings below, the proposed development is consistent with the Rockville Pike Neighborhood Plan.

Traffic and Transportation Review

The following provides a review of, and analysis related to, the proposed development.

Site Analysis:

The Project Plan site consists of one parcel which is 0.59 acres in area. The property lies within the PD-CB (Planned Development – Champion Billiards) Zone, has an equivalent zone of MXCD (Mixed-Use Commercial District), and is subject to the Champion Billiards Planned Development governing documents. The property is located at the southeastern corner of the Edmonston Drive and Rockville Pike/MD-355 intersection.

The site is currently vacant. Development of the site was approved in 2006 and 2008 with sole access from the access easement to the south, but was never built. The site was previously occupied by a gas station. See the memo prepared by Jody S. Kline of Miller, Miller & Canby and included as the “Easement History Memo – Applicant dated November 20, 2023” for more information about the existing public access easement.

Access and Circulation:

- Passenger Vehicle: Site access has been revised since the initial approvals in 2006 and 2008. The Edmonston Drive access at the north end of the site was closed at some point between 2009 and 2012,² likely as part of an MDOT SHA project as this area of Edmonston Drive is within the SHA right-of-way. The plan shows the proposed development will be served by an existing limited access driveway (right-in and right-out only) located on the property at 1010 Rockville Pike and accessing MD-355 via a recorded public access easement. See additional discussion regarding the easement below. This access will continue to operate as a stop-controlled driveway. Service vehicles to and from the site will also use this access point.
- Heavy Vehicle (Trucks): The largest vehicle that will access the site is solid waste and recycling truck. The Applicant has provided exhibits verifying that solid waste and recycling trucks will be able to access the site from any of the three access points to the south. All deliveries will occur on-site on an as-needed basis. Fire access will be provided from the adjacent rights-of-way and will not require fire trucks to access the site.
- Pedestrian Access: A four-foot sidewalk currently exists along the Edmonston Drive frontage, and a portion of this sidewalk (west of the existing guardrail) will be reconstructed with the development. A five-foot sidewalk currently exists on the east side of Rockville Pike and will be reconstructed with the development. In addition to reconstruction of the five-foot sidewalk, the applicant proposes to construct a seven-foot pedestrian walkway (sidewalk) along the subject property frontage with Rockville Pike, and within the proposed 93-foot build-to line measured from the existing right-of-way centerline of Rockville Pike. This will accommodate pedestrian movements as envisioned by the 2016 Rockville Pike Neighborhood Plan, the 2017 Bikeway Master Plan, and the 2023 Pedestrian Master Plan.
- Bikeways: Per the 2017 Bikeway Master Plan and field verification, there are no existing bicycle facilities along the project frontages. The applicant proposes to construct an eight-foot bicycle path along the subject property frontage with Rockville Pike, south of the seven-foot pedestrian walkway and within the proposed 93-foot build-to line measured from the existing right-of-way centerline of Rockville Pike. This will accommodate bicycle movements as envisioned by the 2016 Rockville Pike Neighborhood Plan and the 2017 Bikeway Master Plan.

² Per [Google Maps street view](#), retrieved December 20, 2023.

- Transit Access: There are currently two Ride-On bus routes on Rockville Pike (46 and 101) and one Ride-On bus route (44) on Edmonston Drive that serve the subject property. The nearest bus stops are near the intersection of Rockville Pike and Edmonston Drive. A BRT stop is proposed at the intersection of Edmonston Drive and Rockville Pike and will serve the development when completed.
- Public Access Easement: The Applicant and the property owner to the south, Jim Whalen of Investment Properties, Inc., dispute the location of the public access easement across the property to the south. Therefore, staff has reviewed the public record and the information submitted by the Applicant and Mr. Whalen to understand the history and location of the easement.

In order to develop a recommendation and findings for the Planning Commission's and Mayor and Council's consideration, staff has conducted an extensive review of the development application; the approval history of the subject site, the Courthouse Plaza/Edmonston Crossing site, and what is now the Taco Bell site at Lot 2 of the Rockville Center subdivision; historic Master/Comprehensive Plans; historic Zoning Ordinances; Applicant materials (including the Easement History Memo dated November 20, 2023 and the Traffic Engineer Memo dated December 19, 2023); and materials submitted by Jim Whalen of Investment Properties, Inc. on behalf of Edmonston Crossing.

Based on this review, staff concludes that:

- Recording of the right-of-way and public access easement and platted public access easement south of the subject site was required as a condition of Final Record Plat approval in 1969 (USE1969-00460).
- The easement is intended to provide access to the site at 900 Rockville Pike.
- The easement is to be available for public ingress and egress at all times.
- The easement is 25 feet in width.
- The easement runs roughly parallel to Rockville Pike.
- The easement connects to the Rockville Pike/MD-355 right-of-way at several points.
- The locations of the easement and the platted service drive were revised by USE1980-00193 and Plat No. 14030.
- The City of Rockville has twice approved development of the 900 Rockville Pike site with sole access from the recorded public access easement to the south, and adopted findings that make clear that sole access to the site can be provided by the easement, and that the easement can be accessed at numerous locations along its length.

Based on information in the City's records, staff believes providing access to the 900 Rockville Pike site is, in fact, an express purpose of the public access easement and the easement can be safely accessed by vehicles from multiple existing access points along MD-

355, Therefore the proposed access is in compliance with the Rockville Pike Neighborhood Plan and the City's zoning regulations.

Easement History

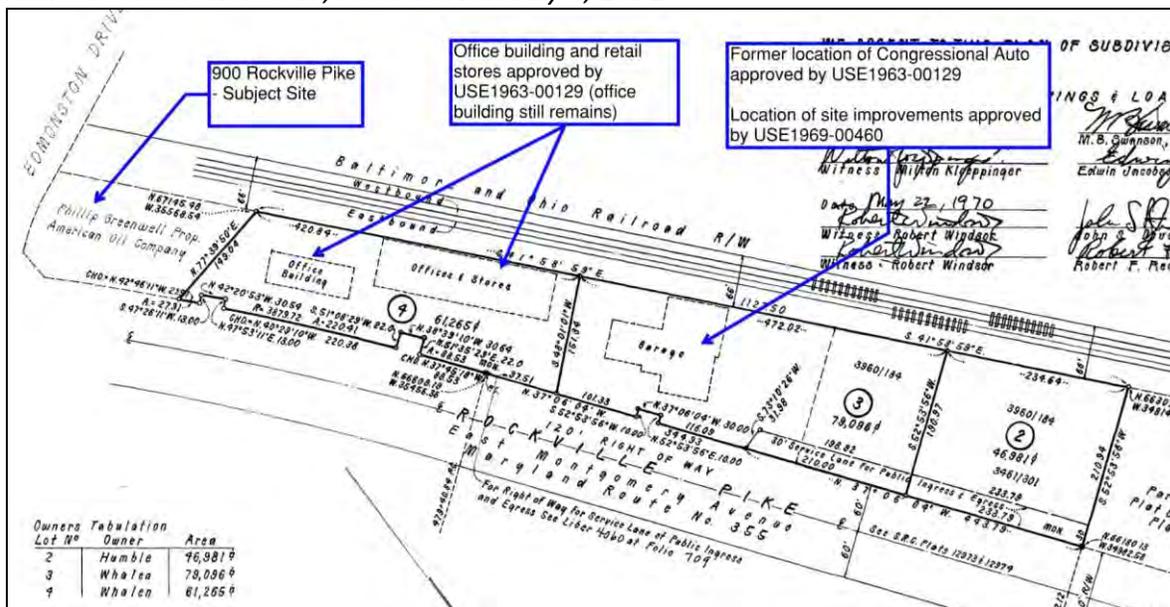
The subject property at 900 Rockville Pike currently has one curb cut within the right-turn lane on Rockville Pike; the curb cut on Edmonston Dr was closed at some point between 2009 and 2012. There is no driveway connected to the curb cut, and use of that entrance has been blocked by a chain since at least 2015. The Maryland SHA has consistently indicated that they will not permit use of the existing curb cut on Rockville Pike and that it must be closed as part of any development of the site. As a result, access is proposed from a recorded right-of-way and public access easement ("easement") that abuts the property to the south.

As described in the memo included as the "Easement History Memo – City dated December 26, 2023" attachment, the recording of the easement on the adjacent 1010 Rockville Pike site was a condition of approval of Use Permit USE1969-00460. The approved use permit required a replat of what was then known as the Courthouse Plaza site to create a record lot for development, which in turn triggered the provisions of the subdivision ordinance requiring either reverse frontage or a service drive along Rockville Pike. As reverse frontage was not possible due to the location of the railroad tracks to the east, a public access easement for a service drive was required.

The easement was required to be 25 ft. wide (coinciding with the minimum drive aisle requirement of 25 ft. at the time), roughly parallel to Rockville Pike, and to provide access to the property to the north (the subject property). In addition, the easement document clarified that its location "shall coincide with the location of the driveway which now runs through Lot Four (4) and part of Lot Three (3)."

The recorded document provides for the relocation of the easement with the approval of the Grantor and the Planning Commission through the recording of a Final Plat, as long as the easement is "in the form of a service road parallel to Rockville Pike, extending across the grantor's property." The easement and plat were recorded simultaneously in 1971 (Plat No. 9847 and Liber 460 Folio 709). See attachments.

Annotated Plat No. 9847, recorded January 6, 1971



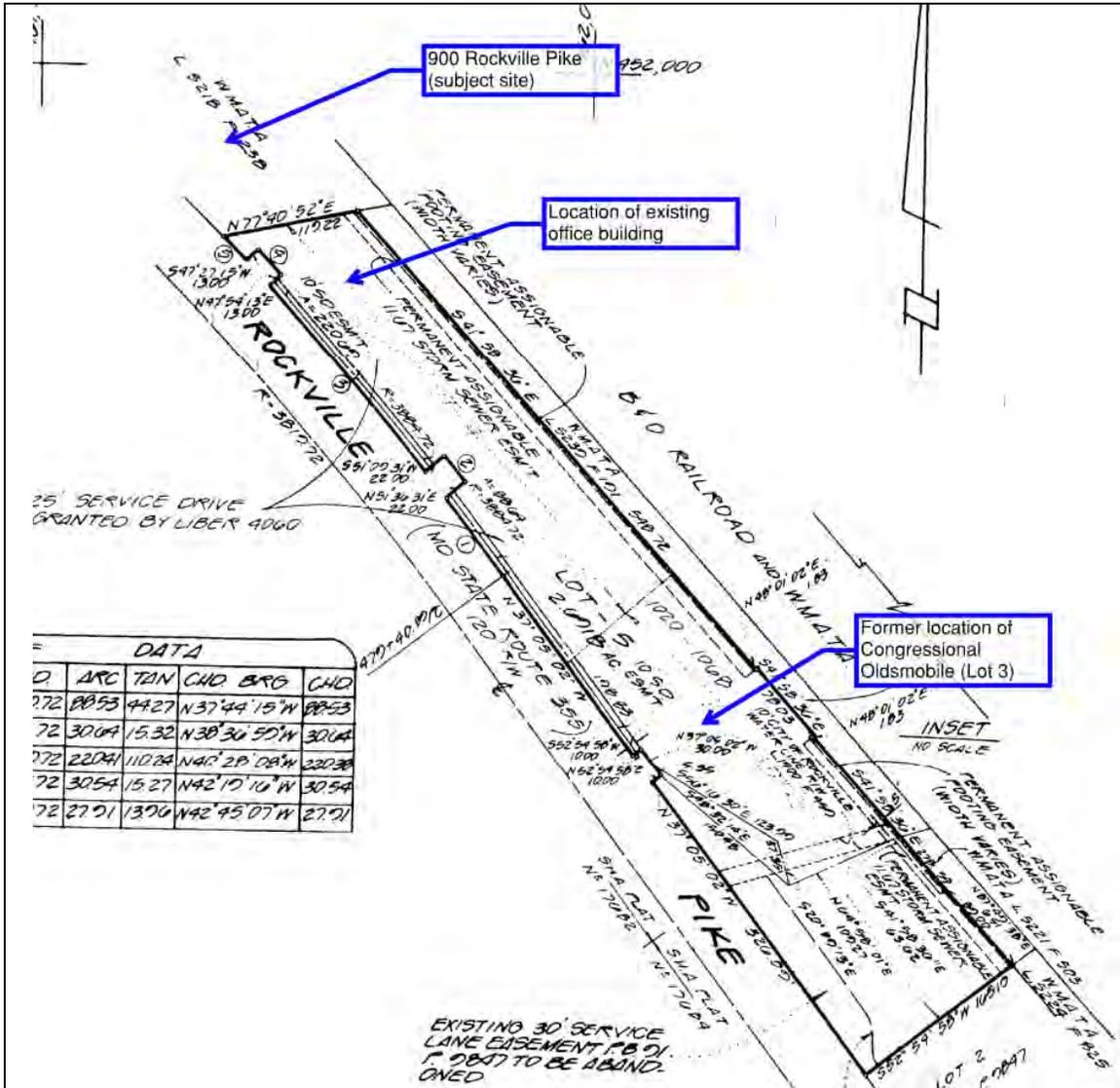
In 1980, the Courthouse Plaza property owner submitted a use permit (USE1980-00193) to develop the Edmonston Crossing shopping center currently located on the site. City staff required recording of a Final Record Plat, retention of the recorded public access easement across the site, and the establishment of a new platted 30-ft. service drive easement along the portion of the site proposed for development.

Though the property would be almost completely redeveloped, the property owner objected to the dedication of the standard 30-ft. easement adjacent to Rockville Pike and requested the retention of the existing "floating" public access easement in a location that would allow perpendicular parking on both sides of a drive aisle. The City agreed to permit the retention of the existing easement in generally the same location to connect to the platted 30-ft. service drive easement to the south and the subject property to the north. The applicant requested "a floating service drive easement to extend [sic] for the entire length of the property."

The approved site plan shows a driveway extending to the northern property line. However, following a 1981 determination by the City Attorney's Office that the existence of a public access easement did not preclude the Edmonston Crossing Shopping Center from using the area as surface parking until it was required for access to the subject property, a landscaping plan approved by the City in 1983 shows parking in this location. This area is currently being used for vehicular parking. The approval of the Edmonston Crossing development revised the site plan south of the 1963 office building, and the location of both the access drive and the "floating" access easement intended to follow it as indicated on Plat No. 14030.

Plat No. 14030 was recorded in 1982 and combined Lots 3 and 4 from Plat No. 9847 into a new Lot 5. The plat vacated the platted 30-ft public access easement across the southern portion of former Lot 4 and the entire length of former Lot 3 and established the centerline of a new 25-ft. easement at the southern property line (at the boundary of Lot 2), which revised the connection point of the easement to the platted easement to the south and presumably for some distance to the north. The recorded plat indicates a floating easement across the entirety of the new Lot 5 (see attachment). In staff's view, this approval represents a revision of the "floating" easement by recordation of a plat.³

Annotated Plat No. 14030, recorded October 14, 1982



In 2006, the owners of 900 Rockville Pike (KAMB) submitted a Planned Development (PD) application to develop a Champion Billiards retail store on the property (PDP2006-00011).

³ The Applicant's attorney disagrees with this assessment, as noted in the submitted memo.

During the PD application review and approval process, City staff required the closure of a previously existing curb cut on Edmonston Drive and the Maryland State Highway Administration (SHA) required the closure of the subject site's existing curb cut on Rockville Pike/MD-350 due to traffic safety concerns.⁴

Though the Edmonston Crossing owners objected, the approved Champion Billiards development was approved to take sole access to the site via the access easement across the Edmonston Crossing properties to the south. The Champion Billiards PD was approved by Mayor and Council Resolution No. 14-06. As part of the Mayor and Council's findings of approval, they noted that "the access easement can be reached from any of the three curb cuts on the Edmonston property." This finding was not challenged at the time.

In 2006, KAMB submitted a Use Permit application (USE2006-00702). The Planning Commission approved the Use Permit application in 2008, with sole access to the site being from the recorded public access easement to the south. The Edmonston Crossing owners again objected and filed an appeal with the Circuit Court and then the Court of Appeals. The Court of Appeals upheld the Planning Commission's decision and determined that the public access easement could serve as the sole point of access to the site.

The application was remanded to the Planning Commission for additional findings. In 2011, the Planning Commission issued revised findings, which stated in part (emphasis added):

"In addition, the Planning Commission finds, as stated in the use permit approval letter dated July 25, 2008, that the applicant may utilize the existing service drive easements established across properties parallel to Rockville Pike. There are several curb cuts in the service drive on the Edmonston property that allow the public, and the applicant to enter the service drive. Traffic generated by KAMB is not required to enter the public service drive only through the curb cut that is on the most northern portion of the Edmonston property."

Today, a continuous service drive exists from the southern property line of the subject property almost to Halpine Road to the south.⁵ Therefore, access to the subject site via the existing service drive along Rockville Pike could occur at multiple curb cuts south of the site.

Public Notification and Engagement

Notifications of the Project Plan application were made consistent with City Code requirements. The Affidavit of Public Notice is included as the "Affidavit of Public Notice" attachment. In

⁴ It has come to CPDS staff's attention that this portion of the Edmonston Drive right-of-way is actually SHA right-of-way.

⁵ The property at 1470 Rockville Pike does not currently provide a connection to the north; however, at the time of this staff report, the site is proposed for redevelopment.

addition, the Applicant held a pre-application area meeting on February 7, 2017, and a post-application area meeting on April 26, 2023.

As of the date of this report, staff has received one public comment from Jim Whalen of Investment Properties, Inc., which includes a 2021 memo regarding the previous proposal. See “Public Testimony” attachment.

Staff Response to Public Comments

E-mail submitted by Jim Whalen, Investment Properties, Inc. dated November 28, 2023

1. *The easement has been in the same location since its recording in 1971.*

Staff Response: As described in the findings below, staff’s opinion is that the easement has been relocated on at least one occasion since its recording.

2. *The easement does not abut the public right-of-way at the northern curb cut of the Edmonston Crossing property.*

Staff Response: As noted in this staff report, the City has repeatedly made affirmative findings that this easement connects to the northern curb cut and that the northern curb cut can be used to access the site. In any case, as described in the findings below, the public access easement can be accessed at any point between 900 Rockville Pike and 1470 Rockville Pike; access is not limited to the northernmost curb cut on the Edmonston Crossing property.

Memo submitted by Mr. Whalen as an attachment to his e-mail, prepared by Miles & Stockbridge and dated April 23, 2021

1. *The easement has been in the same location since its recording in 1971.*

Staff Response: As described in the findings below, staff’s opinion is that the easement has been relocated on at least one occasion since its recording.

2. *The 900 Rockville Pike site has two existing curb cuts.*

Staff Response: As described in the findings below, the Edmonston Drive curb cut was closed sometime between 2009 and 2012. The site had one existing curb cut on Rockville Pike, which is blocked by a chain, at the time of this memo.

3. *The improvements on the Edmonston property have remained unchanged since the easement was granted in 1971.*

Staff Response: As noted in the memo included as the “Easement History Memo – City dated December 26, 2023” attachment, staff has determined that the improvements on the Edmonston property have changed several times since the easement was granted, most

notably with the approval of the existing shopping center in 1981. The site improvements were also substantially impacted by construction of the Metro Red Line in the mid-1970s, which resulted in the demolition of several of the buildings shown in the 1971 plat.

4. *The easement did not encroach into the existing surface parking spaces when it was established.*
5. *The easement encroached into a sidewalk in front of the existing office building when it was established.*

Staff Response: A review of the approved 1963 site plan (USE1965-00198) indicates a 25-ft clear area between the office building sidewalk and the striped parking spaces adjacent to Rockville Pike, which was the minimum width for a two-way drive aisle at the time. The easement would not have needed to encroach into either the surface parking spaces or the sidewalk.

6. *The City has acknowledged the Edmonston Crossing property owner's indication of the easement location through approval of an unrecorded 2018 plat.*

Staff Response: The proposed Ownership Plat approved by the Planning Commission on July 25, 2018, was never recorded. On the approved plat, the easement is labeled "approximate location of floating 25' service drive easement granted by L4060 F709."

The Planning Commission had previously approved a Final Record Plat for 900 Rockville Pike as part of the 2008 site plan approval; this plat was never recorded but shows the location of the service drive easement in a different location than the 2017 Ownership Plat submitted by Edmonston Crossing.

Both of these plats indicate that the identified easement location is "approximate." Approval of the Planning Commission does not suggest that the City was making a determination about the actual location of the easement.

Boards and Commissions Review

In accordance with Section 25.07.07.6. of the Zoning Ordinance, the Planning Commission was briefed on this development proposal on April 26, 2023, and the Mayor and Council were briefed on May 8, 2023. At the briefings the Planning Commission and Mayor and Council asked questions and offered suggestions concerning the development proposal.

At the Planning Commission briefing, Commissioners discussed the right-of-way requirements to accommodate the future BRT and retain the existing right turn lane in front of the site; the location of the future BRT stop in the center of Rockville Pike adjacent to the site; site circulation; the buffer requirements of the Landscaping, Screening, and Lighting Manual; pedestrian and bicycle infrastructure and safety at the corner of Edmonston Drive and Rockville Pike; the location of pedestrian access to the building from Edmonston Drive and Rockville Pike;

and the adequacy of the code-required parking for the proposed future uses. The Planning Commission requested that the Applicant brief RBAC and RPAC and did not request any revisions to the plans as presented.

At the Mayor and Council briefing, Mayor and Council discussed the reduced size of the proposed building (square footage and height); previous conversations regarding the existing access easement across the property to the south; the amount of parking being provided; site circulation; jurisdiction of the right-of-way to be dedicated along Rockville Pike; required infrastructure improvements along Rockville Pike; and the location of the existing bus stops and the future BRT stop adjacent to the site. Mayor and Council asked that the status and location of the access easement to the south be clarified prior to public hearings.

The Applicant also briefed the Rockville Bicycle Advisory Committee (RBAC) and Rockville Pedestrian Advocacy Committee (RPAC) on the development proposal at the request of the Mayor and Council. RBAC was briefed on June 7, 2023, and RPAC was briefed on June 8, 2023.

At the RBAC briefing, the Committee suggested maintaining the eight-foot width of the proposed bike lane along the Rockville Pike frontage but make it a one-way travel lane so there is less confusion for cyclists and still in compliance with the Master Plan. This suggestion was not carried forward.

At the RPAC briefing, Committee members raised questions related to pedestrian facilities for crossing Rockville Pike at Edmonston Drive as well as connections between the proposed building entrance and the sidewalk along Rockville Pike.

Both the Planning Commission and the Mayor and Council were generally supportive of the application and expressed no significant concerns with the development proposal. As a result of the discussion and feedback from the meetings, the Applicant has provided additional information about the public access easement, included in the "Easement History Memo – Applicant dated November 20, 2023" attachment.

Next Steps

Following the Commission's review, the Project Plan application will be scheduled for a public hearing by the Mayor and Council. Upon hearing information and feedback from the public hearing, the Mayor and Council will render a final decision on the proposed Project Plan as an amendment to the Planned Development via adoption of a resolution, incorporating the findings as required by Section 25.07.01.b.2 of the Zoning Ordinance. If the application is approved, the Mayor and Council will establish a period within which construction of the approved Project Plan must commence. Following Project Plan approval, the Applicant must file a Level 2 Site Plan and a Final Record Plat.

Findings

In accordance with Section 25.14.07.e.2, any proposal to amend the Planned Development Governing Documents must comply and be processed in accordance with the requirements for a Project Plan as set forth in Article 7. Pursuant to Section 25.07.01.b.2, a Project Plan may be approved only if the Mayor and Council find that the approval of the application will not:

(i) *Adversely affect the health or safety of persons residing or working in the neighborhood of the proposed project;*

Staff has found no evidence that the development of a commercial building will be detrimental to the health and safety of persons working or living in this area. The proposed development will require improvements to the pedestrian, bicycle and transit infrastructure in this area, which will improve connectivity and safety.

(ii) *Be in Conflict with the Plan;*

The project is located within Planning Area 9 (Rockville Pike) of the City of Rockville's Comprehensive Plan, Rockville 2040 ("the 2040 Plan"). The 2040 Plan includes goals, policies and actions that are compatible with this development proposal. These compatibilities are:

- Providing for adequate space to construct the MD-355 Bus Rapid Transit (BRT) and bicycle and pedestrian facilities called for by the 2017 Bikeway Master Plan will advance the City's goal of reconstructing Rockville Pike/MD-355 as a multi-modal boulevard.
- The intersection of Edmonston Drive and Rockville Pike has been identified for a BRT station. Thus, it is desirable given the general transit-oriented land use goals of the Comprehensive Plan, to cluster destinations and improved bicycle and pedestrian infrastructure around planned station areas, rather than the existing use, which is vacant.
- "Support a robust commercial base." (Page 44). The proposed development will increase commercial activity along Rockville Pike.

The 2016 [Rockville Pike Neighborhood Plan](#) ("Pike Plan"), which is part of the Comprehensive Plan, instructs that parking should be located, whenever possible, "in structures behind or under buildings, thereby minimizing inactive zones and reducing the visually unappealing effect of large surface lots in front of buildings" (page 4-40). Given the constraints of the lot size, staff believes it is acceptable for the applicant to not adhere to this recommendation. The proposal is not inconsistent with the Pike Plan because the lot is small, and the parking is located to the side rather than in front of the building.

The Pike Plan also establishes a “build-to line” along Rockville Pike to establish a consistent street wall while accommodating anticipated pedestrian, bicycle and BRT infrastructure. A minimum setback (or reduced build-to line) of 85 feet from the Rockville Pike centerline was approved by PDP2006-00011 and is the minimum build-to line permitted. As shown in Sheet PJ 2.0, the current proposed building setback is 93 feet from the Rockville Pike centerline, an increase of 8 feet from the approved build-to line. This request would place the building further than 85 feet from the Pike centerline. This standard is addressed more thoroughly in Finding (iv).

(iii) *Overburden existing and programmed public facilities as set forth in Article 20 of the Zoning Ordinance and as provided in the adopted Adequate Public Facilities Standards;*

The Project will not overburden existing and programmed public facilities as set forth in Article 20 of the Zoning Ordinance and as provided in the adopted Adequate Public Facilities Standards (APFS).

Schools

No residential uses are planned, and therefore, the proposed development is not subject to the schools test in the APFS.

Water and Sewer

The applicant is not required to obtain a Water and Sewer Authorization Letter. The proposed amendment represents a reduction in the water and sewer demand from the previously approved Planned Development/Project Plan for the property.

Roadway Network Analysis

A limited-scope On-Site Transportation Report was prepared in accordance with the City’ Comprehensive Transportation Review (CTR) requirements since the proposed development with consideration of all vested AM and PM peak trips for approved uses is projected to generate less than 30 peak hour trips. The submitted on-site Transportation Report focused on the site access, on-site circulation, transit, pedestrian, and bicycle accessibility and accommodations and to ensure adequate transportation facilities exist during and after a development project is complete as required by the CTR. See the “CTR Scoping Intake Form” attachment for additional information.

The report was reviewed by Department of Public Works (DPW) Traffic & Transportation staff. Based on this review staff finds:

- (1) the proposed development of 4,400 square feet of retail use represents a reduction in the previously approved development and will not generate thirty (30) or more new peak hour vehicle trips, as shown in the table below;
- (2) will not substantively alter or change vehicular traffic flow movements in and around the site; and

(3) the application is not required to pay the CTR required Transportation Improvement Fee.

Trip Generation:

Traffic volumes generated by the site were calculated using the latest ITE Trip Generation Manual, for AM and PM commuter peak hours. Below is the proposed development peak hour trip generation:

Trip generation	AM Peak	PM Peak
<u>Proposed</u>		
4,400 square feet of retail	10	29
Subtotal	10	29
<u>Previously Approved</u>		
12,574 square foot furniture store	3	7
Subtotal	3	7
Net Trips Generated	7	22

- (iv) ***Constitute a violation of any provision of the Zoning Ordinance or other applicable law;***

Staff has reviewed the proposed development for compliance with the Zoning Ordinance and finds it to be consistent with the requirements. All applicable development standards including landscaping, open area and public use space requirements have been met during this Project Plan stage of the development project.

Build-To Line

The proposed development meets the requirements of this section as proposed. Sec. 25.13.05 establishes a build-to line for properties within the Rockville Pike Neighborhood Plan area. The build-to line for this property is 116 ft from the Rockville Pike centerline. For parcels located in an area where the distance between the Rockville Pike right-of-way and the CSX/WMATA right-of-way is less than 300 feet, as it is for this site, a reduced build-to line may be applied per Sec. 25.13.05.a.2.(b).(iii).A. The build-to line must be adjusted by establishing it at a point three-quarters of the distance from the CSX/Metro right-of-way to the Rockville Pike right-of-way and can be reduced to 85 feet so long as inter-site vehicular and bicycle movement and a continuous public sidewalk are provided.

For this site, that calculation would result in a build-to line of 82.5 to 87.75 feet from the Rockville Pike centerline (per public records, the site measures 110 feet from CSX/Metro right-of-way to Rockville Pike right-of-way at the southern end and 117 feet at the northern end). The 85-foot build-to line would take precedence over the lower end of the measurement, and was the build-to line approved by the PD. The applicant proposes

to locate the building 93 feet from the Rockville Pike centerline, which exceeds the minimum build-to line as calculated per Sec. 25.13.05.a.2.(b).(iii).A.

This build-to line represents both a minimum and maximum setback, where it applies, and requires that at least 70% of the façade along Rockville Pike (classified as a Major roadway) and 30% along Edmonston Drive (classified as a Primary Residential Class I roadway) be constructed at the build-to line. As proposed, 100% of the façade along Rockville Pike will be constructed at the reduced build-to line and approximately 50% of the façade along Edmonston Drive will be constructed at the build-to line.

Uses

The proposed land use is compatible with the uses identified in the land use table in the Zoning Ordinance for the MXCD Zone and is also consistent with the Comprehensive Plan as detailed above. The requirements under Sections 25.13.06 (Additional design guidelines) and 25.13.07.c (Special design regulations for individual mixed-use zones – MXE) will ensure thoughtful and sensitive design is utilized in this project. Compliance with these sections will be confirmed during site plan review. The Proposal also complies with other MXCD Zone development standards including height requirements and setbacks.

Open Space/Public Use Space

The Zoning Ordinance requires 15% open space and 15% public use space, and the Applicant has reserved enough land area to comply with this requirement in a prominent, publicly accessible location, including the pedestrian walkway and bicycle path along the property frontage.

Access Easement

As described in this staff report, and based on information in the City's records, providing access to the 900 Rockville Pike site is, in fact, an express purpose of the public access easement and the easement can be safely accessed by vehicles from multiple existing access points along MD-355. Therefore, the proposed access is in compliance with the Rockville Pike Neighborhood Plan and the City's zoning regulations.

Fire

Fire access is met subject to conditions.

Historic Resources

The property is not within a historic district and has no potential historic resources on site.

Other Requirements

Conformance with other requirements, including but not limited to other zoning requirements, city codes, and the building code, will be confirmed through the site plan, permit review, or other applicable process.

(v) *Adversely affect the natural resources or environment of the City or surrounding areas.*

Stormwater Management

Stormwater Management (SWM) for this project will be provided in compliance with the Pre-Application SWM Concept Letter dated August 28, 2023, and included as the “Pre-Application SWM Concept Letter” attachment. The Pre-Application SWM Concept Letter lists project-specific conditions of approval. On-site SWM will be provided by the applicant through the construction of one Environmental Site Design (ESD) measure planter box bioretention facility. This Pre-Application SWM Concept Approval does not approve the methods for providing SWM beyond establishing the percent ESD provided. The safe conveyance of storm drainage will be analyzed by the applicant and provided through the mitigation of storm drain capacity deficiencies if necessary.

Forestry

This project will meet all requirements of Chapter 10.5 of the City’s Forest and Tree Preservation Ordinance in addition to any additional City or State requirements.

The City approved a Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) on April 17, 2017 (FTP #2017-00013). An updated NRI/FSD was approved on September 15, 2023.

The City approved a Preliminary Forest Conservation Plan (PFCP) on December 6, 2023. The PFCP shows how the project will comply with the Minimum Tree Cover (MTC) requirement of 10% or 2,570 square feet. Currently the applicant has shown how 2,600 square feet of MTC, via three shade trees and one ornamental evergreen tree, can be planted on the site. See Sheets L9.01 and L9.02.

Forest Conservation

Per Sec. 10.5-22.(b), the applicant is not subject to forest conservation via afforestation because the site is less than 40,000 square feet in area.

Significant Trees

The PFCP currently shows the removal of one significant tree on-site, resulting in a replacement requirement of two tree plantings per Chapter 10.5.

Street Trees

Consistent with the requirements of Section 25.21.21, the applicant is proposing to plant five street trees within the Rockville Pike public right-of-way.

Recommendation

Staff recommends that the Planning Commission forward to the Mayor and Council a recommendation to approve Project Plan PJT2023-00016, a proposed amendment to the

Champion Billiards PD initially approved by the Mayor and Council by Resolution No. 14-06, subject to the findings and conditions identified in this report.

The Planning Commission must review the Project Plan application and provide an opportunity for public comment. After its review, the Commission shall prepare and transmit its comments and recommendation on the application to the Mayor and Council.

Conditions

Staff recommends approval of the application subject to the following conditions, to be incorporated into a Resolution for Mayor and Council consideration:

Planning and Zoning

1. The proposed development must be designed in a manner generally consistent with the concept design and associated exhibits of the Project Plan Concept dated November 9, 2023. The permitted square footage is an “up-to” maximum and in no way absolves the applicant from demonstrating that the specific terms of all applicable City Ordinances can be met at site plan, except as otherwise outlined within the Project Plan approval resolution.
2. At the time of Site Plan submittal, the applicant must provide additional justification of why an on-site loading space is not needed, the types of tenants and deliveries anticipated, and examples of how loading is managed in other similar developments.

DPW Engineering

3. Prior to issuance of any occupancy permit, the applicant must construct all public improvements within the property and Rockville Pike right-of-way, including but not limited to street trees, streetlights, streetlight conduit, traffic signs, new seven-foot sidewalk and eight-foot bicycle path as depicted on Sheet PJ 2.0 of the project plan and in accordance all applicable City standards or the standards of the jurisdiction of the corresponding right-of-way. Public improvements must be located within the right-of-way or within a Public Improvements Easement (PIE) as approved by the Director of Public Works.
4. Prior to any DPW permit, Applicant must obtain all necessary approval and/or permits for closure of the Rockville Pike driveway access point, construction of improvements within SHA right-of-way, and utility connections proposed on the Project Plan from all agencies with jurisdiction, including Maryland State Highway Administration (SHA) and City of Rockville.
5. Applicant shall comply with the conditions of the Department of Public Works’ (DPW’s) Pre-Application SWM Concept Approval Letter dated August 28, 2023, attached as the “Pre-Application SWM Concept Approval Letter” attachment.
6. Applicant must comply with all requirements of WMATA’s *Joint Development and Adjacent Construction Manual, Design Criteria* and the provisions of all existing WMATA easements on the property. Prior to submission of the site plan application, the Applicant must identify all proposed development within the WMATA Zone of Influence on the property and provide the City with all correspondence related to compliance

with WMATA's requirements. The Applicant must receive written approval of the design and construction methods for all improvements near WMATA's right-of-way prior to the issuance of any DPW permit. Any significant changes to the proposed development necessary to comply with WMATA's Design Criteria may require the applicant to revise the project plan to comply with all City requirements.

7. If present, the Mayor and Council must authorize the termination of any existing easement that is dedicated to the City of Rockville. Any termination of an easement dedicated to the City must be reviewed and approved in a format acceptable to the Office of the City Attorney and be recorded in the Montgomery County Land Records prior to issuance of any DPW permit. If required by the terms of any existing easement granted to an entity other than the City of Rockville, the Applicant must submit plans for work within the easement to Grantee for review. If Grantee's permission for such work is required, the Applicant must secure Grantee's written permission for any proposed development activity within the easement, or the easement must be extinguished, prior to the submission of an application for any DPW permit.
8. Submission for review and approval by the Office of the City Attorney prior to DPW permit issuance, all necessary deeds, easements, agreements, dedications and declarations. Drafts of the documents must be included with the initial submission of the engineering plans and must be recorded prior to issuance of DPW permits, unless otherwise allowed by DPW.
9. Prior to Site Plan approval, the applicant must submit a conceptual dry utility plan to be deemed appropriate by both the utility companies and the Department of Public Works. The dry utility plan must demonstrate there is adequate space between the building and the powerlines to minimize the risk of electric shock, fire, power cuts or damage to the property or powerlines. The dry utility plan must demonstrate that both the proposed condition and the future condition for the planned BRT infrastructure can be safely constructed.

DPW Traffic and Transportation

10. After Site Plan approval and prior to issuance of any Public Works Permit, the Applicant shall dedicate for public use any property along the Property frontage that lies within a minimum 93 feet from the existing roadway center, of which approximately 32 feet is located beyond the existing SHA Rockville Pike right-of-way. The right-of-way to be dedicated to City of Rockville shall be in accordance with the Project Plan and exhibits, including those coordinated with MCDOT to accommodate the future MD 355 Bus Rapid Transitway (BRT), seven-foot pedestrian walkway and eight-foot bicycle path. Any deviation must be approved by the Director of Public Works at the Site Plan phase.
11. The applicant shall submit to DPW for review and approval by the Chief, Traffic and Transportation Division, prior to issuance of any building permit a detailed signing and marking plan prepared in accordance with the latest edition of the Maryland Manual on Uniform Traffic Control Devices (MD-MUTCD).
12. During construction, the applicant must ensure access to the existing adjacent office building and its parking lot are continuously maintained and provided. All parking for site contractors must be provided on-site.

Fire

13. Site Plan application shall comply with Sheet EX 1.0.
14. At the time of site plan submission, the Applicant must show the location of the Fire Department Access Box (Knox Box).

Forestry

15. The applicant must apply for a waiver consistent with section 4.d.3(b) of the Landscape, Lighting, and Screening Manual from the Planning Commission for Segment 'A' shown on Sheet L2.01 if necessitated by the final Landscape Plan. The waiver must be approved before or concurrently with Site Plan approval.
16. The applicant must apply for a waiver consistent with section 4.d.3(c) of the Landscape, Lighting, and Screening Manual for Segment 'B' shown on Sheet L2.01 if necessitated by the final Landscape Plan. The waiver must be approved before or concurrently with Site Plan approval.
17. Before the issuance of any building, forestry, or DPW permits, the applicant must obtain approval of a Final Forest Conservation Plan (Final FCP).
18. At the time of site plan submission (or before), the Applicant must submit a final forest conservation plan (FFCP) which meets the minimum requirements approved with the preliminary forest conservation plan (PFCP) for the proposed limits of the site plan.
19. The applicant must adhere to and meet all requirements of the PFCP approval letter in preparation for submittal and approval of their FFCP.

Public Art

37. The Applicant must comply with the City's Publicly Accessible Art in Private Development Ordinance. Applicant must provide a concept plan for approval prior to issuance of a building permit.

Attachments

- Aerial Map (PDF)
- Land Use Map (PDF)
- Zoning Map (PDF)
- PJT Plan Set (PDF)
- Application (PDF)
- Statement of Justification (PDF)
- Champion Billiards PD Resolution No. 14-06 (PDF)
- Easement History Memo – Applicant dated November 20, 2023 (PDF)
- Traffic Engineer Memo dated December 19, 2023 (PDF)
- Easement History Memo – City dated December 26, 2023 (PDF)
- Plat No. 9847 (PDF)
- Liber 460 Folio 709 (PDF)
- Plat No. 14030 (PDF)
- Affidavit of Public Notice (PDF)

Public Testimony (PDF)
CTR Scoping Intake Form (PDF)
Pre-Application SWM Concept Approval Letter (PDF)
Preliminary Forest Conservation Plan Approval Letter (PDF)

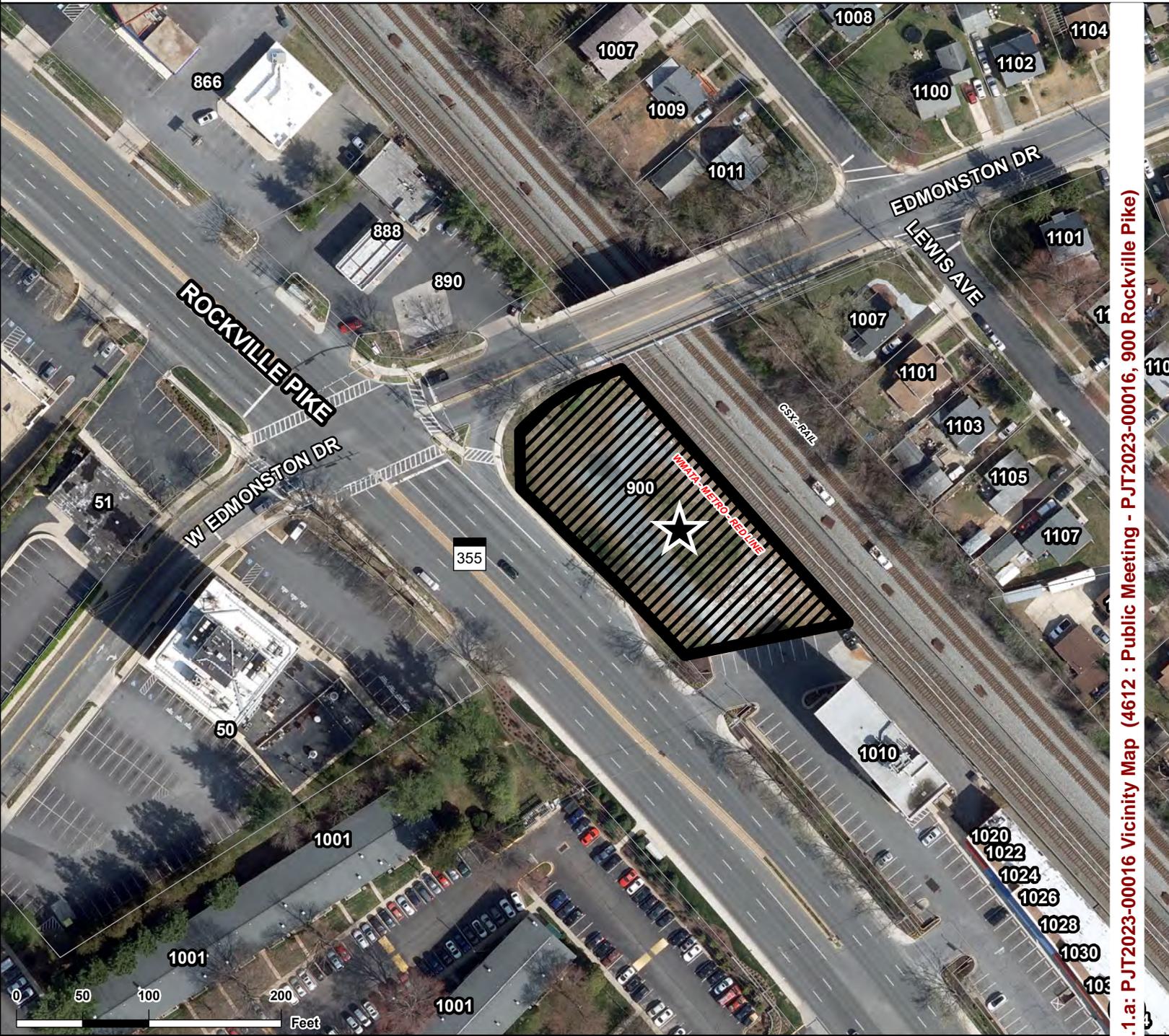
Attachments

Attachment 1.1.a: PJT2023-00016 Vicinity Map (PDF)
Attachment 1.1.b: PJT2023-00016 Land Use Map (PDF)
Attachment 1.1.c: PJT2023-00016 Zoning Map (PDF)
Attachment 1.1.d: PJT2023-00016 Project Plans (PDF)
Attachment 1.1.e: PJT2023-00016 Statement of Justification (PDF)
Attachment 1.1.f: Resolution No. 14-06 (PDF)
Attachment 1.1.g: Easement History Memo - Applicant dated November 20, 2023 (PDF)
Attachment 1.1.h: Traffic Engineer Memo dated December 19, 2023 (PDF)
Attachment 1.1.i: Easement History Memo - City dated December 26, 2023 (PDF)
Attachment 1.1.j: Plat No. 9847 (PDF)
Attachment 1.1.k: Liber 460 Folio 709 (PDF)
Attachment 1.1.l: Plat No. 14030(PDF)
Attachment 1.1.m: Affidavit of Public Notice (PDF)
Attachment 1.1.n: Public Testimony (PDF)
Attachment 1.1.o: CTR Scoping Intake Form (PDF)
Attachment 1.1.p: Pre-Application SWM Concept Approval (PDF)
Attachment 1.1.q: PFCP Approval Letter (PDF)

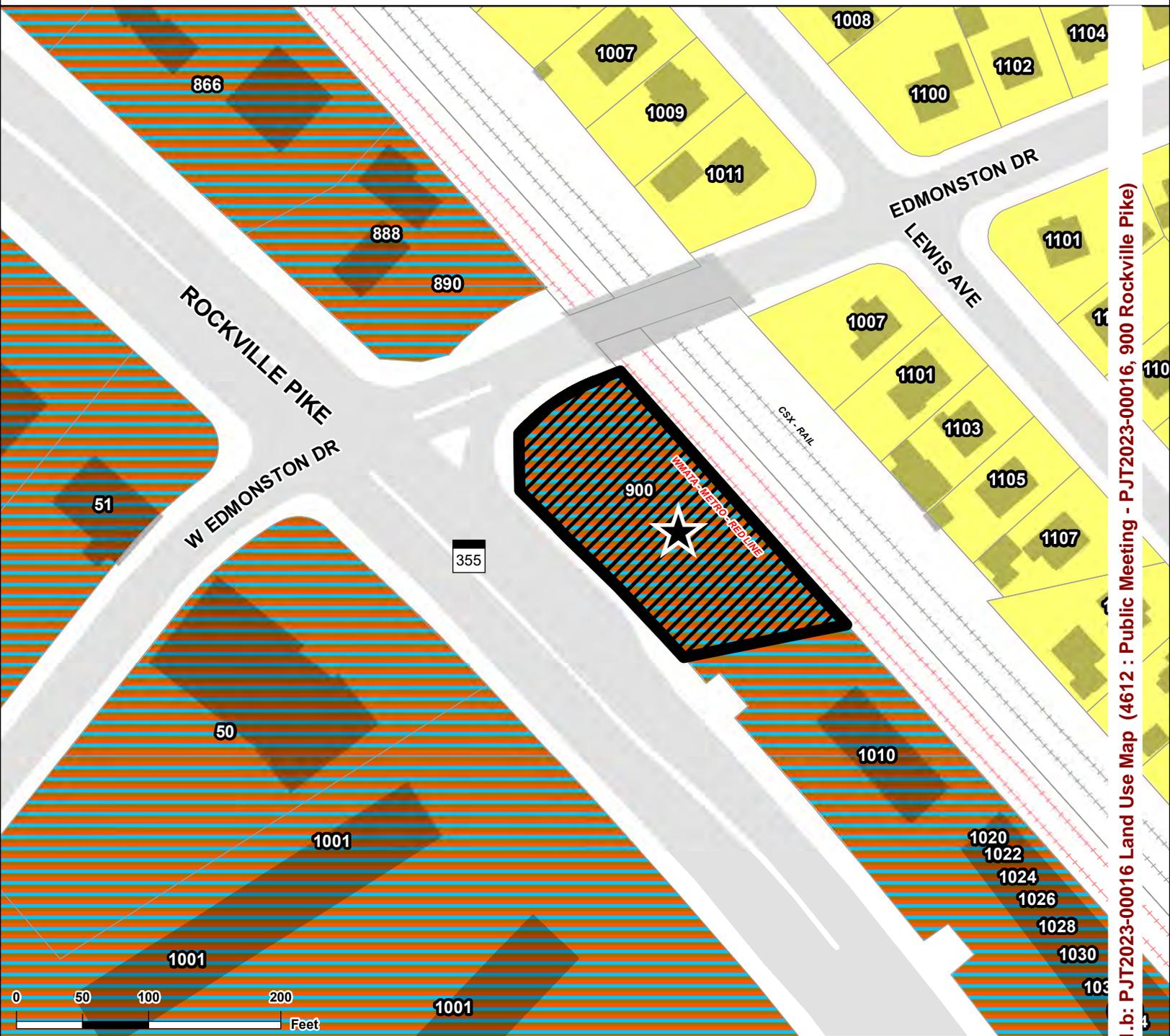
Jim Wasilak

Jim Wasilak, Zoning and Development Manager

1/3/2024



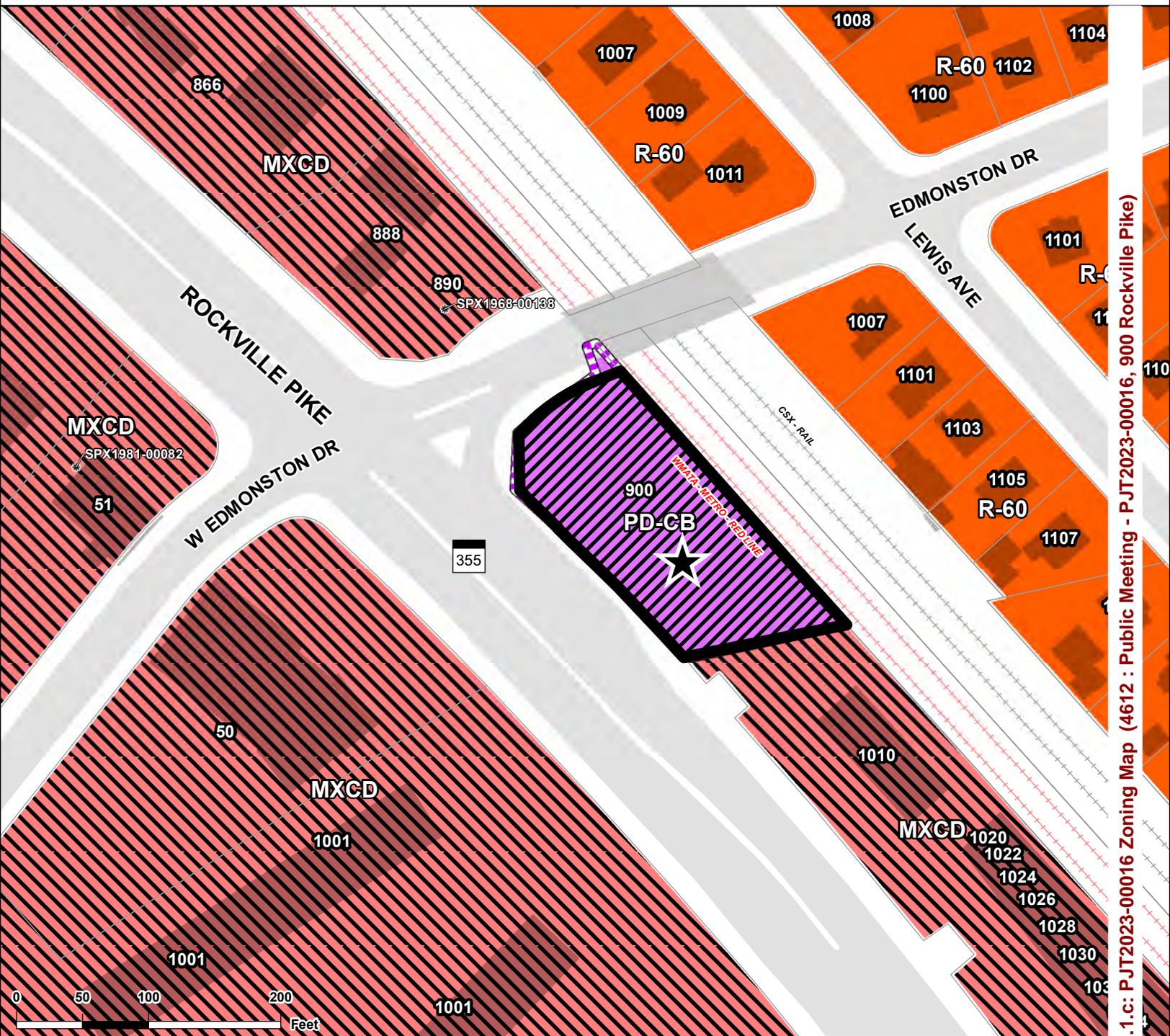
Attachment 1.1.a: PJT2023-00016 Vicinity Map (4612 : Public Meeting - PJT2023-00016, 900 Rockville Pike)



Land Use Policy Designations

- | | | |
|--------------------------------|---|--|
| RD - Residential Detached | O - Office | I - Private Institution |
| RA - Residential Attached | C - Commercial | P - Public Park |
| RF - Residential Flexible | CRM - Commercial and Residential Mix | OSP - Open Space Private |
| RM - Residential Multiple Unit | OCRM - Office, Commercial and Residential Mix | SI - Service Industrial |
| RO - Residential and/or Office | CI - Civic and Public Institutional | SRM - Service Industrial and Residential Mix |
| | | Potential Future Park Asterisk |

Attachment 1.1.b: PJT2023-00016 Land Use Map (4612 : Public Meeting - PJT2023-00016, 900 Rockville Pike)



Attachment 1.1.c: PJT2023-00016 Zoning Map (4612 : Public Meeting - PJT2023-00016, 900 Rockville Pike)

Zoning Overlays

- Town Center Performance District
- South Pike
- Rockville Pike Core
- Twinbrook Metro Performance District
- Lincoln Park Conservation District
- Planned Developments
- Residential Clusters
- Local Historic Districts
- * Special Exceptions

Zoning Districts

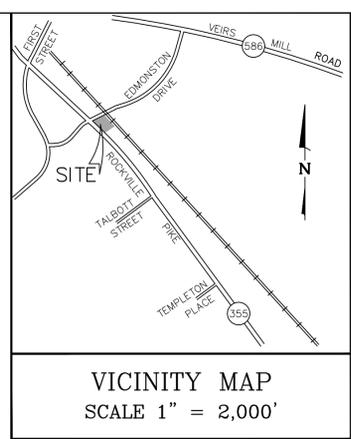
- R-400 - Residential Estate
- R-200 - Suburban Residential
- R-150 - Low Density Residential
- R-90 - Single Unit Detached Dwelling, Restricted Residential
- R-75 - Single Unit Detached Dwelling, Residential
- R-60 - Single Unit Detached Dwelling, Residential
- R-40 - Single Unit Semi-detached Dwelling, Residential
- RMD-Infill - Residential Medium Density, Infill
- RMD-10 - Residential Medium Density
- RMD-15 - Residential Medium Density
- RMD-25 - Residential Medium Density

- PD - Planned Development
- MXB - Mixed-Use Business
- MXC - Mixed-Use Commercial
- MXCT - Mixed-Use Corridor Transition
- MXCD - Mixed-Use Corridor District
- MXE - Mixed-Use Employment
- MXNC - Mixed-Use Neighborhood Commercial
- MXT - Mixed-Use Transition
- MXTD - Mixed-Use Transit District
- PARK - Park Zone
- IL - Light Industrial

DANSHES CENTER ON THE PIKE

SAINT MARYS P214

PROJECT PLAN PJT2023-00016



MHG
Civil Engineers
Land Planners
Landscape Architects
Land Surveyors

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EXISTING	LEGEND	PROPOSED
—370—	CONTOUR (10')	—370—
—374—	CONTOUR (2')	—374—
x 374.0	SPOT ELEVATION	+ 74.0
=====	CURB & GUTTER	=====
=====	CONCRETE	=====
=====	ASPHALT	=====
///////	BUILDING WALL	=====
=====	BUILDING OVERHANG	=====
=====	RETAINING WALL	=====
=====	PARKING SPACE QUANTITY	□
○	LIMITS OF DISTURBANCE	○
⊕ 8" W (DOM.)	WATER LINE (DOMESTIC)	⊕ 8" W (D)
⊕ 8" W (FIRE)	WATER LINE (FIRE)	⊕ 8" W (F)
⊕ FH	FIRE HYDRANT	●
⊕ 6"	SEWER LINE	⊕ 6" S
⊕	STORM DRAIN LINE	⊕ 15" RCP
=====	TRENCH DRAIN	=====
⊕	STORM DRAIN STRUCTURE NUMBER	⊕
=====	OVERHEAD UTILITY WIRES	=====
⊕	NATURAL GAS LINE	=====
⊕	UNDERGROUND ELECTRIC	=====
⊕	UNDERGROUND COMMUNICATIONS	=====
=====	FENCING	=====
=====	EASEMENT	=====
=====	PROPERTY BOUNDARY	=====
⊕	LIGHT POLE	⊕
⊕	TREE	⊕
⊕	SIGN	⊕

CONCEPT PLAN SHEET INDEX

PJ 1.0	COVER SHEET
PJ 2.0	SITE PLAN
PJ 3.0	OPEN SPACE EXHIBIT
LS2.01	LANDSCAPE PLAN
L9.01	PRELIMINARY FOREST CONSERVATION PLAN
L9.02	PRELIMINARY FOREST CONSERVATION PLAN
A100	FLOOR PLAN
A200	BUILDING ELEVATIONS
A201	BUILDING ELEVATIONS
EX1.0	FIRE APPARATUS PLAN
EX1.1	TRUCK MOVEMENT EXHIBIT (REFUSE)

SITE DATA
SUBJECT PROPERTY: PARCEL 214, L-28469 F-567

TRACT AREA: 25,962 S.F. OR 0.59 AC.
ROW DEDICATION: 6,523 S.F. OR 0.15 AC.
LOT AREA: 19,339 S.F. OR 0.44 AC.

ZONING CLASSIFICATION: PD-CB (CHAMPION BILLIARDS) WITH A DESIGNATED EQUIVALENT ZONE OF MXCD (MIXED USE CORRIDOR DISTRICT) ROCKVILLE NEIGHBORHOOD PLAN MIDDLE/NORTH PIKE-EAST PLANNING AREA (SECT. 25.14.34.b)

PROPERTY ADDRESS: 900 ROCKVILLE PIKE
TAX ACCOUNT No.: 04-02406134
PROPOSED USE: RETAIL

DEVELOPMENT STANDARDS (MXCD-SECT. 25.13.05.b)

	REQUIRED	ALLOWED	PROPOSED
TRACT AREA	NONE PRESCRIBED		25,962 S.F. or 0.59 AC.
BUILDING SETBACK REQUIREMENTS			
ROCKVILLE PIKE	0'	0'	
EDMONSTON DRIVE	0'	0'	
SIDE - MXCD ZONE	0' OR 10'	150'	
REAR - WMATA	0' OR 10'	15'	
BUILD-TO-LINE REQUIREMENT (SECT. 25.13.05.b)	85' MAX. (1)	92'	
MAXIMUM BUILDING HEIGHT (SECT. 25.13.05.b.2.b.ii)	75'	26.67 (2)	
BUILDING AREA	NONE PRESCRIBED		4,400 S.F. (2)
PARKING SETBACK REQUIREMENTS			
ROCKVILLE PIKE (SECT. 4.d.2(a))	10'	10'	
SIDE - MXCD ZONE (SECT. 4.d.2(b)(iv))	7'	10'	
REAR - WMATA (SECT. 4.d.2(b)(iv))	7'	4 (3)	
SITE OPEN SPACE (4)(5) -Min.	15.0% or 2,900 S.F.	15.4% or 2,984 S.F.	
PUBLIC USE SPACE (4)(5) -Min.	15.0% or 2,900 S.F.	33% or 6,500 S.F.*	
*APPLICANT TO PROVIDE A MINIMUM OF 15% OPEN SPACE			
OFF STREET PARKING AND LOADING			
PARKING			
RETAIL (4,400 S.F.) (1)	1/200 S.F. = 22 SPACES		23 SPACES
HANDICAP ACCESSIBLE SPACES	1		1 (VAN SPACE)
LOADING SPACE	1		1
BICYCLE SPACES - LONG TERM (LT), SHORT TERM (ST)			
RETAIL (4,400 S.F.) (2)	ST 2/5K S.F. = 2 LT 2/12K S.F. = 1		4 ST BIKE SPACES 1 LT LOCKER
SURFACE PARKING FACILITY			
INTERNAL LANDSCAPING			
PARKING LOT AREA = 8,285 S.F.	5.0% or 414 S.F.		8% or 677 S.F.

- NOTES:**
- THE BUILD TO LINE REPRESENTS THE MAXIMUM SETBACK FOR THE SITE. AS PART OF POP-2006-00011, THE MAYOR AND COUNCIL GRANTED AN EXCEPTION TO REDUCE THE BUILD-TO-LINE TO 85' FROM THE CENTERLINE OF THE OF THE STREET TO THE BUILDING FOR LOTS THAT ARE NARROWER THAN 300 FEET ALONG ROCKVILLE PIKE. AS PART OF THE SITE DEVELOPMENT PLAN, A REDUCTION OF THE 85' MAXIMUM SETBACK.
 - INFORMATION PROVIDED BY PROJECT ARCHITECT
 - PURSUANT TO SECTION 4.d.3 (b)(iv) OF THE LANDSCAPE, SCREENING, AND LIGHTING MANUAL, THE PERIMETER LANDSCAPE REQUIREMENT MAY BE REDUCED BY THE PLANNING COMMISSION TO ACHIEVE A BETTER DESIGN SOLUTION PER THE PROVISION OF WALLS OR FENCES. SEE LANDSCAPE PLAN (SHEET LS 2.01)
 - PURSUANT TO SECTION 25.13.05.b, SITE WITH LESS THAN 20,000 S.F. AND WITHIN THE ROCKVILLE NEIGHBORHOOD PLAN AREA REQUIRE 15% PUBLIC OPEN SPACE AND 15% OPEN SPACE
 - PURSUANT TO SECTION 25.03.02, PUBLIC OPEN SPACE MAY CONSIST OF OPEN AREAS RECOMMENDED IN THE MASTER PLAN, INCLUDING ENHANCED PUBLIC WALKWAYS AND OFF-SITE PUBLIC IMPROVEMENTS. THE PROPOSED SHARED USE PATH HAS BEEN INCLUDED IN THE PUBLIC OPEN SPACE CALCULATION. SEE OPEN SPACE EXHIBIT, SHEET PJ3.0

THE BUILDING FOOTPRINTS, BUILDING HEIGHTS, ON-SITE PARKING, SITE CIRCULATION, AND SIDEWALKS SHOWN ON THIS PRELIMINARY PLAN OF SUBDIVISION ARE ILLUSTRATIVE. THE FINAL LOCATIONS OF BUILDINGS, STRUCTURES AND HARDSCAPE WILL BE DETERMINED AT THE TIME OF SITE PLAN. PLEASE REFER TO THE ZONING DATA TABLE FOR DEVELOPMENT STANDARDS SUCH AS SETBACKS, BUILDING HEIGHT, AND LOT COVERAGE FOR EACH LOT. OTHER LIMITATIONS FOR SITE DEVELOPMENT MAY ALSO BE INCLUDED IN THE CONDITIONS OF THE PLANNING BOARD'S APPROVAL.

Professional Certification
I hereby certify that these documents were prepared or approved by me, and that I am a duly licensed Professional Engineer under the Laws of the State of Maryland. Lic. No. 16905 Exp. Date: 04.21.2024

OWNER:
J DANSHES, LLC
9213 WINTERSET DR
POTOMAC, MD 20854
jdanshes@yahoo.com

ARCHITECT:
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7735 OLD GEORGETOWN ROAD
SUITE 700
BETHESDA, MD, 20814
JEFF WHITMAN, RA
240-333-2067

ATTORNEY:
MILLER, MILLER & CANBY
200-B MONROE STREET
ROCKVILLE, MD,
JODY KLINE
301-738-2051

REVISIONS

NO.	DESCRIPTION	DATE
	SUBMIT PROJECT PLAN	12/13/22
	ADDRESS DRC COMMENTS	5/8/23
	ADDRESS CITY COMMENTS	08/11/2023

TAX MAP GR561 WSSC 217N006
L. 44329 F. 159
4TH ELECTION DISTRICT
CITY OF ROCKVILLE
MARYLAND

DANSHES CENTER ON THE PIKE

ST. MARY'S PARCEL P214

PROJ. MGR	BJD
DRAWN BY	BJD/KDJ
SCALE	1" = 20'
DATE	11/09/22

PROJECT PLAN COVER SHEET

PJ 1.0
PROJECT NO. 2004.115.33
SHEET NO. OF

Community Planning & Development Services
Received
August 15, 2023

811
Know what's below.
Call before you dig.

FOR UTILITY LOCATIONS CONTACT "ONE CALL" AT 811 AT LEAST 48 HOURS PRIOR TO CONSTRUCTION

Attachment 1.1.d.: PJT2023-00016 Project Plans (4612) - Public Meeting - PJT2023-00016, 900 Rockville Pike)



Civil Engineers
Land Planners
Landscape Architects
Land Surveyors

9220 Wightman Road, Suite 120
Montgomery Village, MD 20886
Phone: 301.670.0840
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REVISIONS		
NO.	DESCRIPTION	DATE
1	SUBMIT PROJECT PLAN	12/13/22
2	ADDRESS DRC COMMENTS	5/8/23

TAX MAP GR561 WSSC 217NW06

L. 44329 F. 159

4TH ELECTION DISTRICT
CITY OF ROCKVILLE
MARYLAND

DANSHES CENTER ON THE PIKE

ST. MARY'S PARCEL P214

PROJ. MGR BJD

DRAWN BY BJD/KDJ

SCALE 1" = 20'

DATE 12/2022

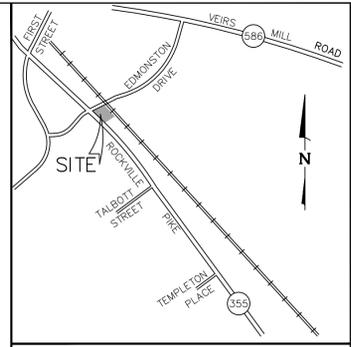
PROJECT PLAN

SITE PLAN

PJ.2.0

PROJECT NO. 2004.115.33

SHEET NO. OF

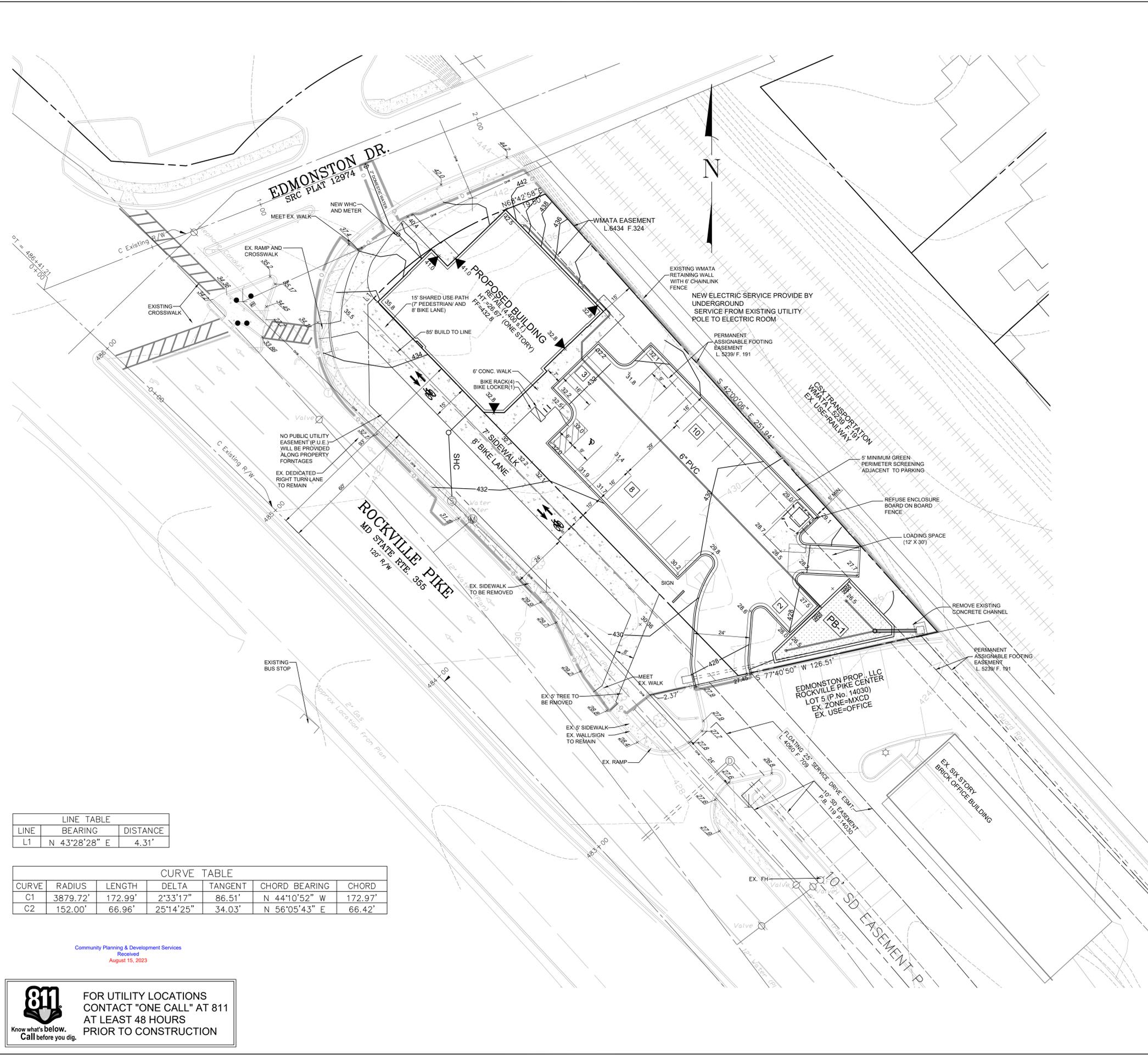
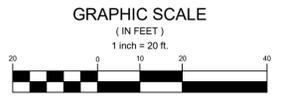


VICINITY MAP
SCALE 1" = 2,000'

LEGEND

EXISTING		PROPOSED
— 370 —	CONTOUR (10')	— 370 —
— 374 —	CONTOUR (2')	— 374 —
x 374.0	SPOT ELEVATION	+ 74.0
=====	CURB & GUTTER	=====
=====	CONCRETE	=====
=====	ASPHALT	=====
=====	BUILDING WALL	=====
=====	BUILDING OVERHANG	=====
=====	RETAINING WALL	=====
□	PARKING SPACE QUANTITY	□
○	LIMITS OF DISTURBANCE	○
⊕	WATER LINE (DOMESTIC)	⊕
⊕	WATER LINE (FIRE)	⊕
⊕	FIRE HYDRANT	⊕
⊕	SEWER LINE	⊕
⊕	STORM DRAIN LINE	⊕
=====	TRENCH DRAIN	=====
⊕	STORM DRAIN STRUCTURE NUMBER	⊕
=====	OVERHEAD UTILITY WIRES	=====
⊕	NATURAL GAS LINE	⊕
⊕	UNDERGROUND ELECTRIC	⊕
⊕	UNDERGROUND COMMUNICATIONS	⊕
=====	FENCING	=====
=====	EASEMENT	=====
=====	PROPERTY BOUNDARY	=====
⊕	LIGHT POLE	⊕
⊕	TREE	⊕
⊕	SIGN	⊕

THE BUILDING FOOTPRINTS, BUILDING HEIGHTS, ON-SITE PARKING, SITE CIRCULATION, AND SIDEWALKS SHOWN ON THIS PROJECT PLAN ARE ILLUSTRATIVE. THE FINAL LOCATIONS OF BUILDINGS, STRUCTURES AND HARDSCAPE WILL BE DETERMINED AT THE TIME OF SITE PLAN. PLEASE REFER TO THE ZONING DATA TABLE FOR DEVELOPMENT STANDARDS SUCH AS SETBACKS, BUILDING HEIGHT, AND LOT COVERAGE FOR EACH LOT. OTHER LIMITATIONS FOR SITE DEVELOPMENT MAY ALSO BE INCLUDED IN THE CONDITIONS OF THE PLANNING BOARD'S APPROVAL.



LINE TABLE		
LINE	BEARING	DISTANCE
L1	N 43°28'28" E	4.31'

CURVE TABLE						
CURVE	RADIUS	LENGTH	DELTA	TANGENT	CHORD BEARING	CHORD
C1	3879.72'	172.99'	2°33'17"	86.51'	N 44°10'52" W	172.97'
C2	152.00'	66.96'	25°14'25"	34.03'	N 56°05'43" E	66.42'

Community Planning & Development Services
Received
August 15, 2023

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Professional Certification
I hereby certify that these documents were prepared or supervised by me or under my direct supervision and that I am a duly Licensed Professional Engineer in the State of Maryland, License No. 16555 E.P.C. 06/12/2024

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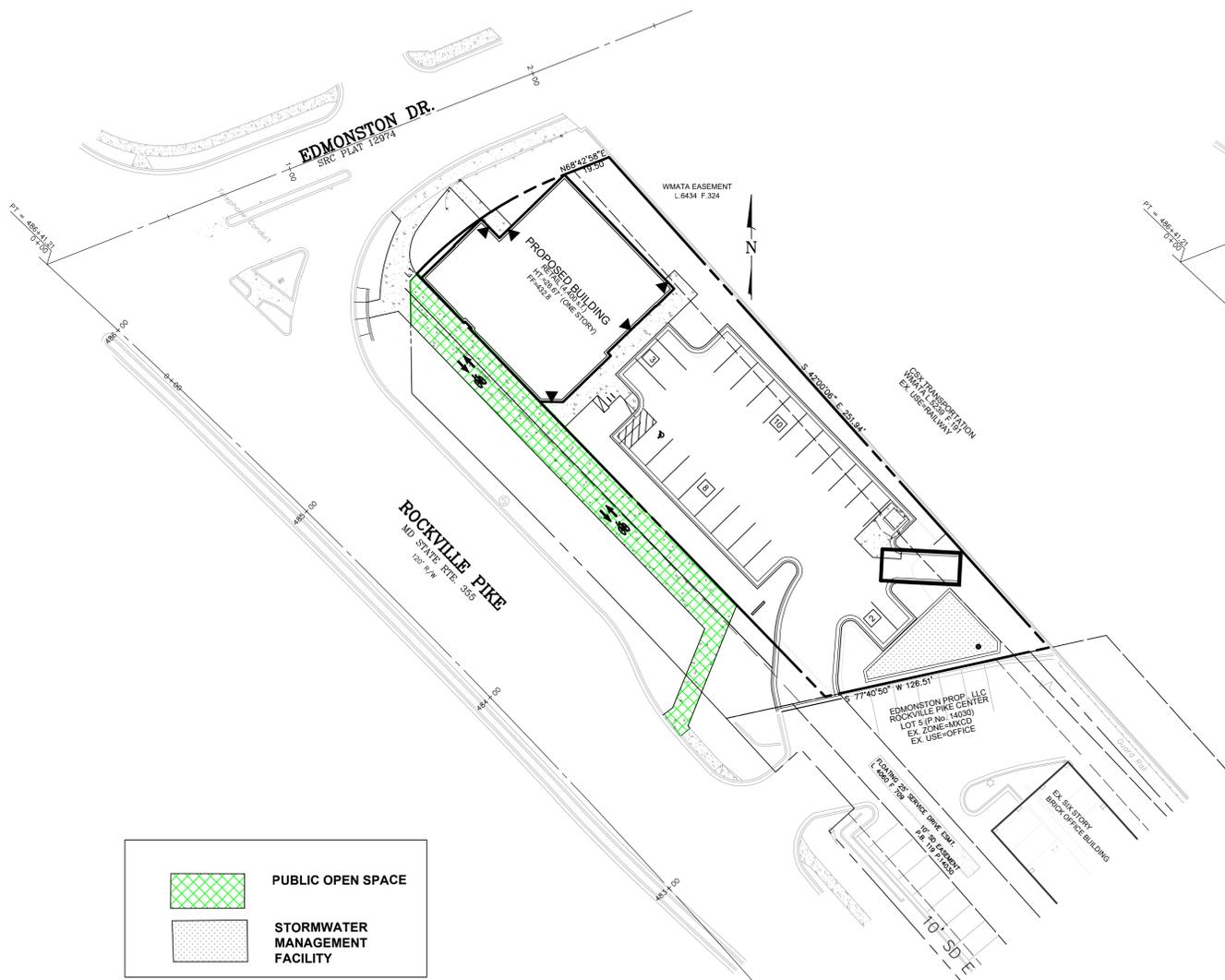
PROJ. MGR	BJD
DRAWN BY	BJD/KDJ
SCALE	1" = 20'
DATE	12/2022

**PROJECT PLAN
OPEN SPACE AND GREEN AREA EXHIBIT**

PJ 3.0
PROJECT NO. 2004.115.33
SHEET NO. OF

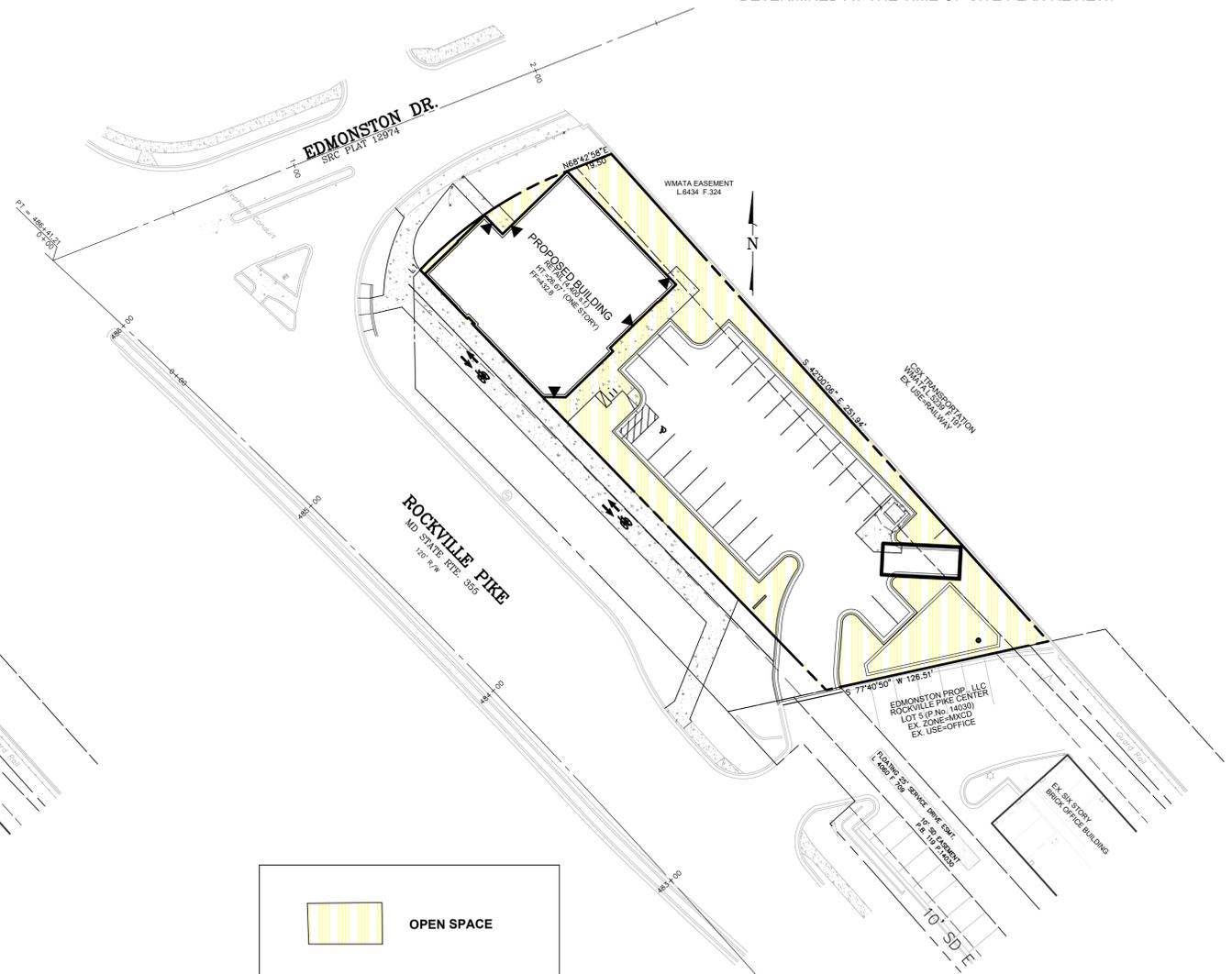
GENERAL PROJECT PLAN NOTE

UNLESS SPECIFICALLY NOTED ON DRAWING OR IN THE PLANNING BOARD CONDITIONS OF APPROVAL, THE BUILDING FOOTPRINTS, BUILDING HEIGHTS, SETBACKS, ON-SITE PARKING, SITE CIRCULATION, AND SIDEWALKS SHOWN ON THIS SKETCH PLAN ARE ILLUSTRATIVE. THE FINAL DETAILS OF BUILDINGS, STRUCTURES, AND HARDSCAPE WILL BE DETERMINED AT THE TIME OF SITE PLAN REVIEW.

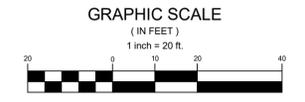


LOT AREA= 19,339 S.F.
PUBLIC OPEN SPACE REQUIRED: 15.0% OR 2,900 S.F.
PUBLIC OPEN SPACE PROVIDED: 15.4% OR 2,984 S.F.
-PER DEFINITIONS,PUBLIC OPEN SPACE MAY CONSIST OF OPEN AREAS RECOMMENDED IN THE MASTER PLAN, INCLUDING ENHANCED PUBLIC WALKWAYS AND OFF-SITE PUBLIC IMPROVEMENTS

Community Planning & Development Services
Received
August 15, 2023



LOT AREA= 19,339 S.F.
OPEN SPACE REQUIRED: 15.0% OR 2,900 S.F.
OPEN SPACE PROVIDED: 33% OR 6,500 SF (15% MINIMUM)

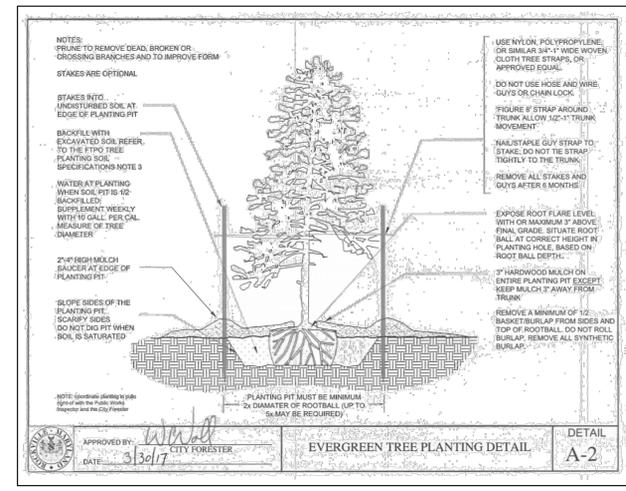
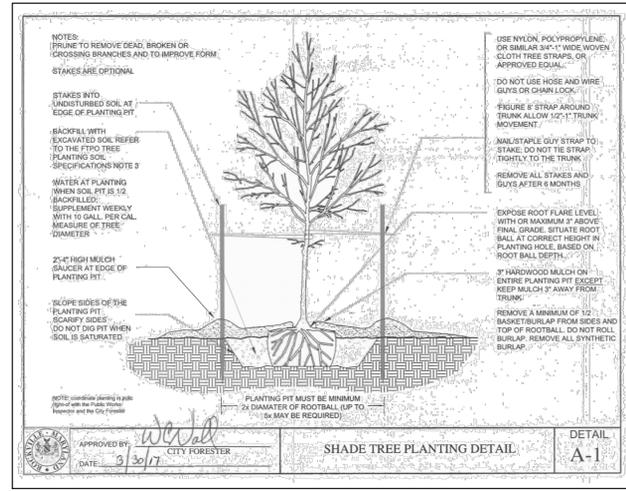
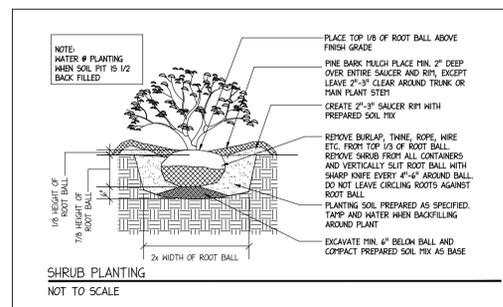
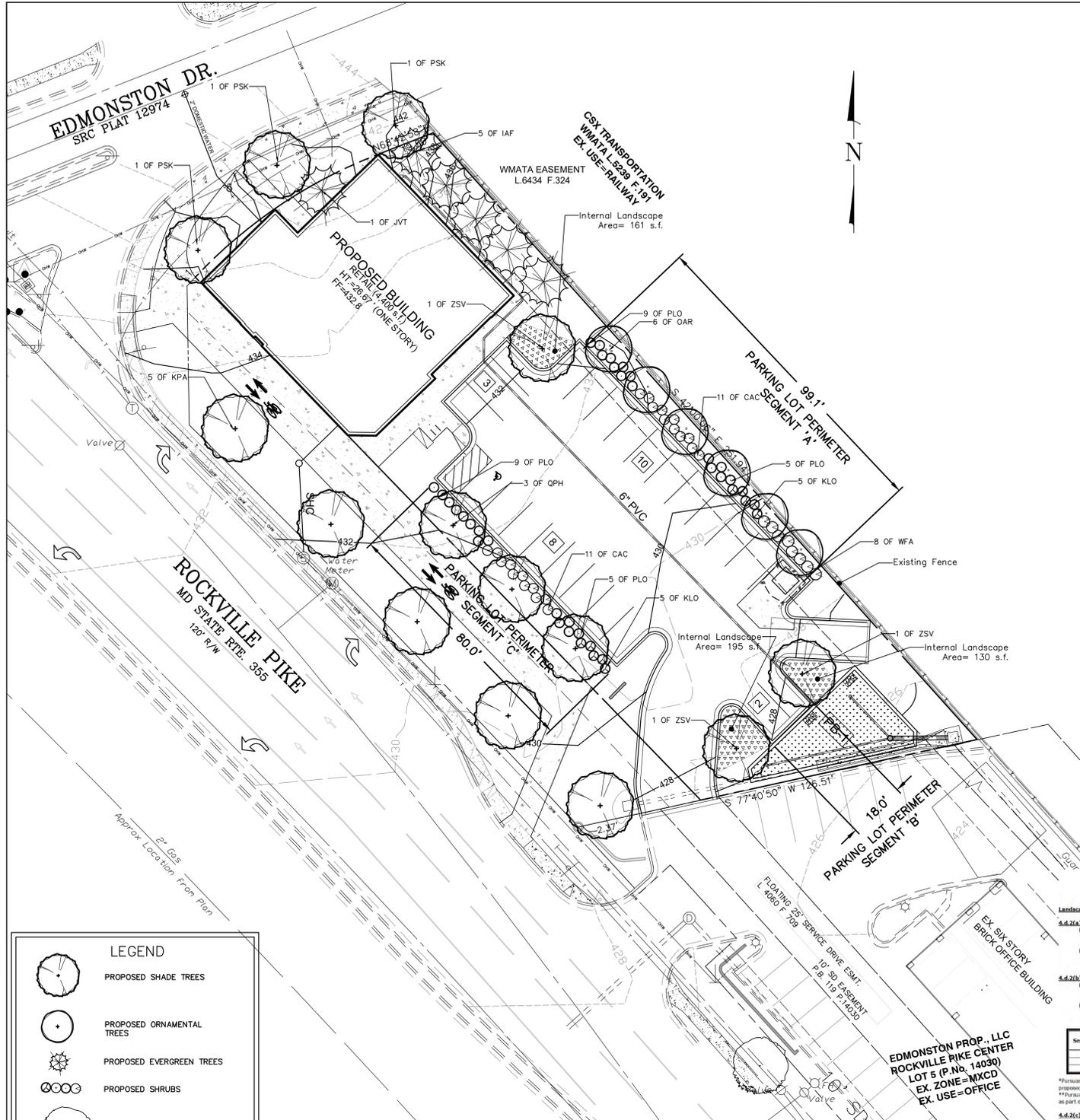
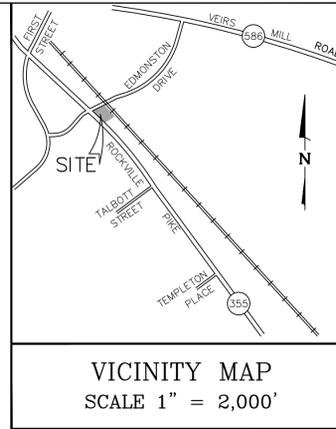


Attachment 1.1.d: PJ.172025-00016 Project Plans (4612 : Public Meeting - PJ.172025-00016, 900 Rockville Pike)

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LANDSCAPE REQUIREMENTS
Section 4, "Landscaping, Screening and Lighting Manual", effective May 18, 2015 and Article 17, Rockville Zoning Ordinance (Sec. 25.17)

Landscaping Manual, Sec. 4.4. PARKING LOT LANDSCAPING

4.4.2(a) Landscape Strip adjoining a Street Right-of-Way

(i) Required: Maximum 10' width
Provided: See table below

(ii) Required: Minimum 1 Tree per 40 ft. of footage (1 Ornamental Tree = 5 Shade Tree)
Minimum 15 shrubs per 40 ft. of footage (1 Evergreen Tree = 5 Shrubs)
Provided: See table below

4.4.2(b) Perimeter Landscape Area Adjoining Property Other than R-O-W

(i) Required: Minimum 7' width that is required setback of adjoining (SCU Residential Zone)
Provided: See table below

(ii) Required: Minimum 1 shade tree per 40 ft. of lot perimeter (1 Ornamental Tree = 5 Shade Tree)
Minimum 15 shrubs per 40 ft. of lot perimeter (1 Evergreen Tree = 5 Shrubs)
Provided: See table below

Segment	Length (ft)	Min. Width Provided (ft)	Shade Trees Provided	Shrubs Provided	Ornamental Trees Provided	Shade Tree Equivalents Provided	Shrubs Provided	Evergreen Trees Provided	Shrub Equivalents Provided
A	99.1	5.5-9.5*	3	0	6	3	38	38	NA
B	18	11	1*	0	0	0	7	0	NA
C	80	10	2	3	0	NA	39	30	NA

*Pursuant to section 4.4.2(b)(3) a reduction of the landscape strip is being requested as part of this application. Existing fence in place in conformance with proposed landscaping per requirement.
*Pursuant to section 4.4.2(b)(3) a reduction of the landscape requirement is being requested as part of this application. SWM plantings will be proposed as part of the SWM design in order to fulfill the landscape perimeter requirement.

4.4.2(c) Internal Landscaping of Surface Parking Facility

Required: Maximum 5% of internal parking facility area to be landscaped with shade trees
Total internal parking facility area = 6,322 s.f.
5% of internal area = 317 s.f.
Total internal landscaped area = 486 s.f. (7%)
Number of trees to be planted in landscaped area:
Shade: 3
Ornamental: 0
Evergreen: 0

4.4.2(d) Minimum Size of Planting Islands within Internal Landscape Area

(i) Required: Islands parallel to parking spaces = 7' wide, min., and 10' long, min.
Provided: 9.0' wide, min.; 17.0' long, min.

(ii) Required: Islands at the heads of parking spaces = 10' wide, min.
Provided: None

4.4.3(a) Residential Zone Standards
N/A

Zoning Ordinance, Article 13, MIXED USE ZONES

Sec. 25.13.05-B.(1) Development Standards: Open Area
Required: Open area for sites in Rockville Plus Neighborhood Plan is 15% of project area or 2,000 s.f.
Provided: 2,984 s.f. = 15.4% of project area

Sec. 25.13.05-B.(2) Development Standards: Public Use Space
Required: Public use space for sites in Rockville Plus Neighborhood Plan is 15% of project area or 2,000 s.f.
Provided: 6,617 s.f. = 34% of project area

Zoning Ordinance, Article 17, LANDSCAPING AND SCREENING REQUIREMENTS

Sec. 25.17.02-4 Screening of Mechanical Equipment in all zones other than Single Dwelling Unit Residential
Required: Screening from public view at ground level from the property edge
Three evergreen trees to block from adjoining property and street light-of-way
Provided:

Sec. 25.17.02-5 Screening of Trash, Recycling and Waste Oil (Green Collection Areas enclosures in all zones other than Single Dwelling Unit Residential)
Required: Appropriate screening
Fenced trash enclosure
Provided:

Sec. 25.17.02-3 Screening of Utility Equipment in non-residential and non-mixed-use zones
Required: a. Vegetative or constructed Screening on four sides of the equipment with 80% min. opacity
b. If vegetative, provide 80% opacity within one year
c. If constructed, materials must be complementary to building architecture
d. Location to maintain visual impact, cluster utility equipment with mechanical and waste disposal equipment
Provided: Subject property is zoned MXCD. Utility equipment required to be underground or in an enclosed building.

LEGEND

- PROPOSED SHADE TREES
- PROPOSED ORNAMENTAL TREES
- PROPOSED EVERGREEN TREES
- PROPOSED SHRUBS
- EXISTING TREES
- PROPOSED INTERNAL PARKING FACILITY AREA
- PROPOSED INTERNAL LANDSCAPED AREA
- PLANTER BOX

NATIVE PLANT COUNTS

Total Shade Trees: 14
Native Shade Trees: 3
Percent Native: 21%

Total Number of Trees: 26
Native Trees: 10
Percent Native: 38%

Total Number of Shrubs: 68
Native Shrubs: 24
Percent Native: 35%

LANDSCAPE PLANT LIST

KEY	QTY	BOTANICAL NAME	COMMON NAME	CAL	HGT	SPD	ROOT	SPACING
SHADE TREES								
*QPH	3	Quercus phellos	Willow Oak	2 1/2'-3'			B&B	
*KPA	5	Koeleria paniculata	Golden Raintree	2 1/2'-3'			B&B	
*PSK	3	Prunus serrulata 'Kwanzan'	Kwanzan Cherry	2 1/2'-3'			B&B	
*ZSV	3	Zelkova serrata 'Village Green'	Village Green Japanese Zelkova	2 1/2'-3'			B&B	
EVERGREEN TREES								
*JVT	1	Juniperus virginiana 'Taylor'	Taylor Eastern Redcedar		5-6'		B&B	
*IAF	5	Ilex x attenuata 'Foster'	Foster Holly		5-6'		B&B	
ORNAMENTAL TREES								
*OAR	6	Oxydendron arboretum	Sourwood	2 1/2'-3'			B&B	Single Stem
SHRUBS								
*KLO	19	Kalmia latifolia 'Olympic Fire'	Olympic Fire Mountain Laurel		24-30"		#3 Cont.	48" o.c.
*CAC	5	Cedrus atlantica 'Sisken Candies'	Sisken Candies Summerweet		18-24"		#3 Cont.	36" o.c.
*PLO	28	Prunus laurocerasus 'Otto Lyken'	Otto Lyken Cherry Laurel		18-24"		#3 Cont.	36" o.c.
*WFA	9	Weigela florida 'Alexandra'	Wine & Roses Weigela		24-30"		#3 Cont.	42" o.c.
* Native								

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General Planting Notes --- Quality Assurance

- All plant material shall be in accordance with the American Standard for Nursery Stock, Latest Edition, published by Americanhort.
- All plants shall be wholesome, healthy, vigorous, free from plant diseases, insect pests and their eggs, and shall have healthy, normal top and root systems. Plants shall be nursery-grown stock and freshly dug.

PLANTING NOTES

- THIS PLAN IS FOR PLANTING PURPOSES ONLY.
- CONTRACTOR SHALL BE SOLELY RESPONSIBLE FOR ALL PLANT MAINTENANCE, INCLUDING SHRUBS AND GROUNDCOVER, AND SHALL MAINTAIN AREA IN A NEED AND DEBRIS FREE CONDITION, THROUGHOUT THE ONE YEAR GUARANTEE PERIOD.
- CONTRACTOR SHALL LAY OUT AND CLEARLY STAKE ALL PROPOSED IMPROVEMENTS INCLUDED ON THIS PLAN.
- CONTRACTOR IS RESPONSIBLE FOR CONTACTING MISS UTILITY PRIOR TO BEGINNING CONSTRUCTION FOR LOCATION OF ALL UTILITY LINES. TREES SHALL BE LOCATED A MINIMUM OF 5 FEET FROM SEWER/WATER CONNECTIONS. CONTRACTOR SHALL BE LIABLE FOR DAMAGE TO ANY AND ALL PUBLIC OR PRIVATE UTILITIES.
- QUANTITIES AS SHOWN ON THE PLAN SHALL GOVERN OVER PLANT LIST QUANTITIES. CONTRACTOR TO VERIFY PLANT LIST TOTALS WITH QUANTITIES SHOWN ON PLAN. LANDSCAPE ARCHITECT SHALL BE ALERTED BY CONTRACTOR OF ANY DISCREPANCIES PRIOR TO FINAL BID NEGOTIATION. UNIT PRICES FOR ALL MATERIAL SHALL BE SUPPLIED TO THE OWNER AT BIDDING TIME.
- ALL MATERIALS SHALL BE SUBJECT TO APPROVAL BY THE LANDSCAPE ARCHITECT. OWNER SHALL RECEIVE TAG FROM EACH PLANT SPECIES AND A LIST OF PLANT SUPPLIERS. WHERE ANY REQUIREMENTS ARE OMITTED FROM THE PLANT LIST, THE PLANTS FURNISHED SHALL MEET THE NORMAL REQUIREMENTS FOR THE VARIETY PER THE AMERICAN STANDARD FOR NURSERY STOCK, LATEST EDITION, PUBLISHED BY AMERICANHORT. PLANTS SHALL BE PRUNED PRIOR TO DELIVERY ONLY UPON THE APPROVAL OF THE LANDSCAPE ARCHITECT.
- CONTRACTOR IS RESPONSIBLE FOR SOIL TESTING AND PREPARATION AS OUTLINED IN THE CURRENT EDITION OF THE LANDSCAPE SPECIFICATION GUIDELINES OF THE LANDSCAPE CONTRACTORS ASSOCIATION OF MD-DC-VA (LCA). PREPARATION SHALL INCLUDE, BUT NOT NECESSARILY BE LIMITED TO, THE ADDITION OF SOIL AMENDMENTS, FERTILIZERS AND SUPPLEMENTAL TOPSOIL AS INDICATED BY TESTING; AND SUBGRADE, FINAL GRADE AND FINISH GRADE SOIL PREPARATION.
- WHERE TREES ARE PLANTED IN ROWS, THEY SHALL BE UNIFORM IN SIZE AND SHAPE.
- SIZES SPECIFIED IN THE PLANT LIST ARE MINIMUM SIZES TO WHICH THE PLANTS ARE TO BE JUDGED. FAILURE TO MEET MINIMUM SIZE ON ANY PLANT WILL RESULT IN REJECTION OF THAT PLANT.
- ALL PLANTS SHALL BE FRESHLY DUG, SOUND, HEALTHY, VIGOROUS, WELL BRANCHED, FREE OF DISEASE, INSECT EGGS, AND LARVAE, AND SHALL HAVE ADEQUATE ROOT SYSTEMS.
- ALL CONTAINER GROWN MATERIAL SHALL BE HEALTHY, VIGOROUS, WELL-ROOTED PLANTS AND ESTABLISHED IN THE CONTAINER IN WHICH THEY ARE SOLD. THE PLANTS SHALL HAVE TOPS WHICH ARE GOOD QUALITY AND ARE IN A HEALTHY GROWING CONDITION.
- GROUPS OF SHRUBS SHALL BE PLACED IN A CONTINUOUS MULCH BED WITH SMOOTH CONTINUOUS LINES. ALL MULCHED BED EDGES SHALL BE CURVILINEAR IN SHAPE FOLLOWING THE CONTOUR OF THE PLANT MASS UNLESS OTHERWISE NOTED. TREES LOCATED WITHIN FOUR FEET OF SHRUB BEDS SHALL SHARE SAME MULCH BED.
- NO EXISTING TREES SHALL BE REMOVED WITHOUT WRITTEN AUTHORIZATION FROM THE OWNER EXCEPT WHERE NOTED ON PLANS. NO GRUBBING SHALL OCCUR WITHIN EXISTING TREE AREAS.
- TREES SHALL BE LOCATED A MINIMUM OF 3 FEET FROM WALLS AND WALKS WITHIN THE PROJECT. IF CONFLICTS ARISE BETWEEN ACTUAL SIZE OF AREA AND PLANS, CONTRACTOR SHALL CONTACT LANDSCAPE ARCHITECT FOR RESOLUTION. FAILURE TO MAKE SUCH CONTACTS KNOWING TO THE OWNER OR LANDSCAPE ARCHITECT WILL RESULT IN CONTRACTOR'S LIABILITY TO RELOCATE MATERIALS.
- LARGE GROWING PLANTS ARE NOT TO BE PLANTED IN FRONT OF WINDOWS, UNDER BUILDING OVERHANGS, OR IN DRAINAGE SWALES. SHRUBS PLANTED NEAR HVAC UNITS TO BE LOCATED SO AS TO NOT PREPARE DRAINAGE AWAY FROM BUILDINGS.
- CONTRACTOR TO SLIGHTLY ADJUST PLANT LOCATIONS IN THE FIELD AS NECESSARY TO BE CLEAR OF DRAINAGE SWALES AND UTILITIES. FINISHED PLANTING BEDS SHALL BE GRADED SO AS TO NOT PREPARE DRAINAGE AWAY FROM BUILDINGS.
- TREE STAKING SHALL BE DONE PER DETAILS. CONTRACTOR SHALL ENSURE THAT TREES REMAIN VERTICAL AND UPRIGHT FOR THE DURATION OF THE GUARANTEE PERIOD.
- ALL TREE PITS, SHRUB BEDS AND PREPARED PLANTING BEDS ARE TO BE COMPLETELY EXCAVATED IN ACCORDANCE WITH THE PLANTING DETAILS.
- MULCH IS TO BE DOUBLE SHREDDED HARDWOOD BARK FOR TREES AND SHRUBS.
- CROWN OF ROOT FLARE SHALL BE EVEN WITH GRADE OR MAXIMUM 3" HIGHER (AFTER SETTLING) THAN ADJACENT SOIL.
- TAGS AND TWINE ARE TO BE REMOVED AND BURLAP IS TO BE ROLLED BACK ONE-HALF ON ALL B&B PLANT MATERIAL. BASKET IS TO BE CUT HALFWAY DOWN THE ROOTBALL.
- SHRUBS SHALL BE TRIANGULARLY SPACED AT SPACING SHOWN ON PLANTING PLANS WHERE PASSING IS INDICATED.
- SHADE TREES- HEIGHT SHALL BE MEASURED FROM THE CROWN OF THE ROOT FLARE TO THE TOP OF MATURE GROWTH. SPREAD SHALL BE MEASURED TO THE END OF BRANCHING EQUALLY AROUND THE CROWN FROM THE CENTER OF THE TRUNK. MEASUREMENTS ARE NOT TO INCLUDE ANY TERMINAL GROWTH. SINGLE TRUNK TREES SHALL BE FREE OF "Y" CROTCHES THAT COULD BE POINTS OF WEAK LIMB STRUCTURE OR DISEASE INFESTATION.
- SHRUBS- HEIGHT SHALL BE MEASURED FROM THE GROUND TO THE AVERAGE HEIGHT OF THE TOP OF THE PLANT. SPREAD SHALL BE MEASURED TO THE END OF BRANCHING EQUALLY AROUND THE SHRUB MASS. MEASUREMENTS ARE NOT TO INCLUDE ANY TERMINAL GROWTH.
- SUBSTITUTIONS OF PLANT MATERIAL ARE NOT ALLOWED. SUBSTITUTIONS MAY RESULT IN LIABILITY TO THE CONTRACTOR.
- ALL CONTRACTORS SHALL BE REQUIRED TO COMPLETELY REMOVE ALL TRASH, DEBRIS AND EXCESS MATERIALS FROM THE WORK AREA AND THE PROPERTY (ESPECIALLY AT ALL CURBS, GUTTERS AND SIDEWALKS) DAILY DURING INSTALLATION.
- DEAD PLANTS ARE TO BE REMOVED FROM THE JOB BY THE CONTRACTOR ON A MONTHLY BASIS. CONTRACTOR SHALL MAINTAIN AN UPDATED, COMPREHENSIVE LIST OF ALL DEAD PLANTS REMOVED AND PRESENT A COPY OF THE LIST TO THE OWNER AT THE END OF EVERY MONTH DURING THE CONTRACT PERIOD.
- CONTRACTOR SHALL BE RESPONSIBLE TO REGRADE, HYDRO-SEED, STRAIN BURLAP, AND TACK ALL LAWN AREAS DISTURBED AS THE RESULT OF HIS WORK.
- THE OWNER IS REQUIRED TO WARRANT THE TREES GROWN FOR AFFORESTATION/REFORESTATION FOR FIVE YEARS TO THE CITY OF ROCKVILLE. THE WARRANTY PERIOD SHALL BEGIN ONLY UPON COMPLETION OF A SATISFACTORY PLANTING INSPECTION BY THE CITY FORESTER. CONTRACTOR SHALL GUARANTEE TO OWNER ALL LANDSCAPE IMPROVEMENTS, INCLUDING SEEDING, FOR ONE FULL YEAR AS REQUIRED BY THE SPECIFICATIONS. CONTRACTOR MUST CONTACT THE OWNER AND CITY FORESTER AT LEAST 10 WORKING DAYS IN ADVANCE TO SCHEDULE AN INSPECTION(S). CONTRACTOR MUST REPLACE ALL DEAD OR UNACCEPTABLE PLANTS DURING THE FOLLOWING RECOMMENDED PLANTING SEASON.
- THE SPECIFICATIONS FOR ALL WORK INCLUDED IN THIS CONTRACT SHALL BE FROM THE LANDSCAPE SPECIFICATION GUIDELINES BY THE LANDSCAPE CONTRACTORS ASSOCIATION MD-DC-VA (LCA), CURRENT EDITION, UNLESS OTHERWISE NOTED ON THESE PLANS.
- ANY PLANTING WHICH IS SHOWN ADJACENT TO CONDENSER UNITS SHALL BE PLACED AS REQUIRED TO SCREEN THE UNITS. SHOULD THE CONDENSER UNITS BE INSTALLED IN LOCATIONS DIFFERENT FROM THOSE SHOWN ON THE PLAN IT WILL BE THE CONTRACTOR'S RESPONSIBILITY TO INSTALL THE MATERIALS AROUND THE CONDENSERS AND TO ADJUST OTHER ADJACENT PLANTING ACCORDINGLY.
- FOR INFORMATION REGARDING APPROPRIATE PLANTING PERIODS FOR DIFFERENT SPECIES, SEE THE LATEST EDITION OF THE LANDSCAPE SPECIFICATION GUIDELINES FROM THE LANDSCAPE CONTRACTORS ASSOCIATION OF MD-DC-VA PART 1-EXTERIOR LANDSCAPE INSTALLATION, SECTION 1.12 (A-G) AT WWW.LANDCDDCVA.ORG.

REVISIONS

NO.	DESCRIPTION	DATE
	SUBMIT PROJECT PLAN	12/12/22

TAX MAP GR561 WSSC 217N06

L. 44329 F. 159
4TH ELECTION DISTRICT
CITY OF ROCKVILLE
MARYLAND

DANSHES CENTER ON THE PIKE

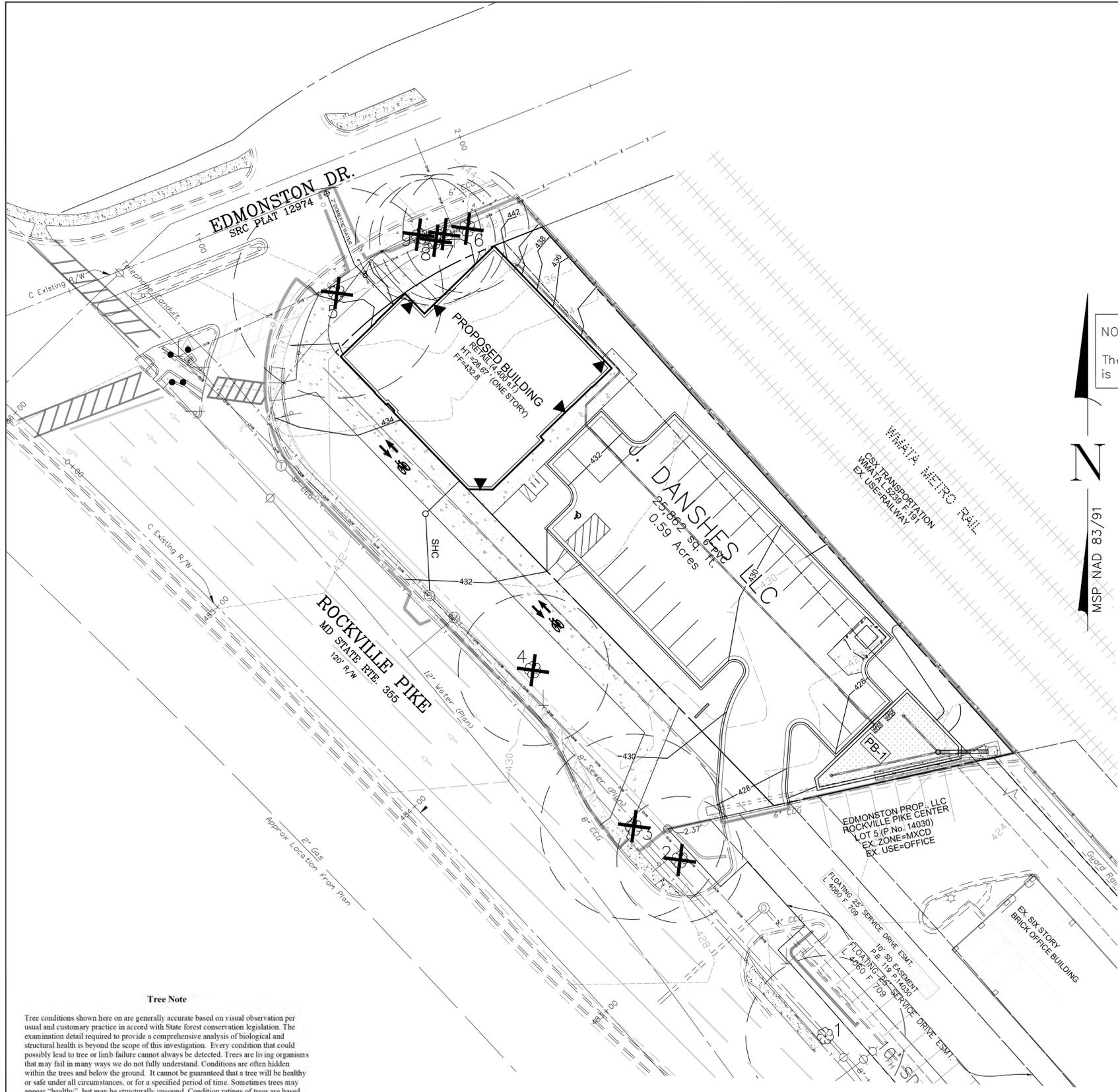
ST. MARY'S PARCEL P214

PROJ. MGR	BJD
DRAWN BY	FCJ
SCALE	1" = 20'
DATE	05.12.2023

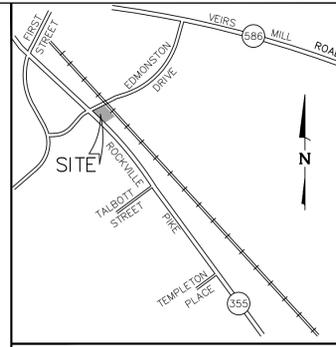
LANDSCAPE PLAN

PROJECT NO.	2004.115.33
SHEET NO.	1 OF 1

L2.01



SIGNIFICANT TREE SUMMARY CHART									
NRI					PFCP/FCP				
#	COMMON NAME	SCIENTIFIC NAME	DBH	Area CRZ	CTLA %	DISPOSITION (SAVE/REMOVE)	% CRZ IMPACT	REPLACEMENT REQD.	Proposed Credit
ON-SITE SIGNIFICANT > 12" DBH									
4	Willow Oak	Quercus phellos	21	3116	63	Remove	100%	2	N/A
CITY ROW TREE									
5	Siberian Elm	Ulmus pumila	28	5539	84	Remove	100%	1	N/A
6	Black Locust	Robinia pseudoacacia	16	1809	75	Remove	100%	1	N/A
7	Black Locust	Robinia pseudoacacia	9	572	72	Remove	100%	0	N/A
8	Black Locust	Robinia pseudoacacia	7	346	75	Remove	100%	0	N/A
9	Black Locust	Robinia pseudoacacia	8	452	72	Remove	100%	0	N/A
STATE ROW TREE									
1	Sugar Maple	Acer saccharum	20	2826	56	Save	0%	0	N/A
2	Norway Maple	Acer platanoides	15	1590	63	Remove	100%	0	N/A
3	Willow Oak	Quercus phellos	23	3737	63	Remove	100%	0	N/A
Total Replacements Required:							4		



VICINITY MAP
SCALE 1" = 2,000'

MHG
Civil Engineers
Land Planners
Landscape Architects
Land Surveyors
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Montgomery Village, MD 20886
Phone: 301.670.0840
www.mhgpa.com
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DATE: 05/12/2023
RECOGNIZED AS QUALIFIED PROFESSIONAL BY MD DEPT. OF NATURAL RESOURCES COMAR 08.19.06.01

Qualified Professional Certification
I hereby certify that the information shown hereon is correct and that this plan has been prepared in accordance with the requirements of the existing state and county forest conservation legislation.

OWNER:
J DASHES, LLC
9213 WINTERSET DR
POTOMAC, MD 20854
jdashes@yahoo.com

ARCHITECT:
GTM ARCHITECTS
7735 OLD GEORGETOWN ROAD
SUITE 700
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JEFF WHITMAN, RA
240-333-2067

ATTORNEY:
MILLER, MILLER & CANBY
200-B MONROE STREET
ROCKVILLE, MD,
JODY KLINE
301-738-2051

NO.	DESCRIPTION	DATE
1	SUBMIT PROJECT PLAN	12/12/22

TAX MAP GR561 WSSC 217NW06
L. 44329 F. 159
4TH ELECTION DISTRICT
CITY OF ROCKVILLE
MARYLAND

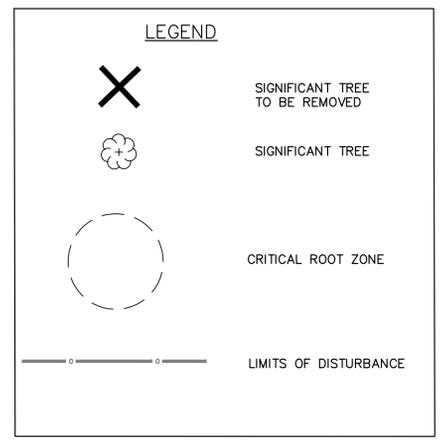
DANSHES CENTER ON THE PIKE
ST. MARY'S PARCEL P214

PROJ. MGR BJD
DRAWN BY FCJ
SCALE 1" = 20'
DATE 12/2022

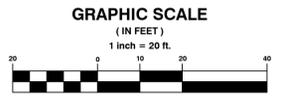
PRELIMINARY FOREST CONSERVATION PLAN

L9.01
PROJECT NO. 2004.115.33
SHEET NO. 1 OF 2

NOTE:
The site area is less than 40,000 s.f. and no forest conservation is required.



Tree Note
Tree conditions shown here on are generally accurate based on visual observation per usual and customary practice in accord with State forest conservation legislation. The examination detail required to provide a comprehensive analysis of biological and structural health is beyond the scope of this investigation. Every condition that could possibly lead to tree or limb failure cannot always be detected. Trees are living organisms that may fail in many ways we do not fully understand. Conditions are often hidden within the trees and below the ground. It cannot be guaranteed that a tree will be healthy or safe under all circumstances, or for a specified period of time. Sometimes trees may appear "healthy", but may be structurally unsound. Condition ratings of trees are based solely on the opinion of MHG and may be inconsistent with the opinion of the City of Rockville Forestry Staff. MHG assumes no liability for injury or property damage that may occur as a result of tree failure on this property.





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FRANK C. JOHNSON
 DATE: 05/12/2023

DATE RECOGNIZED AS QUALIFIED PROFESSIONAL BY MD DEPT. OF NATURAL RESOURCES COMAR 08.19.06.01

Qualified Professional Certification
 I hereby certify that the information shown hereon is correct and that this plan has been prepared in accordance with the requirements of the existing state and county forest conservation legislation.

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REVISIONS		
NO.	DESCRIPTION	DATE
1	SUBMIT PROJECT PLAN	12/12/22

TAX MAP GR561 WSSC 217NW06

L. 44329 F. 159

4TH ELECTION DISTRICT
 CITY OF ROCKVILLE
 MARYLAND

DANSHES CENTER ON THE PIKE

ST. MARY'S PARCEL P214

PROJ. MGR BJD

DRAWN BY FCJ

SCALE 1" = 20'

DATE 12/2022

PRELIMINARY FOREST CONSERVATION PLAN

L9.02

PROJECT NO. 2004.115.33

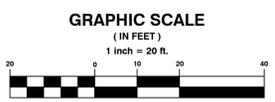
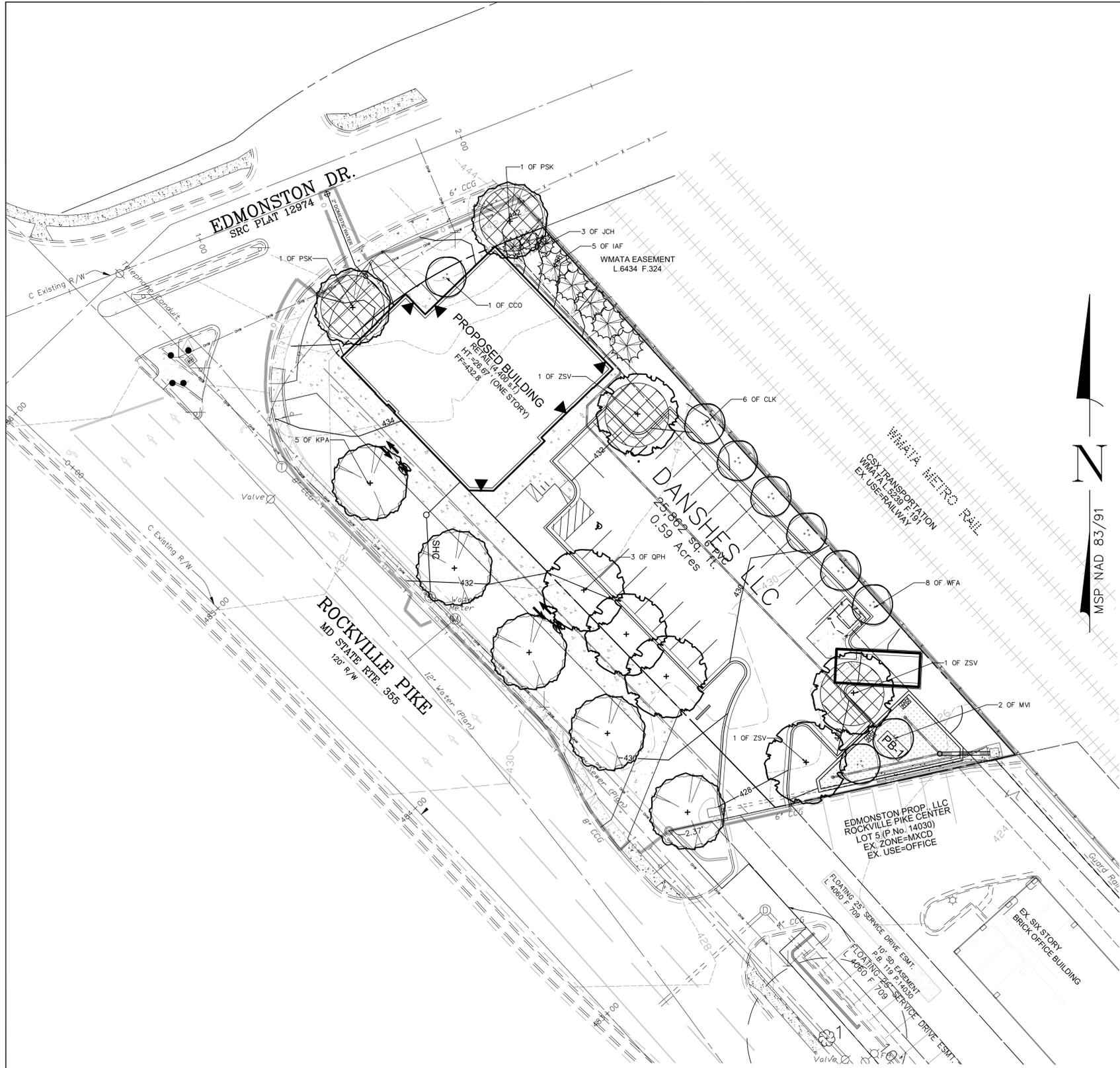
SHEET NO. 2 OF 2

MINIMUM TREE COVER TABLE	
TRACT AREA	0.59 AC
MTC REQUIRED (Zone MXCD = 10%)	0.059 AC
MTC PROVIDED:	
6 SHADE TREES x 400 S.F. each	= 2,400 S.F.
1 ORNAMENTAL TREES x 200 S.F. each	= 200 S.F.
	2,600 S.F. or 0.059 AC

LANDSCAPE PLANT LIST							
KEY	QTY	BOTANICAL NAME	COMMON NAME	CAL	HGT	ROOT	CREDIT
SHADE TREES							
*OPH	3	Quercus phellos	Willow Oak	2 1/2 - 3'		B&B	
KPA	5	Koeleria paniculata	Golden Raintree	2 1/2 - 3'		B&B	2 Replacement
PSK	2	Prunus serrulate 'Kwanzan'	Kwanzan Cherry	2 1/2 - 3'		B&B	
ZSV	3	Zelkova serrata 'Village Green'	Village Green Japanese Zelkova	2 1/2 - 3'		B&B	2 Replacement
EVERGREEN TREES							
JCH	3	Juniperus chinensis 'Hetzii Columnaris'	Columnar Hetzii Juniper		5-6'	B&B	
IAF	5	Ilex x attenuate 'Fosteri'	Foster Holly		5-6'	B&B	
ORNAMENTAL TREES							
CCO	1	Cornus kousa 'Rutcan'	Constellation Kousa Dogwood		7-8'	B&B	Multi-stem
*CLK	6	Cladrastis kentukea	Kentucky Yellowwood		7-8'	B&B	Single Stem
*MVI	2	Magnolia virginiana	Sweetbay Magnolia		7-8'	B&B	Multi-stem
							TOTAL: 4 Replacement

LEGEND

- SIGNIFICANT TREE TO REMAIN
- CRITICAL ROOT ZONE
- LIMITS OF DISTURBANCE
- PROPOSED TREE
- REPLACEMENT TREE CREDIT

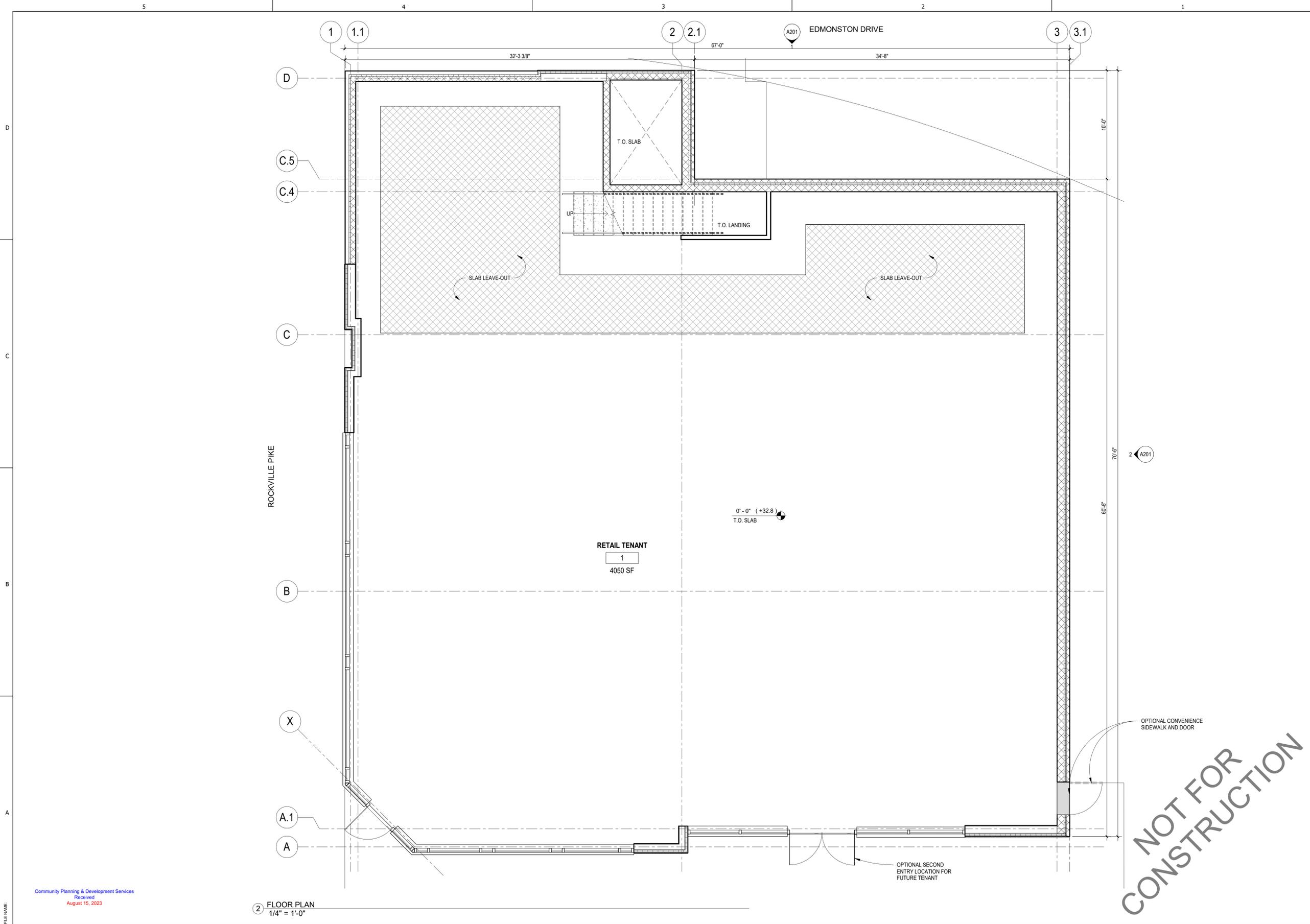


811
 Know what's below.
 Call before you dig.

FOR UTILITY LOCATIONS CONTACT "ONE CALL" AT 811 AT LEAST 48 HOURS PRIOR TO CONSTRUCTION

Community Planning & Development Services
 Received
 August 15, 2023

Attachment 1.1.d: PJT2023-00016 Project Plans (4612 : Public Meeting - PJT2023-00016, 900 Rockville Pike)



NOT FOR CONSTRUCTION

GTM ARCHITECTS

7735 OLD GEORGETOWN ROAD
SUITE 700
BETHESDA, MD 20814
(240)333-2000
(240)333-2001 FAX
WWW.GTMARCHITECTS.COM



Seal

Consultants

Project
ROCKVILLE RETAIL CENTER

900 ROCKVILLE PIKE, ROCKVILLE, MD 20852

Owner
J DANSHES, LLC

Developer

ISSUE DESCRIPTION	DATE
TENANT REVISION	5/8/2023
CANOPY REVISION	02/23/2023
PROJECT PLAN	12/13/2022

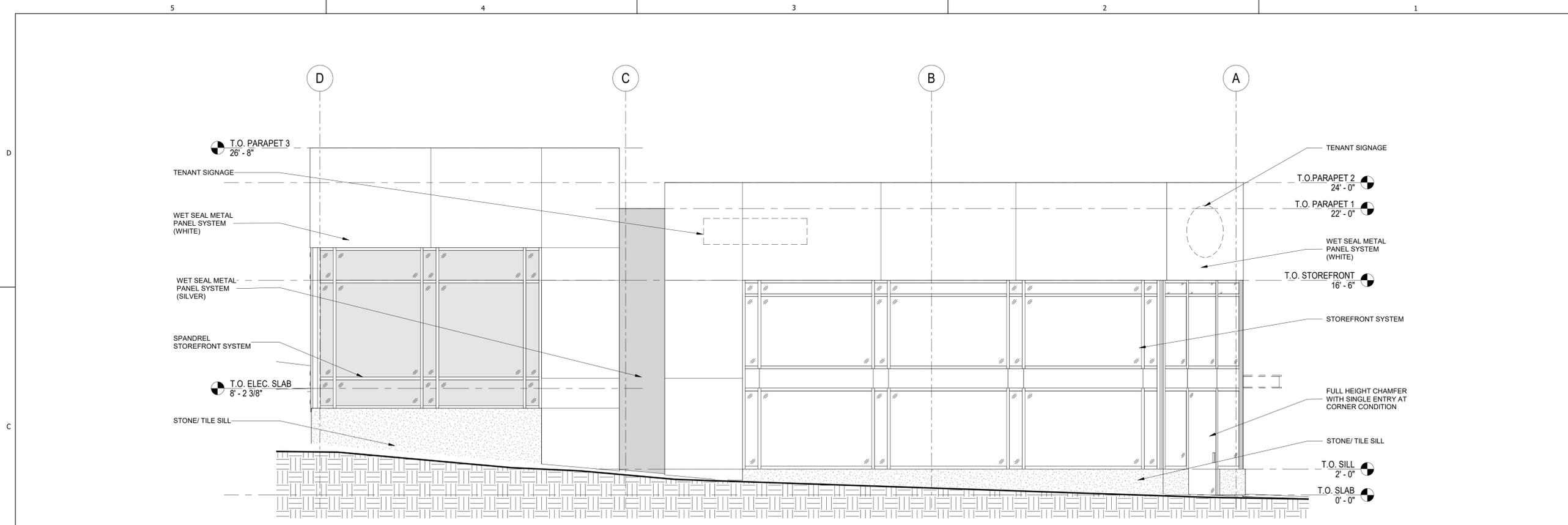
GTM Project No. 22.0376
Checked By JW
Drawn By NL
Scale AS NOTED

Sheet Title
FLOOR PLAN

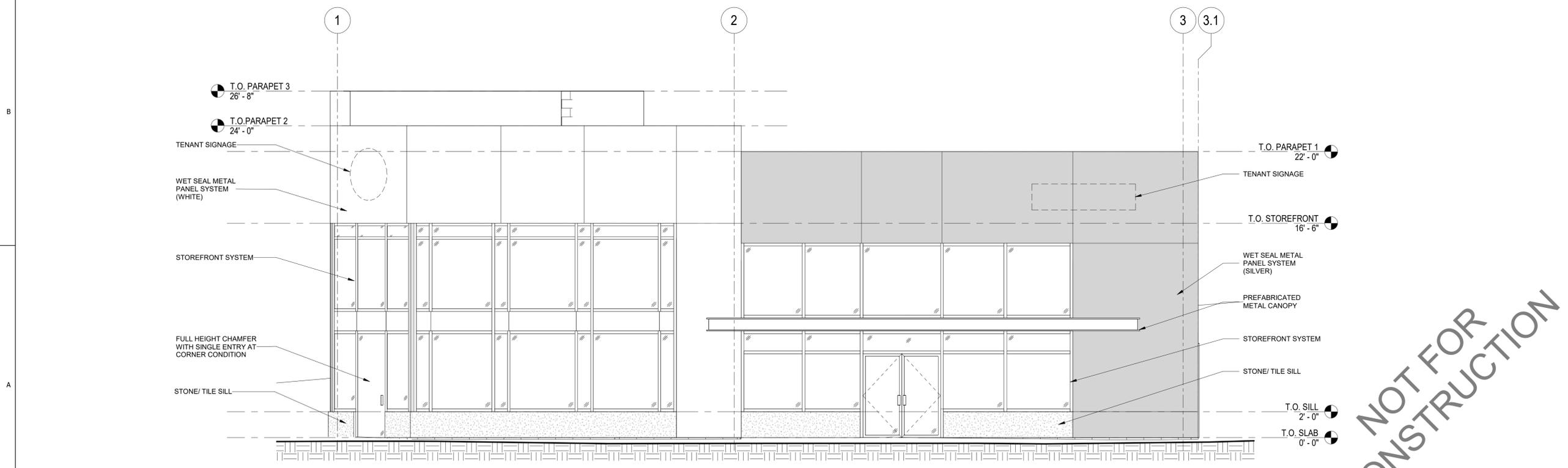
Sheet No.
A100
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Community Planning & Development Services
Received
August 15, 2023

② FLOOR PLAN
1/4" = 1'-0"



2 WEST ELEVATION
1/4" = 1'-0"



1 SOUTH ELEVATION
1/4" = 1'-0"

Community Planning & Development Services
Received
August 15, 2023

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Seal

Consultants

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ROCKVILLE RETAIL CENTER
900 ROCKVILLE PIKE, ROCKVILLE, MD 20852
Owner
J DANSHES, LLC

Developer

ISSUE DESCRIPTION	DATE
TENANT REVISION	5/8/2023
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PROJECT PLAN	12/13/2022

GTM Project No. 22.0376
Checked By JW
Drawn By NL
Scale AS NOTED

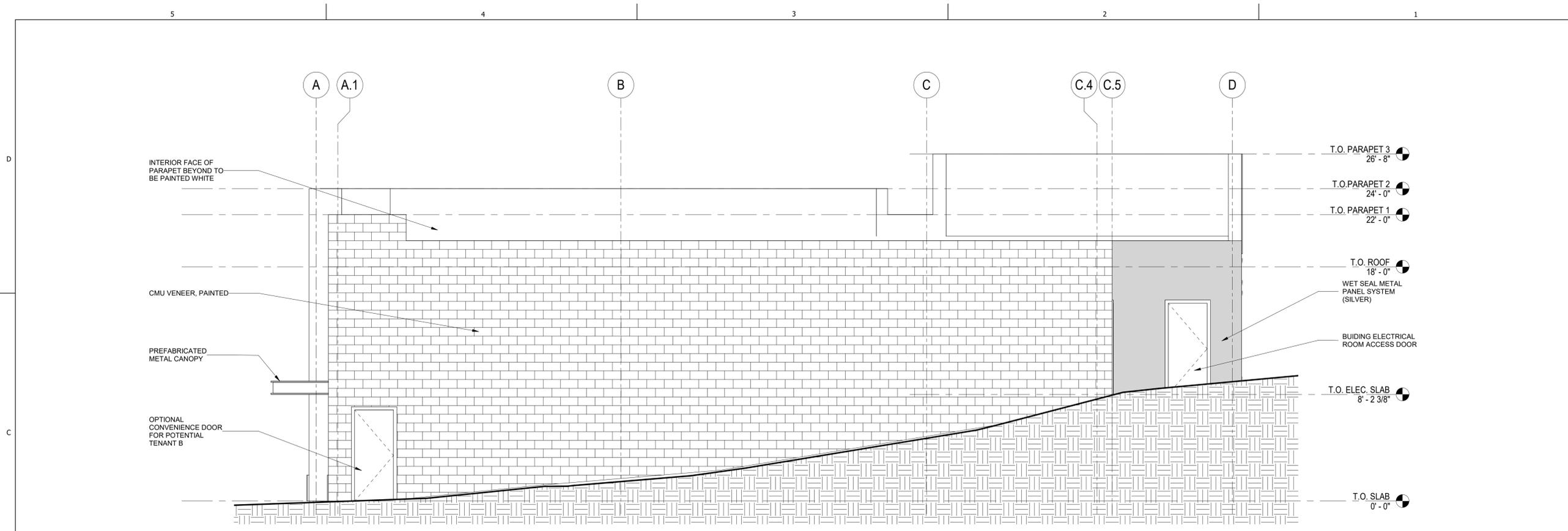
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EXTERIOR ELEVATIONS

Sheet No.

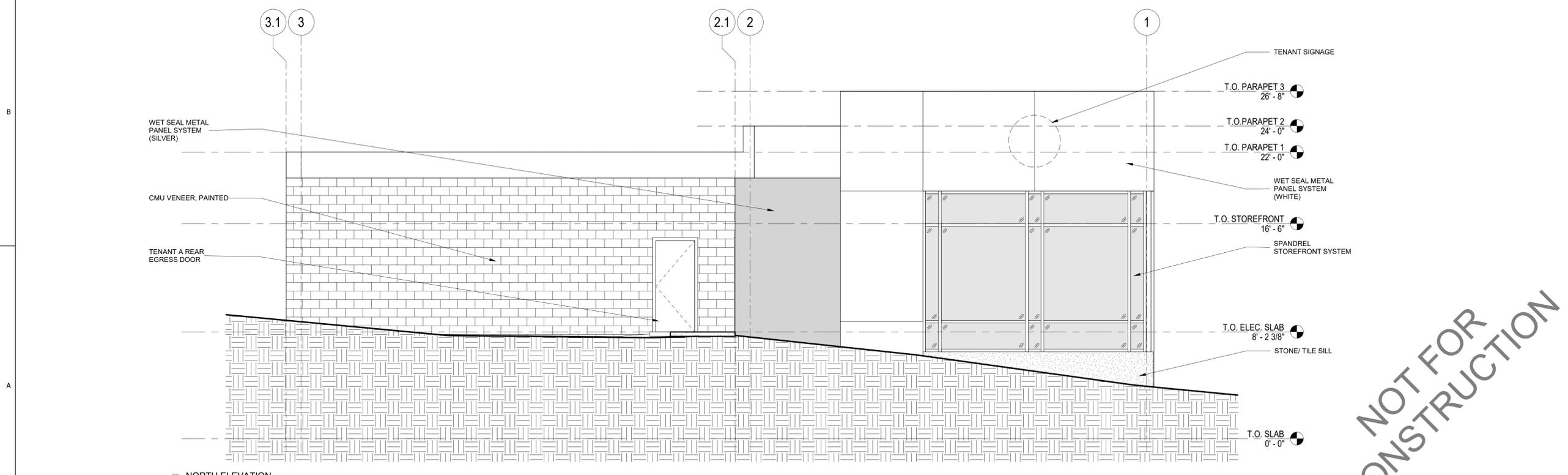
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Attachment 1.1.d : PJT2023-00016 Project Plans (4612 : Public Meeting - PJT2023-00016, 900 Rockville Pike)



2 EAST ELEVATION
1/4" = 1'-0"



1 NORTH ELEVATION
1/4" = 1'-0"

Community Planning & Development Services
Received
August 15, 2023

NOT FOR
CONSTRUCTION

GTM ARCHITECTS

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Seal

Consultants

Project
ROCKVILLE RETAIL CENTER
900 ROCKVILLE PIKE, ROCKVILLE, MD 20852
Owner
J DANSHES, LLC

Developer

ISSUE DESCRIPTION	DATE
TENANT REVISION	5/8/2023
CANOPY REVISION	02/23/2023
PROJECT PLAN	12/13/2022

GTM Project No. 22.0376
Checked By JW
Drawn By NL
Scale AS NOTED

Sheet Title
EXTERIOR ELEVATIONS

Sheet No.

A201

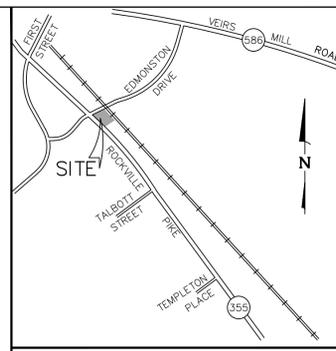
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VICINITY MAP
 SCALE 1" = 2,000'

Professional Certification
 I hereby certify that these documents were prepared or approved by me, and that I am a duly licensed Professional Engineer under the Laws of the State of Maryland. Lic. No. 16905 Exp. Date: 04/21/2024

OWNER:
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 jdashes@yahoo.com

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ATTORNEY:
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 ROCKVILLE, MD,
 JODY KLINE
 301-738-2051

REVISIONS

NO.	DESCRIPTION	DATE
1	SUBMIT PROJECT PLAN	12/13/22
2	ADDRESS DRC COMMENTS	5/8/23

TAX MAP GR561 WSSC 217NW06

L. 44329 F. 159

4TH ELECTION DISTRICT
 CITY OF ROCKVILLE
 MARYLAND

DANSHES CENTER ON THE PIKE

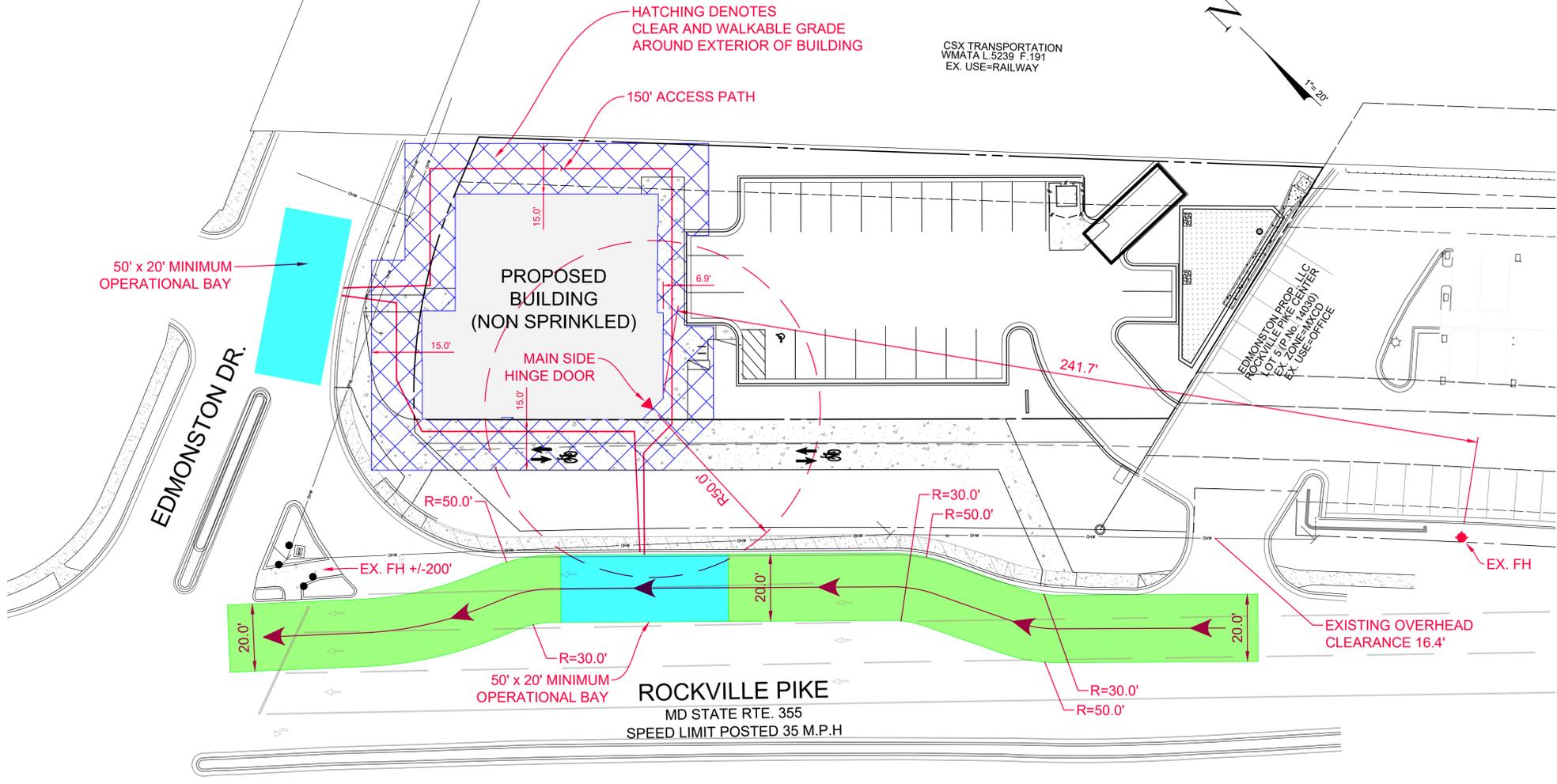
ST. MARY'S PARCEL P214

PROJ. MGR	BJD
DRAWN BY	JDP
SCALE	1" = 20'
DATE	05/2023

PROJECT PLAN
 FIRE APPARATUS ACCESS PLAN

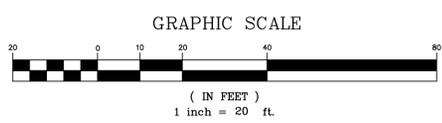
EX 1.0

PROJECT NO. 2004.115.33
 SHEET NO. 1 OF 1



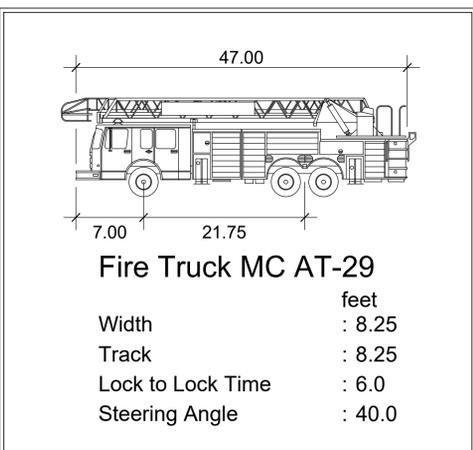
LEGEND

	APPARATUS ACCESS MOVEMENT
	OPERATIONAL BAY 50 X 20' MIN
	15' CLEAR AND WALKABLE GRADE AROUND BUILDING
	MAIN EXTERIOR DOORS
	FIRE ACCESS PATH
	EXISTING FIRE HYDRANT



HEIGHT & AREA ANALYSIS	CONSTRUCTION TYPE
NON-SPRINKERED SINGLE STORY = NS	IIB
GROUND FLOOR BUILDING AREA LIMITATION PER STORY (SM) - MERCANTILE USE GROUP M (IBC 2018 TABLE 506.2)	4,400 SF ACTUAL - 12,500 SF MAX PERMITTED (MERCANTILE - MOST RESTRICTIVE)
ALLOWABLE NUMBER OF STORIES ABOVE GRADE PLANE - MERCANTILE USE GROUP M PER IBC 2018 TABLE 504.4	2 STORIES MAX PERMITTED
ALLOWABLE NUMBER OF STORIES ABOVE GRADE PLANE - BUSINESS USE GROUP B PER IBC 2018 TABLE 504.4	3 STORIES MAX PERMITTED
ACTUAL NUMBER OF STORIES (ABOVE GRADE PLANE)	1 STORY (PROPOSED)
ALLOWABLE H.T ABOVE GRADE PLANE PER IBC 2018 TABLE 504.3-MERCANTILE USE GROUP M OR BUSINESS USE GROUP B	55 FEET
ACTUAL H.T ABOVE GRADE PLANE PER IBC 2018 TABLE 504.3	27'
REQUIRED SEPARATION OF B/M/S-1 OCCUPANCIES PER 2018 IBC TABLE 508.4	NO SEPARATION REQUIRED
REQUIRED SEPARATION OF BUSINESS & MERCANTILE OCCUPANCIES PER 2015 NFPA 101 TABLE 6.1.14.4.1(6)	NDNE-MIXED OCCUPANCY COMPLIES WITH MOST RESTRICTIVE
WHEREAS THE 2018 NFPA 101 REQUIREMENTS FOR THE SEPARATION OF MULTIPLE BUSINESS & MERCANTILE OCCUPANCIES IS MORE RESTRICTIVE, A 2 HOUR FIRE RESISTANCE-RATED HORIZONTAL ASSEMBLY IS REQUIRED	

CODE ANALYSIS	NEW BUILDING
BUILDING CODE	2018 INTERNATIONAL BUILDING CODE
CONSTRUCTION TYPE	IIB
USE GROUP	B or M - (Business or Mercantile)
NUMBER OF STORIES	1
HEIGHT	27'
FULLY SUPPRESSED	NO
FIRE ALARM	NO
HIGH RISE	NO
COVERED MALL	NO
FLOOR AREA (SF)	TOTAL "IBC" BUILDING AREA(ONE STORY) 4,400SF





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REVISIONS		
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1	SUBMIT PROJECT PLAN	12/13/22
2	ADDRESS DRC COMMENTS	5/8/23

TAX MAP GR561 WSSC 217NW06

L. 44329 F. 159

4TH ELECTION DISTRICT
CITY OF ROCKVILLE
MARYLAND

DANSHES CENTER ON THE PIKE

ST. MARY'S PARCEL P214

PROJ. MGR BJD

DRAWN BY JDP

SCALE 1" = 20'

DATE 05/2023

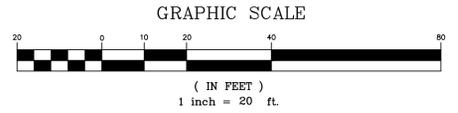
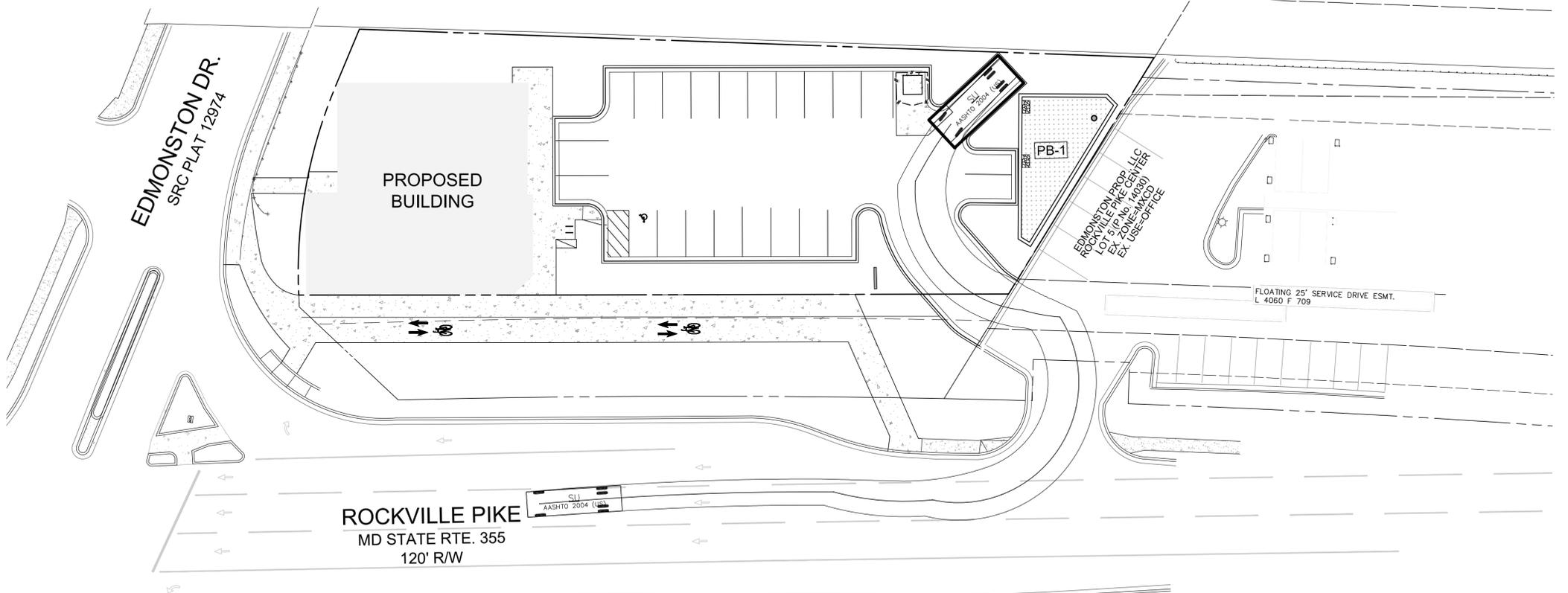
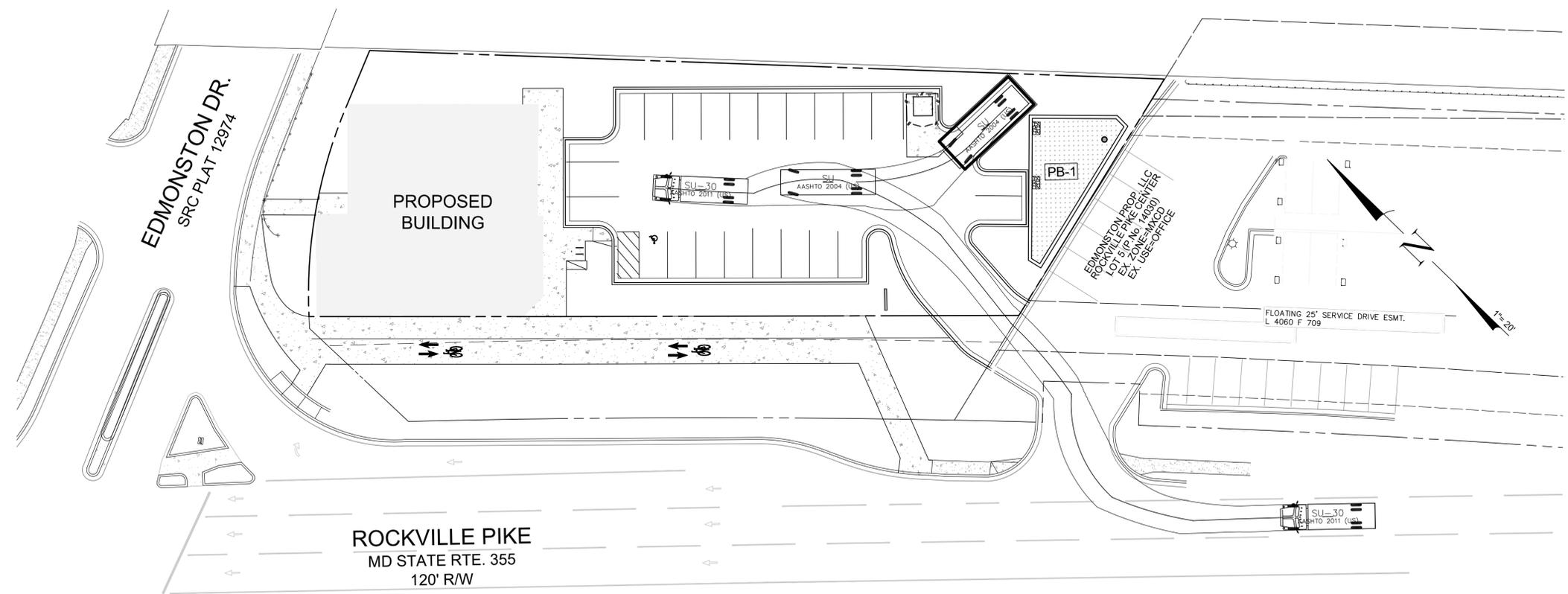
PROJECT PLAN

TRUCK MOVEMENT EXHIBIT (DELIVERY SU-30)

EX 1.2

PROJECT NO. 2004.115.33

SHEET NO. 1 OF 1





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Land Surveyors

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Professional Certification
I hereby certify that these documents were prepared or approved by me, and that I am a duly licensed Professional Engineer under the Laws of the State of Maryland. Lic. No. 16905 Exp. Date: 04.21.2024

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TAX MAP GR561 WSSC 217N006
L. 44329 F. 159
4TH ELECTION DISTRICT
CITY OF ROCKVILLE
MARYLAND

DANSHES CENTER ON THE PIKE

ST. MARY'S PARCEL P214

PROJ. MGR	BJD
DRAWN BY	JDP
SCALE	1" = 20'
DATE	05/2023

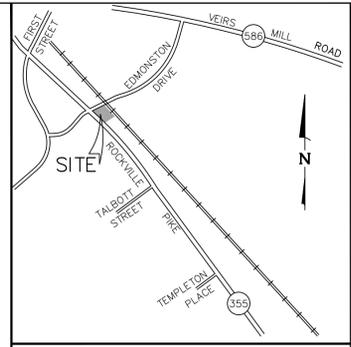
PROJECT PLAN

TRUCK MOVEMENT EXHIBIT (REFUSE)

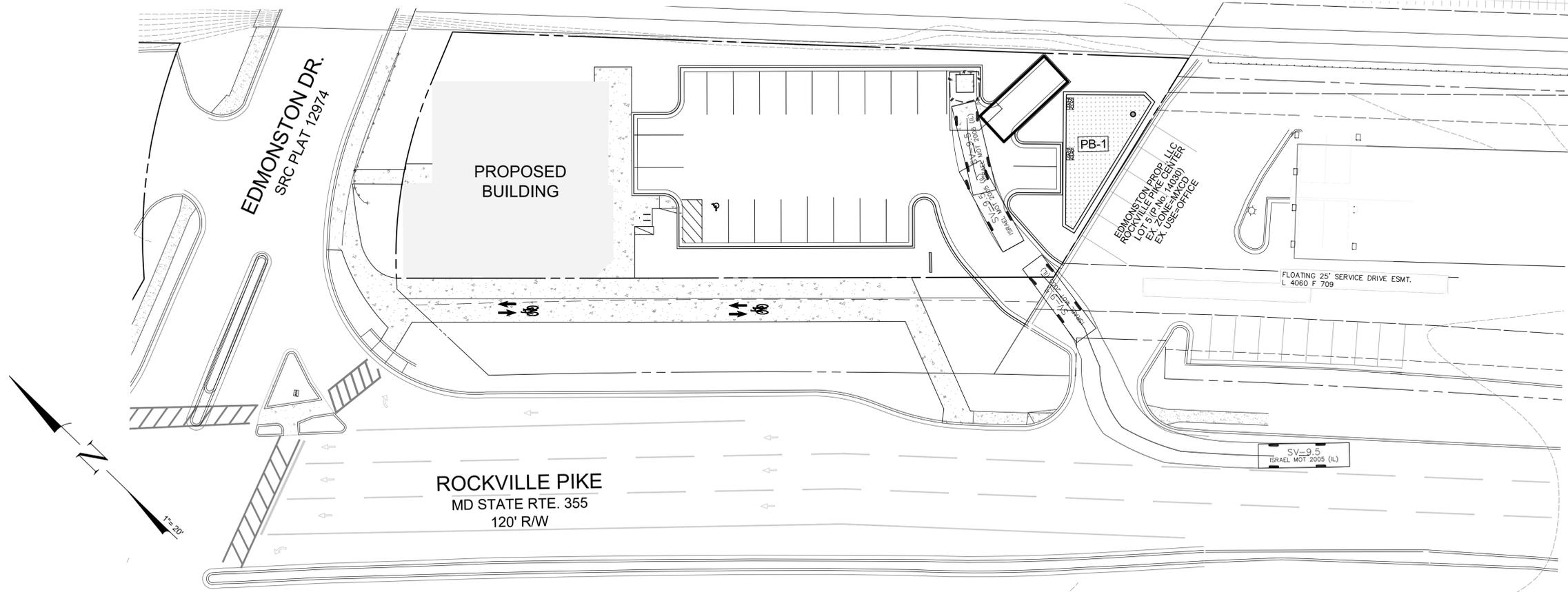
EX 1.1

PROJECT NO.	2004.115.33
SHEET NO.	1 OF 1

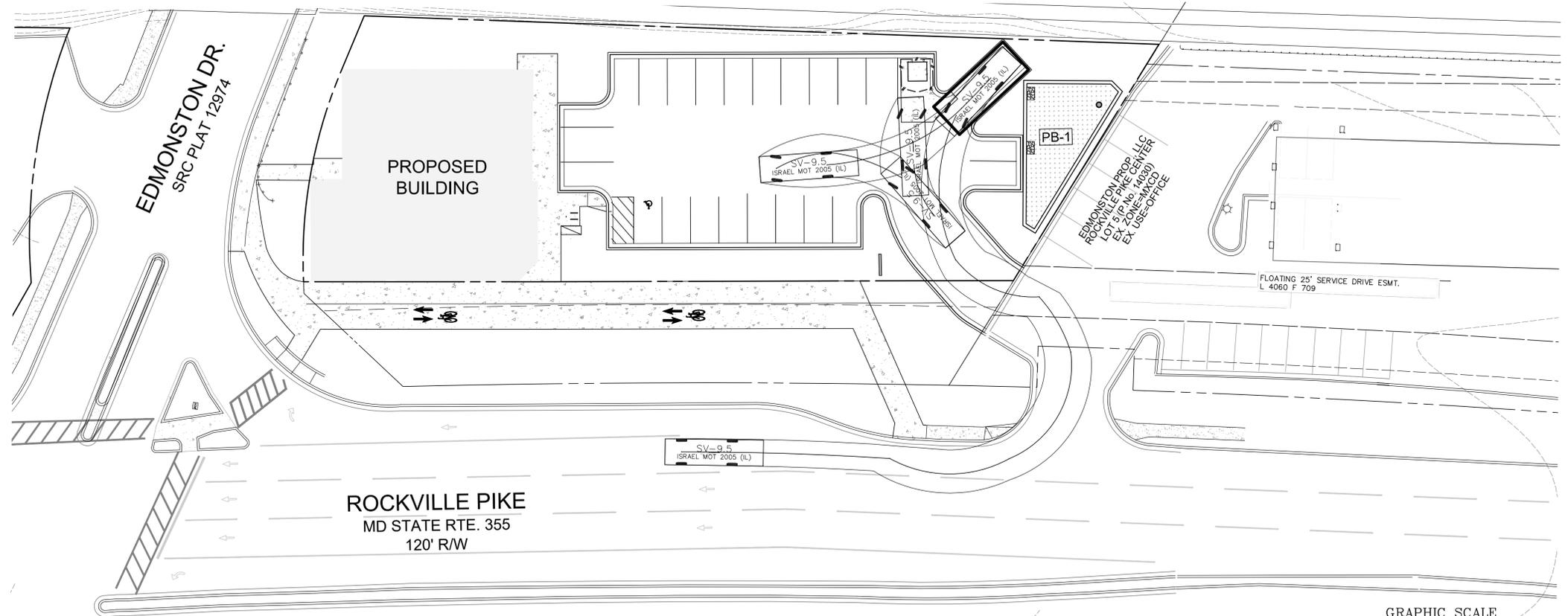
Attachment 1.1.d - PJT2023-00016 Project Plans (4612 : Public Meeting - PJT2023-00016, 900 Rockville Pike)



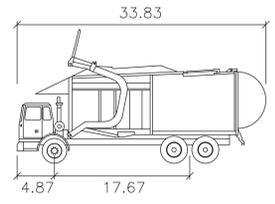
VICINITY MAP
SCALE 1" = 2,000'



REFUSE TRUCK TURNING STUDY-IN

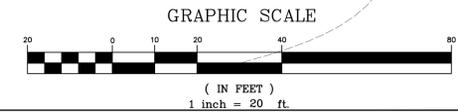


REFUSE TRUCK TURNING STUDY- OUT



Wayne Titan
feet
Width : 8.46
Track : 8.00
Lock to Lock Time : 6.0
Steering Angle : 45.0

GARBAGE TRUCK
TURNING STUDY
REAR LOAD VEHICLE



Community Planning & Development Services
Received
August 15, 2023

PROJECT PLAN AMENDMENT APPLICATION FOR
900 ROCKVILLE PIKE
APPLICATION NO. PJT 2023-00016

AMENDED PROJECT DESCRIPTION AND SCOPE
OF WORK NARRATIVE

The last time that a Project Plan amendment for this property was presented to the Mayor and City Council of Rockville was in April, 2021. At that time, the Applicant's proposal was for a site covering 25,862 square feet of land area on which was located a two story structure of 6,862 square feet in size supported by 33 parking spaces. That plan was presented to the Mayor and City Council with recommendations for approval by the Planning Department and the Planning Commission.

When the application was reviewed by the Mayor and City Council, there was an extended discussion of whether the proposal would be consistent with public improvements for the design and operation of Rockville Pike (State Route 355) which were not yet completed, or even totally determined. Accordingly, City Council action on Project Plan Amendment PJT 2018-00010 was deferred until a stronger showing could be made by the Applicant that its revised design would not inhibit implementation of the ultimate plans for the design and operation of Rockville Pike. Because of the scope of changes to plans for the subject property since April, 2021, the Applicant has withdrawn pending amendment application No. PJT 2018 - 00010 and wishes to pursue of its current plans through this new application.

Since April, 2021, the City Department of Public Works and the City Planning Department have been coordinating with the State Highway Administration and the Montgomery County Department of Transportation to determine what should be the width of the public right-of-way of Maryland Route 355 in order to accommodate the cumulative contemplated public improvements including vehicle drive lanes, turning lanes, bicycle lanes and sidewalks. The point has been reached in the dialogue between these public agencies about what is the necessary right-of-way needed to facilitate these improvements, and, hence, what is the amount of dedication of private land required to allow for unhindered implementation of these listed public improvements.

This Amended Project Description and Scope of Work narrative is intended to describe the Applicant's current Project Plan Amendment proposal and to address the issues highlighted during the presentation to the Mayor and City Council in April, 2021 that caused deferral of consideration of the original amendment Application. Following is an analysis of the elements of the Applicant's new proposal and its compliance with City requirements including a single request for a waiver where necessary. This Amended Project Description addresses the application now pending which has been amended in response to comments received from City

Planning and Public Works staff and feedback from briefings of the Mayor and City Council and the Planning Commission.

A. ANALYSIS OF SITE FEATURES

1. RIGHT OF WAY WIDTH OF ROCKVILLE PIKE

The factor that most dictates what the design of new development at 900 Rockville Pike will look like is the width of the public right-of-way abutting the site. That figure determines how much right-of-way will be required by dedication through the development review process. The amount of land area that will be dedicated to public ROW will then determine the remaining net lot size available for development.

The plan that was presented to the Mayor and City Council in April, 2021 assumed a property line, and a building footprint set on the property line, being 73 feet from the centerline of Rockville Pike. That amount of right-of-way would accommodate a) three through drive lanes on Rockville Pike, b) a right turn lane to eastbound Edmonston Drive, and c) a 10 foot shared use path (combination sidewalk and bike path). As noted earlier in this Project Description, the Mayor and City Council were not comfortable that this configuration would provide the maximum public benefits that the City wanted to achieve in this stretch of Rockville Pike.

City planners and Public Works officials have advised the Applicant that SHA and MCDOT have finally concluded that the necessary width of Rockville Pike on the east side of the roadway adjacent to the subject property must be at least 93 feet from the centerline of the Pike. Within that distance must be located; a) three through drive lanes on the Pike, b) a right turn lane to eastbound Edmonston Drive, c) an 8 foot wide “cycle track”, and d) a 7 foot wide sidewalk. Items (c) and (d) comprise a 15 foot “shared use path”.

2. NET LAND AREA AVAILABLE AFTER DEDICATION

To create the right-of-way land area dictated by the public agencies, the Applicant must dedicate 6,523 square feet of area (0.15 acre, 25.2% of existing lot area) to public use. Said dedication reduces the size of the site from 25,862 (0.59 acre) to 19,339 square feet (0.44 acre). This additional dedication of land area has caused a decrease in the building envelope of the site and has increased the constraints on the development potential of this parcel of land.

3. BUILDING PROPOSAL

The reduction in net land area available for development due to required dedication affects the size of the retail building proposed to be located on the subject property. In 2021, the Applicant had hoped to construct a 6,862 square foot building on the site. In order to accommodate the public facilities to be installed in the to-be-dedicated right-of-way, the Applicant now proposes a building set on the new post-dedication property line, 93 feet from the centerline of Rockville Pike, containing 4400 gross square feet of area, a reduction of 2,462 square feet from the Applicant’s 2021 proposal.

4. PARKING PROPOSAL

Similarly, proposed parking has been reduced due to the more constrained size of the lot and the reduced need for parking spaces due to a smaller building envelope. The plans to which

this Statement is attached show that 25 parking spaces are provided, being a reduction of 8 spaces from the 2021 proposal with 33 spaces viewed by the Mayor and City Council.

a. Loading Space.

The Applicant has submitted a request for waiver or exemption to provide a loading space otherwise required by City Code. The Applicant's architect, experienced in designing retail centers, has explained why a small, single-tenant retail such as is proposed for 900 Rockville Pike will not need a conventional loading space because a) the volume and frequency of deliveries for this type of use is low, b) deliveries will likely be made by small box trucks that can utilize regular parking spaces and c) deliveries will likely be scheduled for off-business hours so as not to conflict with a customer's shopping experience during the hours when the store is open for business.

5. OPEN SPACE COMPUTATIONS

Pursuant to Section 25.13.05.b of the Rockville Zoning Ordinance, a site within the Rockville Pike Neighborhood Plan area containing less than 20,000 square feet of area must provide 15% public use space and 15% open area space. This revised Project Plan Amendment Application provides open space and public use space in the following amounts shown on Table 1. These amounts exceed the minimum Zoning Ordinance standards.

TABLE 1

	Required/Allowed	Proposed
Open Area	15% (2,900 SF)	15.4% (2,984 SF)
Public Use Space	15% (2,900 SF)	34% (6,617 SF)

6. WAIVER REQUESTED

In order to maximize screening of parked vehicles from adjacent drive lanes and pedestrian walkways, the Applicant will provide a full ten (10) foot landscape strip between the western property line and on-site parking spaces. However, providing a full ten (10) foot planted buffer along the west side of the site will reduce the separation between the parking field and the CSX right-of-way along the east boundary line to four (4) feet. Since screening of parking is more important along the Rockville Pike frontage than it is along the CSX railroad tracks, the Applicant requests that it be allowed to reduce the width of the planting strip on the east side of the parking lot to four (4) feet and it be allowed to install a new fence, or add screening material, to the existing fence, to minimize the views of parked cars from the passing trains or from residences that back up to the railroad tracks.

7. COMPLIANCE WITH ZONING ORDINANCE STANDARDS

A. MASTER PLAN COMPLIANCE

This property is located within the Middle/North Pike – East area of the 2016 Rockville Pike Neighborhood Plan (“Plan”). While the Plan makes no specific recommendation affecting the land use of the subject property, it does encourage the siting of buildings as close as possible to the street. The current proposal places the intended one-story retail building on much of the property line creating a “street wall” along the publicly traveled right of way serving vehicular, bicycle and pedestrian traffic.

B. MIXED USE DEVELOPMENT STANDARDS

This revised Project Plan Amendment application complies with Zoning Ordinance Sections 25.13.05 and 25.13.06 as shown in Figure 3 and other text below.

TABLE 2

Category	Requirement	Proposed by the Site Plan
Building Height	Max of 75’	Approximately 26 Feet
Open Area (% of net lot area)	15% (2,900 SF)	15.4% (2,984 SF)
Public Use Space Within Open Area (% of net lot area)	15% (2,900 SF)	34% (6,617 SF)
Setbacks		
Building Restriction Line (per Section 25.17.08.b.3(a))	0’	0’
Side (MXCD abutting)	0’ or 10’ Min	150’
Rear (WMATA abutting)	0’ or 10’ Min	15’
Layback Slope	Not applicable per Section 25.13.05.b.2(d)iv.	Not applicable per Section 25.13.05.b.2(d)iv.

Section 25.13.06.b – Aesthetic and Visual Characteristics

- The architectural design and materials used for the proposed commercial/retail building will provide visual interest at the street level which enhances the pedestrian experience. A conceptual building elevation has been provided as part of the submission materials with oversized storefront glass.
- The following items will not be located along a public street; Window and wall air conditioners, electric utility meters, air conditioning compressors and irrigation and pool pumps.
- The principle customer entryway(s) will be designed in an aesthetically pleasing manner, providing “highly visible” customer entrances that are clearly indicated by signage.
- Rooftop mechanical units will be appropriately screened.

Attachment 1.1.e: PJT2023-00016 Statement of Justification (4612 : Public Meeting - PJT2023-00016, 900 Rockville Pike)

Section 25.13.06.c – Sign design and Relationship to Surrounding Community

- A board on board fence enclosed trash dumpster area will be appropriately screened as required.
- A Concept Landscape Plan is included with this Project Plan Amendment application which provides details in regards to the project’s compliance with the City’s *Landscape, Screening and Lighting* manual.

C. THIS PROJECT SATISFIES ALL OTHER APPLICABLE CITY LAWS

Adequate Public Facilities – The property will be served by adequate public facilities as follows:

- **Water and Sewer:** Public sewer and water service is available and has capacity to serve the proposed use. No water or sewer authorization from the City is necessary to be obtained because the amendment represents a reduction in the water and sewer demand from the previously approved Project Plan for the property.
- **Roads:** A full traffic study is not required for this project as the proposed use is projected to generate less than 30 net new peak hour trips.
- **Utilities:** Electric and gas service connections are proposed at the distribution lines in the right-of-way immediately adjacent to the property line.
- **Schools:** The proposed retail/commercial use will have no impact on schools.

Signage – Signage for the proposed commercial/retail center will be provided in accordance with Zoning Ordinance Section 25.18.14.

CONCLUSION

This proposed retail center provides the opportunity to convert a vacant unimproved lot into an active use that will serve the needs of the residents of Rockville and travelers on Rockville Pike. The architectural design of the facility will help transform and hopefully spur additional future development along this aging section of Rockville Pike.

The subject Project Plan Amendment satisfies all of the required findings of Section 25.07.01.b.2 in that it:

1. Does not adversely affect health or safety of persons residing or working in the neighborhood;
2. Is not in conflict with the area Master Plan;
3. Will not overburden existing and programmed public facilities as provided in the adopted Adequate Public Facilities Standards;
4. Will not constitute a violation of any provision of this chapter or of other applicable law; and
5. Will not adversely affect the natural resources or environment of the City or surrounding areas.



G T M A R C H I T E C T S

May 16, 2023

Li Alligood, AICP, LEED AP ND
Deputy Zoning Manager
111 Maryland Ave
Rockville, MD 20850

Re: 900 Rockville Pike - Loading Zone

Ms. Alligood,

I understand that the City of Rockville zoning ordinance currently requires the preparation and installation of a dedicated loading zone for the proposed retail center located at 900 Rockville Pike. I would like to discuss further the possibility of eliminating the dedicated loading zone.

Our office has completed many retail shopping centers, both small and large, and have found that a single-tenant center of this size, dedicated loading zones are rarely used. Typically, the lower volume and limited number of deliveries are all executed from the front entrance with small box trucks prior to store opening. I would imagine the delivery method to be the same for the single tenant of this small retail building.

The future tenant is unknown at this time but based on the size of the building footprint, I believe this retail building will have a LOW loading demand. I also believe that the future operator will most likely schedule all deliveries when they are closed since this location has no practical deliveries into the back-of-house area and would not want to interfere with the customer experience during open store hours.

I'm available for further discussion and thank you for your time and consideration.

Regards,

A handwritten signature in black ink, appearing to read "Jeff Whitman", with a long horizontal flourish extending to the right.

Jeff Whitman
Principal
GTM Architects

Prior Meetings: The public hearing for this application was held on July 10, 2006, and discussion and instructions to Staff on September 18, 2006. The Planning Commission considered this application on May 24, 2006, and submitted a written recommendation to approve this application.

Next Steps: Subsequent to the Mayor and Council taking action on the resolution, the applicant will submit a Use Permit application for review by the Planning Commission.

PREPARED BY:



Rebecca Torma, Planner II

APPROVED BY:



Jim Wasilak, AICP, Chief of Planning

10-17-06
Date

APPROVED BY:



Arthur D. Chambers, AICP, Director, CPDS

10-17-06
Date

APPROVED BY:



Scott Ullery, City Manager

10-17-06
Date

LIST OF ATTACHMENTS:

- 1. Resolution with Attachments
- 2. Planning Commission Recommendation

Resolution No. _____

RESOLUTION: To approve, with conditions, Preliminary Development Plan Application No. PDP2006-00011, KAMB, Ltd., Applicant

WHEREAS, KAMB, Ltd., c/o Miller, Miller and Canby, 200-B Monroe Street, Rockville, Maryland 20850, (the "Applicant"), filed a Preliminary Development Plan Application PDP2006-00011 ("PDP2006-00011" or "Application"), requesting approval of a Preliminary Development Plan for a 25,863 square foot parcel of land located at the southeast corner of the intersection of Edmonston Drive and Rockville Pike (Md 355) for a two story, 12,574 square foot, freestanding, single use retail building with 36 at grade parking spaces in accordance with the Optional Method of Development for the RPC zone, set forth in Sections 25-710.27 of the Zoning and Planning Ordinance; and

WHEREAS, pursuant to Section 25-710.30 of the Zoning and Planning Ordinance, the Planning Commission and the Mayor and Council held a joint worksession on September 19, 2005, to review the proposed Application; and

WHEREAS, pursuant to Section 25-710.30 and 25-124 of the Zoning and Planning Ordinance, the Planning Commission, at its meeting of May 24, 2006, reviewed the subject Application and unanimously recommended the Mayor and Council approve the Application subject to certain conditions as set forth in a memorandum dated June 2, 2006; and

WHEREAS, pursuant to Section 25-710.30 and 25-121, 122 and 123 of the Zoning and Planning Ordinance, the Mayor and Council gave notice that a public hearing on said Application would be held by the Mayor and Council of Rockville in the Council

Chambers at Rockville City Hall on July 10, 2006, at 7:00 p.m. or as soon thereafter as it may be heard, at which parties in interest and citizens would have an opportunity to be heard; and

WHEREAS, on July 10, 2006, the said Application came on for hearing at the time and place indicated in said notice; and

WHEREAS, this matter having been fully considered by the Mayor and Council, the Mayor and Council having found and determined that approval of the Application, subject to the conditions, limitations, additions and modifications set forth herein, would promote the health, safety and general welfare of the citizens of Rockville, and the Mayor and Council having made the further findings set forth herein based upon the Application for Preliminary Development Plan PDP2006-00011, the Staff Report dated May 19, 2006, the Planning Commission Recommendation dated June 2, 2006, the public hearing of July 10, 2006, as well as the remaining matters contained in the record; and

WHEREAS, the Mayor and Council having found and determined, pursuant to Section 25-710.30 of the Zoning and Planning Ordinance, and Article XV referenced therein, that the proposed development and Application, subject to the conditions, limitations, additions and modifications set forth herein,:

1. Is in substantial accordance with the Rockville Pike Corridor Neighborhood Plan and with the intent and purpose of Article XIV (Rockville Pike Corridor Area) of Chapter 25 (Zoning and Planning) of the Rockville City Code, and is compatible with adjacent existing and permitted uses and developments.

2. Provides for traffic impact mitigation, open space, pedestrian circulation, and environmental amenities. The proposed development provides for open space and

improves the pedestrian circulation on the site. The development will contain approximately 28 percent of open green space, including the streetscape area, as well as new, more decorative sidewalks along the street frontage of the property. The Applicant prepared a Transportation Report in accordance with the CTR methodology. According to the Institute of Transportation Engineers (ITE) Trip Generation, 7th Edition, Furniture Store (land use Code 890), the proposed development is estimated to generate six peak hour trips in the evening during weekdays. Because this trip generation estimate is below the CTR's 30-peak hour trip threshold, no off-site transportation analysis is required. The traffic generated by the project will have minimal impact on the area, and the Applicant will help support efforts to reduce single-occupancy automobile usage through the payment of a traffic demand management ("TDM") fee.

3. Provides for site dimensions, grade, and orientation compatible with the location and height of existing and proposed development in the Rockville Pike Corridor Area. Although the proposed building does not meet the 135 foot "build to line" guideline in the Rockville Pike Corridor Neighborhood Plan, it does qualify for an exception under the City's Building Code which allows for an 85 foot minimum setback from the centerline of the street to the building for lots that are narrower than 300 feet along Rockville Pike and abut the WMATA and railroad tracks. The proposed building meets this requirement. In addition, the proposed building will be located close to Rockville Pike and Edmonston Drive to create visual interest.

4. Will not constitute a violation of any provision of the Zoning and Planning Ordinance or other applicable law.

5. Will not violate or adversely affect the Rockville Pike Corridor Neighborhood Plan. The proposed development is generally in compliance with the Rockville Pike Corridor Neighborhood Plan and its Urban Design Guidelines.

a. The Applicant has proposed a streetscape consistent with the Plan, improved pedestrian and vehicular movements, a use that does not burden the public facilities, and a building with an interesting façade.

b. The proposed development complies with the Access Management Plan contained in the Rockville Pike Corridor Neighborhood Plan. There currently exist two driveway aprons for ingress and egress to the site, one each located along Edmonston Drive and Rockville Pike. The Access Management Plan for the Rockville Pike Corridor recommends a reduction in the number of driveways along Rockville Pike. Consistent with that recommendation, the Applicant proposes to close both existing drive aprons and to provide a single point of access to the site off of Rockville Pike. The service drive easement can be accessed by any of the remaining drive aprons along that portion of Rockville Pike.

c. The proposed development will meet the screening/landscaping requirements of the Plan.

d. The traffic generated by the project will have minimal impact on the area. In addition, the Applicant will pay a traffic demand management (TDM) fee to the City. The TDM fee satisfies the Plan's goals of encouraging use of mass transit and other alternative forms of transportation.

e. The proposed building height of 35 feet is permitted under the base development in the RPC Zone, and the requested maximum 0.50 FAR is substantially

less than what would be permitted (1.0 FAR) under the Optional Method of Development. The proposed development will also provide 28 percent green space (including landscaping and on-site afforestation) surrounding the property and along Rockville Pike and Edmonston Drive so as to create a streetscape in conformance with the Plan.

f. The proposed development is consistent with the intent and purpose of the building envelope recommended in the Plan. The proposed building is oriented along the Rockville Pike and Edmonston Drive frontages as specified in the Plan. The Plan's guidelines state that at least 50 percent of the building façade be placed on the "Build to Line" along Rockville Pike, which is located 135 feet from the centerline of the street. Due to the narrowness of the subject lot, the proposed building is located 85 feet from the centerline of Rockville Pike rather than 135 recommended in the Plan. However, the building will satisfy the purpose of a "build to" line by providing a constant visual image along Rockville Pike and giving the appearance of a uniform "build to" line, due to the fact that the distance between the railroad tracks and Rockville Pike gets narrower as the site approaches the intersection with Edmonston Drive. In addition, the building height (35 feet) continues to maintain a sense of scale and space to pedestrians and motorists and is compatible with the residential neighborhood to the east of the railroad tracks.

g. The Application provides for upgrading the existing sidewalk along both frontages of the property in accordance with the Plan. The Applicant will provide a six-foot wide sidewalk with a tree lawn buffer, which will accommodate street trees on Edmonston Drive. The sidewalk materials will comply with the Plan.

h. The Application provides for the construction of a landscaped berm in front of the sidewalk along Rockville Pike. The berm will meet the Plan requirements including the additional landscaping requirements for development under the Optional Method of Development. The Applicant will work with the City Forester to determine the types of trees best for the site.

6. Will not affect adversely the health or safety of persons residing or working in the subdivision or neighborhood.

7. Will not be detrimental to the public welfare or injurious to property or improvements in the neighborhood.

8. Will not be unsuitable for the type of development, the use contemplated, and available public utilities and services. A single use is preferable for the site because of its small size and narrowness. The proposed site design, quality architecture, and landscaping will improve the appearance of the site. The public utilities and services are suitable to serve the proposed development.

9. Will not unreasonably disturb existing topography, in order to minimize storm drain runoff and to conserve the vegetation cover and soil; and

WHEREAS, the Mayor and Council having found and determined that the proposed development and Application, subject to the conditions, limitations, additions and modifications set forth herein, satisfies the minimum requirements of the RPC Optional Method of Development provisions set forth in Section 25-710.27, as more specifically set forth below:

(1) *The site must be a minimum of twenty thousand square feet.* The subject site contains 25,863 square feet.

(2) *Solar access requirement.* The proposed building will not cast a shadow on any residential structures between 10:00 a.m. and 2:00 p.m.

(3) *Ground Floor Retail Requirement.* The ground floor retail floor area will exceed the required 75%.

(4) *Comprehensive Transportation Review (CTR).* A Transportation Impact Study is not required because the proposed land use does not generate more than thirty vehicle trips during any peak hour.

(5) *Urban Design Review.* The Applicant has complied with the Urban Design Review process. The proposed development was evaluated by the Urban Design Review Committee, which found that “the proposal’s urban design, architecture, and landscape plan, as presented, is acceptable and clearly meets the spirit of the Rockville Pike Plan.”

(6) *Provide a landscaped berm, walkway, splash block treatment and building landscaping along the Rockville Pike frontage in substantial accordance with the Rockville Pike Streetscape guidelines contained in the Plan.* The Applicant will comply with this requirement.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF ROCKVILLE, MARYLAND, that Preliminary Development Plan Application PDP2006-00011, be and the same is hereby approved, in accordance with the terms, conditions and limitations set forth herein.

1. APPROVED PRELIMINARY DEVELOPMENT PLAN.

For the purposes of this Resolution, the Approved Preliminary Development Plan (also referred to as the “Approved PDP”) shall mean this Resolution and all Exhibits to

this Resolution listed below and attached hereto, including notations, references, descriptions and writings on the Exhibits.

- Revised Preliminary Development Plan, October 17, 2006 (Exhibit A)
- Conceptual Landscape Plan (Exhibit B)
- Stormwater Management Concept letter dated March 16, 2006 (Exhibit C)
- Site Access Alternatives, dated October, 2006 (Exhibit D)

The subject property shall be developed substantially in accordance with the revised Preliminary Development Plan dated October 17, 2006 and attached hereto and incorporated herein as Exhibit "A." To the extent that there is a conflict between any of the written terms and conditions in the body of this Resolution and any exhibits attached hereto, the written terms and conditions in the body of this Resolution shall control.

2. DEVELOPMENT DENSITY, HEIGHT, AND STANDARDS:

The following development standards shall apply:

- (a) Maximum height: 35 feet and two-stories
- (b) Maximum FAR (floor area ratio): 0.50
- (c) Build-to line location from the centerline of Rockville Pike: 85 feet.
- (d) Minimum Building setback from property along Edmonston Drive: 29 feet
- (e) Minimum amount of retail on the first floor: 75 percent.

3. LANDSCAPE PLAN. The Applicant must submit a detailed landscape plan for approval by the Planning Commission at the Use Permit stage. The landscape plan

must be generally consistent with the conceptual landscape plan attached hereto as Exhibit “B” (the “Conceptual Landscape Plan”).

4. PARKING. The Applicant must meet the minimum parking requirements of the Zoning and Planning Ordinance.

5. SIDEWALKS: Final location, materials, easements and agreements necessary for the construction and maintenance of sidewalks will be determined at the Use Permit stage.

6. OPEN SPACE: The Applicant must provide a minimum of 28 percent open green space on the site. Green space may include, but is not limited to, lawn decorative plantings, sidewalks and walkways, but shall not include parking lots or vehicular surfaces.

7. DESIGN GUIDELINES.

a. The Applicant must provide the streetscape treatment required by the Plan, including a landscaped berm with street trees at the road edge, additional landscaping and a tree bed at the building edge, a six-foot wide sidewalk and a service drive.

8. TRAFFIC MITIGATION.

A Transportation Demand Management (TDM) Agreement must be executed prior to the issuance of any building permit. The agreement will require a contribution of ten (10) cents per square foot of gross floor area of the proposed building per year for a period of ten (10) years. The sum will be incorporated into the TDM capital improvements capital program funds of the City. No occupancy certificate will be issued until the initial TDM contribution is made.

9. FOREST CONSERVATION.

The Applicant must submit, for the approval of the City Forester, a Forest Conservation Plan (FCP) with planting requirements being met on site. A Forest Conservation Easement (FCE) must be placed on the entire site to protect required trees.

10. PUBLIC UTILITIES EASEMENTS

Public Utility Easements (PUE) (minimum 10 feet wide) will be required along each street frontage. The easement area must not be within an existing or future dedicated public right-of-way, under a tree lawn, or obstructed by any permanent structure, including surface structures such as stoops, with the exception of sidewalks.

11. PUBLICLY ACCESSIBLE ART IN PRIVATE DEVELOPMENT. The Applicant is required to provide art for the development in accordance with the Publicly Accessible Art in Private Development requirements contained in Article IV (sections 4-40 - 4-51) of Chapter 4 of the Rockville City Code. The required expenditure for the entire project will be calculated in accordance with current rates at the time of building permit application.

12. SIGNS. All signs must comply with the requirements of the Zoning Ordinance and other applicable provisions of the Rockville City Code.

13. STORMWATER MANAGEMENT. Stormwater Management must comply with the conditions set forth in the conditional approval of the stormwater management concept letter dated March 16, 2006, unless otherwise approved by Department of Public Works.

14. SERVICE DRIVE. The Applicant shall provide an 18-foot service drive easement around the building, between the parking spaces and the building, the final

location to be determined at the Use Permit stage. The Applicant must execute and record a written service drive easement in a form acceptable to the City Attorney prior to issuance of an occupancy permit. The owner of the subject site shall be responsible for the repair and maintenance of the service drive.

15. JOHN C. BROWN MEMORIAL. The Applicant must move the VFW memorial from its current location at the northeast corner of Rockville Pike and Edmonston Drive to the public right-of-way adjacent to Applicant's site at a location to be determined by the Planning Commission at the Use Permit stage. If the Applicant fails to receive VFW approval for the relocation, Applicant must provide written documentation of the reasons why the memorial cannot be moved. The memorial must be relocated or the written documentation provided prior to issuance of the occupancy permit.

16. SHARED USE PATH. The site shall accommodate a shared-use path for bicyclists and pedestrians adjacent to the Metro tracks through provision of a reservation area to be dedicated to the City at no cost, upon request. This path would run generally parallel to Rockville Pike and connect at the Edmonston Drive intersection with the proposed sidewalk. The specific size, location, parameters, and materials of a reservation area and construction will be determined at the Use Permit stage.

17. SITE ACCESS. Access to the site shall be provided from Rockville Pike either via the existing service drive easement to the south of the property or via the relocation of the existing driveway along the Rockville Pike frontage of the property generally as shown on Exhibit D. The final location and parameters of the site access to be determined at the Use Permit Stage.

18. The Applicant must comply with all the applicable requirements of Article XIV of Chapter 25 pertaining to the Rockville Pike Corridor Area.

* * * * *

I hereby certify that the foregoing is a true and correct copy
of a resolution adopted by the Mayor and Council at its
meeting of

Claire F. Funkhouser, CMC, City Clerk



March 16, 2006

Mr. Kenneth D. Jones
Macris, Hendricks & Glascock, P.A.
9220 Wightman Road, Suite 120
Montgomery Village, Maryland 20886-1279

Subject: Champion Billiards, 900 Rockville Pike
Stormwater Management Concept
SMP2006-00023

Dear Mr. Jones:

Your stormwater management (SWM) concept dated February 27, 2006 for 900 Rockville Pike is conditionally approved. The Champion Billiards site is 0.59-acres and is located in the Rock Creek watershed on the north side of Rockville Pike (MD Route 355) at the intersection of Edmonston Drive. The proposed development includes the construction of a new two-floor office and retail building and surface parking on the 0.59-acre site. This project will require SWM for a total of 0.62 impervious acres (0.49-acres of new or redevelopment plus 0.13 impervious acres within the right-of-way).

The SWM concept proposes the following measures for the 0.49-acre impervious area:

1. Water Quality Volume (WQ_v) provided by an underground sand filter. Based on the Concept, the proposed sand filter has a drainage area of 0.59-acres flowing to it, which includes 0.49-acres of impervious area.
2. Provision for Recharge is not required on site due to the presence of contaminated soil.
3. Overbank Flood Protection (Qp₁₀) and Channel Protection (Cp_v) will be provided by the SWM alternative of a monetary payment of \$24,800 (0.62 impervious acres X \$40,000/impervious acre).

The SWM concept is approved subject to the following conditions:

1. Written MDE approval for construction activities on the site must be provided prior to issuance of Department of Public Works (DPW) permits.
2. For areas of the right-of-way that cannot be intercepted due to physical constraints a monetary contribution will be required for WQ_v. Exact areas and amount of contribution will be determined upon the detailed engineering submission.
3. Submit for review and approval all required detailed engineering plans, computations, and construction estimates for the on-site sand filter.
4. Post financial security based on the approved construction estimates in a format acceptable to the City Attorney. Approval is coordinated through DPW Staff.

City of Rockville
111 Maryland Avenue
Rockville, Maryland
20850-2364
www.rockvillemd.gov

Public Works
240-314-8500
TTY 240-314-8137
FAX 240-314-8539

Public Works Operations
240-314-8570
FAX 240-314-8589

for Vehicle Maintenance
240-314-8485
FAX 240-314-8499

Water Treatment Plant
240-314-8555
FAX 240-314-8564

MAYOR
Larry Giammo

COUNCIL
Robert E. Dorsey
Susan R. Hoffmann
Thyllis R. Marcuccio
Anne M. Robbins

CITY MANAGER
Scott Ullery

CITY CLERK
Aire F. Funkhouser

CITY ATTORNEY
Paul T. Glasgow

Attachment 1.1.f: Resolution No. 14-06 (4612 : Public Meeting - PJT2023-00016, 900 Rockville Pike)

5



Mr. Kenneth D Jones
Macris, Hendricks & Glascock, P.A.
March 16, 2006
Page 2

5. Submit a Rockville stormwater management permit (SMP) application, permit fees, and SWM Database Sheet associated with the SWM plans.
6. Submit a SWM Easement/Maintenance Agreement for the SWM facility signed by the property owners for review and approval by DPW and the City Attorney's Office. The approved SWM Easement/Maintenance Agreement must be recorded in the Montgomery County Land records prior to DPW permit issuance.
7. Provide safe conveyance of storm flows.
8. Pay SWM monetary contribution for quantity control prior to issuance of PWK and SMP permits. Final contribution amount shall be based on the impervious acreage shown on final engineering plans. The contribution is estimated at 24,800 based on the SWM Concept Plan.

If you have any questions, please contact Craig Daly, Civil Engineer II, of my staff at (240) 314-8513.

Sincerely,



Susan T. Straus, P.E.
Chief Engineer-Environment

CD/sms

cc: Mark E. Wessel, Civil/Engineer III
Jim Wasilak, Chief of Planning
Nate Wall, Environmental Specialist
✓ Craig Daly, Civil Engineer II-Environment
Permit Plan (SMP2006-00023)
Day File



City of Rockville

MEMORANDUM

June 2, 2006

TO: Mayor and Council

FROM: Planning Commission

SUBJECT: Planning Commission Recommendation on Preliminary Development Plan Application, 2006-00011, Champion Billiards

The Planning Commission considered the proposed PDP for Champion Billiards at its May 24, 2006 meeting. The proposed development would consist of a 12,574 square foot commercial building on two floors to be used as furniture showroom space for pool tables, barstools and other recreational furniture. There will be 36 at-grade parking spaces, including two (2) accessible spaces associated with the building. The site will have vehicular access from Rockville Pike through an existing service drive easement located on the adjacent site. The Planning staff recommended approval of the application, subject to conditions. The Commission received comments from the public. The following issues were discussed in depth:

Noise from the Railroad tracks

The Planning Commission was concerned that the noise from the trains going past the site would reflect from the building and to the homes across the site. Staff stated that the proposed building's exterior treatment, EIFS, would not be a smooth surface, therefore reflecting it in different directions. In addition, since the first floor is recessed, some of the noise could get trapped in that area. The applicant stated that the EIFS material could absorb some noise instead of reflecting it. They also stated that they would look into providing more architectural detail on the rear of the building, which would result in the deflection of noise from the building and not more directly onto the homes.

Service Drive Easement

The adjacent property owner to the south requested that the applicant use the existing two curb cuts already provided for the site instead of closing them and using only the service drive. Staff had stated earlier that closing both curb cuts was required because they did not meet standards, including safety, of Department of Public Works (DPW) and the State Highway Administration (SHA). Both DPW and SHA have endorsed closing both of the existing curb cuts and accessing

the site from the existing service drive located on the property to the south. The Attorney who represents the adjacent neighbor, Mr. Joe Lynott, stated that they were opposed to the project since the proposed site would have sole access from this portion of the service drive. Staff has stated that the purpose of the service drive along Rockville Pike was for a driver to not have to get on and off Rockville Pike in order to visit each business. Staff considers the use of the service drive as a means for ingress/egress for Champion Billiards to be in accordance with the intent of service drive use and that it meets the Rockville Pike Plan.

Buffering on the rear side of the property

The Planning Commission also discussed the buffering of the building from the adjacent railroad tracks. Staff stated that the applicant is proposing small landscaping on the rear of the property, however, it will be in a WMATA easement that is used for the retaining wall on the site. The Planning Commission recommended and staff has added a condition (Condition #10), for the applicant to evaluate the rear portion to see if they can plant larger landscaping than what is proposed.

Parking Requirements

In addition, the Planning Commission discussed the amount of parking spaces that are proposed for the site. Staff stated that they are proposing 36 spaces, including two accessible spaces. The Commissioners suggested that not all parking was needed since there were only six vehicle trips per peak hour and that the site could share parking. Staff then stated that most people coming to the site would be coming during non-peak hours and six trips was not representative of how many people will be at the building at one time. In addition, the 12,574 square foot building requires 32 spaces in the Zoning Ordinance, which does not allow for reductions in parking. The applicant also stated that they had spoken with the owner of the adjacent property to the south about possibly using their parking when the store is not open.

Therefore, on a motion by Commissioner Holtz, seconded by Commissioner Johnson and with Commissioners Medearis, Ostell, Weiner, and Hill voting in favor, the Planning Commission recommended approval of the proposed Preliminary Development application, subject to the following conditions listed below.

1. The applicant shall comply with the "Exhibit A" and "Exhibit B" dated April 6, 2006.
2. The following development standards shall apply:
 - a. Maximum Height: 35-feet
 - b. Maximum FAR: 0.49
 - c. Minimum Building setback from the centerline of Rockville Pike: 85 feet
3. The finishing materials for the building will be approved at use permit approval stage.

4. Submission, for the approval of the City Forester, approval of a Forest Conservation Plan with planting requirements being met on site. A Forest Conservation Easement shall be placed on the entire site to protect required trees. Bond must be posted and a maintenance agreement signed.
5. The Applicant shall execute a Transportation Demand Management (TDM) agreement with the City of Rockville before the issuance of a building permit. This agreement will require the Applicant to make an annual contribution of ten (10) cents a square foot of gross floor area for a period of ten years (12,574 s.f. * \$0.10 = \$1257.40/year). These funds will be used for various programs designed to reduce the number and impact of vehicle trips within the planning area. The TDM agreement will specify the timing and other requirements of future payments of the TDM fee. This sum will be incorporated to the TDM program funds of the City.
6. Final materials, easements and agreements necessary for the construction and maintenance of sidewalks will be determined at Detailed Application stage.
7. Stormwater Management must comply with the conditions set forth in the conditional approval of the stormwater management concept dated March 16, 2006.
8. The signs must comply with any permits or requirements of the Zoning Ordinance.
9. The applicant is required to provide for art for the Champion Billiards development in accordance with the Publicly Accessible Art in Private Development ordinance (adopted February 2004). The required expenditure for the entire project will be calculated in accordance with current rates at the time of building permit application.

Many options for compliance are available to the applicant. Options may include, but are not limited to visual art on-site, donation to the City's Friends of the Arts fund or to an eligible arts organization, build arts infrastructure or space for arts activities or partner with another development within the same planning area. The Art in Private Development manual is available on the City's website (www.rockvillemd.gov) under the City Business section.

10. The applicant will work with staff into providing additional buffering on the "rear" side of the property that is adjacent to the railroad and Metro tracks. Staff will review the additional landscaping at the time of Detailed Application stage.

cc: Planning Commission
Case File

26

200-B MONROE STREET, ROCKVILLE, MARYLAND 20850 P: 301.762.5212 F: 301.762.6044 WWW.MILLERMILLERCANBY.COM
JODY S. KLINE
JSKline@mmcanby.com

MEMORANDUM

**TO: MS. LI ALLIGOOD
DEPUTY ZONING MANAGER
CITY OF ROCKVILLE PLANNING AND
DEVELOPMENT SERVICES DEPARTMENT
111 MARYLAND AVENUE
ROCKVILLE, MARYLAND 20850**

CC: BRIAN DONNELLY

FROM: JODY S. KLINE

DATE: NOVEMBER 20, 2023

**RE: PROJECT PLAN APPLICATION NO. PJT2023-00016,
900 ROCKVILLE PIKE
DANSHES CENTER ON THE PIKE**

Dear: Ms. Alligood,

In accordance with the request from the City, the following memorandum summarizes the legal basis upon which the shared access drive configuration proposed by the Applicant in Case No. PJT2023-00016 to serve 900 Rockville Pike can and should be again approved by the City of Rockville, as it was previously approved under the former Champion Billiards (a.k.a. KAMB Limited) use permit approval.

During the Applicant's previous briefing of the Mayor and City Council on Application No. PJT2023-00016, more than one Councilmember stressed that the City must be comfortable

that action on said application was not at risk to a legal challenge to the validity of the Mayor and Council’s decision. We have reviewed the legal history of complaints and litigation regarding access and development to the property at 900 Rockville Pike and believe that a pattern of judicial determinations and our analysis following uniformly confirm that there is no legal impediment to the City approving a plan that relies exclusively on access to 900 Rockville Pike by traveling on, through and over a 25 foot wide easement encumbering the adjacent property to the south (1010 Rockville Pike) that was recorded in Liber 4060 at Folio 709 on April 21, 1971 providing that”... said easement and right of way to be a service drive for the use of the public at all times.”

Executive Summary

The Applicant in Case No. PJT2023-00016 has the right to have vehicular traffic access to its property through use of a 25’ wide service drive easement (running approximately parallel to Rockville Pike) that was granted by Cornelius M. Whalen to the City of Rockville in 1971, for the very purpose of facilitating “public ingress and egress at all times.” (See *Declaration of Easement and Right-of-Way*, recorded at Liber 4060 Folio 709, and attached hereto as Exhibit A.) This conclusion is supported by a further evaluation of the specific text of the Declaration, which makes clear that previous characterizations of the service drive easement/right-of-way as a “floating” easement has been a misnomer. The easement area does not simply follow the internal driveway alignment as it exists on 1010 Rockville Pike today, but remains fixed in its original location by the terms of the Declaration.

The Applicant’s engineer, Macris, Hendricks & Glascock (MHG), was asked to evaluate the Declaration, recorded plats, as well as previous site/use permit plans approved by the City of

Rockville for 1010 Rockville Pike in an effort to properly locate the service drive easement. The results of MHG's study (quoted throughout this memorandum) confirm that the 25' service drive easement continues to remain immediately adjacent to and coincident with the SHA right-of-way line that runs along the frontage of 1010 Rockville Pike. In other words, there are no gaps of any kind in the right of ingress/egress to the public through and across any of the driveway access points located along 1010 Rockville Pike, inclusive of the northernmost access point located closest to 900 Rockville Pike.

Analysis

A. Location of the 25' Service Drive Easement on 1010 Rockville Pike

The text of the Declaration specifically located the 25' service drive easement on the Whalen property (1010 Rockville Pike) in a manner that remains fixed and unchanged today. The easement was required as a condition precedent to the City's approval of a record plat for Lots numbered Two (2), Three (3), and Four (4) duly recorded at Book 91, at Plat 9847. That text from Exhibit A states as follows:

"The said easement and right-of-way shall be 25 feet in width, and *shall run across the front of said parcels and lie approximately parallel to Rockville Pike*, and shall connect with the service drive easements now located, or to be located, on the land adjoining the easterly boundary line of Lot Two (2), as well as on the land adjoining the westerly boundary of Lot Four (4). The location of the easements over Lot Four (4) and that portion of Lot Three (3) west of a point corresponding to the westerly end of the service drive easements dedicated by the aforementioned plat *shall coincide with the location of the*

driveway which now runs through Lot Four (4) and part of Lot Three (3)... The location of the easement over Lot Two (2) and part of Lot Three (3) shall be as shown on the plat to be recorded among the Plat Records of Montgomery County, Maryland, simultaneously with the recordation of this declaration...

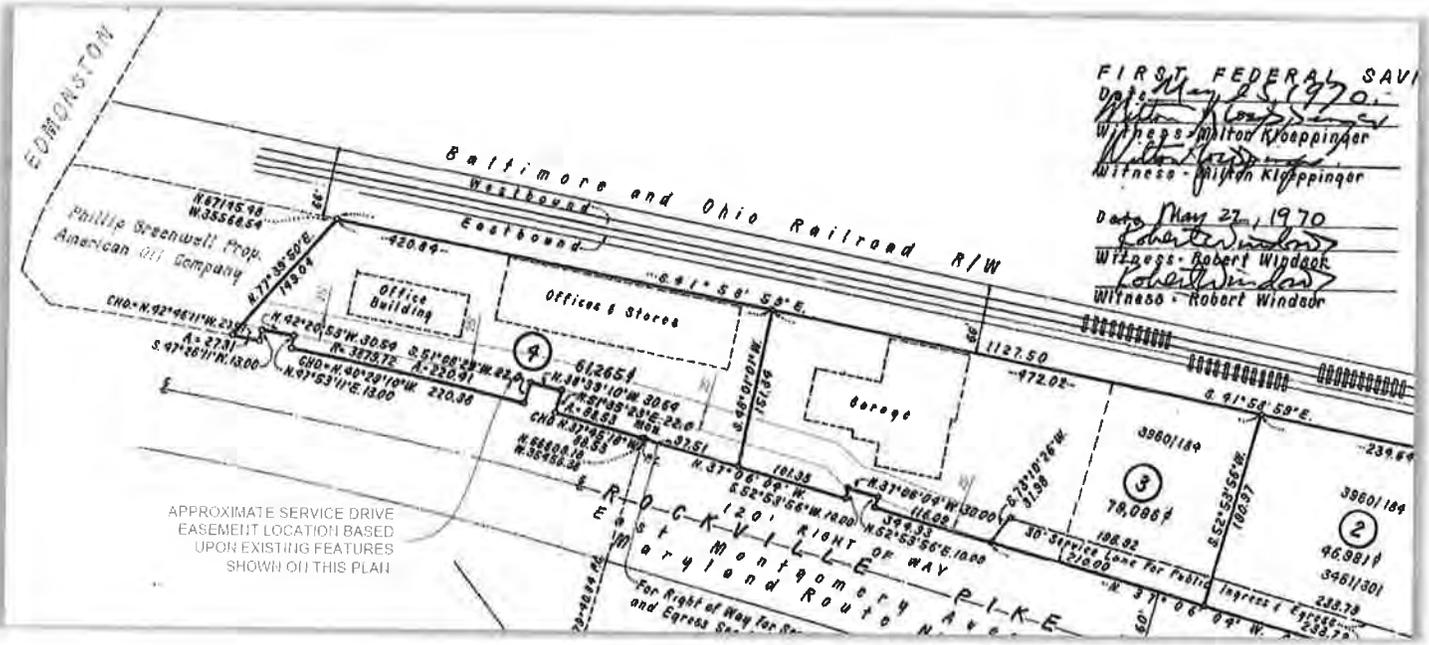
It is further understood that by agreement between the grantor, his heirs or assigns, and The Mayor and Council of Rockville, *the actual location of that portion of this easement west of the aforementioned westerly point of the easement shown on the aforesaid plat may, from time to time, be changed* so long as the new easement way is in the form of a service road parallel to Rockville Pike, extending across the grantor's property. *The relocation of the easement shall become effective and the old easement area deemed abandoned, upon the filing with the Clerk of the Circuit Court of Montgomery County, Maryland, of a revised record plat of the grantor's property, as approved by the City of Rockville Planning Commission, showing the new easement area.*" (Emphasis added.) A copy of Plat No. 9847 is attached as Exhibit B.

While the location of a separate "30' Service Lane for Public Ingress & Egress" was depicted on Plat 9847 as running over and across Lot Two (2) and part of Lot Three (3), the 25' service drive easement granted by the Declaration was not. Rather, the Declaration expressly states that the "City of Rockville required, as a condition precedent to approving a record plat for said lots that the owner *by the execution of this agreement* make said lots subject to a right-of-way and easement 25 feet wide for public ingress and egress at all times..." *Declaration* at p. 1. (Emphasis added.) A logical explanation for the sequence of events leading to the grant of the 25' service

drive easement is that the Planning Commission imposed a condition of approval at the record plat hearing, requiring the subsequent grant by Declaration.

Significantly, the Declaration expressly describes the 25' service drive easement as “coincid[ing] with the location of the driveway which *now* runs through Lot Four (4) and part of Lot Three (3).” (Emphasis added.) The use of the word “now” in the Declaration relative to the location of the driveway is highly relevant – it clearly evidences the grantor’s intent that the easement was to coincide with the property’s driveway *as it was configured at the time of the grant in 1971*. So in order to determine the location of the 25' service drive easement, the relevant question that must be asked is not ‘where is the internal driveway located today’, but ‘*where was it located at the time of the Declaration*’? The answer can be found by looking to Plat 9847 itself.

In addition to showing the proposed lot configuration, Plat 9847 includes depictions of site improvements located on the property at the time of grant, i.e., “Office Building,” “Offices & Stores” and “Garage.” The Applicant asked its engineers to scale the approximate location of the 25' service drive easement within the context of said improvements shown on the plat. MHG’s scaled redline of the plat is shown below which shows that the 25' service drive easement runs coincident with the site’s then-three (3) access points along Rockville Pike as reflected on the plat, providing “public ingress and egress at all times” as intended by the Declaration.

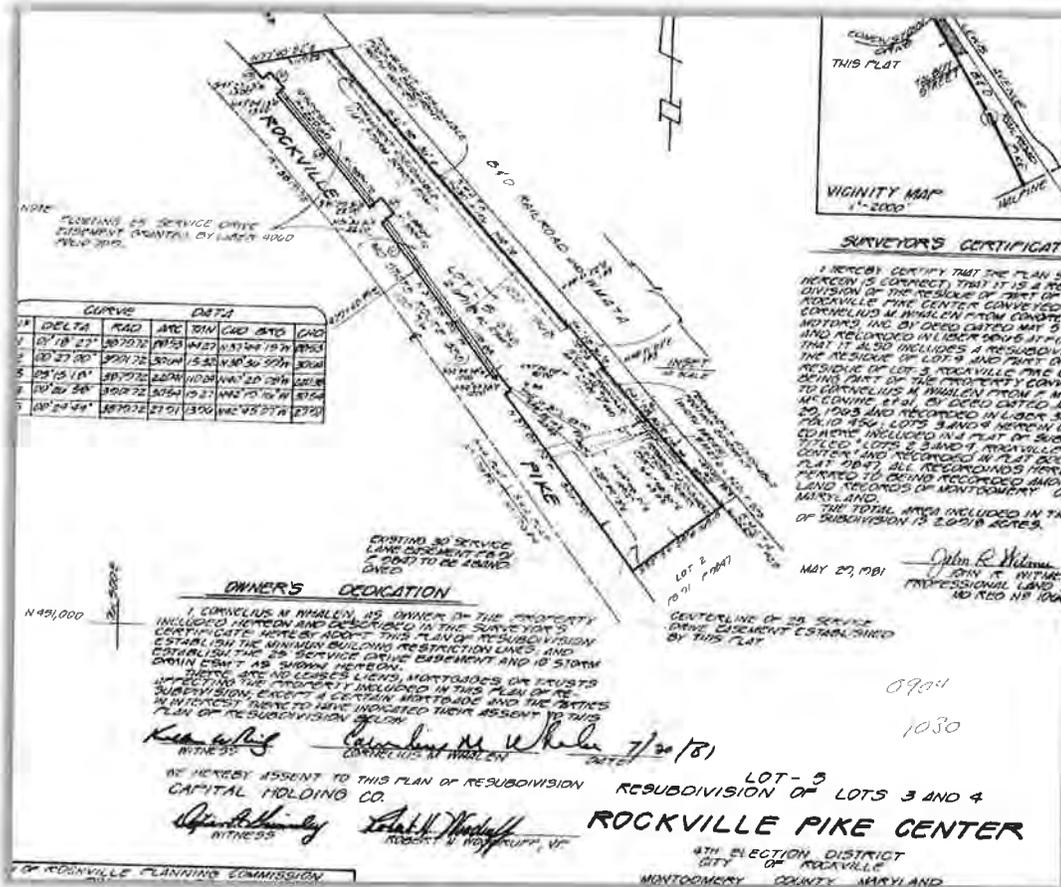


MHG Redline of Plat No. 9847

The improvements on 1010 Rockville Pike have clearly changed over time from what was depicted on Plat 9847. For instance, based on current site conditions, it appears that the middle driveway access point has since been closed; however, that does not mean that the service drive easement itself has been shifted in location in any way. The 25' service drive easement remains aligned and runs coincident with the SHA right-of-way line and original driveway access points along the Rockville Pike frontage. That is because the Declaration included specific provisions that dictate the manner and procedural mechanism by which a change in the 25' service drive easement location can be made effective. While the Declaration provides that the easement's actual location can be changed "from time to time," it specifically requires that a replatting of the property *showing* the new easement area be approved by the City in order to make such a change effective:

“The relocation of the easement shall become effective and the old easement area deemed abandoned, upon the filing with the Clerk of the Circuit Court for Montgomery County, Maryland, of a revised record plat of the grantor’s property, as approved by the City of Rockville Planning Commission, showing the new easement area.” (Emphasis added).

In 1981, Mr. Whalen obtained approval of use permit U-193-80 to remove two of the existing structures (labeled “Garage” and “Office & Stores” on Plat 9847) and replace them with a new retail strip center. A subsequent plat to resubdivide Lots 3 and 4, creating a newly combined Lot 5, was also approved and recorded as Plat 14030 (see excerpt below and attached hereto as Exhibit C).

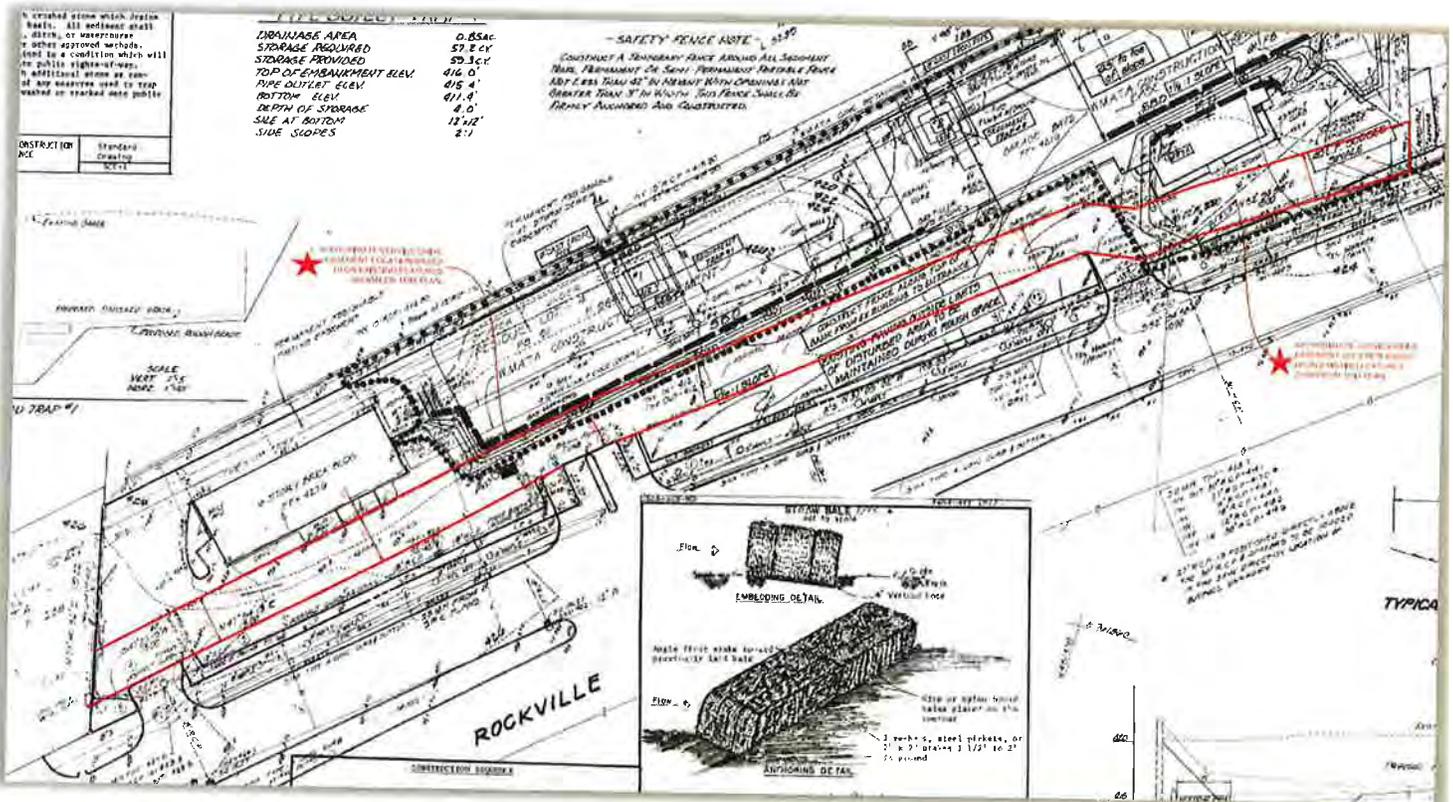


Plat No. 14030

While Plat 14030 clearly abandoned the portion of the “30’ Service Lane for Public Ingress & Egress” that was located on Lot 3 and replaced it with a 25’ Service Drive Easement at the southern end of the property, *it did not otherwise show or locate the 25’ Service Drive Easement on the remainder of the property*. Rather, Plat 14030 merely notes the existence of a “Floating 25’ Service Drive Easement Granted by Liber 4060 Folio 709,” which is nothing more than a reference to the original 1971 Declaration of Easement and Right-of-Way. In other words, Plat 14030 did not change the original easement grant in terms of its location.

Since Plat 14030 did not depict any existing or proposed improvements, the Applicant asked MHG to approximate the location of the 25’ service drive easement on the Use Permit Plan approved by the City in 1981 in conjunction with the redevelopment of 1010 Rockville Pike that promulgated the need for Plat 14030. The point of this exercise was to confirm the easement’s location in relation to the existing Office Building and the driveway access point located closest to 900 Rockville Pike and confirm whether any ‘gap’ exists between the SHA right-of-way line and the service drive easement area. MHG’s redline of a Rough Grading/Soil Erosion and Sediment Control Plan associated with the redevelopment of the Whalen property in the early 1980s is shown below.

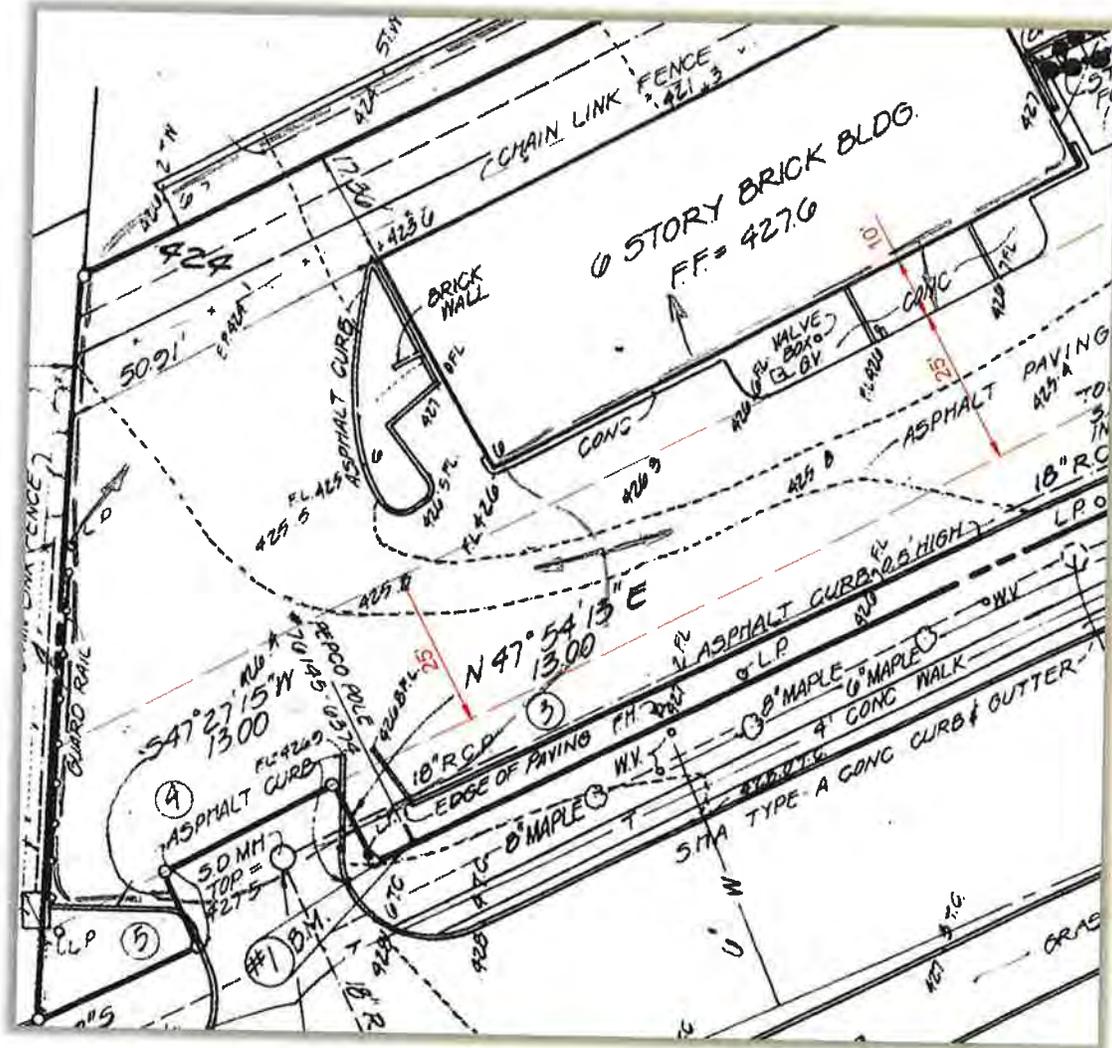
★ Approximate Service Drive Easement Location Based Upon Existing Features Shown on this Plan



MHG Redline of 1982 Rough Grading / Soil Erosion and Sediment Control Plan

A close-in view of the Rough Grading / Soil Erosion and Sediment Control Plan reveals that there used to be a 10' wide concrete island or pad located along the front of the Office Building, which no longer exists today. It appears that its removal has allowed the current internal driveway alignment to be shifted closer to the front facade of the Office Building. However, per the express provisions of the Declaration, a mere shift in the internal driveway alignment due to changes made to site improvements cannot effectuate a change in the 25' service drive easement's location. As previously discussed, Plat 14030 neither abandoned the old easement area as it was described/defined in the original Declaration nor delineated a new easement area and so the

original Declaration's description of the easement's location remains in effect. In other words, the 25' service drive easement runs commensurate with the property's driveway *as it was configured at the time of its original grant in 1971*.



Detailed excerpt of MHG Redline of Rough Grading/Soil Erosion and Sediment Control Plan

The original location of the 25' service drive easement as described by the Declaration has always been correctly reflected on Applicant's pending Project Plan PJT2023-0016 and the proposed shared access drive has been designed/configured to align with the easement. Based on

the findings and analysis presented herein, it is clear that the word “floating” was never an appropriate term to use to describe the easement and that the existing 25’ easement was always intended to “be a service drive for the use of the public at all times.”

B. Relevant Findings by the Court of Special Appeals in *Edmonston Properties, LLC v. Mayor and Council of Rockville, et al.*

As the City may recall, Edmonston Properties, LLC, the owner of the property to the south at 1010 Rockville Pike, appealed the City’s previous approval of the Champion Billiards’ use permit plan, which proposed a shared access drive configuration shown on Project Plan PJT2023-00016.

In the Court of Special Appeals Opinion and Order, the Court made several findings relative to the nature/extent of the original service drive easement grant and resoundingly rejected Edmonston’s assertions that the easement was not intended to serve as the sole means of ingress/egress to 900 Rockville Pike. The Court’s findings continue to remain valid and supports the City’s approval of pending Project Plan PJT2023-00016.

1. The Court characterized Edmonston’s objection to the then-KAMB’s plan as follows:
 - a. “The main feature of KAMB’s plan that irritates Edmonston is that the *sole means of ingress and egress* to the KAMB property is by way of an 18-foot wide right-of-way that will loop around KAMB’s [building] and hook up with a 25-foot right-of-way located on Edmonston’s property. In other words, under [KAMB’s] plan that was approved by the Planning Commission, *everyone who wants to enter or exit the property owned by KAMB must do so by using the*

25-foot right-of-way on Edmonston's property.” Emphasis added. (COSA Opinion, pg. 1)

- b. “Another problem, from Edmonston’s perspective, is that under KAMB’s plan two [existing] curb cuts will be closed, preventing Edmonston from using KAMB’s property to enter or exit onto either Rockville Pike or Edmonston [Drive].” (COSA Opinion, pg. 1)

2. In the appeal, Edmonston argued the following:

- a. That because the easement states that the 25-foot service drive on Edmonston’s property was to connect to “service drive easements now located, or to be located” on land adjoining Edmonston’s property, it meant that a reciprocal benefit in the form of a “connection” to a service drive on KAMB’s property of the same width is required by the easement.
- b. That the manner in which KAMB proposes to use the easement was not “fairly contemplated” by the easement’s grantor and therefore “creates [an] unlawful burden upon the servient estate.” Edmonston argued that it is undisputed that it contemplated the easement would be reciprocal in nature and that the easement would be used (by it) as a means of egress and ingress over adjoining property to and from Rockville Pike and Edmonston Drive.

3. The Court rejected Edmonston’s arguments as follows:

- a. “The easement that Whalen filed in the Land Records that now encumbers Edmonston’s property, did not grant Whalen or his successor any interest, or rights. Instead, the easement granted the public the right to cross his land for purposes of ingress and egress. In other words, the public would have the right to use Whalen’s property to enter and exit what is now KAMB’s property and to enter and exit the property adjoining the easterly boundary line of Lot Two (2).”
- b. “We reject [Edmonston’s] contention that the easement meant that Whalen, and his successors in interest, would have a right to egress on to either Edmonston [Drive] or Rockville Pike from the KAMB property. *The grantor of an easement cannot grant himself an easement over the land of another.* Additionally, we disagree with Edmonston’s argument that the fact that its service drive was to be 25-feet wide meant that the neighboring property owners would have a service drive of equal width in accordance with guidelines contained in the Rockville Pike Corridor Plan. The Rockville Pike Corridor Plan referenced by Edmonston [] was not even in existence when the easement was put on record.” (Emphasis added.)
- c. “What Whalen anticipated, assumed, or expected when he put the easement on record is irrelevant in light of the unambiguous language Whalen used. *‘[T]he scope of the easement is to be determined from the language of the grant, and any doubtful language must be resolved in favor of the grantee.’ Chevy Chase*

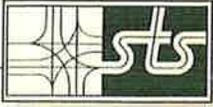
Land Co. v. U.S., 355 Md. 110, 145-46 (1999), quoting *Reid v. Washington Gas Light Co.*, 232 Md. 545, 549 (1963).” Emphasis added.

- d. “The plain language of the easement only grants the public a right to ingress and egress over *his* property. The easement filed by Whalen makes no mention of a connection to Edmonston Drive...” Emphasis added.
- e. Finally, the Court found that “Whalen had no right to expect that by filing the easement he could require neighboring property owners to maintain existent curb cuts or driveway entrances to either Rockville Pike or Edmonston Drive.”

Summary and Conclusion

In summary, the legality of the Applicant in Application No. PJT2023-00016 to access its property at 900 Rockville Pike over a recorded 25 feet service drive easement located on adjacent property at 1010 Rockville Pike has been before the Montgomery County Circuit Court twice and has been before Court of Special Appeals of Maryland twice resulting in the firm determinations and conclusions by that appellate court quoted above that “...the public would have the right to use Whalen’s property to enter and exit what is now KAMB’s property and to enter and exit the property adjoining the easterly boundary line of Lot Two (2).”

Accordingly, access to and from 900 Rockville Pike over the service drive easement recorded in Liber 4060 at Folio 709 has been conclusively determined to be a legal means of ingress and egress to the property which is the subject of Application No. PJT2023-00016.



Street Traffic Studies, Ltd.

*A Maryland DOT Small Business Certified Company
A Virginia SWaM Certified Company*

December 19, 2023

Jody S. Kline
Attorney
Miller, Miller & Canby
200-B Monroe Street
Rockville, MD 20850

RE: 900 Rockville Pike
Danshes Project Plan Amendment

Dear Mr. Kline:

In your December 7, 2023 memorandum, you requested that our office summarize our opinion as it relates to the adequacy of the existing service drive located along the east side of MD 355, to serve the Danshes Property if the existing directional driveway located to the immediate south of the site is not utilized by the Danshes Property.

While the preference would certainly be to have the site use the northern service road driveway to MD 355, the existing service drive, which does connect directly to the Danshes Property, is more than capable to serve the site. This two way service drive, located along the east side of MD 355, begins at the Danshes Property and extends south approximately 3200 feet. Over its length, the service drive has 15 separate driveway connections to MD 355. These existing driveway connections include single lane inbound and outbound driveway, directional driveways, full movement intersections and two traffic signal controlled intersections.

As noted in the June 2023 Traffic Statement, the proposed 4,400 square foot building is projected to generate relatively low peak hour traffic volumes, with the evening the highest at 29 trips. Accounting for the inbound / outbound splits, the 29 trips represents the addition of 15 inbound and 15 outbound vehicles during the evening peak hour, or one vehicle every four to five minutes by direction.

Without use of the northern MD 355 service drive access driveway, the site would still have the ability to use any of the remaining 14 access driveways to MD 355. It is likely trips to and from the proposed 4,400 square foot retail building would primarily use the next two driveways south, located approximately 260 feet and 750 feet respectively. Both driveways are full movement intersections, at grade access drive to MD 355, approximately 28 - 30 feet wide.

Jody Kline
December 19, 2023
Page Two

Sight distance at each intersection is very good from both of the MD 355 approaches. With respect to northern driveway, the westbound movement from the shopping center, physically the horizontal and vertical alignment are very good and available sight distance is very good. There is an existing tree located just south of the driveway on the east side of MD 355 whose removal would certainly improve the condition but numerous vehicles were observed using the access drive with little trouble. A review of historical aerial mapping indicates the tree has been there for many years.

In summary, the 2-way service road that provides access to the Danshes property has 15 separate access drive connections to MD 355. Restricting the use of one of the driveways is not expected to have a perceivable impact on the day to day operations of either the Danshes project or the service drive.

If you have any questions or need additional information, please let me know.

Sincerely,

David A. Nelson

David A. Nelson, P.E., P.T.O.E.
President



MEMORANDUM

December 26, 2023

TO: Mayor and Council

FROM: Li Alligood, AICP

SUBJECT: PJT2023-00016, 900 Rockville Pike - Public Access Easement History

Though the property at 1010-1066 Rockville Pike (Edmonston Crossing shopping center) is not part of the Project Plan application for 900 Rockville Pike, the history of the right-of-way and public access easement across the property is relevant to the proposal, given the information submitted into the public record by Jim Whalen of Investment Properties, LLC.

Staff has evaluated the history of City approvals for development on the site, which is described below, and has determined that the access is intended to provide, and does provide, access to the property at 900 Rockville Pike.

SPX1962-00049

- Special Exception SPX1962-00049 was approved by the Board of Appeals on April 6, 1963 and authorized the establishment of a car sales use (Congressional Oldsmobile) on the southern end of what was then the Edmonston property and would become Courthouse Plaza.

USE1963-00129

- Use Permit Application USE1963-00129 was approved by the Planning Commission on June 20, 1963 and approved development of a six-story office building, a retail center containing seven shops, and the car sales use approved by SPX1962-00049.
- The approved site plan indicates the location of a 25-ft clear drive aisle between the curb of the office building and the eastern boundary of the striped parking spaces adjacent to Rockville Pike.

USE1969-00460

- Use Permit Application USE1969-00460 was approved by the Planning Commission on October 29, 1969 and approved modification of the car sales site. The approval included three relevant conditions of approval:
 - The recording of a Final Record Plat to create a lot of record for the car sales use
 - The recording of a platted 30-ft public access easement across the two properties to the south.

Page 2
December 26, 2023

- The recording of a 25-ft right-of-way and public access easement to connect that platted easement to properties to the north and the south.
- The easement was to follow the existing paved driveway, which has been assumed to be in the location of the approved 1963 site plan.

PLT1971-09847

- The Planning Commission approved the Final Plat on June 10, 1970. Plat No. 9847 and the required public access easement were recorded on January 6, 1971.
- A hand-annotated copy of the plat from the Director of Planning to the Director of Licensing and Inspections, indicating the location of the platted and floating easement, is included in the project files. See Image 1.

USE1980-00193

- Use Permit Application USE1980-00193 was approved by the Planning Commission on September 9, 1981 subsequent to construction of the WMATA tracks to the rear of the property and demolition of the existing retail and car sales buildings shown on the 1971 plat. This application approved redevelopment of the retail and car sales uses on the site while retaining the office building approved in 1963.
- The approved site plan includes a driveway that terminates at the northern property line. This area was subsequently converted to parking.
- The Planning Commission intended to require the applicant to relocate the easement to a more typical location parallel to Rockville Pike. However, since the requirement for an access easement was established by the City's subdivision regulations, the City Attorney advised the Planning Commission that this requirement could not be applied to a Use Permit.
- This approval included two relevant conditions of approval:
 - Maintenance of the existing right-of-way and public access easement across the site, to the property line with the 900 Rockville Pike site.
 - Recording of a Final Record Plat to combine the three existing lots into one lot.

PLT1982-14030

- The Final Plat application was approved by the Planning Commission on August 5, 1981. The staff report described extensive discussion regarding the location of the "floating" easement and recommended that a 30-ft service drive be required adjacent to Rockville Pike.
- An annotated plat was included in the Planning Commission materials and identifies staff's understanding of the location of the "floating" easement, which differs from the 1971 markup. See Image 2.
- The Planning Commission approved the Final Plat and the relocation of the platted easement several feet to the north.
- Plat No. 14030 was recorded in May 1981. This plat reflects:
 - A revised site plan as approved by USE1980-00193, which relocated the drive aisle approved in 1963 further to the north of the site.

Page 3
December 26, 2023

- Vacation of the platted 30-ft public access easement at the southern end, and relocation of the centerline of that easement to the north.
- A reference to a “floating access easement” across the entirety of the newly created Lot 5 of the Rockville Pike Center plat. The Owner’s Dedication references this easement.
- In staff’s opinion, this represents the first relocation of the public access easement through approval of a revised site plan and a Final Record Plat, per the terms of the recorded public easement agreement.

USE1980-0193A

- Use Permit Modification Application USE1980-00193 was approved by staff on January 3, 2022. This approval authorized installation of a generator in a below grade parking space.

Image 1. Hand-annotated Plat No. 9847 (highlighting added)

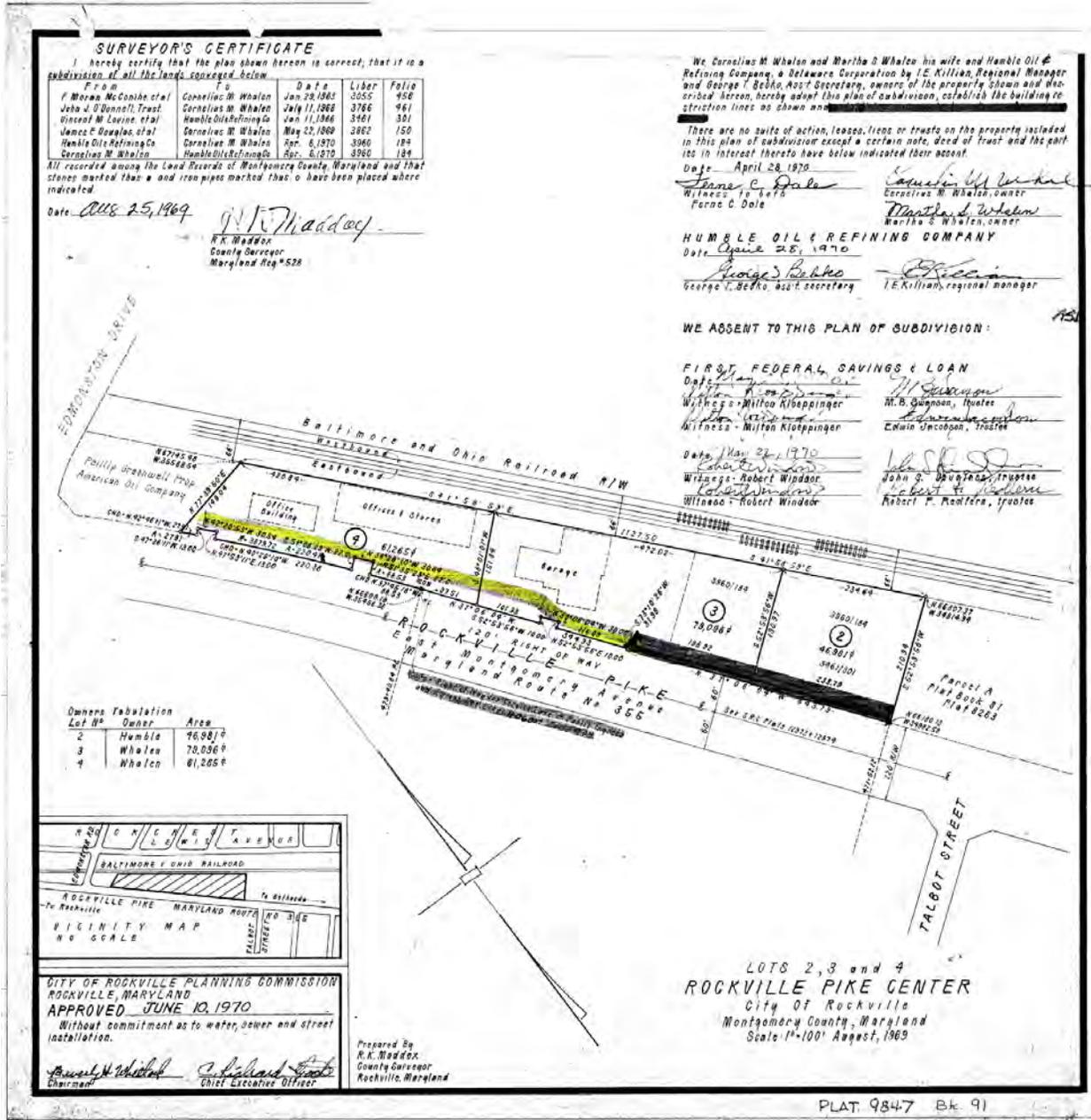
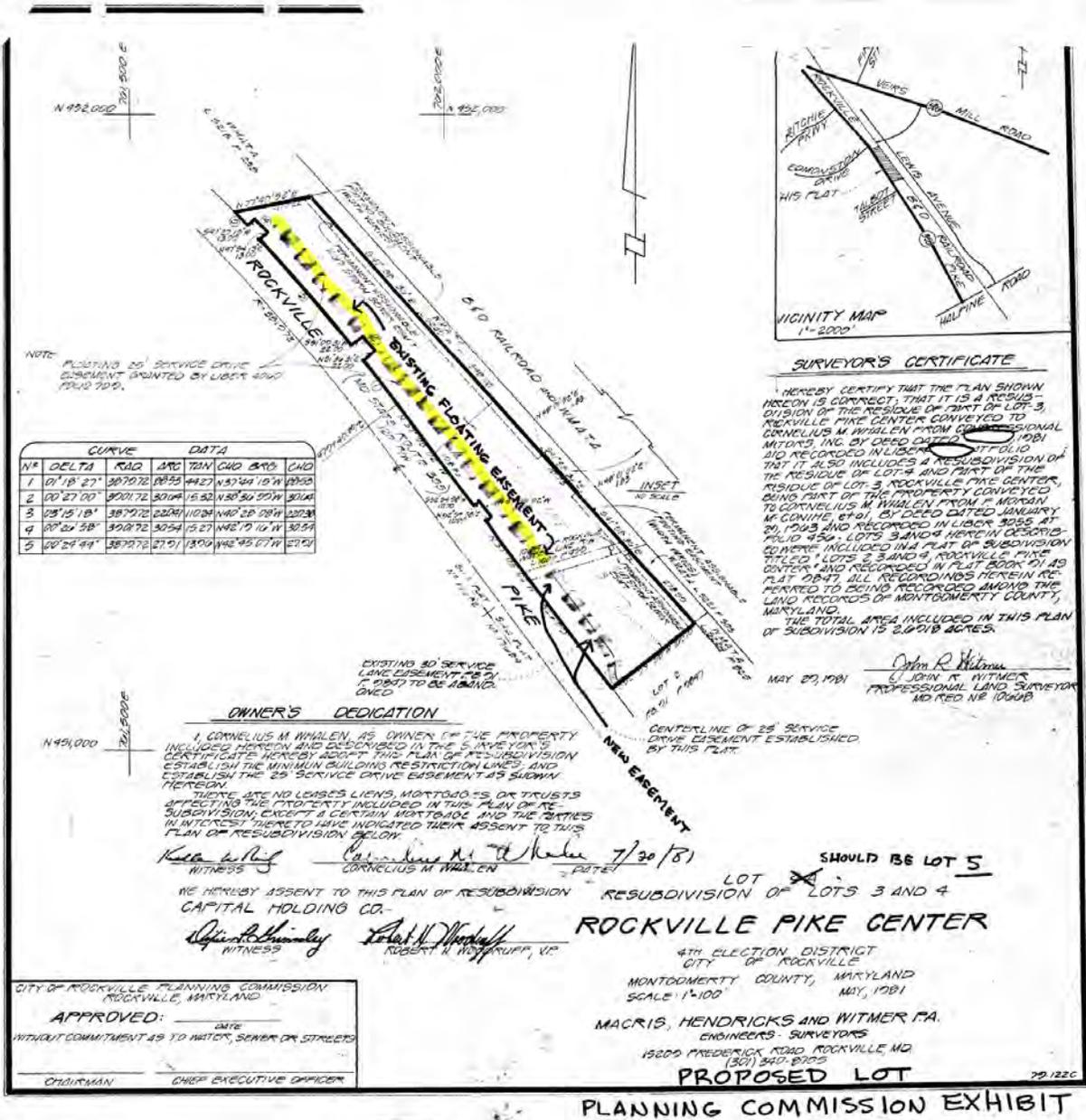


Image 2. Planning Commission exhibit for PLT1982-14030 (highlighting added)



SURVEYOR'S CERTIFICATE

PLAT NO. 9847

I hereby certify that the plan shown hereon is correct; that it is a subdivision of all the lands conveyed below

From	To	Date	Liber	Folio
F. Moran McConihe, et al	Cornelius M. Whalen	Jan. 29, 1963	3055	456
John J. O'Donnell, Trust.	Cornelius M. Whalen	July 11, 1968	3766	461
Vincent M. Lovine, et al	Humble Oil Refining Co.	Jan. 11, 1966	3461	301
James E. Douglas, et al	Cornelius M. Whalen	May 22, 1969	3862	150
Humble Oil Refining Co.	Cornelius M. Whalen	Apr. 6, 1970	3960	184
Cornelius M. Whalen	Humble Oil Refining Co.	Apr. 6, 1970	3960	184

All recorded among the Land Records of Montgomery County, Maryland and that stones marked thus: ● and iron pipes marked thus: ○ have been placed where indicated.

Date: Aug 25, 1969

R.K. Maddox

R.K. Maddox
County Surveyor
Maryland Reg. #528

OWNER'S DEDICATION

We, Cornelius M. Whalen and Martha S. Whalen his wife and Humble Oil & Refining Company, a Delaware Corporation by I.E. Killian, Regional Manager and George T. Bekko, Ass't Secretary, owners of the property shown and described hereon, hereby adopt this plan of subdivision, establish the building restriction lines as shown and establish a easement shown hereon for service road.

There are no suits of action, leases, liens or trusts on the property included in this plan of subdivision except a certain note, deed of trust and the parties in interest thereto have below indicated their assent.

Date April 28, 1970

Ferne C. Dale
Ferne C. Dale
Witness to both

Cornelius M. Whalen
Cornelius M. Whalen, owner

Martha S. Whalen
Martha S. Whalen, owner

HUMBLE OIL & REFINING COMPANY

Date April 28, 1970

George T. Bekko
George T. Bekko, ass't. secretary

I.E. Killian
I.E. Killian, regional manager

WE ASSENT TO THIS PLAN OF SUBDIVISION:

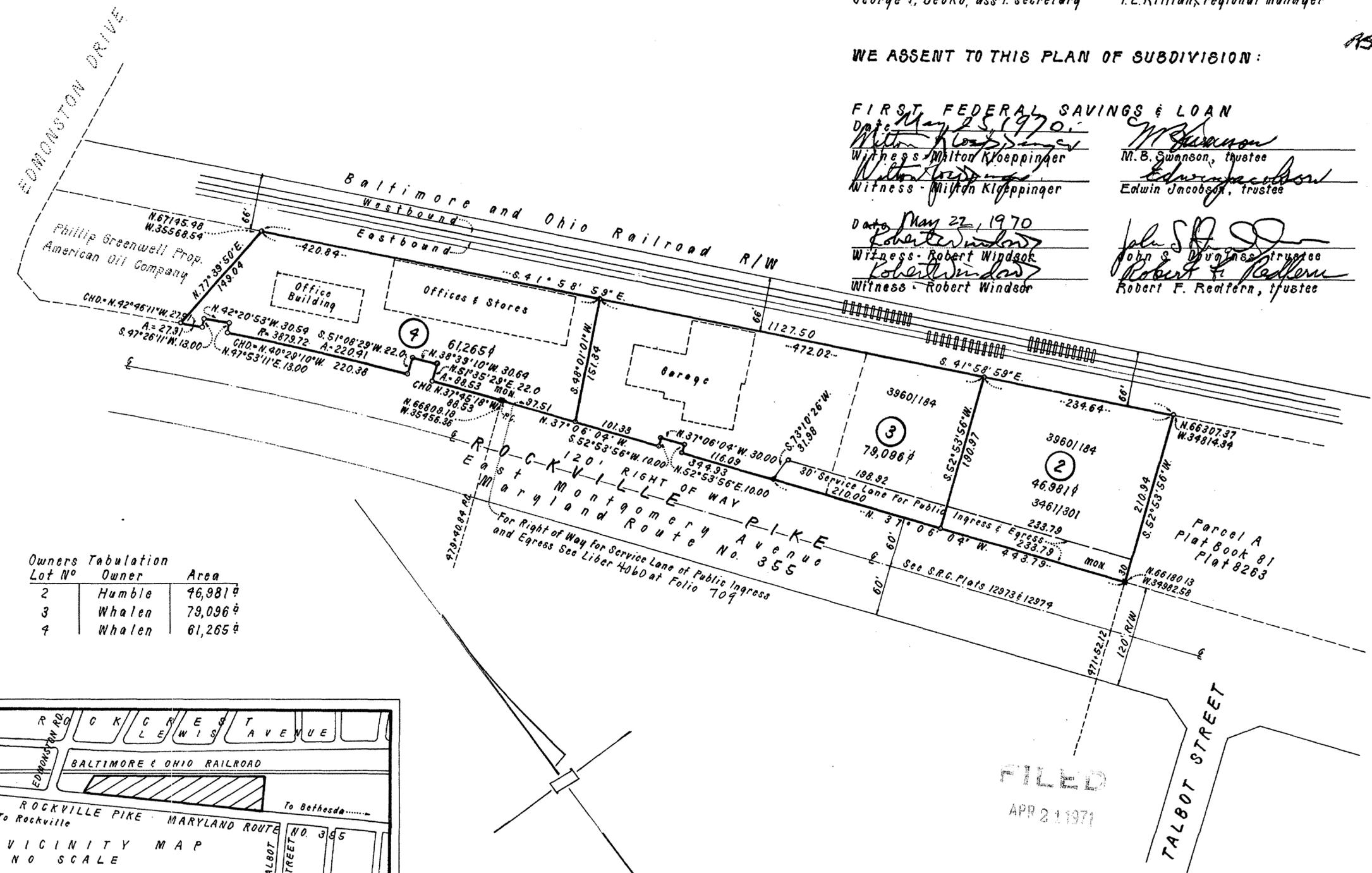
FIRST FEDERAL SAVINGS & LOAN

Date May 25, 1970
Milton Kloppinger
Milton Kloppinger
Witness - Milton Kloppinger

M.B. Swanson
M.B. Swanson, trustee
Edwin Jacobson
Edwin Jacobson, trustee

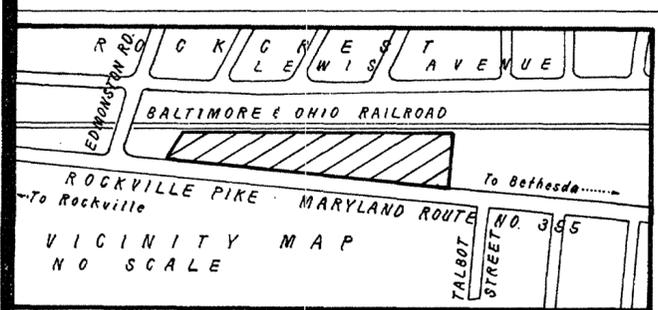
Date May 27, 1970
Robert Windsor
Robert Windsor
Witness - Robert Windsor

John S. Redfern
John S. Redfern, trustee
Robert F. Redfern
Robert F. Redfern, trustee



Owners Tabulation

Lot No	Owner	Area
2	Humble	46,981 sq
3	Whalen	79,096 sq
4	Whalen	61,265 sq



CITY OF ROCKVILLE PLANNING COMMISSION
ROCKVILLE, MARYLAND
APPROVED JUNE 10, 1970
Without commitment as to water, sewer and street installation.

Barney H. Whitlock
Chairman

C. Richard East
Chief Executive Officer

RECORDED: _____
PLAT BOOK: _____
PLAT NO: _____

Prepared By
R.K. Maddox
County Surveyor
Rockville, Maryland

LOTS 2, 3 and 4
ROCKVILLE PIKE CENTER
City of Rockville
Montgomery County, Maryland
Scale: 1"=100' August, 1969

MONTGOMERY COUNTY CIRCUIT COURT (Subdivision Plats, MO) Plat 9847 MSA s12491 2525822. Date Available 197104/21. Print 11/16/2022

Attachment 1.1.j: Plat No. 9847 (4612 : Public Meeting - PJT2023-00016, 900 Rockville Pike)

LIBER 4060 FOLIO 709

THIS DECLARATION OF EASEMENT AND RIGHT-OF-WAY, Made this 6 day of January, 1977, by and between CORNELIUS M. WHALEN. /

WHEREAS, Cornelius M. Whalen is the owner of the following parcels of land, situate, lying and being in the City of Rockville, Montgomery County, Maryland, all of which front on Rockville Pike, and particularly described as follows:

Lots numbered TWO (2), THREE (3), and FOUR (4), in a SUBDIVISION known as "ROCKVILLE PIKE CENTER" as per plat thereof duly recorded among the Land Records of Montgomery County, Maryland, in Plat Book 91, at plat 9847,

and,

WHEREAS, the City of Rockville has required, as a condition precedent to approving a record plat for said lots that the owner by the execution of this agreement make said lots subject to a right-of-way and easement **25 feet wide** for **public ingress and egress at all times**,

NOW, THEREFORE, the said Cornelius M. Whalen being the owner of the aforesaid three lots does hereby make said lots subject to an easement and right-of-way for public ingress and egress over the same; the said easement and right-of-way to be a service drive for the use of the public at all times. The said easement and right-of-way shall be **25 feet in width**, and shall **run across the front of said parcels and lie approximately parallel to Rockville Pike**, and shall connect with the service drive easements now located, or to be located, on the land adjoining the easterly boundary line of Lot Two (2), as well as on the land adjoining the westerly boundary of Lot Four (4). The location of the easements over Lot Four (4) and that portion of Lot Three (3) west of a point corresponding to the westerly end of the service drive easements dedicated by the aforementioned plat shall coincide

APP-21-71 PAID 6.61 O.K.G.I.N.C. ASR-ACK 850

CLERK'S OFFICE
MONTG. CO., MD.

1977 APR 21 PM 2:46

Attachment 1.1.k: Liber 460 Folio 709 (4612 : Public Meeting - PJT2023-00016, 900 Rockville Pike)

LIBER 4060 FOLIO 710

with the location of the driveway which now runs through Lot Four (4) and part of Lot Three (3). The grant of this easement shall in no way interfere with or cause any change or modification in the site plan for said lots approved by the City of Rockville Planning Commission, nor shall it affect the building setback restriction. The location of the easement over Lot Two (2) and part of Lot Three (3) shall be as shown on the plat to be recorded among the Plat Records of Montgomery County, Maryland, simultaneously with the recordation of this declaration. The easement area shall furthermore be computed in lot area requirements for the lots and said easement area shall continue to be used by the grantor as a driveway for the convenience and accommodation of said lots. It is further understood that the grantor may continue to use the land on either side of the easement area situate to the west of the thirty foot service drive delineated on the plat. This easement shall run with the land and shall be binding thereon and shall further be binding on the grantor, his successors, heirs, assigns or personal representatives.

It is further understood that by agreement between the grantor, his heirs or assigns, and The Mayor and Council of Rockville, the actual location of that portion of this easement west of the aforementioned westerly point of the easement shown on the aforesaid plat may, from time to time, be changed so long as the new easement way is in the form of a service road parallel to Rockville Pike, extending across the grantor's property. The relocation of the easement shall become effective and the old easement area deemed abandoned, upon the filing with the Clerk of the Circuit Court for Montgomery County, Maryland, of a revised

LIBER 4060 FOLIO 711

record plat of the grantor's property, as approved by the City of Rockville Planning Commission, showing the new easement area.

WITNESS the signature of the Grantor this 6 day of

January, 1971.

WITNESS:

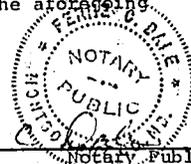
Bruce E. Steele

Cornelius M. Whalen (SEAL)
Cornelius M. Whalen

STATE OF MARYLAND, COUNTY OF MONTGOMERY: to wit

I HEREBY CERTIFY that on this 6 day of January, 1971, before me the subscriber, a Notary Public in and for the State and County aforesaid, personally appeared Cornelius M. Whalen, and made oath in due form of law that he executed the aforesaid agreement for the purposes therein contained.

WITNESS my hand and Notarial Seal.



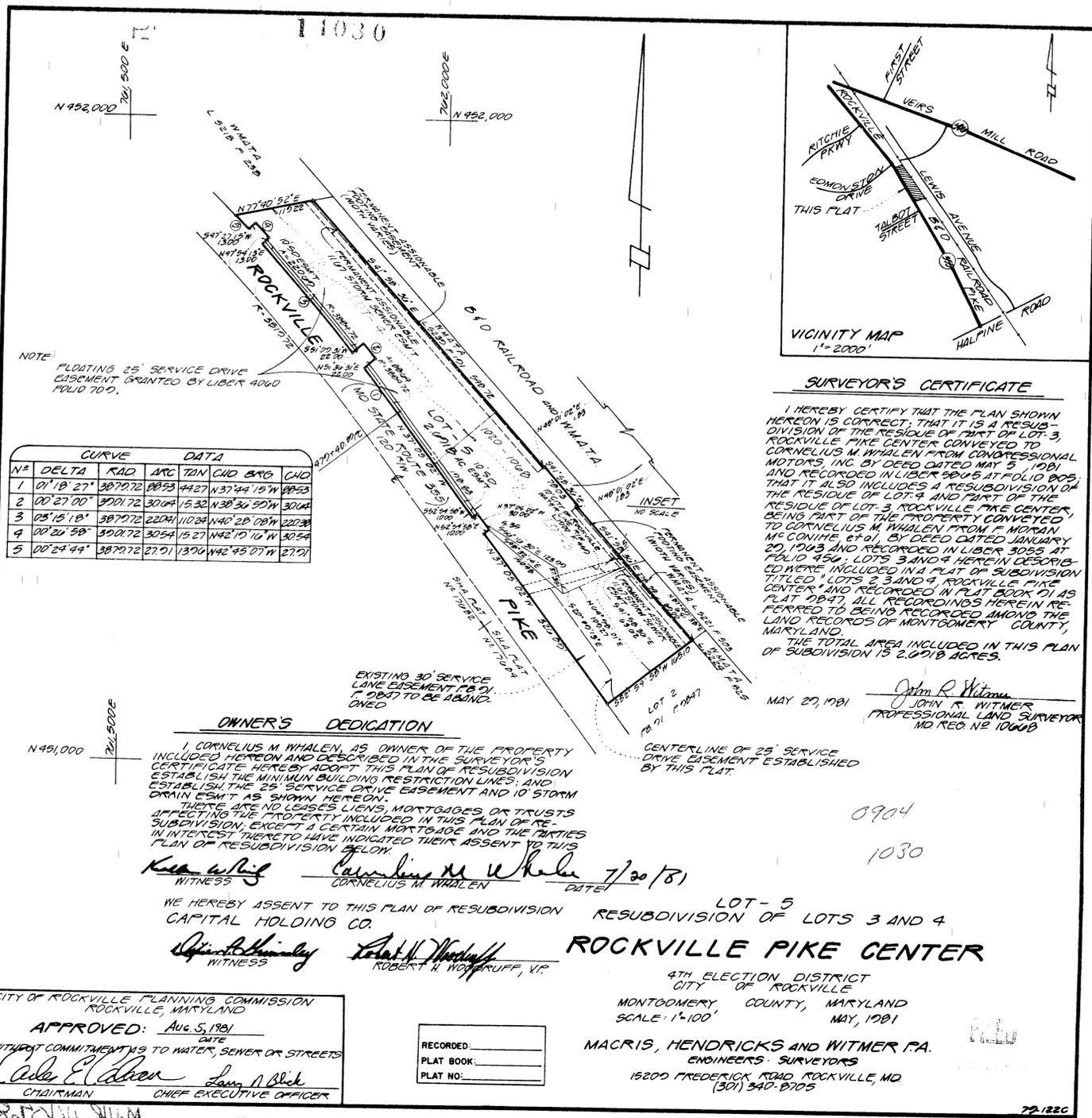
Jeane Notary Public

My Commission expires: July 1, 1974

City Hall - Plan. Dept. Rm. 105
111 S. Perry St., Rockville, Md

Attachment 1.1.k: Liber 460 Folio 709 (4612 : Public Meeting - PJT2023-00016, 900 Rockville Pike)

MONTGOMERY COUNTY CIRCUIT COURT (Land Records) HMS 4060, p. 0711, MSA_CE63_4018. Date available 08/08/2005. Printed 02/05/2005



NOTE: FLOATING 25' SERVICE DRIVE EASEMENT GRANTED BY LIBER 4040 P.110 700.

CURVE		DATA					
N#	DELTA	RAD	ARC	TRIN	CHD	BRG	CHD
1	01° 18' 27"	3879.72	88.53	44.27	N 37° 44' 15" W	88.53	88.53
2	00° 27' 00"	3901.72	30.04	15.32	N 38° 30' 50" W	30.04	30.04
3	03° 15' 18"	3879.72	22.04	11.02	N 40° 20' 08" W	22.04	22.04
4	00° 20' 58"	3901.72	30.54	15.27	N 42° 10' 10" W	30.54	30.54
5	00° 24' 44"	3879.72	27.91	13.96	N 42° 48' 07" W	27.91	27.91

SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT THE PLAN SHOWN HEREON IS CORRECT; THAT IT IS A RESUBDIVISION OF THE RESIDUE OF PART OF LOT 3, ROCKVILLE PIKE CENTER CONVEYED TO CORNELIUS M. WHALEN FROM CONGRESSIONAL MOTORS, INC. BY DEED DATED MAY 5, 1981 AND RECORDED IN LIBER 3845 AT FOLIO 805; THAT IT ALSO INCLUDES A RESUBDIVISION OF THE RESIDUE OF LOT 4 AND PART OF THE RESIDUE OF LOT 3, ROCKVILLE PIKE CENTER, BEING PART OF THE PROPERTY CONVEYED TO CORNELIUS M. WHALEN FROM F. MORRIS Mc CONINE, et al, BY DEED DATED JANUARY 20, 1943 AND RECORDED IN LIBER 3055 AT FOLIO 450; LOTS 3 AND 4 HEREIN DESCRIBED WERE INCLUDED IN A PLAT OF SUBDIVISION TITLED "LOTS 3 AND 4 ROCKVILLE PIKE CENTER" AND RECORDED IN PLAT BOOK 0145 PLAT 0847, ALL RECORDINGS HEREIN REFERRED TO BEING RECORDED AMONG THE LAND RECORDS OF MONTGOMERY COUNTY, MARYLAND.

THE TOTAL AREA INCLUDED IN THIS PLAN OF SUBDIVISION IS 2.0718 ACRES.

MAY 20, 1981
 John R. Witmer
 JOHN R. WITMER
 PROFESSIONAL LAND SURVEYOR
 MD. REG. NO. 10048

OWNER'S DEDICATION

I, CORNELIUS M. WHALEN, AS OWNER OF THE PROPERTY INCLUDED HEREON AND DESCRIBED IN THE SURVEYOR'S CERTIFICATE HEREBY ADOPT THIS PLAN OF RESUBDIVISION ESTABLISH THE MINIMUM BUILDING RESTRICTION LINES, AND ESTABLISH THE 25' SERVICE DRIVE EASEMENT AND 10' STORM DRAIN ESM'T AS SHOWN HEREON.

THESE ARE NO LIENED, MORTGAGES OR TRUSTS AFFECTING THE PROPERTY INCLUDED IN THIS PLAN OF RESUBDIVISION, EXCEPT A CERTAIN MORTGAGE AND THE PARTIES IN INTEREST THERETO HAVE INDICATED THEIR ASSENT TO THIS PLAN OF RESUBDIVISION BELOW.

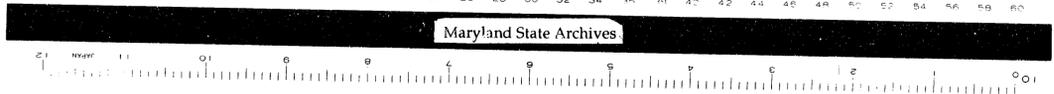
Witness: *Kearney* *Cornelius M. Whalen*
 WITNESS CORNELIUS M. WHALEN DATE: 7/20/81

WE HEREBY ASSENT TO THIS PLAN OF RESUBDIVISION
 CAPITAL HOLDING CO. RESUBDIVISION OF LOTS 3 AND 4
ROCKVILLE PIKE CENTER

CITY OF ROCKVILLE PLANNING COMMISSION
 ROCKVILLE, MARYLAND
 APPROVED: *Sam A. Black*
 DATE: Aug 5, 1981
 WITHOUT COMMITMENTS TO WATER, SEWER OR STREETS
 CHAIRMAN CHIEF EXECUTIVE OFFICER

RECORDED: _____
 PLAT BOOK: _____
 PLAT NO: _____

4TH ELECTION DISTRICT
 CITY OF ROCKVILLE
 MONTGOMERY COUNTY, MARYLAND
 SCALE: 1"=100'
 MAY, 1981
 MACRIS, HENDRICKS AND WITMER P.A.
 ENGINEERS SURVEYORS
 15200 FREDERICK ROAD ROCKVILLE, MD
 (301) 540-8705



Affidavit of Mail Notice

City of Rockville
Department of Community Planning and Development Services

AFFIDAVIT OF PUBLIC NOTICE

I hereby certify and affirm that, pursuant to the City of Rockville Zoning Ordinance No. 19-08, I did give notice by mail of the subject application for development approval to the owners and residents of property that may be affected by the application as reflected on the attached mailing list. The names and mailing addresses of the property owners were obtained from the most current tax assessment records.

I further affirm that the said notice contains the address and/or other readily identifiable description of the property location of the proposed development and the date, time and place of the meeting to be held on the proposed development.

PJT 2023-00016 / [Signature]

Application # Applicant

Subscribed and sworn to before me, a Notary Public in and for the

State of Maryland, County of Howard

on this 28th day of December, 2023

Christine E. LaMendola
Notary Public



CHRISTINE E. LaMENDOLA
Notary Public, State of Maryland
County of Howard
My Commission Expires February 10, 2024

My Commission Expires: February 10, 2024

1. AFFIDAVIT TO BE SIGNED BY THE APPLICANT
2. ATTACH COPY OF THE NOTIFICATION LETTER, MAILING LIST AND NOTIFICATION AREA MAP (PROVIDE IN ELECTRONIC FORMAT)
3. PLEASE CALL THE PLANNING DIVISION AT (240) 314-8200 FOR ANY QUESTIONS ABOUT THE REQUIREMENTS

Li Alligood

From: Jim Whalen <jwhalen@investmentproperties.net>
Sent: Tuesday, November 28, 2023 9:48 AM
To: Li Alligood
Cc: John Foreman
Subject: RE: PJT 2023-00016... Danshes Plan
Attachments: 2023.04.23 - Miles & Stockbridge Presentation.pdf

WARNING - External email. Exercise caution.

Good morning Li,

Thanks for getting back to me. My initial response, for the record, is that the easement location and dimensions as depicted on the current plans, have now been drawn in three different locations by the same consultant team (the current plan is the third). This last rendition is particularly creative in that it appears to be drawn correctly as it terminates in the correct location on the Western side at the end of the parking spaces, but for the first time is not drawn to scale at 25 feet.

The easement is currently, and has always been located in the same location, I.E the drive aisle between the building and the parking spaces. In the original and subsequent drawings supporting the original and subsequent applications, the applicants consultants appear to have misled the city by depicting the easement in a locations that are not only inaccurate, but physically not possible unless the city and owners of Edmonston agreed to move it to a location that would eliminate the parking for the office building in that area.

The applicant first convinced the city that because the easement is "floating" , it can be conveniently moved to connect to the Rockville Pike entrance (which would provide them access to the service drive easement without using their own curb cuts). The problem with that argument is the only way the floating easement could be moved is with mutual consent of both the city and the owners of Edmonston, which did not occur. This next attempt to deceive the city, which I'm guessing this current plan was concocted to support, is an assertion that sometime in the past the easement was located in a location that it connected to that entrance. That argument is also a fabrication and we have submitted proof to the city to back up that statement.

At this point, rather than ask us to debate this issue again with the applicant in a public forum, we are requesting city weigh in with their determination of the facts. There is more than sufficient evidence that the City was misled by the applicant on the easement location and connectivity to the entrance, and I'm hopeful that after seeing the easement drawn in three different locations (when there can only be one location) by the same engineer, the city will dig in and make a determination. This has been a very time-consuming and costly matter Edmonston, and we ask the city step and recognize the situation for what it is. It seems to me that if the city has proof they were provided false information on the original and subsequent applications and there are grounds to nullify those approvals. We and the city are in possession of proof.

For your convenience, I have attached a previous submission from Miles Stockbridge regarding this matter. Please let us know the City's position regarding the sattachement and the above.

Thanks again, sorry you drew the short straw in getting this project!... Jim

James F. Whalen
 Investment Properties, Inc.
 11 N. Washington St., Suite 200

Rockville, MD 20850

301.795.4000 (direct)

301-279-7944 (Fax)

jwhalen@investmentproperties.net



From: Li Alligood <lalligood@rockvillemd.gov>
Sent: Monday, November 27, 2023 3:24 PM
To: Jim Whalen <jwhalen@investmentproperties.net>
Cc: John Foreman <jforeman@rockvillemd.gov>
Subject: RE: PJT 2023-00016... Danshes Plan

Hello Jim,

The City has not directed the applicant to depict the easement in any particular location. The applicant is relying on its own consultants to produce its exhibits and plan drawings.

If you have concerns with the way the easement is depicted or would like to provide other testimony regarding this application, I would encourage you to submit written comments to me for inclusion in the record of the Mayor and Council's proceedings.

You may also provide oral testimony at the Planning Commission's public hearing on this application, currently scheduled for December 13, 2023, and the Mayor and Council's public hearing, which is tentatively scheduled for March 11, 2024.

We are reviewing the information the applicant provided and will be providing our analysis and recommendation to the Planning Commission prior to their meeting. The staff recommendation and supporting materials be available at the link below on December 6.

Thank you,



www.rockvillemd.gov

LI ALLIGOOD (she/her), AICP, LEED AP ND
 DEPUTY ZONING MANAGER
 Community Planning and Development Services
 DIRECT EXTENSION: 240.314.8223
lalligood@rockvillemd.gov

How was your experience with us? Take a quick survey and let us know -
<https://www.surveymonkey.com/r/JD9CWXC>

From: Jim Whalen <jwhalen@investmentproperties.net>
Sent: Tuesday, November 21, 2023 3:43 PM
To: Li Alligood <lalligood@rockvillemd.gov>
Cc: John Foreman <jforeman@rockvillemd.gov>
Subject: Re: PJT 2023-00016... Danshes Plan

WARNING - External email. Exercise caution.

Thanks Li,

Ah, so now the easement isn't drawn to depict a full 25'.....Interesting. Shouldnt you be measuring from the bottom line closest to Pike? If you do so, you will see the actual location of the easement between the end of our parking and the building sidewalk. This is where it has always been since established. This drawing shows it pulled away from the building. Did the city request it be drawn in this manner, or was it the applicant?

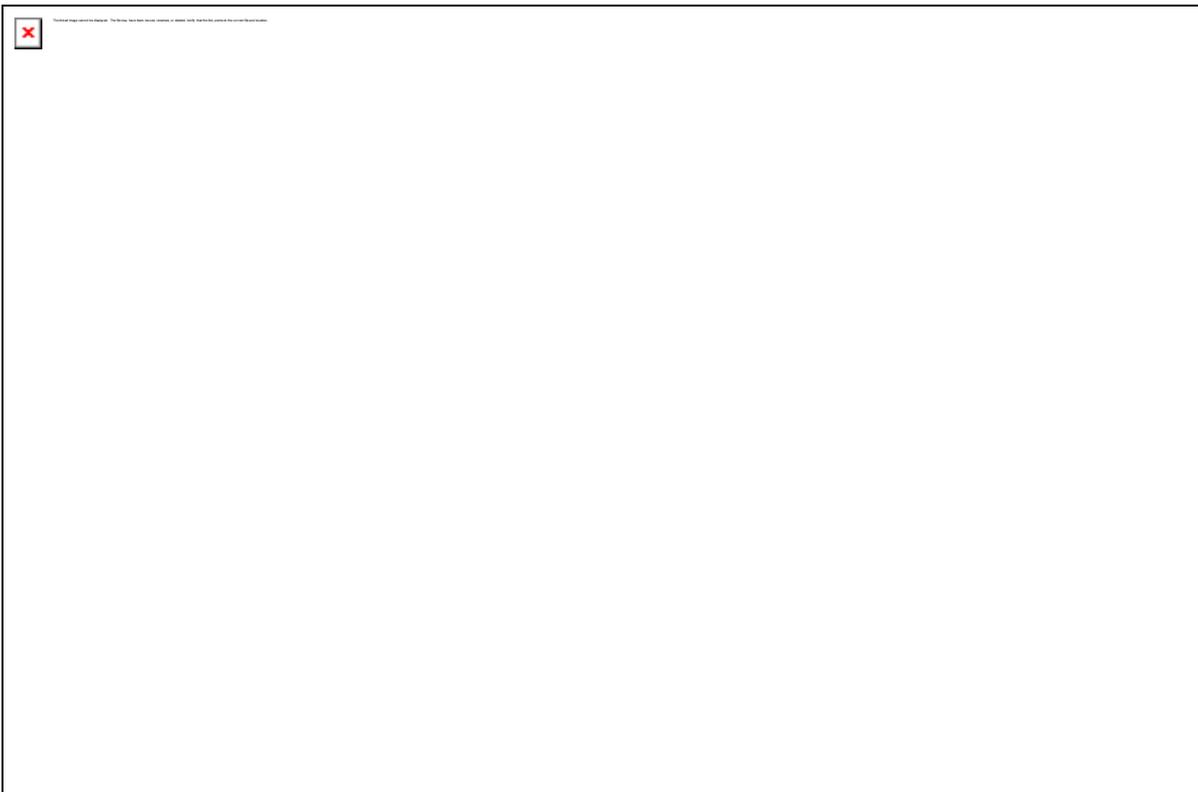
Thanks again...Jim

Sent from my Verizon, Samsung Galaxy smartphone
Get [Outlook for Android](#)

From: Li Alligood <lalligood@rockvillemd.gov>
Sent: Tuesday, November 21, 2023 2:31:08 PM
To: Jim Whalen <jwhalen@investmentproperties.net>
Cc: John Foreman <jforeman@rockvillemd.gov>
Subject: RE: PJT 2023-00016... Danshes Plan

Hello Jim,

Our measurements in that location are the same as shown on the plans – I agree that it is a confusing graphic in that the southwestern boundary is not shown. You can see the full dimensions on other sheets within the plan set (most clearly on Sheet L9.01).



Attachment 1.1.n: Public Testimony (4612 : Public Meeting - PJT2023-00016, 900 Rockville Pike)

The applicant is also providing a memo that will be included with the Planning Commission materials. They will be published here on December 6:

<https://www.rockvillemd.gov/AgendaCenter/Search/?term=&CIDs=4,&startDate=&endDate=&dateRange=&dateSelecto>
[r=](#).

Thanks,



www.rockvillemd.gov

LI ALLIGOOD (she/her), AICP, LEED AP ND
DEPUTY ZONING MANAGER
Community Planning and Development Services
DIRECT EXTENSION: 240.314.8223
lalligood@rockvillemd.gov

How was your experience with us? Take a quick survey and let us know -
<https://www.surveymonkey.com/r/JD9CWXC>

From: Jim Whalen <jwhalen@investmentproperties.net>
Sent: Tuesday, November 21, 2023 11:46 AM
To: Li Alligood <lalligood@rockvillemd.gov>
Cc: John Foreman <jforeman@rockvillemd.gov>
Subject: Re: PJT 2023-00016... Danshes Plan

WARNING - External email. Exercise caution.

Thank you. My question was really directed to the City. What is the City's current position regarding the connectivity from the easement to that entrance?

Thanks again...Jim

Sent from my iPad

On Nov 16, 2023, at 3:23 PM, Li Alligood <lalligood@rockvillemd.gov> wrote:

Hello Mr. Whalen,

I have received your question and will share with the applicant team.

Thank you,



www.rockvillemd.gov

LI ALLIGOOD (she/her), AICP, LEED AP ND
DEPUTY ZONING MANAGER
Community Planning and Development Services
DIRECT EXTENSION: 240.314.8223
lalligood@rockvillemd.gov

How was your experience with us? Take a quick survey and let us know -
<https://www.surveymonkey.com/r/JD9CWXC>

Attachment 1.1.n: Public Testimony (4612 : Public Meeting - PJT2023-00016, 900 Rockville Pike)

From: Jim Whalen <jwhalen@investmentproperties.net>
Sent: Wednesday, November 15, 2023 11:39 AM
To: Li Alligood <lalligood@rockvillemd.gov>
Cc: John Foreman <jforeman@rockvillemd.gov>
Subject: PJT 2023-00016... Danshes Plan

WARNING - External email. Exercise caution.

Good morning Li,

My name is Jim Whalen and I represent Edmonston properties LLC. I just noticed this plan is in for review and I have a couple questions.

The engineers have located the easement in the correct location, but the arrows depicting the 25 foot easement spans a distance greater than 25 feet (apparently to show connectivity to the entrance). Hopefully my crude annotations illustrate what I in attempting to describe. Is this intentional, and if so, can you tell me what the city is thinking here?

Please let me know if you have a little time to discuss, and I'm happy to walk over to do so if that makes it easier... Thank you... Jim



James F. Whalen

Investment Properties, Inc.
11 N. Washington St., Suite 200
Rockville, MD 20850

301.795.4000 (direct)
301-279-7944 (Fax)

jwhalen@investmentproperties.net





Erin E. Girard
301-517-4804
egirard@milesstockbridge.com

Laura M. Tallerico
301-517-4833
ltallerico@milesstockbridge.com

April 23, 2021

Mayor Bridget Donnell Newton
and City Councilmembers
City of Rockville
Mayor and Council Chambers
111 Maryland Avenue
Rockville, MD 20850

RE: Project Plan No. PJT2018-0001 - Service Drive Easement on 1010 Rockville Pike

Dear Mayor Newton and City Councilmembers:

On behalf of our client, Edmonston Properties, LLC (“Edmonston Properties”), the owner of the property located at 1010 Rockville Pike in Rockville (the “Edmonston Property”), the purpose of this letter is to provide the Mayor and Council with important information regarding pending Project Plan No. PJT2018-00010 (the “Project Plan”), which we understand will be considered by the City on Monday night. The property that is the subject of the Project Plan is located at 900 Rockville Pike, immediately adjacent to the Edmonston Property. The Project Plan proposes sole access to the project via an existing curb cut located on the Edmonston Property. Although the applicant, Joel Danshes, LLC (the “Applicant”), has claimed that it is entitled to this access scheme by virtue of an existing service drive easement, as explained in detail herein, the Project Plan misrepresents the location of this easement and, in fact, the Project Plan proposes unauthorized access over private property to make its connection to the adjacent right-of-way. For that reason, we respectfully request that the City pause any further deliberation on the Project Plan and require the Applicant to provide alternative access to its property that does not usurp the property rights of Edmonston Properties.¹

As a preliminary matter, it is important to note that Edmonston Properties is not seeking to hinder or obstruct any legal redevelopment of 900 Rockville Pike. As noted in the April 21, 2021 Staff Report for the Project Plan, Edmonston Properties negotiated with the Applicant in good faith over

¹ The Applicant’s attorney has represented that this issue was settled as part of *Edmonston Properties, LLC v. Mayor and Council of Rockville, et al.* However, in that matter Edmonston Properties did not claim, as it does here, that the use permit relied on an incorrect assertion regarding the location of the Easement. Thus, *Edmonston* does not provide guidance on, or in any way control, the dispute at hand.

a period of many months to try to develop a mutually agreeable access solution for both properties, and even proposed granting the Applicant a new easement across the Edmonston Property to allow for ingress and egress across a potential new access drive straddling the shared property line. Unfortunately, the Applicant ultimately walked away from these negotiations and has chosen to instead continue to pursue the access proposed in the Project Plan. In simple truth, the Applicant is intentionally choosing to maximize its own developable area by eliminating both of its existing curb cuts,² in total disregard for the impact displacing all of its access requirements to the Edmonston Property has on Edmonston Properties. As explained herein, however, a basic assumption of Applicant's plan for this access is incorrect, and must be addressed before the Project Plan can go further.

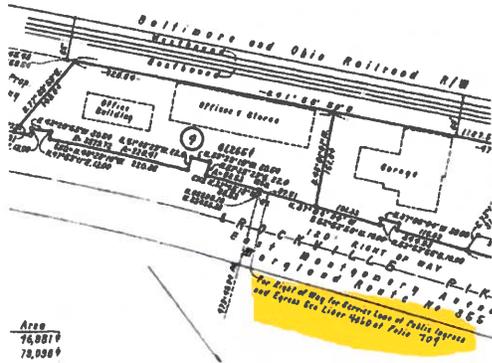
The service drive easement at issue (the "Easement") was established by a Declaration of Easement and Right-of-Way, dated January 6, 1971, and recorded among the Land Records of Montgomery County, Maryland ("Land Records") at L. 4060 F. 709 ("**Exhibit A**") (the "Declaration"). Although the Project Plan depicts the Easement as immediately touching the right-of-way for Rockville Pike within the northern curb cut of the Edmonston Property, our detailed review of the documents listed in the Scope of Analysis, attached hereto as Attachment 1, indicates that the Easement is actually separated from the Rockville Pike right-of-way by a swath of Edmonston Properties' private property that is approximately 10 feet-wide at the access and approximately 23 feet-wide along the most of the remainder of the Edmonston Property. This fact has been further confirmed through an independent analysis of Johnson Bernat Associates, Inc. ("JBA"), a highly-respected engineering firm, who assisted Edmonston Properties with preparing a number of the exhibits included herewith.

As conceded by the Applicant, the Easement has not been relocated since the Declaration.³ Thus, the proper question to ask and have answered is where the Easement was located at the time of the Declaration. The Edmonston Property is subject to two recorded plats: 1) Record Plat No. 14030, recorded among the Land Records on October 15, 1982 (Plat No. 14030) ("**Exhibit B**"); and 2) Record Plat No. 9847 recorded among the Land Records on April 21, 1971 ("Plat No. 9847") ("**Exhibit C**"). Neither of the plats depict a precise location of the Easement. Rather, each plat labels the general location of the Easement, as shown below:

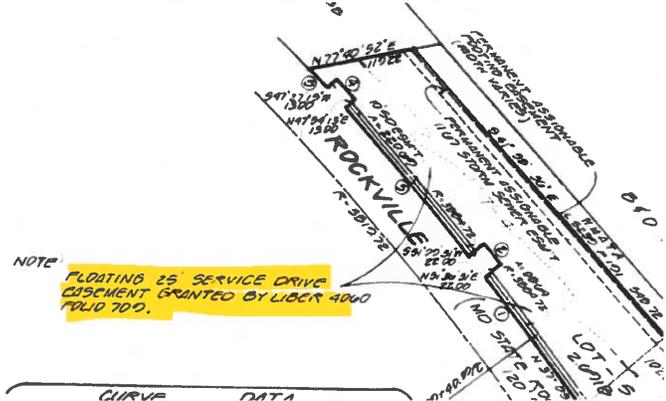
² The 900 Rockville Pike property currently has two curb cuts, one of which was created by the State Highway Administration along Rockville Pike when that road was widened.

³ By the specific terms of the Declaration, the Easement can only be relocated by agreement of both the City and owner of the Property, memorialized by the recordation of a plat. The term "floating," as sometimes applied to the Easement, is therefore intended only to reflect its ability to be relocated by agreement of the parties, and does not mean that the Easement lacks a fixed location.

Plat No. 9847 (excerpt)



Plat No. 14030 (excerpt)

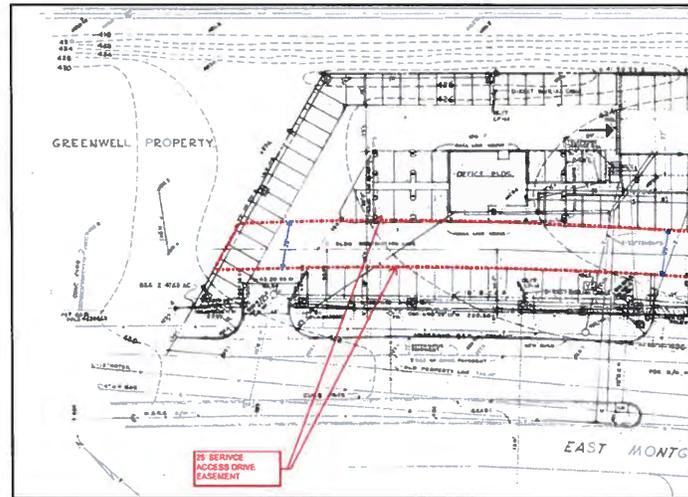


However, the plain language of the Declaration, coupled with the Site Plan for Section “B,” Courthouse Plaza (“Original Site Plan”) (Exhibit “D”), indicate that the Easement was placed in a location corresponding to the driveway running the length of the Edmonston Property at the time of its grant, with its western boundary being the edge of the perpendicular parking along Rockville Pike. Specifically, the Declaration states that the Easement:

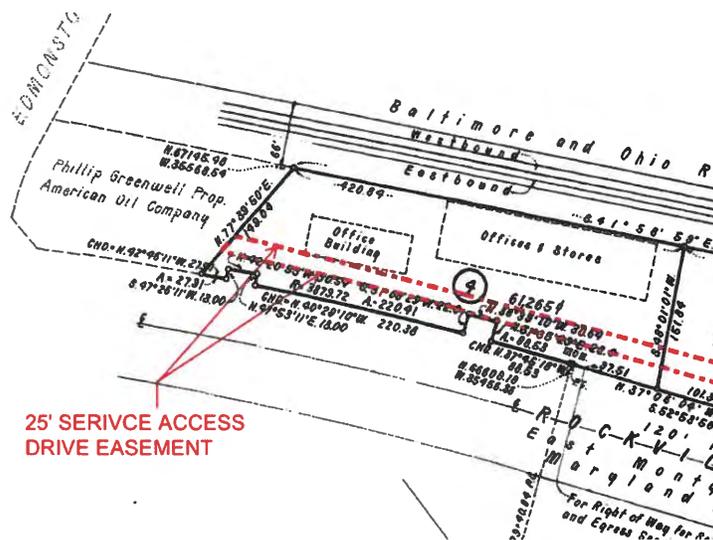
shall be 25 feet in width, and shall run across the front of [the Edmonston Property] . . . and lie approximately parallel to Rockville Pike. . . . The location of . . . [the Easement] over [the Edmonston Property] . . . shall coincide with the location of the driveway which now runs through [the Edmonston Property]. **The grant of this easement shall in no way interfere with or cause any change or modification in the site plan** for the said lots approved by the City of Rockville Planning Commission.

The Declaration therefore makes clear that the Easement was intended to: 1) be 25 feet-wide; 2) run parallel to Rockville Pike; 3) coincide with an existing driveway; and 4) not interfere with improvements shown on the “site plan.” The site plan referred to in the Declaration is the Original Site Plan, dated 1963. The Original Site Plan shows the building, a driveway, and perpendicular parking in the same location as these features exist today.⁴ The Easement was therefore clearly intended to be located to the west of the perpendicular parking shown on the Original Site Plan, and not to interfere with these spaces. Below is a partial image of the Original Site Plan marked by JBA to show the location of the Easement:

⁴ Although the Applicant, through its attorney, has asserted that the improvements on the Edmonston Property have changed over time, they provide no evidence that the improvements most relevant to the Easement location, including the existing building and perpendicular parking spaces adjacent to Rockville Pike, have changed. Nor could they. These improvements have remained continuously since the original grant of the Easement in 1971.



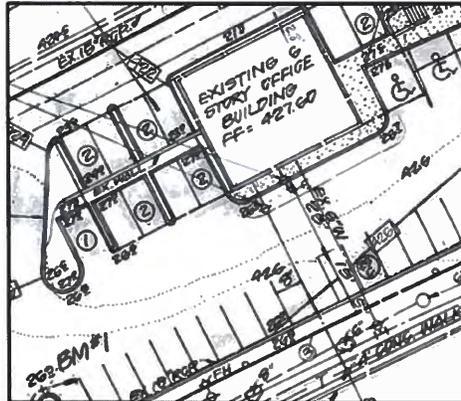
Another image of the service drive transposed onto Plat No. 9847, depicting the same alignment, and respecting the location of the perpendicular parking, is below:



As clearly shown on these exhibits, there is an obvious gap between the easement location and the Rockville Pike right-of-way within the northern curb cut.

Although, at the time the Easement was established, it appears to have encroached into a sidewalk area along the face of the existing building, that sidewalk was narrowed as part of a 1982 Use Permit to provide a clear 25 foot width for the Easement. The narrowing of the sidewalk can be seen on The Edmonston Crossing Shopping Center Site Plan, dated June 29, 1982 ("1982 Site Plan") (Exhibit "F"), an excerpt of which is provided below for ease of reference.

1982 Site Plan



This narrowing is further noted on the related Edmonston Crossing Construction Plan (“**Exhibit H**”), which details the implementation of the 1982 Site Plan. Importantly, the 1982 Site Plan shows the measurement of the driveway Easement occurring from the perpendicular parking to the revised sidewalk, further demonstrating that the perpendicular parking was always intended as the western boundary of the Easement.⁵

Finally, and perhaps most importantly, the City previously acknowledged that the perpendicular parking spaces represent the western boundary of the Easement, separating the Easement from the Rockville Pike right-of-way by a variable distance of approximately 10 feet at the access and approximately 23 feet away along most of the remainder of the Edmonston Property. In 1981, the owner of the Edmonston Property sought a use permit to develop a commercial strip center on the adjacent property located at 1020 Rockville Pike, which was then under common ownership. At that time, the City sought to relocate the Easement to place it directly parallel and abutting Rockville Pike, as it was the City’s general policy that service drive easements be so located at the time. Then Assistant City Attorney Sondra Block wrote a memorandum⁶ (the “Block Memo”) advising the Planning Commission not to seek such relocation of the Easement with the use permit. *See Block Memo p.4.* With respect to the location of the Easement, as established by the Declaration, the Block Memo states:

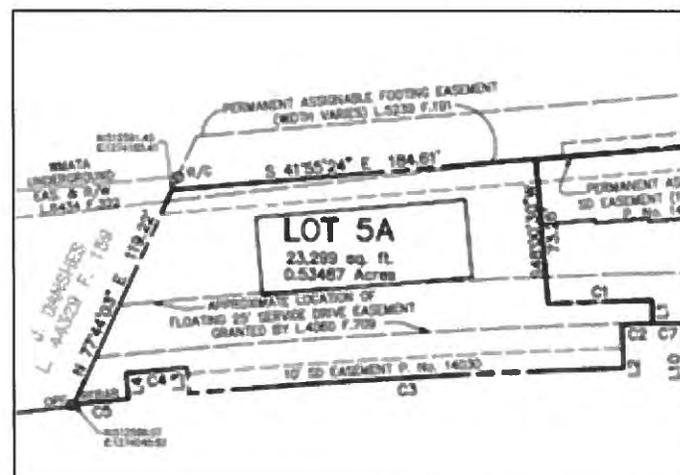
⁵ The February 18, 2020 Memorandum and attachments from Soo Lee-Cho, Esq. regarding the Applicant’s assertions as to the Easement’s location attempts to point to a Sediment Control and Erosion Plan associated with the 1982 Site Plan to claim that the Easement is actually located adjacent to the Rockville Pike right-of-way. *See Exhibit D of the Lee-Cho Memo.* However, the Sediment Control and Erosion Plan is significantly less detailed than the 1982 Site Plan, does not show the perpendicular parking, and does not specify the width of the driveway. The reliance of this Memo on this singular exhibit is self-serving, and the complete omission of any discussion of more detailed plans clearly depicting the correct location of the Easement, or of the Block Memo or Ownership Plat clearly indicating that the Easement does not abut Rockville Pike, is telling.

⁶ See the Memorandum from Sondra Harans Block, Assistant City Attorney via Larry Owens, City Planner, to Planning Commission dated April 14, 1981, regarding Questions raised concerning public service drive easement requirements attached hereto as **Exhibit “E”**.

Although the Planning Commission's policy generally is to require the service drive to abut Rockville Pike, in an effort to accommodate the existing development on Mr. Whalen's property, **which had parking spaces located in the area immediately adjoining Rockville Pike and where the service drive otherwise would be**, the Commission accepted a so-called "floating easement" which roughly paralleled Rockville Pike and **occupied the paved driveway running between the parking spaces on Mr. Whalen's property**. Block Memo p.1.

The Block Memo therefore makes clear that: 1) the Easement does not abut Rockville Pike; 2) the Easement does not run within the parking spaces immediately adjoining Rockville Pike; and 3) the Easement is located within the driveway running between the parking spaces on the Edmonston Property. As noted above, the Easement has not been relocated since the Declaration, nor could it be without the express approval of both the City and Edmonston Properties.

The City again acknowledged the location of the Easement in 2018, as part of the approval of an ownership plat for the Edmonston Property, Plat of Ownership, Lots 5A & 5B, Rockville Pike Center, dated November 2017 ("Ownership Plat") (**Exhibit "G"**). The Ownership Plat, approved at the Planning Commission's July 25, 2018 hearing⁷, an excerpt of which is provided below, clearly depicts the Easement as being separated from the Rockville Pike right-of-way (which right-of-way is represented by the notch in the bottom left of the image).



The Block Memo, coupled with the Ownership Plat, demonstrate direct and repeated confirmation from the City that the Easement does not directly abut the Rockville Pike right-of-way, a fact further confirmed by the history reviewed above. In fact, the Easement and right-of-way are separated by an approximately swath of land within the private ownership of Edmonston Properties that varies in width, but is approximately 10 feet at the access point and approximately 23 feet

⁷ Edmonston Properties ultimately elected not to record the Ownership Plat.

along the most of the remainder of the Edmonston Property.⁸ Therefore, the City cannot legally grant to the Applicant an access for the Project Plan that relies on the use of a portion of private property not within the control of the Applicant.

Based on the foregoing, as well as the opinion and belief of Edmonston Properties' engineer, JBA, the Easement is not located directly adjacent to the Rockville Pike right-of-way, as the Applicant alleges. Rather, a significant area of private property, under the ownership and sole control of Edmonston Properties, separates the Easement from Rockville Pike. As such, the access proposed for 900 Rockville Pike in the Project Plan cannot legally be provided without Edmonston Properties' consent. While Edmonston Properties remains open to reaching a mutually beneficial resolution with the Applicant so that the redevelopment of 900 Rockville Pike may go forward, absent such an agreement, the Project Plan may not be approved with the currently proposed access condition.

Thank you for your consideration of this information. We will be available at your meeting Monday night to review the above and answer any questions you may have.

Very truly yours,



Erin E. Girard



Laura M. Tallerico

cc: Ricky Barker
James Wasilak
Craig Simoneau
Nicholas Dumais, Esq.
Soo Lee-Cho, Esq.
James Whalen
Kevin Johnson

⁸ This area is generally comprised of the 5 foot landscape buffer and the 18 foot length of the perpendicular parking spaces.

Attachment 1

Scope of Analysis

Our analysis has included a review of the historical documents Edmonston Properties provided to us, own independent research of public records and information, and the February 18, 2020 Memorandum and attachments from Soo Lee-Cho, Esq. regarding the Applicant's assertions as to the Easement's location ("Lee-Cho Memo"). Documents consulted include the following:

1. The Declaration (**Exhibit "A"**);
2. Record Plat No. 14030, recorded among the Land Records on October 15, 1982 ("Plat No. 14030") (**Exhibit "B"**);
3. Record Plat No. 9847 recorded among the Land Records on April 21, 1971 ("Plat No. 9847") (**Exhibit "C"**);
4. Site Plan, Section "B," Courthouse Plaza, dated May 1, 1963 ("Original Site Plan") (**Exhibit "D"**);
5. Memorandum from Sondra Harans Block, Assistant City Attorney via Larry Owens, City Planner, to Planning Commission dated April 14, 1981, regarding Questions raised concerning public service drive easement requirements ("Block Memo") (**Exhibit "E"**);
6. The Edmonston Crossing Shopping Center Site Plan, dated June 29, 1982 (1982 Site Plan) (**Exhibit "F"**);
7. Plat of Ownership, Lots 5A & 5B, Rockville Pike Center, dated November 2017 ("Ownership Plat") (**Exhibit "G"**); and
8. Edmonston Crossing Construction Plan ("**Exhibit "H"**")

EXHIBIT "A"

LIBER 4060 FOLIO 709

THIS DECLARATION OF EASEMENT AND RIGHT-OF-WAY, Made this
6 day of January, 1977, by and between CORNELIUS M.
WHALEN.

WHEREAS, Cornelius M. Whalen is the owner of the following
parcels of land, situate, lying and being in the City of Rockville,
Montgomery County, Maryland, all of which front on Rockville Pike,
and particularly described as follows:

Lots numbered TWO (2), THREE (3), and FOUR (4),
in a SUBDIVISION known as "ROCKVILLE PIKE CENTER"
as per plat thereof duly recorded among the Land
Records of Montgomery County, Maryland, in Plat
Book 91, at plat 9847.

and,

WHEREAS, the City of Rockville has required, as a condition
precedent to approving a record plat for said lots that the owner
by the execution of this agreement make said lots subject to a
right-of-way and easement 25 feet wide for public ingress and
egress at all times,

NOW, THEREFORE, the said Cornelius M. Whalen being the owner
of the aforesaid three lots does hereby make said lots subject to
an easement and right-of-way for public ingress and egress over
the same; the said easement and right-of-way to be a service drive
for the use of the public at all times. The said easement and
right-of-way shall be 25 feet in width, and shall run across the
front of said parcels and lie approximately parallel to Rockville
Pike, and shall connect with the service drive easements now
located, or to be located, on the land adjoining the easterly
boundary line of Lot Two (2), as well as on the land adjoining
the westerly boundary of Lot Four (4). The location of the
easements over Lot Four (4) and that portion of Lot Three (3)
west of a point corresponding to the westerly end of the service
drive easements dedicated by the aforementioned plat shall coincide

CLERK'S OFFICE
MONTG. CO., MD.

1971 APR 21 PM 2:46

APR-21-77 PM 2:46
OK KING
APR-21-77
850

with the location of the driveway which now runs through Lot Four (4) and part of Lot Three (3). The grant of this easement shall in no way interfere with or cause any change or modification in the site plan for said lots approved by the City of Rockville Planning Commission, nor shall it affect the building setback restriction. The location of the easement over Lot Two (2) and part of Lot Three (3) shall be as shown on the plat to be recorded among the Plat Records of Montgomery County, Maryland, simultaneously with the recordation of this declaration. The easement area shall furthermore be computed in lot area requirements for the lots and said easement area shall continue to be used by the grantor as a driveway for the convenience and accommodation of said lots. It is further understood that the grantor may continue to use the land on either side of the easement area situate to the west of the thirty foot service drive delineated on the plat. This easement shall run with the land and shall be binding thereon and shall further be binding on the grantor, his successors, heirs, assigns or personal representatives.

It is further understood that by agreement between the grantor, his heirs or assigns, and The Mayor and Council of Rockville, the actual location of that portion of this easement west of the aforementioned westerly point of the easement shown on the aforesaid plat may, from time to time, be changed so long as the new easement way is in the form of a service road parallel to Rockville Pike, extending across the grantor's property. The relocation of the easement shall become effective and the old easement area deemed abandoned, upon the filing with the Clerk of the Circuit Court for Montgomery County, Maryland, of a revised

record plat of the grantor's property, as approved by the City of Rockville Planning Commission, showing the new easement area.

WITNESS the signature of the Grantor this 6 day of January, 1971.

WITNESS:

Bruce E. Steele Cornelius M. Whalen (SEAL)
Cornelius M. Whalen

STATE OF MARYLAND, COUNTY OF MONTGOMERY: to wit

I HEREBY CERTIFY that on this 6 day of January, 1971, before me the subscriber, a Notary Public in and for the State and County aforesaid, personally appeared Cornelius M. Whalen, and made oath in due form of law that he executed the aforesaid agreement for the purposes therein contained.

WITNESS my hand and Notarial Seal.

Jane
Notary Public

My Commission expires: July 1, 1974

City Hall - Plan. Dept. Rm. 105
111 S. Perry St., Rockville, Md

PLAT NO. 9847

SURVEYOR'S CERTIFICATE

I hereby certify that the plan shown herein is correct; that it is a subdivision of all the lands excepted herein.

From	To	Day	Year	Page
George W. Whalen	George W. Whalen	Jan 28	1968	458
George W. Whalen	George W. Whalen	Jan 11	1968	461
George W. Whalen	George W. Whalen	May 22	1969	301
George W. Whalen	George W. Whalen	Apr. 6	1970	150
George W. Whalen	George W. Whalen	Apr. 6	1970	184
George W. Whalen	George W. Whalen	Apr. 6	1970	189

All records among the land records of Montgomery County, Maryland and the states marked there and iron pins marked there to have been placed where indicated.

Date: June 15, 1970
 R. K. Madock
 County Surveyor
 Maryland Reg. #528

OWNER'S DEDICATION
 We, Caroline M. Whalen and Martha S. Whalen, his wife and Humbie Oil & Refining Company, a Delaware Corporation by J.E. Killian, Regional Manager and George J. Beck, Asst. Secretary, owners of the property, shown and described herein, hereby adopt this plan of subdivision, establish the building restriction lines as shown and establish an easement shown hereon for service road.

There are no suits of action, leases, liens or trusts on the property included in this plan of subdivision except a certain note, deed of trust and the part in interest thereto have been indicated thereon.

Date: April 28, 1970

Caroline M. Whalen
 Caroline M. Whalen, owner

Martha S. Whalen
 Martha S. Whalen, owner

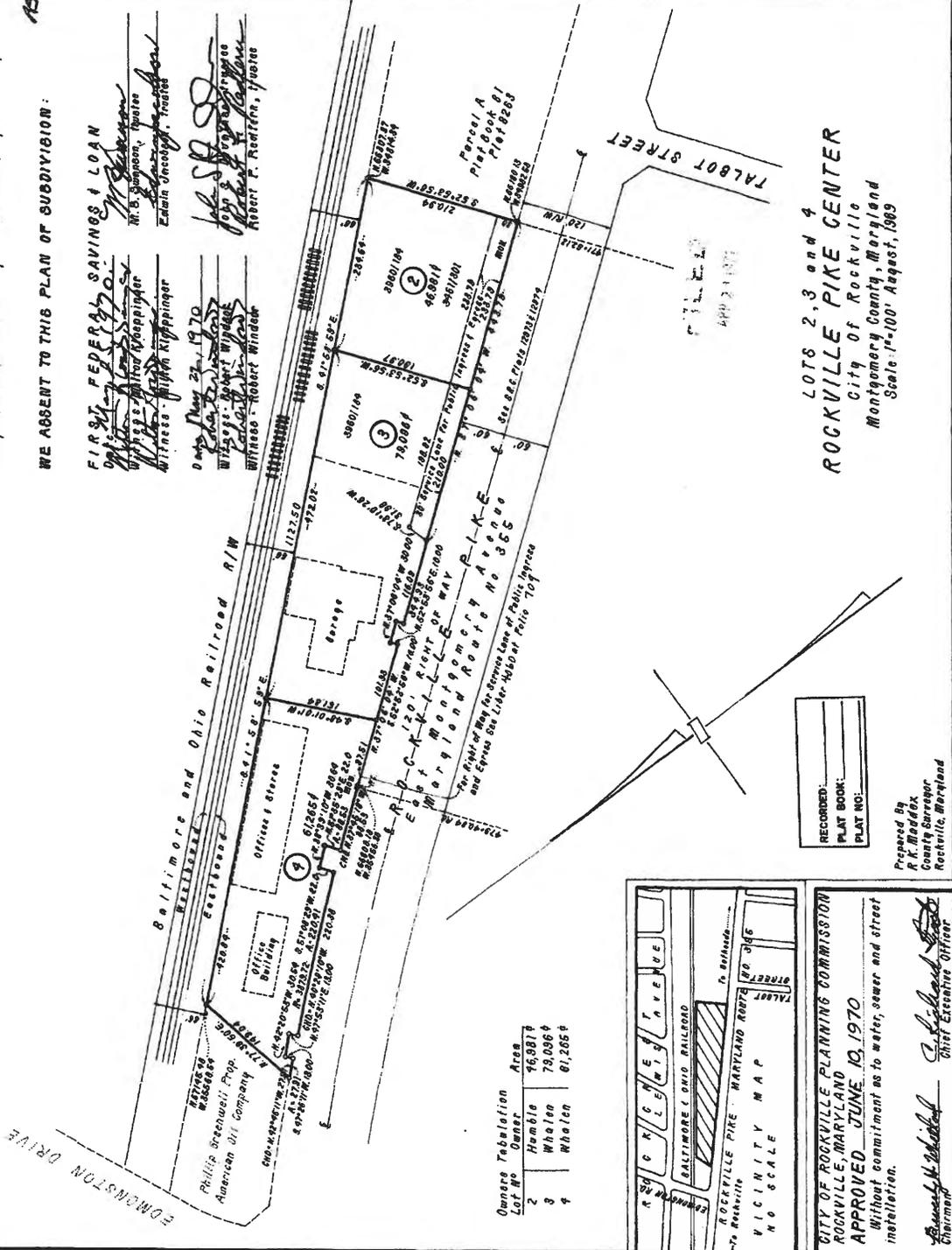
HUMBLE OIL & REFINING COMPANY
 By: George J. Beck
 George J. Beck, Asst. Secretary
 J.E. Killian, regional manager

WE AGREE TO THIS PLAN OF SUBDIVISION:

FIRST FEDERAL SAVINGS & LOAN
 By: John S. Kippinger
 John S. Kippinger, Trustee

Witness: William Kippinger
 William Kippinger, Trustee

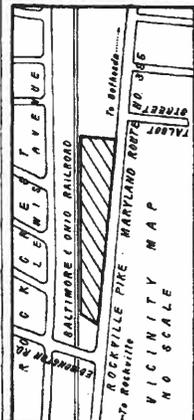
ASU



LOTS 2, 3 and 4
ROCKVILLE PIKE CENTER
 City of Rockville
 Montgomery County, Maryland
 Scale 1"=100' August, 1969

RECORDED:
 PLAT BOOK:
 PLAT NO.:

Prepared by
 R. K. Madock
 County Surveyor
 Rockville, Maryland



CITY OF ROCKVILLE PLANNING COMMISSION
 ROCKVILLE, MARYLAND
 APPROVED JUNE 13, 1970
 Without commitment as to water, sewer and street installation.

George J. Beck
 Chief Executive Officer

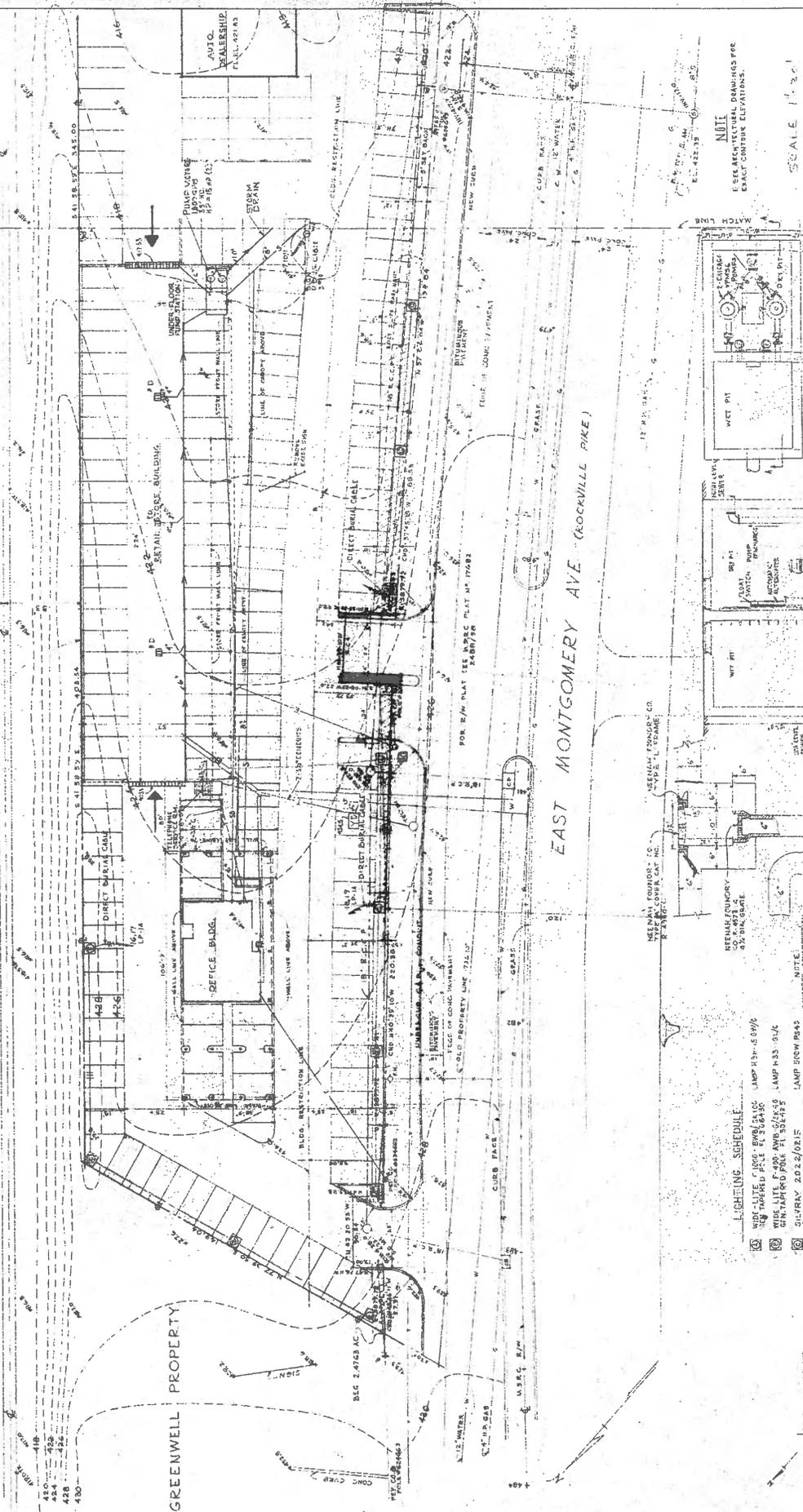
SECTION "A"

SECTION "B"

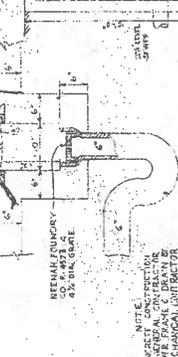
B & O RR R/W

GREENWELL PROPERTY

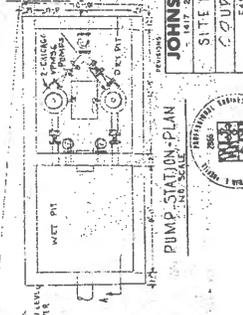
EAST MONTGOMERY AVE (ROCKVILLE PIKE)



- LIGHTING SCHEDULE**
- ① WIDE-LITE 1" 1800 - P.W. 125100 LAMP H-33 - 15 89/2
 - ② WIDE-LITE 1" 400 - A.W.B. 071250 LAMP H-33 - 07/4
 - ③ WIDE-LITE 1" 400 - A.W.B. 071250 LAMP H-33 - 07/4
 - ④ SULLY 2022/0215 LAMP H-33 - 07/4



DRIVEWAY TRENCH SECTION



PUMP STATION PLAN

JOHNSON & BOUTIN, ARCHITECTS
 1417 22ND STREET, N.W., WASHINGTON, D.C. JOB NO. _____
 SITE PLAN SECTION B
 DRAW NO. **M-7**
 EAST MONTGOMERY PLAZA
 ROCKVILLE, MONTGOMERY COUNTY, MARYLAND
 DRAWN BY: J. L. PEVILL
 CHECKED BY: L. J. PEVILL
 DATE: 11/5/82



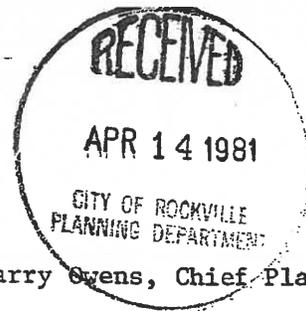
SCALE 1"=20'

NOTE: SEE ARCHITECTURAL DRAWINGS FOR EXACT CONCRETE ELEVATIONS.



TOTAL 2.4763 AC SITE KEY PLAN

EXHIBIT "E"



CONFIDENTIAL

MEMO TO: Planning Commission

FROM: Sondra Harans Block, Assistant City Attorney via Larry Owens, Chief Planner

SUBJECT: Questions raised concerning public service drive easement requirements

In late 1970 or early 1971 the City's Planning Commission granted a subdivision application by C.M. Whalen for property located along Rockville Pike and identified as Lots numbered 2, 3 and 4 in a subdivision known as "Rockville Pike Center". At that time, the Planning Commission, in accordance with the requirements of the City's subdivision regulations, required the owner of the subdivision to dedicate a service drive roughly paralleling Rockville Pike. Although the Planning Commission's policy generally is to require the service drive to abutt Rockville Pike, in an effort to accommodate the existing development on Mr. Whalen's property, which had parking spaces located in the area immediately adjoining Rockville Pike and where the service drive otherwise would be, the Commission accepted a so-called "floating easement" which roughly paralleled Rockville Pike and occupied the paved driveway running between the parking spaces on Mr. Whalen's property.

A written declaration of easement and right-of-way was executed by Mr. Whalen on January 6, 1971. That easement provided that the precise location of the easement, i.e., service drive, could be changed "from time to time ... so long as the new easement was in the form of a service road parallel to Rockville Pike, extending across the grantor's property." Such relocation of the easement would become effective upon the filing with the Clerk of the Circuit Court for Montgomery County of a revised record plat of the grantor's property approved by the City of Rockville's Planning Commission and showing the new easement.

It was the City's intention that when the property was redeveloped, the City would require the service drive to be relocated along the same alignment as the other service drives along Rockville Pike, that is, directly parallel and abutting to the Pike.

Mr. Whalen has filed an application for a use permit in which he proposes to resubdivide parcels 3 and 4 and join them into one lot in order to redevelop the property with a strip commercial development. Mr. Whalen, through his attorney, Joe Lynott, strongly objects and opposes the anticipated requirement of the commission to relocate the "floating easement" directly next to Rockville Pike. In addition, he requests the City to agree to the relocation of that portion of the service drive on lot 3 which abuts Rockville Pike.

The Planning Commission has presented the following questions to this office:

Question 1: What effect would an earlier case won by the Mayor and Council (Equity No. 34127) regarding the service drive have on any subsequent challenge to the Planning Commission's right to require a service drive easement?

Answer: In Humble Oil and Refining Co. v. City of Rockville, Equity No. 34127 (1968), Judge Irving J. Levine of the Circuit Court for Montgomery County held that the City's subdivision regulations which authorized the Planning Commission to require a service drive along existing or proposed arterial streets or highways was legal and constitutional. Although Mr. Lynott states that he will renew his challenge to that requirement of the subdivision regulations, it is my opinion that the Humble Oil case would dispose of any subsequent challenge of the Planning Commission's rights to require a service drive easement pursuant to the subdivision regulations. However, the Humble Oil case would not dispose of any challenge to the Planning Commission's right to require service drives pursuant to the use permit process or any other permit process, nor would it necessarily dispose of any challenge as to the precise location at which the service drive is required. Both issues appear to be raised by Mr. Lynott here.

Question 2: Must a property be subject to the subdivision regulations (new record plat) in order for the Planning Commission to impose a service drive requirement, or can it be a "condition of approval" of a use permit application?

Answer: The authority for the Planning Commission to require a service drive expressly comes from Section 7-301 of the Zoning Ordinance, which is part of the subdivision regulations. Although Section 1-304 of the Zoning Ordinance requires, for the issuance of a use permit, a finding that a use will not "affect adversely the health and safety of persons residing or working in the neighborhood of the proposed use," or "be detrimental to the public welfare or injurious to property or improvements in the neighborhood." I do not believe that this broad, unspecific standard is sufficient to support requiring service drives under the use permit process, particularly since it is expressly provided for under a different process. Consequently, in light of an almost certain legal challenge if such a requirement is part of the use permit application, I would not recommend that such requirement be imposed.

It should be noted that the present use permit application apparently proposes the resubdividing of Mr. Whalen's property to one parcel. If this is so, a relocated service drive can be required as part of the subdivision process. However, Mr. Lynott indicated that rather than relocate the service drive, his client, if unsuccessful in any court challenge to the requirement, will not resubdivide but would simply build a party wall along the property line, thereby depriving the City of its authority to require a relocated service drive.

Question 3: Does not the existing easement (by deed) already provide for access to the lot to the west?

Answer: This question apparently comes in response to Mr. Lynott's offer to "open up" the existing easement at its western end so as to allow connection with any future service road constructed on the property to its west, in exchange for a reaffirmation of the existing "floating" easement. Mr. Lynott maintains that the existing floating easement is presently blocked at its northwestern border where cars are presently parked and that the continuation of this parking at the northwestern border is authorized by the easement. Mr. Lynott apparently relies on the first full sentence on page 2 of the easement which reads: "The grant of this easement shall in no way interfere with or cause any change or modification in the site plan for said lots approved by the City of Rockville Planning Commission, nor shall it affect the building setback restriction." However, on page 1 of the easement it is clearly stated that a service drive easement and right-of-way shall connect "with the service drive easements now located, or to be located, on the land adjoining ... the westerly boundary of Lot four (4)". Interpreted in a light most favorable to Mr. Whalen, it would appear to me that cars can continue to park at the northwestern border of Lot 4 only until either a service drive is constructed on the lot to the west of Lot 4 or until new site plan approval is sought and received from the Planning Commission. In my opinion, the parking is permitted so long as the site plan previously approved remains the same, but the Planning Commission is in no way required to allow it to continue to block the service drive under a new site plan.

Question 4: Does not the existing deed clearly provide for the relocation of the easement, subject to Planning Commission approval?

Answer: Yes, the deed allows for the relocation of the easement subject to Planning Commission approval. However, the easement does not provide for the unilateral relocation of the easement by the Planning Commission. The easement can only be relocated with the concurrence of both the property owner and the Planning Commission.

In addition to my responses to the foregoing questions, I have the following advice with respect to this matter:

1. The subdivision regulations authorize the Planning Commission to require a service drive, and threats of a lawsuit challenging this authority should not intimidate the Planning Commission from requiring, pursuant to the subdivision regulations, any service drive that it otherwise deems to be necessary.

Although the outcome of no litigation can be predicted with absolute accuracy, it is this office's opinion that the subdivision requirements concerning service drives is valid.

2. Mr. Lynott is correct in his interpretation that the subdivision regulations authorize, but do not mandate, the requiring of a service drive and that the Planning Commission has discretion in deciding whether or not to require a service drive.

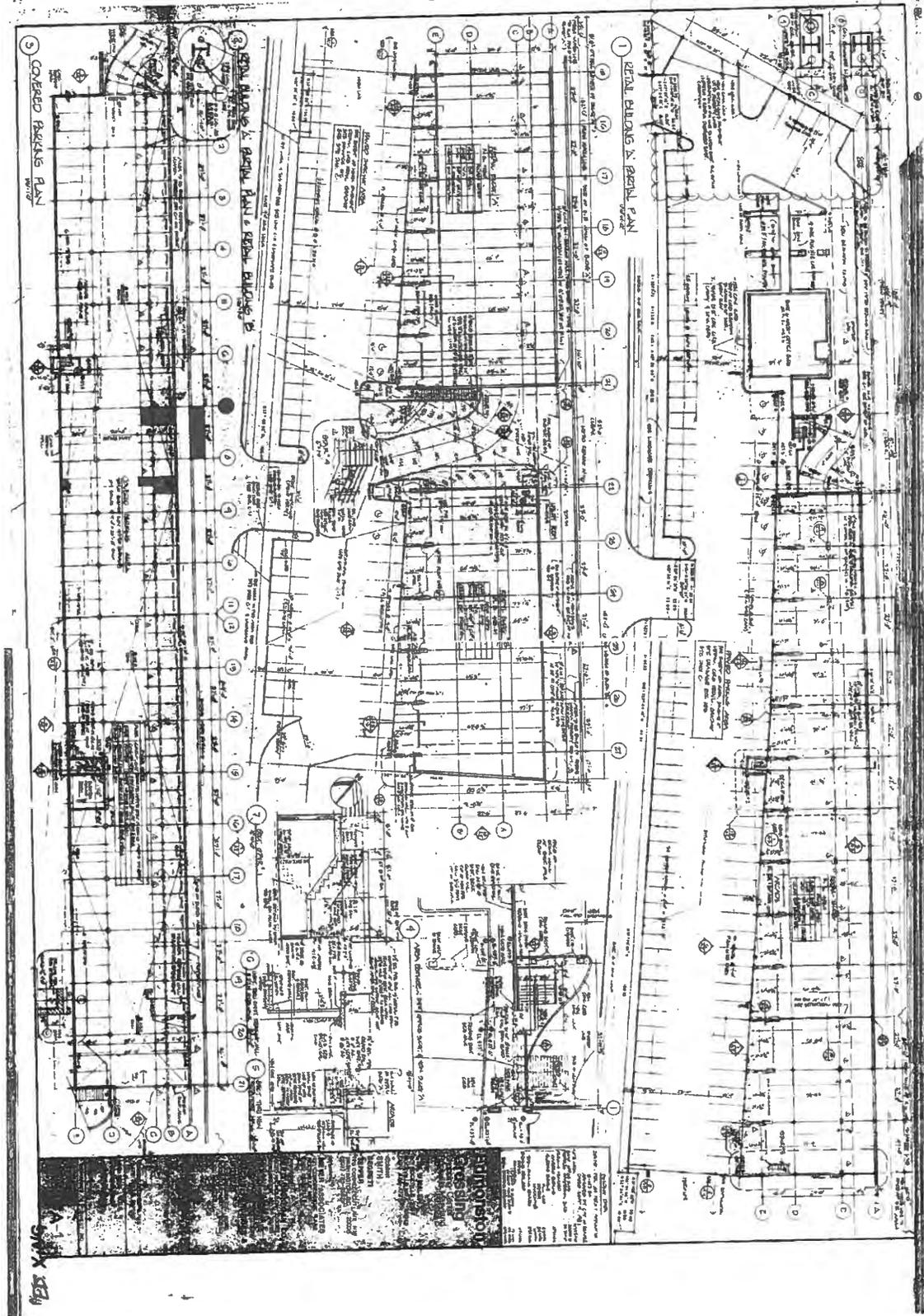
3. Since the Planning Commission only has before it an application for a use permit and not an application for a record plat, the action on the use permit should not be conditioned on the relocation of a service drive. The applicant should be informed parenthetically or by way of footnote of the past policy of the Planning Commission to require service drives adjacent to Rockville Pike as part of the subdivision process. However, no conditions for a service drive should be actually imposed until the subdivision process is undertaken.

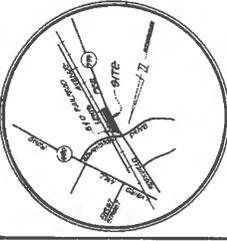
4. In addition, if the Planning Commission, as part of the subdivision process, were to exercise its discretion to require the relocation of the service drive, the record should clearly indicate the basis for that discretion, i.e. the need for consistency and uniformity among service drives. Furthermore, the record should clearly explain the exceptions to that policy, primarily that where floating easements have been approved it has been to accommodate existing development, and that, with the exception of the Wintergreen development, all new and redevelopments have been required to place the service drive directly adjacent to Rockville Pike. The record should clearly indicate distinguishing characteristics of the Wintergreen exception and why it does not apply in this instance. Failure to fully set forth the reasons for requiring the relocation of the service drive in this case, in the face of other apparent exceptions to the policy could lead to a court determination that the Planning Commission acted in an arbitrary and capricious manner in this case.

If you have any further questions, please contact me.

Sondra Harans Block
Assistant City Attorney

EXHIBIT "H"



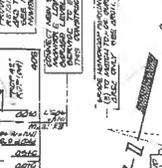
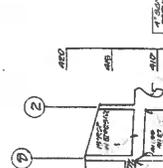
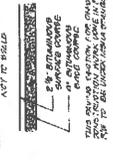


STRUCTURE SCHEDULE

NO.	DESCRIPTION	DATE	BY	CHKD.
1	FOUNDATION	11/15/82	J. SMITH	J. SMITH
2	CONCRETE	11/15/82	J. SMITH	J. SMITH
3	STEEL	11/15/82	J. SMITH	J. SMITH
4	MECHANICAL	11/15/82	J. SMITH	J. SMITH
5	ELECTRICAL	11/15/82	J. SMITH	J. SMITH
6	PLUMBING	11/15/82	J. SMITH	J. SMITH
7	PAINTING	11/15/82	J. SMITH	J. SMITH
8	LANDSCAPING	11/15/82	J. SMITH	J. SMITH

PIPE SCHEDULE

NO.	DESCRIPTION	DATE	BY	CHKD.
1	WATER	11/15/82	J. SMITH	J. SMITH
2	SEWER	11/15/82	J. SMITH	J. SMITH
3	VENT	11/15/82	J. SMITH	J. SMITH
4	CONDENSATE	11/15/82	J. SMITH	J. SMITH



WATER & SEWER NOTES

- ALL WATER LINES SHALL BE 12" DIA. UNLESS OTHERWISE NOTED.
- ALL SEWER LINES SHALL BE 12" DIA. UNLESS OTHERWISE NOTED.
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BLOCKING NOTES

- REMOVE ALL IMPEDIMENTAL BLOCKS WITH COMPACTS. SEE W-10 TO DETAIL B-12.
- REMOVE ALL OTHER FITTINGS WITH COMPACTS. SEE STD. DETAIL B-14.

25 SERVICE ACCESS DRIVE EASEMENT

THIS EASEMENT IS FOR THE USE OF THE 25 SERVICE ACCESS DRIVE. THE EASEMENT SHALL BE 25 FEET WIDE AND SHALL BE LOCATED AS SHOWN ON THE PLAN. THE EASEMENT SHALL BE SUBJECT TO THE FOLLOWING CONDITIONS:

- THE EASEMENT SHALL BE SUBJECT TO THE FOLLOWING CONDITIONS:
- THE EASEMENT SHALL BE SUBJECT TO THE FOLLOWING CONDITIONS:
- THE EASEMENT SHALL BE SUBJECT TO THE FOLLOWING CONDITIONS:

GENERAL NOTES

- ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE SPECIFICATIONS FOR HIGHWAY AND BRIDGE CONSTRUCTION, 1982 EDITION, PART 1, DIVISION 100 THROUGH 400.
- ALL MATERIALS SHALL BE OF THE BEST QUALITY AVAILABLE AND SHALL BE SUBJECT TO INSPECTION AND APPROVAL BY THE ENGINEER.
- ALL WORK SHALL BE COMPLETED WITHIN THE SPECIFIED TIME FRAME.
- ALL WORK SHALL BE COMPLETED WITHIN THE SPECIFIED TIME FRAME.
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SITE ANALYSIS

THE SITE ANALYSIS HAS BEEN CONDUCTED IN ACCORDANCE WITH THE LATEST EDITIONS OF THE SPECIFICATIONS FOR HIGHWAY AND BRIDGE CONSTRUCTION, 1982 EDITION, PART 1, DIVISION 100 THROUGH 400. THE ANALYSIS HAS IDENTIFIED THE FOLLOWING ISSUES:

- ISSUE 1: [Description of issue]
- ISSUE 2: [Description of issue]
- ISSUE 3: [Description of issue]
- ISSUE 4: [Description of issue]
- ISSUE 5: [Description of issue]
- ISSUE 6: [Description of issue]
- ISSUE 7: [Description of issue]
- ISSUE 8: [Description of issue]
- ISSUE 9: [Description of issue]
- ISSUE 10: [Description of issue]

25 SERVICE ACCESS DRIVE EASEMENT

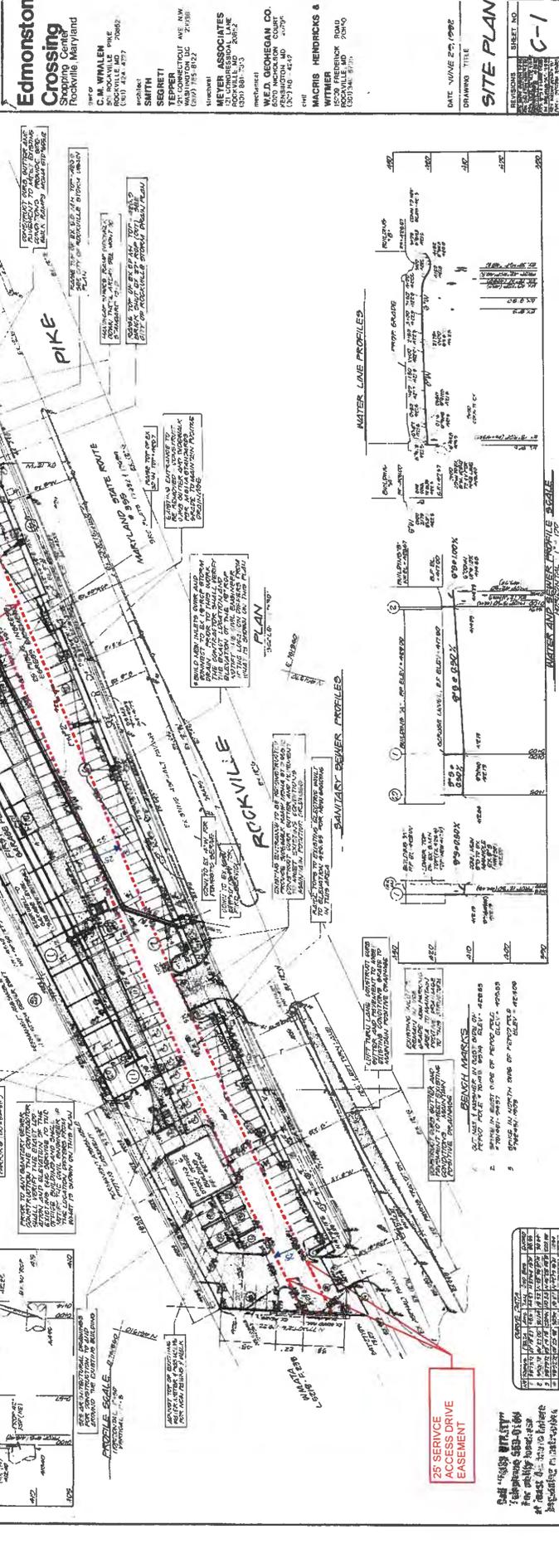
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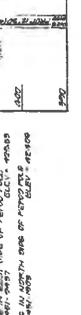
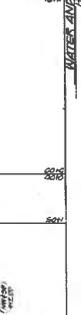
Edmonston Crossing
 Shopping Center
 Rockville, Maryland

SMITH
 ARCHITECTS
 501 W. WASHINGTON ST.
 WASHINGTON, D.C. 20001
 (202) 638-1100

W.E.A. GEHEGAN CO.
 CIVIL ENGINEERS
 2110 WASHINGTON BLVD.
 ROCKVILLE, MD 20850
 (301) 761-4410

MACRIS HENDRICKS & WITMER
 CIVIL ENGINEERS
 1000 W. WASHINGTON BLVD.
 ROCKVILLE, MD 20850
 (301) 761-4410

DATE: 11/15/82
 DRAWING TITLE: **SITE PLAN**
 SHEET NO: **C-1**



25 SERVICE ACCESS DRIVE EASEMENT

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Call 410-339-1111
 For ability based on
 at least 20 years of
 experience in the field

PLAT NO. 9847

SURVEYOR'S CERTIFICATE

I hereby certify that the plan shown herein is correct; that it is a subdivision of all the land depicted herein.

Name	Date	Lot	Area
F. W. McComb, et al	Jan 28, 1968	458	458
John J. Whalen, et al	Jan 11, 1968	3766	961
Wesley L. Lewis, et al	Jan 11, 1968	3981	301
James E. Douglas, et al	May 22, 1969	3982	150
Humble Oil Refining Co.	Apr. 6, 1970	3960	184
Cornelius M. Whalen	Apr. 6, 1970	3960	184

All records among the Land Records of Montgomery County, Maryland and that states marked there and iron pins marked that a have been placed where indicated.

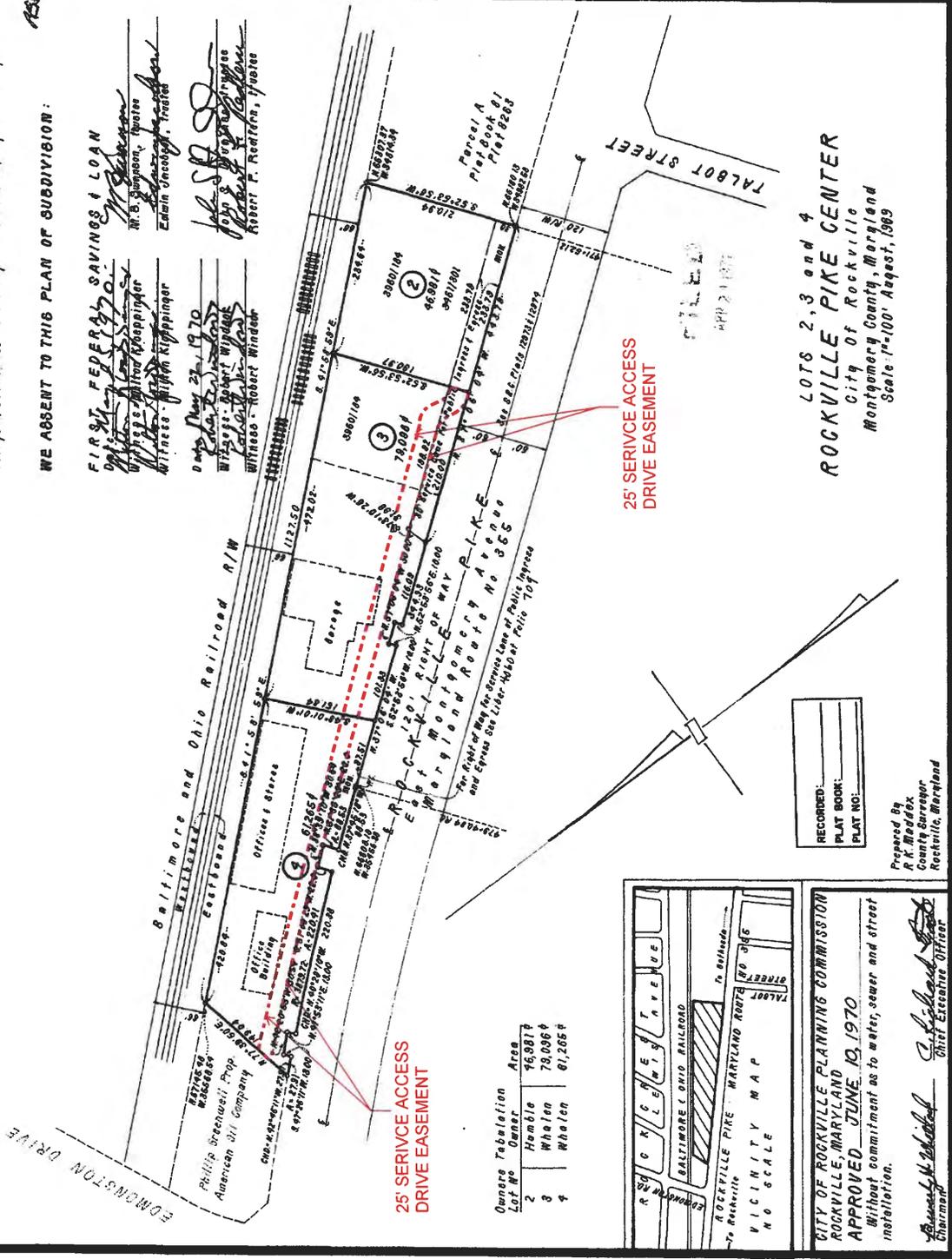
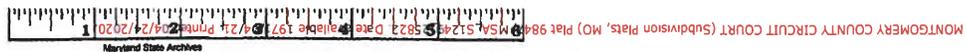
Date: June 25, 1969
 R. K. Maddox
 County Surveyor
 Maryland Reg. # 528

OWNERS DEDICATION
 We, Cornelius M. Whalen and Martha S. Whalen, his wife and Humble Oil & Refining Company, a Delaware Corporation, by E. Killian, Regional Manager and George T. Beckho, Asst. Secretary, owners of the property shown and described herein, hereby adopt this plan of subdivision, establish the building restriction lines as shown and establish an easement shown hereon for service road.
 There are no suits of action, leases, liens or trusts on the property included in this plan of subdivision except a certain note, deed of trust and the parties in interest thereto have been indicated thereon.

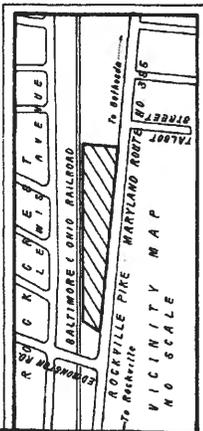
Date: April 28, 1970
 Witnesses: James C. DeLoe
 Cornelius M. Whalen, owner
Martha S. Whalen
 Martha S. Whalen, owner
HUMBLE OIL & REFINING COMPANY
 Date: June 25, 1970
 George T. Beckho, Asst. Secretary
 E. Killian, regional manager

WE ASSENT TO THIS PLAN OF SUBDIVISION:

FIRST FEDERAL SAVINGS & LOAN
 Date: May 27, 1970
 Witnesses: John S. A. [Signature]
 John S. A. [Signature], President
 Robert F. [Signature], Secretary
 Robert F. [Signature], Secretary



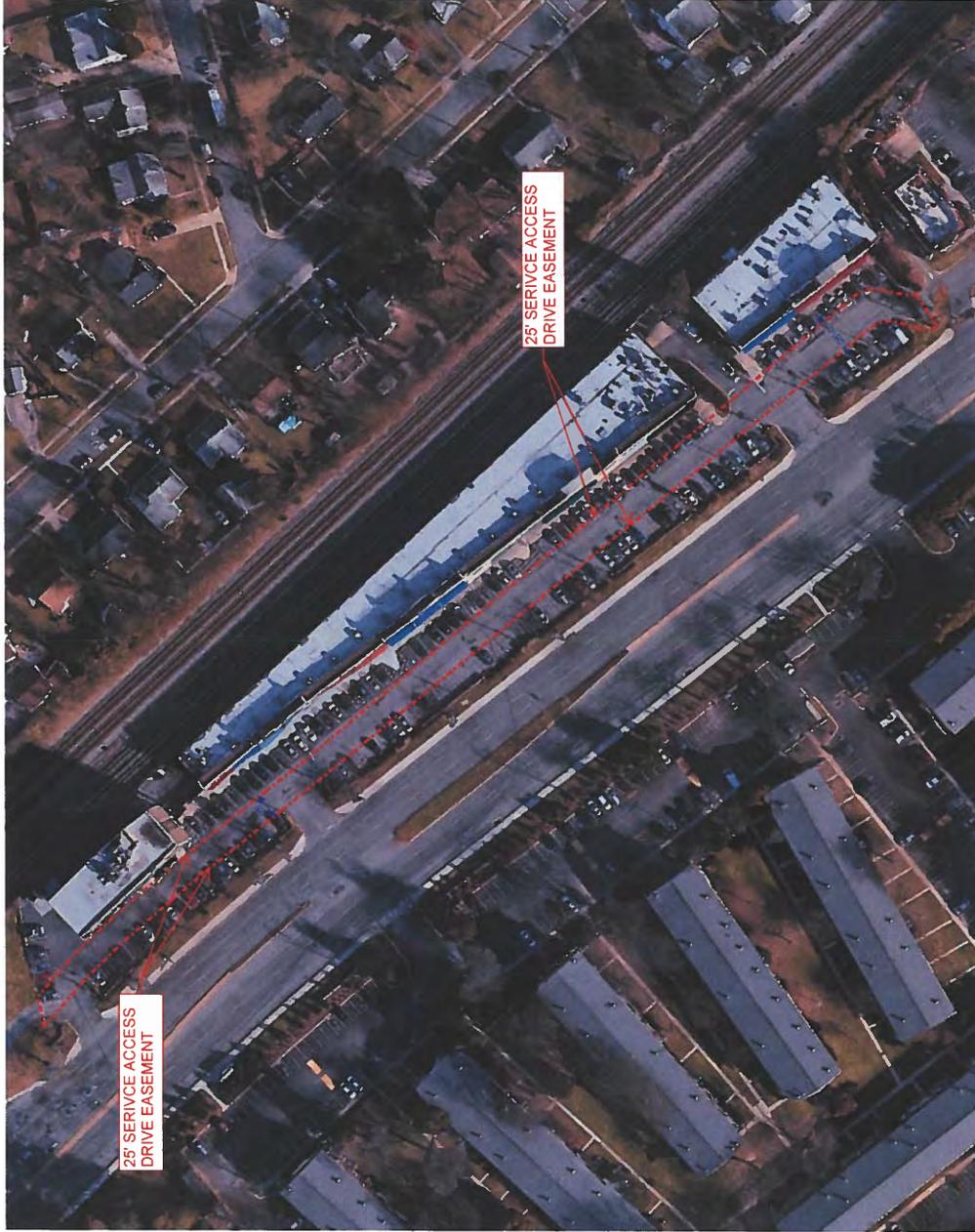
RECORDED:
 PLAT BOOK:
 PLAT NO.:



CITY OF ROCKVILLE PLANNING COMMISSION
 ROCKVILLE, MARYLAND
 APPROVED: JUNE 13, 1970
 Without commitment as to water, sewer and street installation.

Prepared By: R. K. Maddox
 County Surveyor
 Rockville, Maryland

LOTS 2, 3 and 4
ROCKVILLE PIKE CENTER
 City of Rockville
 Montgomery County, Maryland
 Scale 1"=100' August, 1969



25' SERVICE DRIVE EASEMENT EXHIBIT
1010 ROCKVILLE PIKE
NOT TO SCALE

Appendix B: Scoping Intake Form



City of Rockville

**Comprehensive Transportation Review
Scoping Intake Form**

Project name:	DANSHES CENTER ON THE PIKE				
Permit number, if available:					
Property address:	900 Rockville Pike				
Contact person:	Brian Donnelly				
Contact phone number:	301670-0840 301-717-7236 (Cell)				
Contact e-mail address:	Bdonnelly@mhgpa.com				
Existing and proposed land use density:	Use	Square Footage / Dwelling Units			
	Vacant (Existing Use)	0			
	Retail (Proposed Use)	4,400 sf			
Trip generation:	Peak Hour Site Trips				
	Peak Period	In	Out	Total	
	822 ITE or LATR:	AM	6.23	4.15	11
		PM	14.5	14.5	29
		SAT	15	14	29
Proposed study area, including boundaries and intersections:	The proposed development generates less than 30 peak hour trips, therefore a detail traffic study is not required.				
Proposed access points:	Access to the site will be provided from Rockville Pike (MD Route 355) via the existing service drive on Lot 5 per Service Drive Agreement (L. 4060/ F. 709)				
Projected build out date:	Fall 2023				
Statement of operations:	The site contains 0.59 acres and is currently undeveloped. The applicant intends to construct a 4,400 sf retail building with supporting parking				

Strip Retail Plaza (<40k) (822)

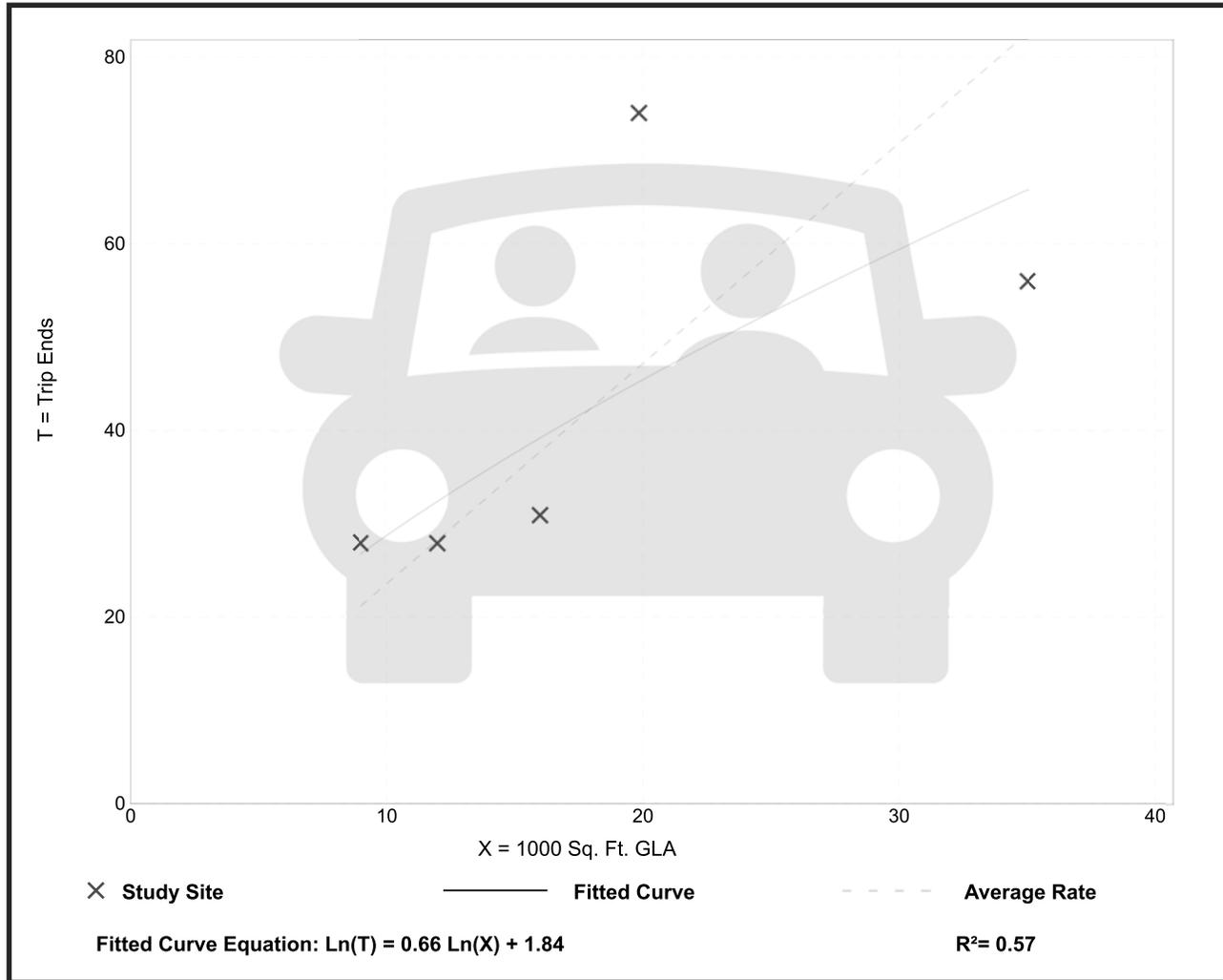
Vehicle Trip Ends vs: 1000 Sq. Ft. GLA
On a: Weekday,
Peak Hour of Adjacent Street Traffic,
One Hour Between 7 and 9 a.m.
Setting/Location: General Urban/Suburban
 Number of Studies: 5
 Avg. 1000 Sq. Ft. GLA: 18
 Directional Distribution: 60% entering, 40% exiting

Vehicle Trip Generation per 1000 Sq. Ft. GLA

Average Rate	Range of Rates	Standard Deviation
2.36	1.60 - 3.73	0.94

Data Plot and Equation

Caution – Small Sample Size



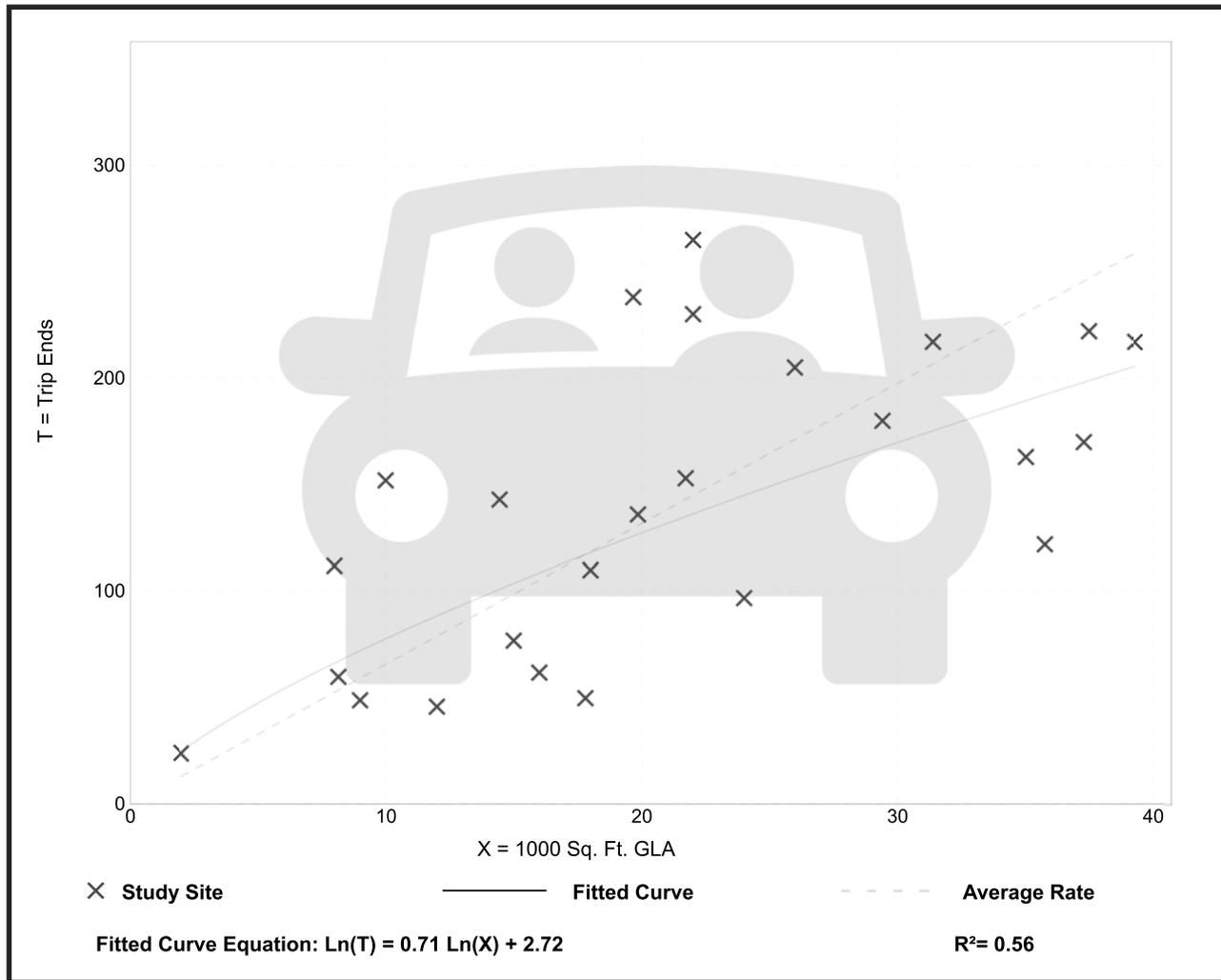
Strip Retail Plaza (<40k) (822)

Vehicle Trip Ends vs: 1000 Sq. Ft. GLA
On a: Weekday,
Peak Hour of Adjacent Street Traffic,
One Hour Between 4 and 6 p.m.
Setting/Location: General Urban/Suburban
 Number of Studies: 25
 Avg. 1000 Sq. Ft. GLA: 21
 Directional Distribution: 50% entering, 50% exiting

Vehicle Trip Generation per 1000 Sq. Ft. GLA

Average Rate	Range of Rates	Standard Deviation
6.59	2.81 - 15.20	2.94

Data Plot and Equation



Attachment 1.1.o: CTR Scoping Intake Form (4612 : Public Meeting - PJT2023-00016, 900 Rockville Pike)



111 Maryland Avenue | Rockville, Maryland 20850-2364 | 240-314-5000
www.rockvillemd.gov

August 28, 2023

Mr. Joel Danshes
 J Danshes, L.L.C.
 9213 Winterset Drive
 Potomac, Maryland 200854

SUBJECT: 900 Rockville Pike – Danshes’ Center on the Pike –Pre-Application SWM Concept Approval PJT2023-00016, SMC2023-00009

Dear Mr. Danshes:

The Pre-Application Stormwater Management (SWM) Concept (Concept) received for the above referenced site is conditionally approved. Staff has determined that the Pre-Application SWM Concept, as described below, achieves on-site Environmental Site Design (ESD) to the Maximum Extent Practicable (MEP). This Pre-Application SWM Concept approval establishes ESD to the MEP as a PE of 1.80-inch for this project which is 100 percent of the required ESD volume (ESD_v).

This site is 0.59 acre and is identified as Parcel 214, St. Mary’s, zoned Planned Development – Champion Billiards (PD-CB) with a designated equivalent zone of Mixed-Use Corridor District (MXCD), situated at 900 Rockville Pike on the southeast corner of the intersection of Edmonston Drive and MD-355. The proposed development includes the construction of a 4,400 square foot retail building, a surface parking lot and sidewalks, and frontage improvements for a 15-foot shared-use path. The property is in Lower Rock Creek Watershed. The on-site soil is designated as Urban Land which is classified as hydrologic soil group (HSG) D.

According to the Rockville City Code (Code), Chapter 19, Section 19-2 Definitions of the Rockville City Code, the Site qualifies as Development because it proposes construction on a property where existing imperviousness is less than 40 percent of the site. The site is currently a vacant lot which is 3.18 percent impervious.

In accordance with the Code, Chapter 19, Section 19-45, SWM is required for all new and replacement impervious area within the entire site area and the contiguous Rights-of-Way (ROW) as required by section 19-46, including all impervious area previously existing on the site that does not have SWM to current standards. According to the submitted Concept, the total limit of disturbance is 0.44 acre which is 100 percent of the site after the proposed dedication of ROW, and the on-site impervious area subject to SWM is 0.30 acre.

Per the Code, Chapter 19, Section 19-46, SWM also must be provided for imperviousness in a portion of the adjacent Edmonston Drive and MD-355 ROW. Per the submitted Concept, the total impervious area in the adjacent ROW subject to SWM is 0.13 acre.

Mr. Danshes
 August 28, 2023
 Page 2

Your proposed Pre-Application SWM Concept, as shown on the attachment, is summarized as follows:

ON SITE SUMMARY

Proposed new or replacement impervious areas are summarized as:

- One building, a surface parking lot, sidewalks, and associated site improvements.

Total on-site impervious area subject to SWM = 0.30 acre.

Environmental Site Design Measures

- The Concept proposes to provide a $P_E = 1.80$ inches equivalent to 100 percent of the required ESD_v in the following on-site measures:
 - One micro-bioretenention planter box facility.
- Summary of ESD_v :
 - Total ESD_v provided = 1,888 cubic feet (cf.)
 - Total ESD_v required = 1,888 cf.

Percentage of ESD_v provided = $1,888 \text{ cf.} / 1,888 \text{ cf.} = 100$ percent.

Structural Measures and/or Alternative Measures – Monetary Contribution

This Pre-Application SWM Concept Approval does not approve the methods for providing SWM beyond establishing the percent ESD_v . However, the Pre-Application SWM proposes:

- Alternative Measures – Monetary contribution in-lieu of providing Q_{p10} for the on-site imperviousness (0.30 acre).

ROW SUMMARY

- Applicant proposes to provide WQ_v , C_{p_v} , and Q_{p10} for imperviousness in the adjacent ROW of Edmonston Drive and MD-355 (0.11 acre) via monetary contribution.

CONDITIONS OF APPROVAL

Staff has determined that ESD to the MEP has been met.

The next step in the City of Rockville (City) two-stage SWM Concept approval is submission of a Development SWM Concept for review and approval by the Department of Public Works (DPW) prior to Planning Commission approval of the Site Plan. In accordance with the Code, Chapter 19, Section 19-44, SWM must be provided by one of the following methods, which are listed in order of priority respectively: on-site ESD measures, on-site structural measures, and alternative measures which may include a monetary contribution.

Mr. Joel Danshes
 August 28, 2023
 Page 3

This Pre-Application SWM Concept is conditionally approved subject to the following conditions, which must be addressed at the stages in the process as indicated below:

The submitted material must:

1. Include all plans, on 24" x 36" sheets, computations, and supporting documents as outlined in the City SWM Concept Checklist.
2. Demonstrate, with sufficient details and computations, how ESD to the MEP, established by this approval, will be achieved on-site.
3. Demonstrate, with sufficient details and computations, compliance with the full SWM requirements will be in accordance with the Code, Sections 19-43 and 19-44.
4. Include horizontal and vertical information to support the design, including underdrain pipes and overflow structures, and conveyance to the proposed microbioretention SWM facility.
5. Provide information that demonstrates that individually sized sub-drainage areas are safely conveyed to the individual ESD measures.
6. Submit a revised SWM/Forestry Overlay Plan demonstrating compliance with the Concept approval and the Preliminary Forest Conservation Plan approval.
7. Show and label preliminary SWM easements for all proposed SWM facilities. Easements should be sized to allow future inspection and maintenance.
8. The City may require an underground structural measure in-lieu of providing full ESD. SWM Alternatives, including monetary contribution as a method to meet SWM requirements, will be reviewed at the Development SWM Concept stage. Fee-in-lieu calculations associated with on-site areas should be presented separately from adjacent ROW areas.
9. Prepare a safe conveyance analysis of the downstream storm drain system and receiving stream. This letter establishes the study point as the storm drain pipe located on the east side of the WMATA Metro Rail property as shown on the attached exhibit entitled "900 Rockville Pike – Safe Conveyance Analysis Limits." The safe conveyance analysis must be reviewed and approved by DPW prior to approval of the Development SWM Concept. However, this analysis may be reviewed concurrently with the Development SWM Concept.
10. Conceptual design for drainage connections to existing storm drains in Washington Metropolitan Area Transit Authority (WMATA) easements and ROWs must be submitted for review prior to the approval of the Development Stormwater Management Concept.
11. The Applicant must comply with all requirements of WMATA's Joint Development and Adjacent Construction Manual, Design Criteria, and the provisions of any existing easement on the property. The Applicant must identify all proposed SWM facilities or private storm drain within the WMATA Zone of Influence on the property and provide the City with all correspondence related to compliance with WMATA's requirements. Any significant changes to the proposed development to comply with WMATA's Design Criteria may require the applicant to revise the plan to comply with all stormwater management requirements.

This Pre-Application SWM Concept does not supersede or negate other required project approvals. The Concept approval does not approve the layout or density of the site. The Concept approval is contingent upon compliance of all other City and other governmental agency requirements including, but not limited to, Forestry, Traffic and Transportation, and Planning.

Any significant changes to the proposed development may result in the requirement to submit a revised Pre-Application SWM Concept with review fee for approval by DPW.

Mr. Joel Danshes
August 28, 2023
Page 4

If you have questions, please contact Principal Civil Engineer Sean Murphy via email at smurphy@rockvillemd.gov or via telephone at 240-314-8535.

Sincerely,



John Scabis, P.E.
Chief of Engineering

JKS/SKM/kmc

Attachments: 900 Rockville Pike – Danshes’ Center on the Pike – Pre-Application SWM Concept Plan, dated August 22, 2023.
900 Rockville Pike – Danshes’ Center on the Pike – Safe Conveyance Analysis Limits.

cc: Jim Lapping, Engineering Supervisor
Shaun Ryan, Planning Supervisor
Li Alligood, Principal Planner
Brian Donnelly, Macris, Hendrick & Glascock, P.A.
Jody Kline, Miller, Miller & Canby
SWM Concept file
Permit plan, PJT2023-00016, SMC2023-00009
Day file

Attachment 1.1.p: Pre-Application SWM Concept Approval (4612 : Public Meeting - PJT2023-00016, 900 Rockville Pike)

Stationing	From Sta.	To Sta.	Length	Area	Volume
1	0+00	0+10	10.00	10.00	10.00
2	0+10	0+20	10.00	20.00	20.00
3	0+20	0+30	10.00	30.00	30.00
4	0+30	0+40	10.00	40.00	40.00
5	0+40	0+50	10.00	50.00	50.00
6	0+50	0+60	10.00	60.00	60.00
7	0+60	0+70	10.00	70.00	70.00
8	0+70	0+80	10.00	80.00	80.00
9	0+80	0+90	10.00	90.00	90.00
10	0+90	1+00	10.00	100.00	100.00

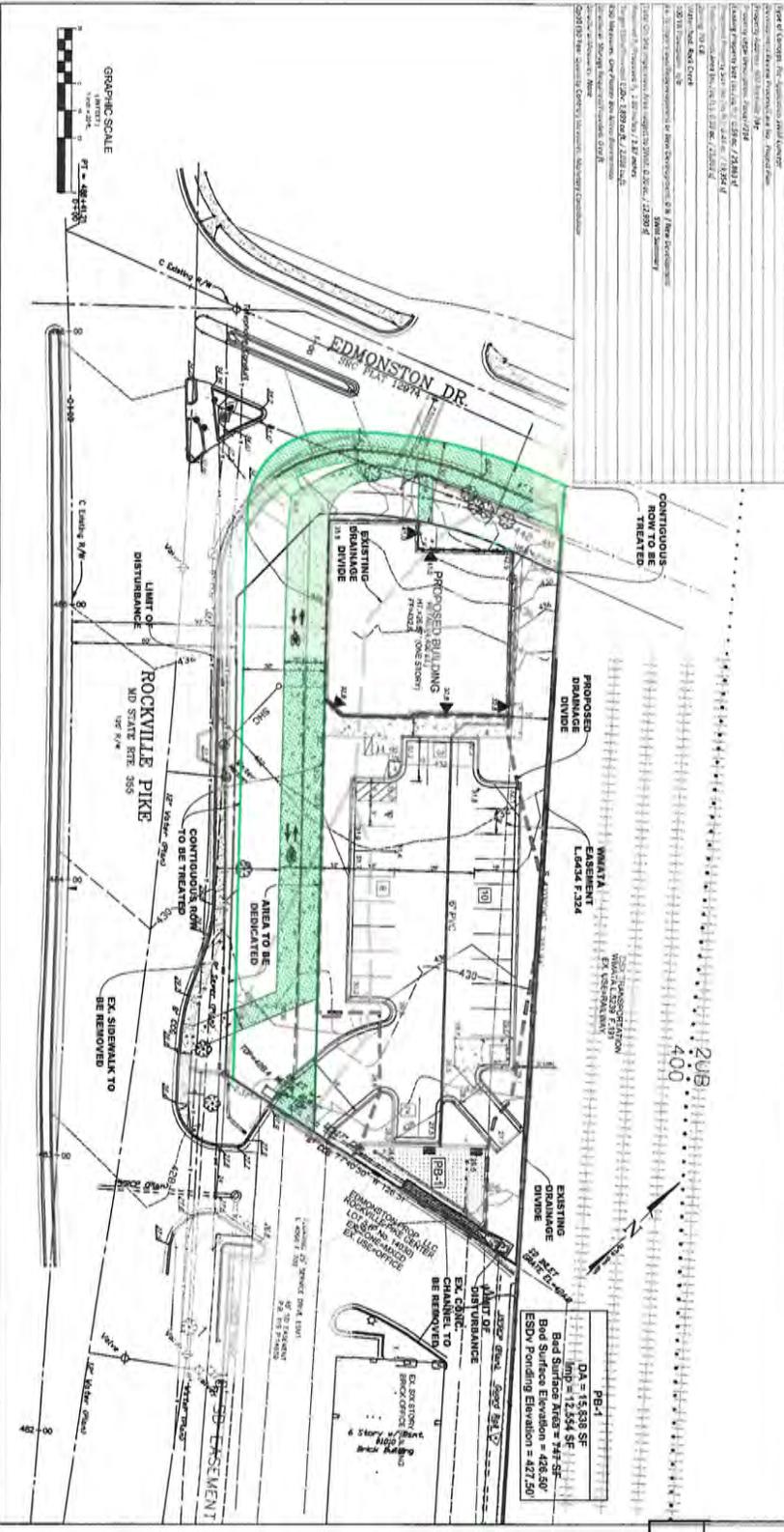
SMALL CONCRETE QUANTITY TABLE

Order of concrete for quantities shall be determined by the following:

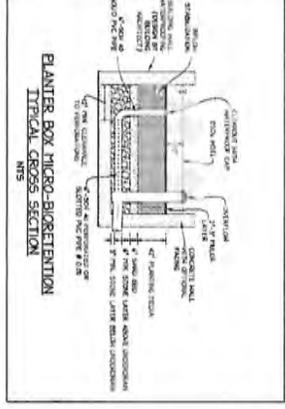
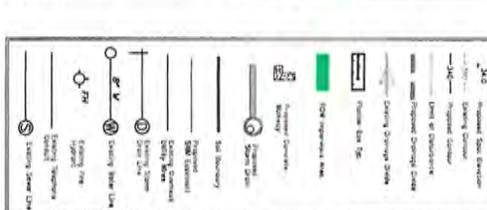
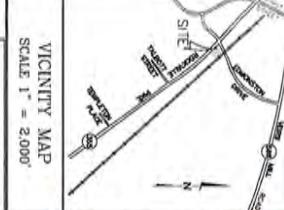
Concrete shall be ordered in 10' increments.

Concrete shall be ordered in 10' increments.

Concrete shall be ordered in 10' increments.



Item	Description	Quantity	Unit
1	Concrete Pad (PB-1)	1	SF
2	Stormwater Storage Tank (ST-1)	1	CU
3	Stormwater Filter (SF-1)	1	CU
4	Stormwater Inlet (SI-1)	1	CU
5	Stormwater Outlet (SO-1)	1	CU



SOILS ON-SITE CONSIST ENTIRELY OF URBAN LAND (HSG 'D' MAPPING UNIT) ACCORDING TO DATA RETRIEVED FROM THE USDA-NRCS WEBSITE SURVEY.

THIS PLAN IS FOR STORMWATER MANAGEMENT ONLY.

PROJECT NO. 20241030
SHEET NO. 1 OF 1

ST. MARY'S PARCELS P214

PRE-APPLICATION SWM CONCEPT PLAN

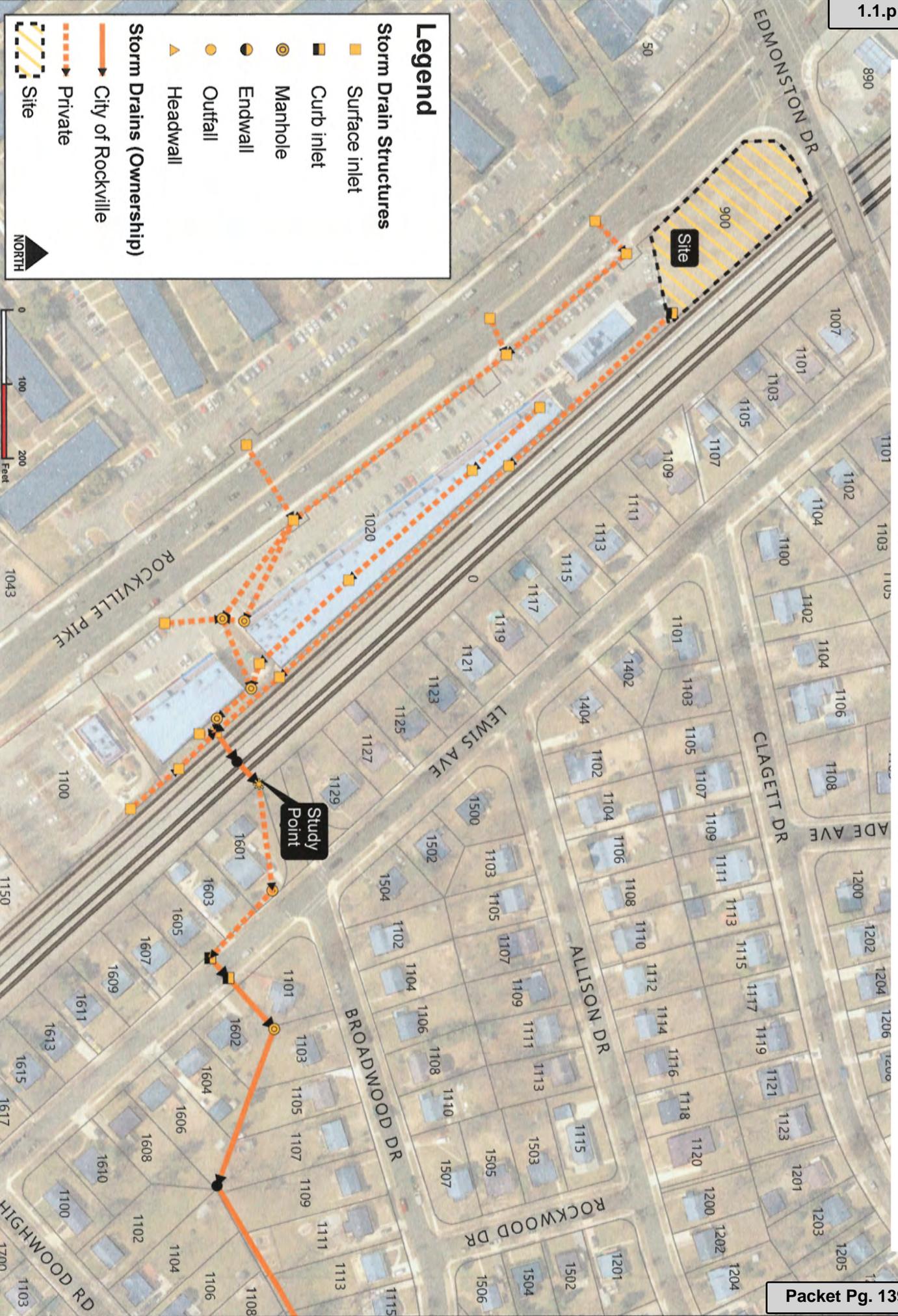
DATE: 8/13/24
SCALE: 1"=20'

DESIGNED BY: J. MARRAS
CHECKED BY: J. MARRAS

PROJECT LOCATION: 900 ROCKVILLE PIKE, ROCKVILLE, MD 20850

CLIENT: ST. MARY'S

DATE: 8/13/24



Legend

Storm Drain Structures

- Surface inlet
- Curb inlet
- ⊙ Manhole
- Endwall
- Outfall
- ▲ Headwall

Storm Drains (Ownership)

- City of Rockville
- - - Private

Site

NORTH



Department of Public Works
 Engineering Division

900 Rockville Pike
 Safe Conveyance Analysis Limits

DISCLAIMER: This drawing is intended to be used for reference and illustrative purposes only. It is not a legal document and does not constitute a contract. The drawing is a compilation of records, information and data developed and maintained in various City offices. Map lines were created from different sources at different scales, and the actual or relative geographic position of any object or feature shown on this drawing is not guaranteed to be accurate. DATE: 1/22/2019 AUTHOR: kcastr0



City of
Rockville
Get Into It

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December 6, 2023

J Danshes LLC
Mr. Joel Danshes
9213 Winterset Drive
Potomac, MD
20854

Re: 900 Rockville Pike, [FTP2017-00013](#)

Dear J Danshes LLC:

The Preliminary Forest Conservation Plan (PFCP) received on May 19, 2023 for 900 Rockville Pike under [FTP2017-00013](#) has been approved by the Community Planning and Development Services Department.

The PFCP approval is granted based on the following requirements:

- The Mayor & Council approves Project Plan (PJT2023-00016).
- The Planning Commission approves subsequent Site Plan application.
 - Applicant receives approval for reduced width of perimeter landscaping strips per section 4.d.2(b)(iv) of the Landscape, Lighting, and Screening Manual as needed, in accordance with the proposed landscape plan at the time of Site Plan approval.
 - Planning Commission approves any waivers, as required by the proposed landscape plan, consistent with section 4.d.3(c) of the Landscape, Lighting, and Screening Manual. Waivers must be approved before Site Plan (Signature Set) approval.
 - Applicant pursues no-harm agreement for trees and shrubs located in the WMATA retaining wall easement to ensure they are preserved or replaced if removed, to be completed before Site Plan (Signature Set) approval.

Under Section 10.5-13(c)(4) of the Forest and Tree Preservation Ordinance (FTPO), the approved PFCP "shall remain in effect, and shall serve as the basis for the Final Forest Conservation Plan(s) with respect to forest and tree retention for the duration of the validity period of the underlying approval, unless the City Forester determines that site conditions have changed to the point where the preliminary approval is no longer accurate."

FOREST AND TREE PRESERVATION ORDINANCE (FTPO) REQUIREMENTS

The proposed development within the City requires compliance with the City of Rockville's FTPO. CPDS approved a Natural Resources Inventory/Forest Stand Delineation plan on September 15, 2023.

FOREST CONSERVATION

The forest conservation requirement for this project is based on the following:

- Tract area: 0.59 acres
- Site zoning: MXCD
- Existing forest: .00 acres
- Afforestation required: N/A

MINIMUM TREE COVER

The minimum tree cover requirement for this project, is 10%.

SIGNIFICANT TREES/SPECIMEN TREES

Significant trees are defined as trees located outside of a forest and being 12" DBH (diameter at breast height) and trees located within a forest and being 24" DBH and greater. Specimen trees are defined as trees with a diameter equal to or greater than 30" DBH or trees that are 75% of the diameter of the state champion tree of that species. Removal of specimen trees requires written justification approved by the City Forester in accordance with Section 10.5-2(c) of the FTPO. There is one significant tree on the site.

Significant Trees

The project proposes to remove one significant tree from the project site. None of the trees are proposed for preservation. The replacement requirement is two trees to be planted on site.

STREET TREES

The project has frontage on Rockville Pike, which is a State Highway Authority (SHA) right of way (ROW), and on Edmonston Drive, which is a City ROW. The project proposes the removal of five City ROW street/roadside trees and three SHA ROW street trees. Two replacement trees are proposed for the removal of two significant trees in the City ROW.

CONDITIONS OF APPROVAL FOR FINAL FOREST CONSERVATION PLANS

A Final Forest Conservation Plan must be reviewed and approved by the City with signature site plan submission and prior to release of any Building, Forestry and DPW permit associated with site plan submission. The Final FCP shall be generally consistent with the PFCP and approval letter and provide tree plantings consistent with outlined requirements.

Final FCP and site plan must comply with FTPO and Zoning Ordinance. In addition to compliance with applicable codes, the following specific directives must be followed:

1. Ensure tree plantings meet minimum spacing requirements, which include:
 - a. Shade trees spaced 20 feet apart, large, or small evergreens and ornamental trees spaced 15 feet apart. Shade trees 15 feet from ornamental trees. Spacing between evergreens and shade trees is 15 or 20 feet, as determined by the City since distance is dependent on growth habit of the species.

- b. 10 feet from wet and dry utilities, except when these are under streets or as otherwise authorized by designated staff.
 - c. 15 feet from streetlights and driveways (DPW provide requirements for sight distances and stop signs) or as authorized by designated staff.
 - d. 10 feet from inlets.
 - e. Shade trees and large evergreens shall be spaced a minimum of 7 feet, and ornamental trees and small evergreens to be spaced a minimum of 5 feet from micro bioretention underdrain pipes (6" diameter and smaller)
 - f. Street trees can be planted over stormwater conveyance pipes when pipes have a minimum of 4 feet of cover and are immediately behind the curb.
 - g. Trees planted to meet FTPO or other forestry requirements on the site may not be located within existing or proposed easements (excluding forest conservation easements).
2. The Applicant must submit a Final Forest Conservation Plan (FFCP) which meets the minimum requirements approved with the PFCP plan for the proposed site plan.
 3. Use current city tree tables and FTPO notes and details.
 4. Ensure the plan does not contain overwrites and is prepared per the general structure requirements for Final FCP's.
 5. Soil augmentation per the city's Forest and Tree Preservation Ordinance Notes will be required prior to installation of new trees within existing green space or where pavement was previously located.
 6. Graphically delineate the areas where soil removal and replacement are required prior to installation of all new trees.
 7. At the time of site plan submission, the Applicant must submit a landscape plan for that subject property consistent with all City ordinances.
 8. The applicant must address all comments provided on the most recent PFCP submission plans by the forestry reviewer.

FORESTRY PERMIT

The applicant is required to obtain a Forestry permit prior to forestry sign off on any sediment control permit and building permit associated with the site plan. The following items are required before issuance of the Forestry permit:

- Submission of the FTP permit application and fee.
- Approval of a Final Forest Conservation Plan which is consistent with the Pre FCP and addresses the items listed in this letter under "Conditions of Approval for Final Forest Conservation Plan."
- Applicant must execute a Five-year Warranty and Maintenance Agreement in a form suitable to the City.
- Applicant must post a bond or letter of credit approved by the City.
- Applicant must pay applicable amount of approved fee-in-lieu.
- Applicant must obtain Roadside Tree Permits for any work in public ROW.

The Pre FCP approval does not infer or supersede other required project approvals and is contingent upon meeting all other city requirements including, but not limited to stormwater management, erosion and sediment control, water and sewer, traffic and transportation, and zoning and building codes.

Page 4

Any significant modification to the approved Pre FCP must be consistent with Site Plan approval.

Sincerely,



Shayda Musavi
Principal Planner- Forest Conservation
City of Rockville, Maryland

Cc:

Jim Wasilak, Zoning and Development Manager
John Foreman, Development Services Manager
Shaun Ryan, Development Review Supervisor



MEMORANDUM

January 9, 2024

TO: Planning Commission

FROM: Jim Wasilak, Chief of Zoning

SUBJECT: Proposed revised conditions of approval for PJT2023-00016

Since the Planning Commission agenda and staff report was issued on January 3, 2024, City staff has received additional public and agency comments and information regarding the truck turning movements for the proposed development. As a result, staff proposes revisions to the draft conditions included in the Planning Commission staff report. The public comment received since January 3, 2024, and additional comments from the Maryland Department of Transportation State Highway Administration are also included with this memo.

Background

The initial application submittal did not include a loading space on site. As such, Condition #2 was developed to require additional information in support of not providing a loading space on site. However, the final application submittal does include a loading space with the dimensions of 12' by 30', and the condition is no longer needed.

As part of the applicant's submittal materials, a truck turning analysis was included for SU-30 delivery trucks. Given the size of the loading space being provided, which can accommodate a truck of up to 30' long (the size of an SU-30 truck), and the fact that only turning movements for an SU-30 truck were submitted, the Department of Public Works, Traffic and Transportation suggests adding an additional condition limiting deliveries to the site to SU-30 or smaller trucks.

Staff Recommendation

Staff recommends that the Planning Commission consider the proposed revisions to the conditions and incorporate them into their recommendation to the Mayor and Council.

Attachments

1. Proposed revised Conditions
2. Comment received from Jim Whalen on January 5, 2024

3. Additional comments received from MDOT SHA on January 8, 2024

Attachment 1

Conditions

Staff recommends approval of the application subject to the following conditions, to be incorporated into a Resolution for Mayor and Council consideration:

Deleted = ~~Strikeout~~

New = Underline

Planning and Zoning

1. The proposed development must be designed in a manner generally consistent with the concept design and associated exhibits of the Project Plan Concept dated November 9, 2023. The permitted square footage is an “up-to” maximum and in no way absolves the applicant from demonstrating that the specific terms of all applicable City Ordinances can be met at site plan, except as otherwise outlined within the Project Plan approval resolution.
- ~~2. At the time of Site Plan submittal, the applicant must provide additional justification of why an on-site loading space is not needed, the types of tenants and deliveries anticipated, and examples of how loading is managed in other similar developments.~~

DPW Engineering

- ~~3.2.~~ Prior to issuance of any occupancy permit, the applicant must construct all public improvements within the property and Rockville Pike right-of-way, including but not limited to street trees, streetlights, streetlight conduit, traffic signs, new seven-foot sidewalk and eight-foot bicycle path as depicted on Sheet PJ 2.0 of the project plan and in accordance all applicable City standards or the standards of the jurisdiction of the corresponding right-of-way. Public improvements must be located within the right-of-way or within a Public Improvements Easement (PIE) as approved by the Director of Public Works.
- ~~4.3.~~ Prior to any DPW permit, Applicant must obtain all necessary approval and/or permits for closure of the Rockville Pike driveway access point, construction of improvements within SHA right-of-way, and utility connections proposed on the Project Plan from all agencies with jurisdiction, including Maryland State Highway Administration (SHA) and City of Rockville.
- ~~5.4.~~ Applicant shall comply with the conditions of the Department of Public Works’ (DPW’s) Pre-Application SWM Concept Approval Letter dated August 28, 2023, attached as the “Pre-Application SWM Concept Approval Letter” attachment.
- ~~6.5.~~ Applicant must comply with all requirements of WMATA’s Joint Development and Adjacent Construction Manual, Design Criteria and the provisions of all existing WMATA easements on the property. Prior to submission of the site plan application, the Applicant must identify all proposed development within the WMATA Zone of Influence on the property and provide the City with all correspondence related to compliance with WMATA’s requirements. The Applicant must receive written approval of the design and construction methods for all improvements near WMATA’s right-of-way prior to the issuance of any DPW permit. Any significant changes to the proposed development

necessary to comply with WMATA's Design Criteria may require the applicant to revise the project plan to comply with all City requirements.

- ~~7.6.~~ If present, the Mayor and Council must authorize the termination of any existing easement that is dedicated to the City of Rockville. Any termination of an easement dedicated to the City must be reviewed and approved in a format acceptable to the Office of the City Attorney and be recorded in the Montgomery County Land Records prior to issuance of any DPW permit. If required by the terms of any existing easement granted to an entity other than the City of Rockville, the Applicant must submit plans for work within the easement to Grantee for review. If Grantee's permission for such work is required, the Applicant must secure Grantee's written permission for any proposed development activity within the easement, or the easement must be extinguished, prior to the submission of an application for any DPW permit.
- ~~8.7.~~ Submission for review and approval by the Office of the City Attorney prior to DPW permit issuance, all necessary deeds, easements, agreements, dedications and declarations. Drafts of the documents must be included with the initial submission of the engineering plans and must be recorded prior to issuance of DPW permits, unless otherwise allowed by DPW.
- ~~9.8.~~ Prior to Site Plan approval, the applicant must submit a conceptual dry utility plan to be deemed appropriate by both the utility companies and the Department of Public Works. The dry utility plan must demonstrate there is adequate space between the building and the powerlines to minimize the risk of electric shock, fire, power cuts or damage to the property or powerlines. The dry utility plan must demonstrate that both the proposed condition and the future condition for the planned BRT infrastructure can be safely constructed.

DPW – Traffic and Transportation

9. Trash, delivery, and service vehicles accessing the site shall be limited to SU-30 equivalent or smaller except for emergency vehicles.
10. After Site Plan approval and prior to issuance of any Public Works Permit, the Applicant shall dedicate for public use any property along the Property frontage that lies within a minimum 93 feet from the existing roadway center, of which approximately 32 feet is located beyond the existing SHA Rockville Pike right-of-way. The right-of-way to be dedicated to City of Rockville shall be in accordance with the Project Plan and exhibits, including those coordinated with MCDOT to accommodate the future MD 355 Bus Rapid Transitway (BRT), seven-foot pedestrian walkway and eight-foot bicycle path. Any deviation must be approved by the Director of Public Works at the Site Plan phase.
11. The applicant shall submit to DPW for review and approval by the Chief, Traffic and Transportation Division, prior to issuance of any building permit a detailed signing and marking plan prepared in accordance with the latest edition of the Maryland Manual on Uniform Traffic Control Devices (MD-MUTCD).
12. During construction, the applicant must ensure access to the existing adjacent office building and its parking lot are continuously maintained and provided. All parking for site contractors must be provided on-site.

Fire

13. Site Plan application shall comply with Sheet EX 1.0.
14. At the time of site plan submission, the Applicant must show the location of the Fire Department Access Box (Knox Box).

Forestry

15. The applicant must apply for a waiver consistent with section 4.d.3(b) of the Landscape, Lighting, and Screening Manual from the Planning Commission for Segment 'A' shown on Sheet L2.01 if necessitated by the final Landscape Plan. The waiver must be approved before or concurrently with Site Plan approval.
16. The applicant must apply for a waiver consistent with section 4.d.3(c) of the Landscape, Lighting, and Screening Manual for Segment 'B' shown on Sheet L2.01 if necessitated by the final Landscape Plan. The waiver must be approved before or concurrently with Site Plan approval.
17. Before the issuance of any building, forestry, or DPW permits, the applicant must obtain approval of a Final Forest Conservation Plan (Final FCP).
18. At the time of site plan submission (or before), the Applicant must submit a final forest conservation plan (FFCP) which meets the minimum requirements approved with the preliminary forest conservation plan (PFCP) for the proposed limits of the site plan.
19. The applicant must adhere to and meet all requirements of the PFCP approval letter in preparation for submittal and approval of their FFCP.

Public Art

20. The Applicant must comply with the City's Publicly Accessible Art in Private Development Ordinance. Applicant must provide a concept plan for approval prior to issuance of a building permit.

Attachment 2

Li Alligood

From: Li Alligood
Sent: Friday, January 5, 2024 2:15 PM
To: Jim Whalen
Cc: John Foreman
Subject: RE: PJT 2023-00016... Danshes Plan

Thank you, Jim, received.



www.rockvillemd.gov

LI ALLIGOOD (she/her), AICP, LEED AP ND
DEPUTY ZONING MANAGER
Community Planning and Development Services
DIRECT EXTENSION: 240.314.8223
lalligood@rockvillemd.gov

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From: Jim Whalen <jwhalen@investmentproperties.net>
Sent: Friday, January 5, 2024 11:56 AM
To: Li Alligood <lalligood@rockvillemd.gov>
Cc: John Foreman <jforeman@rockvillemd.gov>
Subject: FW: PJT 2023-00016... Danshes Plan

WARNING - External email. Exercise caution.

Good morning Li,

Sorry about that, and good catch! The above attachments reflect the pictures discussed in the email below and in proper order (the Cysco truck delivering to Tropical Smoothie was the one I left out).

Thanks again... Jim

James F. Whalen
Investment Properties, Inc.
11 N. Washington St., Suite 200
Rockville, MD 20850

301.795.4000 (direct)
301-279-7944 (Fax)

jwhalen@investmentproperties.net



From: Jim Whalen
Sent: Thursday, January 4, 2024 5:52 PM
To: Li Alligood <lalligood@rockvillemd.gov>
Cc: John Foreman <jforeman@rockvillemd.gov>
Subject: RE: PJT 2023-00016... Danshes Plan

Happy new year Li,

I meant to send these pictures and the following questions earlier, and the task got buried. Given the history on this site, I assume staff has already analyzed truck movements on this property. Can you please review and include staffs answer to the questions below and conclusions in the staff report?

The original Champions plan is designed with a one-way circular drive aisle allowing vehicles, and in particular the 40 foot trucks champions testified would service their operation, ingress and egress to their site. The circular drive aisle is necessary because any vehicles of any size would not be able to complete operations in a dead-end drive aisle configuration (assuming the parking spaces are occupied).

I snapped a few pictures at two shopping centers we manage on Rockville Pike to illustrate what is a typical occurrence at all shopping centers. The first picture, simply records the address of the 1600 square foot tenant, Tropical Smoothie, at White Flint station. The second picture shows the Cisco truck blocking our parking lot while delivering to Tropical Smoothie during midday. This shopping center has strict rules about truck size and delivery times, but as you can see, when they come they come and it's too late. In this case, the truck could enter and exit our property without impacting our neighbors property or performing unsafe maneuvers on Rockville Pike. In short, the impact is limited to our own property.

Can the applicant and staff please analyze and tell us how, and with what movements, this same vehicle could deliver to a tenant at the proposed new development without the need to maneuver on our property?

The third picture shows two vehicles servicing different tenants at the Talbot center, which is across the street and just south of the subject property. Both of these trucks are smaller than the Cisco truck and they are the typical trucks that service properties. Can the applicant and staff please analyze and tell us how, and with what movements, these same two vehicles could service tenants at the proposed new development without the need to maneuver on our property?

Thanks very much... Jim

James F. Whalen
Investment Properties, Inc.
11 N. Washington St., Suite 200
Rockville, MD 20850

301.795.4000 (direct)
301-279-7944 (Fax)

jwhalen@investmentproperties.net



From: Jim Whalen <jwhalen@investmentproperties.net>
Sent: Wednesday, November 29, 2023 1:45 PM

To: Li Alligood <lalligood@rockvillemd.gov>
Cc: John Foreman <jforeman@rockvillemd.gov>
Subject: Re: PJT 2023-00016... Danshes Plan

Thanks Li...

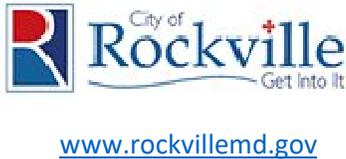
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From: Li Alligood <lalligood@rockvillemd.gov>
Sent: Wednesday, November 29, 2023 10:59:11 AM
To: Jim Whalen <jwhalen@investmentproperties.net>
Cc: John Foreman <jforeman@rockvillemd.gov>
Subject: RE: PJT 2023-00016... Danshes Plan

Thank you, Jim. I will add your comment and attachment to the public comments section of the staff report.

Staff is analyzing the applicant's proposal and developing our recommendations to the Planning Commission. The staff recommendation will be available to all parties with the publication of the staff report, and will include discussion of and findings related to site access.

The Planning Commission meeting has been rescheduled to January 10, 2023, and the Planning Commission materials will be published [here](#) on January 3.



LI ALLIGOOD (she/her), AICP, LEED AP ND
DEPUTY ZONING MANAGER
DIRECT EXTENSION: 240.314.8223
lalligood@rockvillemd.gov

From: Jim Whalen <jwhalen@investmentproperties.net>
Sent: Tuesday, November 28, 2023 9:48 AM
To: Li Alligood <lalligood@rockvillemd.gov>
Cc: John Foreman <jforeman@rockvillemd.gov>
Subject: RE: PJT 2023-00016... Danshes Plan

WARNING - External email. Exercise caution.

Good morning Li,

Thanks for getting back to me. My initial response, for the record, is that the easement location and dimensions as depicted on the current plans, have now been drawn in three different locations by the same consultant team (the current plan is the third). This last rendition is particularly creative in that it appears to be drawn correctly as it terminates in the correct location on the Western side at the end of the parking spaces, but for the first time is not drawn to scale at 25 feet.

The easement is currently, and has always been located in the same location, I.E the drive aisle between the building and the parking spaces. In the original and subsequent drawings supporting the original and subsequent applications, the applicants consultants appear to have misled the city by depicting the easement in a locations that are not only inaccurate, but physically not possible unless the city and owners of Edmonston agreed to move it to a location that would eliminate the parking for the office building in that area.

The applicant first convinced the city that because the easement is "floating" , it can be conveniently moved to connect to the Rockville Pike entrance (which would provide them access to the service drive easement without using their own curb cuts). The problem with that argument is the only way the floating easement could be moved is with mutual consent of both the city and the owners of Edmonston, which did not occur. This next attempt to deceive the city, which I'm guessing this current plan was concocted to support, is an assertion that sometime in the past the easement was located in a location that it connected to that entrance. That argument is also a fabrication and we have submitted proof to the city to back up that statement.

At this point, rather than ask us to debate this issue again with the applicant in a public forum, we are requesting city weigh in with their determination of the facts. There is more than sufficient evidence that the City was misled by the applicant on the easement location and connectivity to the entrance, and I'm hopeful that after seeing the easement drawn in three different locations (when there can only be one location) by the same engineer, the city will dig in and make a determination. This has been a very time-consuming and costly matter Edmonston, and we ask the city step and recognize the situation for what it is. It seems to me that if the city has proof they were provided false information on the original and subsequent applications and there are grounds to nullify those approvals. We and the city are in possession of proof.

For your convenience, I have attached a previous submission from Miles Stockbridge regarding this matter. Please let us know the City's position regarding the sattachement and the above.

Thanks again, sorry you drew the short straw in getting this project!... Jim

James F. Whalen

Investment Properties, Inc.
11 N. Washington St., Suite 200
Rockville, MD 20850

301.795.4000 (direct)
301-279-7944 (Fax)

jwhalen@investmentproperties.net



From: Li Alligood <lalligood@rockvillemd.gov>
Sent: Monday, November 27, 2023 3:24 PM
To: Jim Whalen <jwhalen@investmentproperties.net>
Cc: John Foreman <jforeman@rockvillemd.gov>
Subject: RE: PJT 2023-00016... Danshes Plan

Hello Jim,

The City has not directed the applicant to depict the easement in any particular location. The applicant is relying on its own consultants to produce its exhibits and plan drawings.

If you have concerns with the way the easement is depicted or would like to provide other testimony regarding this application, I would encourage you to submit written comments to me for inclusion in the record of the Mayor and Council's proceedings.

You may also provide oral testimony at the Planning Commission's public hearing on this application, currently scheduled for December 13, 2023, and the Mayor and Council's public hearing, which is tentatively scheduled for March 11, 2024.

We are reviewing the information the applicant provided and will be providing our analysis and recommendation to the Planning Commission prior to their meeting. The staff recommendation and supporting materials be available at the link below on December 6.

Thank you,



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LI ALLIGOOD (she/her), AICP, LEED AP ND
DEPUTY ZONING MANAGER
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lalligood@rockvillemd.gov

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From: Jim Whalen <jwhalen@investmentproperties.net>
Sent: Tuesday, November 21, 2023 3:43 PM
To: Li Alligood <lalligood@rockvillemd.gov>
Cc: John Foreman <jforeman@rockvillemd.gov>
Subject: Re: PJT 2023-00016... Danshes Plan

WARNING - External email. Exercise caution.

Thanks Li,

Ah, so now the easement isn't drawn to depict a full 25'.....Interesting. Shouldnt you be measuring from the bottom line closest to Pike? If you do so, you will see the actual location of the easement between the end of our parking and the building sidewalk. This is where it has always been since established. This drawing shows it pulled away from the building. Did the city request it be drawn in this manner, or was it the applicant?

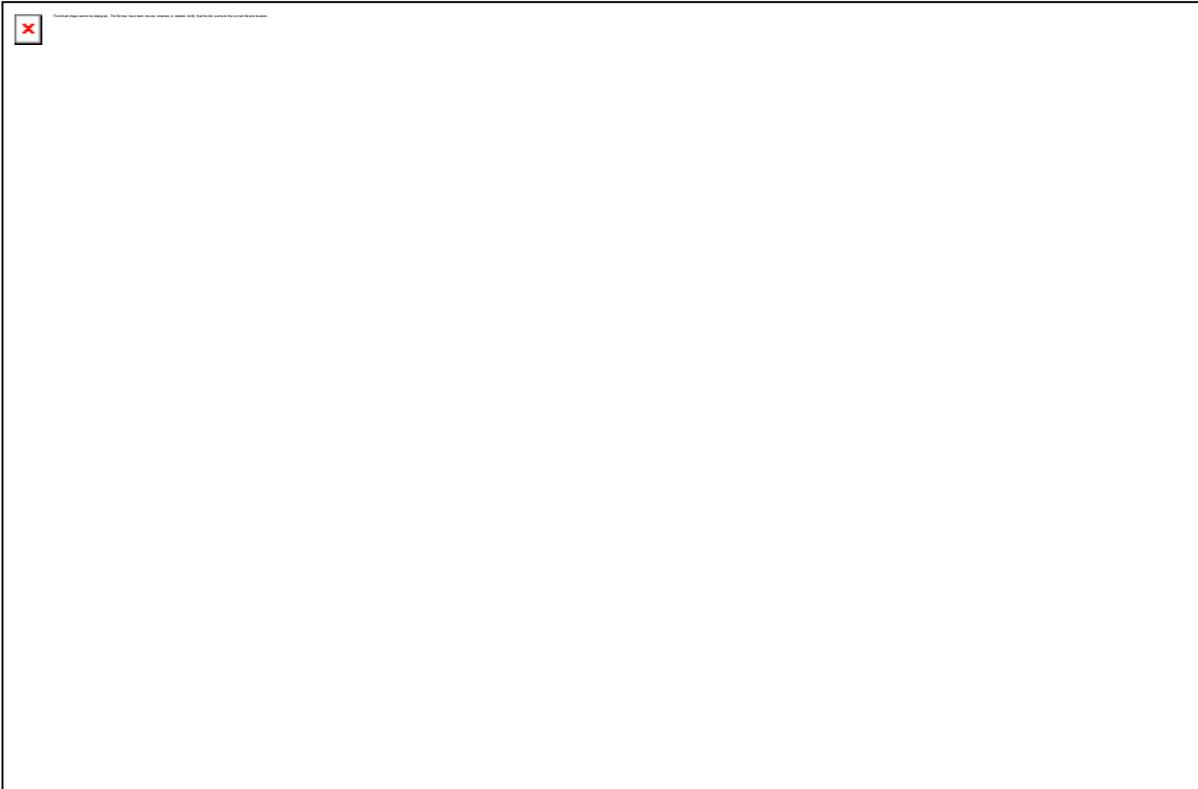
Thanks again...Jim

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From: Li Alligood <lalligood@rockvillemd.gov>
Sent: Tuesday, November 21, 2023 2:31:08 PM
To: Jim Whalen <jwhalen@investmentproperties.net>
Cc: John Foreman <jforeman@rockvillemd.gov>
Subject: RE: PJT 2023-00016... Danshes Plan

Hello Jim,

Our measurements in that location are the same as shown on the plans – I agree that it is a confusing graphic in that the southwestern boundary is not shown. You can see the full dimensions on other sheets within the plan set (most clearly on Sheet L9.01).



The applicant is also providing a memo that will be included with the Planning Commission materials. They will be published here on December 6:

<https://www.rockvillemd.gov/AgendaCenter/Search/?term=&CIDs=4,&startDate=&endDate=&dateRange=&dateSelector=>

Thanks,



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LI ALLIGOOD (she/her), AICP, LEED AP ND
DEPUTY ZONING MANAGER
Community Planning and Development Services
DIRECT EXTENSION: 240.314.8223
lalligood@rockvillemd.gov

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From: Jim Whalen <jwhalen@investmentproperties.net>
Sent: Tuesday, November 21, 2023 11:46 AM
To: Li Alligood <lalligood@rockvillemd.gov>
Cc: John Foreman <jforeman@rockvillemd.gov>
Subject: Re: PJT 2023-00016... Danshes Plan

WARNING - External email. Exercise caution.

Thank you. My question was really directed to the City. What is the City's current position regarding the connectivity from the easement to that entrance?

Thanks again...Jim

Sent from my iPad

On Nov 16, 2023, at 3:23 PM, Li Alligood <lalligood@rockvillemd.gov> wrote:

Hello Mr. Whalen,

I have received your question and will share with the applicant team.

Thank you,



LI ALLIGOOD (she/her), AICP, LEED AP ND
DEPUTY ZONING MANAGER
Community Planning and Development Services
DIRECT EXTENSION: 240.314.8223
lalligood@rockvillemd.gov

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<https://www.surveymonkey.com/r/JD9CWXC>

From: Jim Whalen <jwhalen@investmentproperties.net>
Sent: Wednesday, November 15, 2023 11:39 AM
To: Li Alligood <lalligood@rockvillemd.gov>
Cc: John Foreman <jforeman@rockvillemd.gov>
Subject: PJT 2023-00016... Danshes Plan

WARNING - External email. Exercise caution.

Good morning Li,

My name is Jim Whalen and I represent Edmonston properties LLC. I just noticed this plan is in for review and I have a couple questions.

The engineers have located the easement in the correct location, but the arrows depicting the 25 foot easement spans a distance greater than 25 feet (apparently to show connectivity to the entrance) . Hopefully my crude annotations illustrate what I in attempting to describe. Is this intentional, and if so, can you tell me what the city is thinking here?

Please let me know if you have a little time to discuss, and I'm happy to walk over to do so if that makes it easier... Thank you... Jim



James F. Whalen

Investment Properties, Inc.
11 N. Washington St., Suite 200
Rockville, MD 20850

301.795.4000 (direct)
301-279-7944 (Fax)

jwhalen@investmentproperties.net



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Frontpoint



Attachment 3

Li Alligood

From: Kwesi Woodroffe <KWoodroffe@mdot.maryland.gov>
Sent: Monday, January 8, 2024 1:32 PM
To: Li Alligood
Cc: Shaun Ryan; John Foreman
Subject: RE: Proposed development at 900 Rockville Pike/MD 355

Follow Up Flag: Follow up
Flag Status: Flagged

WARNING - External email. Exercise caution.

Thank you for the clarification, Li.

I recommend that this access be closed. We do not permit access points to be in auxiliary lanes.

Thanks, Kwesi



Kwesi Woodroffe
Regional Engineer
District 3 Access Management

301.513.7347 office
kwoodroffe@mdot.maryland.gov

Maryland State Highway Administration
9700 Kenilworth Ave, Greenbelt, MD 20770

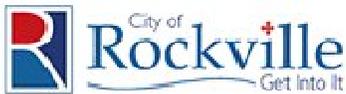
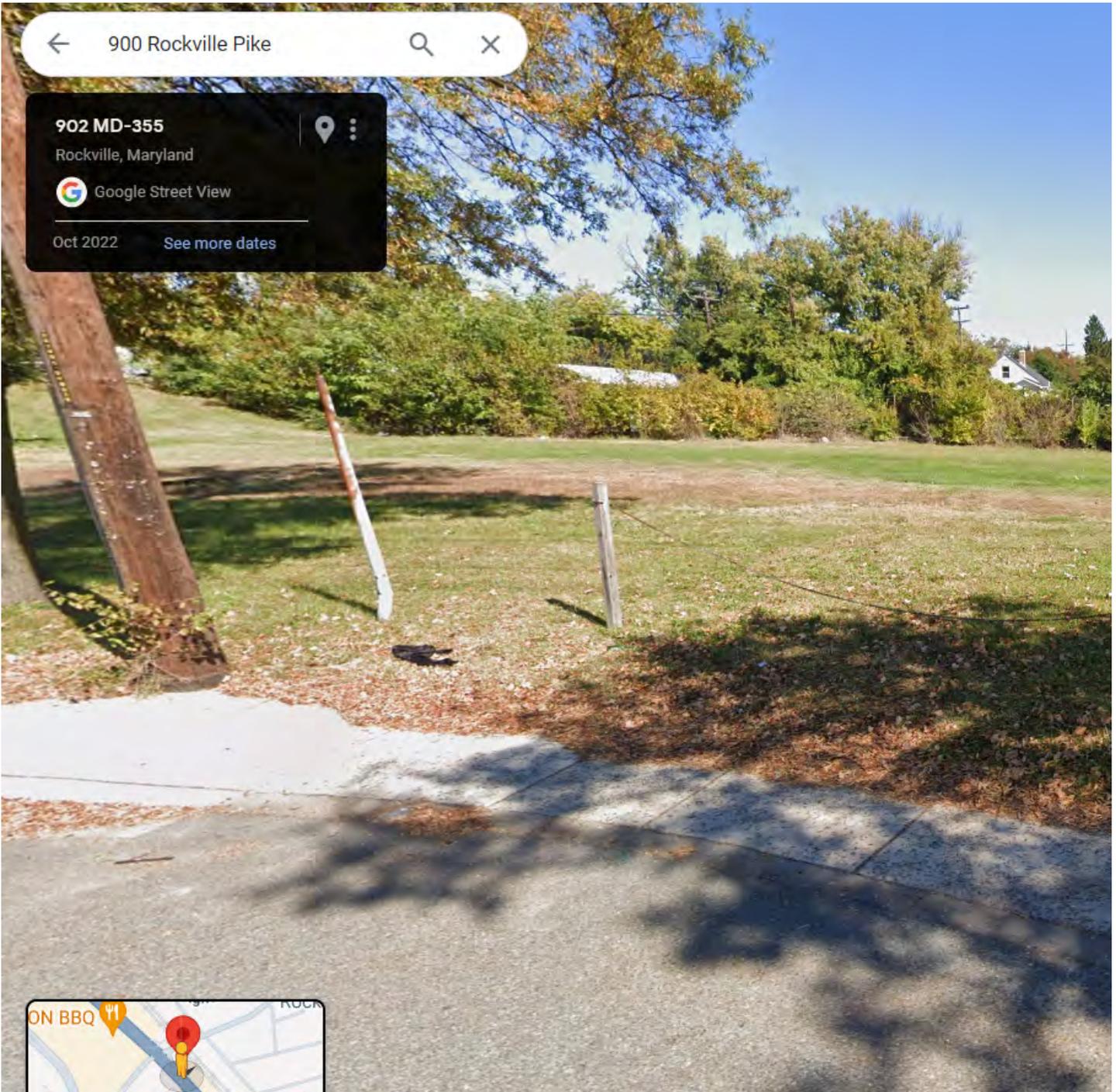
From: Li Alligood <lalligood@rockvillemd.gov>
Sent: Monday, January 8, 2024 12:23 PM
To: Kwesi Woodroffe <KWoodroffe@mdot.maryland.gov>
Cc: Shaun Ryan <sryan@rockvillemd.gov>; John Foreman <jforeman@rockvillemd.gov>
Subject: RE: Proposed development at 900 Rockville Pike/MD 355

You don't often get email from lalligood@rockvillemd.gov. [Learn why this is important](#)

Thank you, Kwesi.

To clarify, the access in question is the access on the subject site. It is proposed to be closed as part of this development, but the applicant has asked whether it could be used to access the site rather than, or in addition to, the public access easement to the south.

This is the access in question (1010 Rockville Pike is on the right, and the area of the access easement is currently gated):



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LI ALLIGOOD (she/her), AICP, LEED AP ND
DEPUTY ZONING MANAGER
Community Planning and Development Services
DIRECT EXTENSION: 240.314.8223
lalligood@rockvillemd.gov

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<https://www.surveymonkey.com/r/JD9CWXC>

From: Kwesi Woodroffe <KWoodroffe@mdot.maryland.gov>

Sent: Monday, January 8, 2024 12:11 PM

To: Li Alligood <lalligood@rockvillemd.gov>
Cc: Shaun Ryan <sryan@rockvillemd.gov>; John Foreman <jforeman@rockvillemd.gov>
Subject: RE: Proposed development at 900 Rockville Pike/MD 355

WARNING - External email. Exercise caution.

Hello Li.

I remember this from 2018. At that time there were some concerns about the access and site circulation. Looking at it now, I don't have those concerns. It doesn't seem that the existing access is going to be modified, so an Access Permit may not be required if there aren't any proposed improvements in the state's right of way.

Thanks, Kwesi



Kwesi Woodroffe
Regional Engineer
District 3 Access Management

301.513.7347 office
kwoodroffe@mdot.maryland.gov

Maryland State Highway Administration
9700 Kenilworth Ave, Greenbelt, MD 20770

From: Li Alligood <lalligood@rockvillemd.gov>
Sent: Tuesday, January 2, 2024 10:09 AM
To: Kwesi Woodroffe <KWoodroffe@mdot.maryland.gov>
Cc: Shaun Ryan <sryan@rockvillemd.gov>; John Foreman <jforeman@rockvillemd.gov>
Subject: RE: Proposed development at 900 Rockville Pike/MD 355

You don't often get email from lalligood@rockvillemd.gov. [Learn why this is important](#)

Hello Kwesi,

Happy new year!

The packet for the January 10 Planning Commission meeting is due to be posted tomorrow, and I'd like to make sure we have accurate information regarding SHA's position on the existing site access point.

Have you had a chance to review this question?

Thank you,



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LI ALLIGOOD (she/her), AICP, LEED AP ND
DEPUTY ZONING MANAGER
Community Planning and Development Services
DIRECT EXTENSION: 240.314.8223
lalligood@rockvillemd.gov

How was your experience with us? Take a quick survey and let us know - <https://www.surveymonkey.com/r/JD9CWXC>

From: Li Alligood <lalligood@rockvillemd.gov>
Sent: Wednesday, December 20, 2023 11:20 AM
To: Kwesi Woodroffe <KWoodroffe@mdot.maryland.gov>
Cc: Shaun Ryan <sryan@rockvillemd.gov>; John Foreman <jforeman@rockvillemd.gov>
Subject: RE: Proposed development at 900 Rockville Pike/MD 355

Hello Kwesi,

Following up on this request. Have you had a chance to review? I understand you also received an e-mail from the property owner, I was not aware he was planning to contact you.

It has also come to my attention that portion of Edmonston Drive west of the Edmonston Drive Bridge is actually SHA right of way. Was it an SHA project that closed the previous access on Edmonston?

Thank you!



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LI ALLIGOOD (she/her), AICP, LEED AP ND
DEPUTY ZONING MANAGER
Community Planning and Development Services
DIRECT EXTENSION: 240.314.8223
lalligood@rockvillemd.gov

How was your experience with us? Take a quick survey and let us know - <https://www.surveymonkey.com/r/JD9CWXC>

From: Li Alligood
Sent: Wednesday, December 13, 2023 5:32 PM
To: Kwesi Woodroffe <KWoodroffe@mdot.maryland.gov>
Cc: Shaun Ryan <sryan@rockvillemd.gov>; John Foreman <jforeman@rockvillemd.gov>
Subject: RE: Proposed development at 900 Rockville Pike/MD 355

Hello Kwesi,

This application is still in process and preparing to go to the Planning Commission for a recommendation.

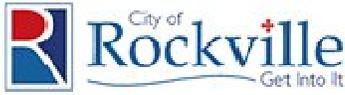
One question that has come up is whether the site at 900 Rockville Pike could take access to the site from the curb cut on MD-355/Rockville Pike. It is an existing curb cut that is currently chained off; access is currently proposed from a public access easement to the east.

I've attached the site plan for your convenience.

If you are able to respond by December 20, that will allow me to incorporate any comments into my staff report.

Thank you, and happy holidays!

LI ALLIGOOD (she/her), AICP, LEED AP ND



www.rockvillemd.gov

DEPUTY ZONING MANAGER

Community Planning and Development Services

DIRECT EXTENSION: 240.314.8223

lalligood@rockvillemd.gov

How was your experience with us? Take a quick survey and let us know -

<https://www.surveymonkey.com/r/JD9CWXC>

From: Li Alligood

Sent: Thursday, April 20, 2023 9:57 AM

To: Kwesi Woodroffe <KWoodroffe@mdot.maryland.gov>

Cc: Shaun Ryan <sryan@rockvillemd.gov>

Subject: RE: Proposed development at 900 Rockville Pike/MD 355

Thank you for your quick reply and the information!

Take care,

Li Alligood, AICP, LEED AP ND

(she/her/hers)

Deputy Zoning Manager

240-314-8223

lalligood@rockvillemd.gov



From: Kwesi Woodroffe <KWoodroffe@mdot.maryland.gov>

Sent: Thursday, April 20, 2023 9:53 AM

To: Li Alligood <lalligood@rockvillemd.gov>

Cc: Shaun Ryan <sryan@rockvillemd.gov>

Subject: RE: Proposed development at 900 Rockville Pike/MD 355

WARNING - External email. Exercise caution.

Hello Li,

Most of the work is outside of the State's right of way, and the access is an existing one, so I don't have any concerns/ issues. The only minor comment is that a permit will be required for the shared use path connection to the existing sidewalk at the corner. This permit would be administered by our Utility Office. I've attached an application that you can share with the applicant when they are ready to submit.

Thanks, Kwesi

Kwesi Woodroffe

Regional Engineer

District 3 Access Management

MDOT State Highway Administration

From: Li Alligood <lalligood@rockvillemd.gov>
Sent: Wednesday, April 19, 2023 3:53 PM
To: Kwesi Woodroffe <KWoodroffe@mdot.maryland.gov>
Cc: Shaun Ryan <sryan@rockvillemd.gov>
Subject: Proposed development at 900 Rockville Pike/MD 355

Hello Kwesi,

I have recently joined the City of Rockville, so please let me know if this communication should go to someone else!

The applicants for a development at 900 Rockville Pike/MD 355 have resubmitted an application for a Planned Development amendment. They initially submitted the application in 2018 but recently withdrew and resubmitted.

Since the site takes access from MD 355, we wanted to provide an opportunity for your agency to review the proposal and provide comments. I've attached the application materials.

Please provide comments by May 8, 2023 so we can incorporate them into our review and recommendations for the Planning Commission and Mayor & Council.

Feel free to contact me with any questions.

Thank you!

Li Alligood, AICP, LEED AP ND
Deputy Zoning Manager
Community Planning & Development Services
City of Rockville
111 Maryland Avenue
Rockville, MD 20850
lalligood@rockvillemd.gov
P: (240) 314-8223





Agenda Item #:	<u>1</u>
Meeting Date:	<u>January 10, 2024</u>
Responsible Staff:	<u>Li Alligood</u>

SUBJECT: Zoning Ordinance Rewrite (ZOR) Project Update #2

RECOMMENDATION
(Include change in law or Policy if appropriate in this section):

Staff recommends that the Planning Commission receive the update and discuss as necessary.



City of
Rockville
 Get Into It

Planning Commission Staff Report:

MEETING DATE: January 10, 2024

REPORT DATE: January 3, 2024

RESPONSIBLE STAFF: Jim Wasilak, AICP, Chief of Zoning

SUBJECT: Zoning Ordinance Rewrite (ZOR)
 Project Update #2

BACKGROUND:

The Zoning Ordinance Rewrite (ZOR) Project is now underway. Per the Project Charter approved by Mayor and Council in October 2022, staff is providing the second status report about the project.

PROJECT APPROACH

The project approach proposed by ZoneCo includes three phases, or modules, prior to adoption of the Zoning Text Amendment to adopt the new ordinance.

Project Kickoff

During this phase, City staff worked with ZoneCo to refine the scope of work, develop a project schedule, public engagement and outreach plan, and identify key project milestones. City staff developed and published a project website.

Module 1 – Diagnose *(complete)*

Module 1 consists largely of collecting and evaluating existing materials along with discussions with city staff. The ZoneCo team evaluated existing City plans, policies, procedures, and regulations to identify areas of agreement and conflict with the Rockville 2040 Comprehensive Plan.

The deliverable for this module is a Diagnostic Report, which provides an overview of existing policy direction and whether existing regulations implement or hinder that direction. The Executive Summary of the report is included as Attachment 1.

Module 2 – Calibrate *(in process)*

During the Calibrate module, ZoneCo will begin to identify the use and development standards that apply citywide as well as within existing zones where the Comprehensive Plan and other documents call for revisions and develop revised or new use and development standards called for in the Comprehensive Plan. These standards and proposed changes will be presented in an Excel spreadsheet format (the “Calibration Table”) and was shared with the internal steering committee at its January 9, 2024, meeting.

During this module, illustrative graphics will be identified and developed for incorporation into the zoning text developed during Module 3.

Module 3 – Codify

During Module 3, the materials gathered during Modules 1 and 2 are translated into a revised zoning ordinance. Based on the recommendations of the Diagnostic Report, staff anticipates that the revised zoning ordinance will:

- Be restructured and reorganized to reflect best practices in modern zoning ordinances.
- Be renumbered to reflect the outline format of the rest of the city code.
- Include tables and graphics for ease of use and reference.
- Codify practices and required components of the development process that are currently outside of the Zoning Ordinance.

The consultant team will develop the new Zoning Ordinance by section and city staff will review and provide comments.

Adoption

Once the draft Zoning Ordinance has been prepared, the zoning text and map amendment processes will begin. These processes will follow the requirements of Sec. 25.06.01 and 25.06.02 and will also include numerous opportunities for public review and comment on key changes to the City’s regulations.

PROJECT STATUS

The project is ongoing, and draft zoning text is expected to be available for review in Summer/Fall 2024. Key milestones to date are noted below.

- **July 27, 2023:** Contract between the City of Rockville and ZoneCo executed, project kicks off.
- **September 2023:** The Zoning Ordinance Rewrite project page is developed and published.
- **September 9, 2023:** The City’s internal working group holds its first meeting.
- **September 26-27, 2023:** ZoneCo visited the city and met with various City departments including Community Planning and Development Services (Comprehensive Planning, Development Review, and Development Services); Housing; Inspections; Public Works (Engineering and Environmental Management); and Recreation and Parks along with REDI and the Rockville Chamber of Commerce.
- **September 28, 2023:** First project briefing memo issued to Mayor and Council.
- **October 25, 2023:** First project briefing provided to the Planning Commission.
- **November 14, 2023:** The City’s internal working group holds its second meeting.
- **December 30, 2023:** ZoneCo completed the Diagnostic Report, the final deliverable of Module 1.

PUBLIC OUTREACH:

KEY MILESTONES

Key public engagement milestones are still being developed, but are expected to include:

- **January 10, 2024:** Discussion of the Diagnostic Report from Module 1 with the Planning Commission and issuance of a memo to Mayor and Council.
- **February 2024:** A public workshop (tentatively scheduled) held to review draft Calibration Tables, which will describe potential changes to use and development standards that apply citywide and in specific zoning districts.
- **Spring/Summer 2024:** Meet with representatives of planning areas and specific communities identified as “areas of change” in the Comprehensive Plan.
- **Spring/Summer 2024:** Focused discussions with code. Development of final use and development standards will be completed.
- **August/September 2024:** ZoneCo to begin drafting the new Zoning Ordinance by section. Per the approved Project Charter, City staff will share drafts of the Zoning Ordinance and relevant sections with Planning Area representatives as well as boards, committees and commissions.
- **Fall 2024:** A final draft of the Zoning Ordinance will be prepared. A public workshop will be held to review the draft ordinance. Staff will also develop a revised zoning map for adoption.
- **Winter 2024-25:** Staff will begin a series of briefings and hearings before the Planning Commission, followed by a series of briefings and hearings before Mayor and Council.
- **September 2025:** Targeted adoption of the zoning ordinance rewrite.

PLANNING AREAS AND FOCUS GROUPS

During the next phase of the project, it will be important to discuss proposed changes with those most affected, including community representatives and zoning code users in the development community.

The Comprehensive Plan identifies a number of revisions the zoning map and the zoning ordinance to implement its goals and policies. Many of the zoning map and zoning ordinance revisions are focused on seven “areas of change” as identified in the Land Use Element:

- Rockville Town Center
- Rockville Pike corridor
- Twinbrook Metro Station area
- East Rockville neighborhood
- North Stonestreet Avenue
- Shady Grove Road/Piccard Drive corridor
- Veirs Mill Road corridor

The project team intends to meet with the affected community members, homeowners’ associations, civic associations, and other representatives to describe the proposed changes in detail. These discussions will be coordinated with the discussions held during the Town Center Master Plan roundtable listening sessions to advance those discussions and avoid repetition.

Though the Rockville 2040 Comprehensive Plan effort involved extensive public engagement, the zoning ordinance rewrite presents an opportunity to consider the ways that the zoning ordinance can advance equity and accessibility. The project team intends to hold discussions with community members with disabilities to identify areas where the zoning ordinance can augment existing accessibility requirements in other codes (such as Americans with Disabilities Act, or ADA, requirements in building codes, Public Rights-of-Way Accessibility Guidelines, or PROWAG, and requirements in public works standards).

In addition, it will be important to meet with users of the zoning code to identify opportunities for improving clarity and transparency of the zoning regulations for the public. These users are expected to include developers, land use attorneys, architects, engineers, and builders.

NEXT STEPS:

ZoneCo will continue to develop the Calibration Tables described in Module 2 and will begin to develop conceptual zoning maps to identify the zoning revisions recommended for specific parcels and potential conflicts between the existing built environment and proposed development standards.

Staff will provide regular updates to the Planning Commission throughout the project. The final Calibration Tables are anticipated to be available for public review and discussion in Spring 2024.

ATTACHMENTS:

1. Zoning Diagnostic Report Executive Summary dated December 2023

Attachments

Attachment 2.1.a: Diagnostic Report Executive Summary (PDF)

Jim Wasilak

Jim Wasilak, Zoning and Development Manager

1/3/2024



Produced by: ZoneCo
December 2023

ZONING DIAGNOSTIC REPORT

Executive Summary



What is a Diagnostic Report?

The development of the Zoning Diagnostic Report is the first step in the Rockville Zoning Ordinance Rewrite (ZOR) project. The aim of this Diagnostic Report is to evaluate the Rockville Zoning Ordinance (“zoning ordinance” or “zoning code”) in its ability to achieve the policies and objectives of the Rockville 2040 Comprehensive Plan (the “Comprehensive Plan” or “Rockville 2040”). Ultimately, the Diagnostic Report becomes the go-to resource for the ZOR project to ensure that the new zoning ordinance advances the vision and goals of the City of Rockville and its residents.

The Diagnostic Report includes: an evaluation of the zoning ordinance against the objectives of the Comprehensive Plan and recommendations for revisions to bring them into alignment; a map-based assessment to determine whether existing zoning standards are consistent with the existing built environment; an organization and consistency analysis to illuminate the existing shortcomings in the code language and organization; an assessment of administration and procedures to build an understanding of processes, supplemented by interviews with code administrators; and a review of waiver and variance applications to identify potentially-burdensome or unnecessary regulatory hurdles for residents.

This Executive Summary focuses on the evaluation the City’s existing zoning ordinance as compared to the policies of the Comprehensive Plan and identifies key areas of focus during the Calibration Module. See the full Diagnostic Report for a detailed evaluation of the other areas of review.

Key Findings from the Diagnostic Report

Rockville 2040 contains highly specific zoning recommendations that apply both to the entire city (Elements) and to specific geographies (Planning Areas). Common themes were extracted and are described below.

Administration and Procedures. The Economic Development Element calls for an efficient, rapid, and transparent development review and permitting process. Though City staff have made many improvements through implementation of the Faster, Accountable, Smart, and Transparent (FAST) Initiative, there is still significant opportunity for improvement. This review identified numerous areas where additional clarity regarding processes is needed, or where information could be organized so that processes are easier to navigate for the average user. Additional evaluation and recommendations will be provided during the Calibration Module in close coordination with City staff.

Organization, Clarity, and Consistency. There is significant opportunity for reorganization of the zoning ordinance for clarity and consistency. The organization of a zoning ordinance can make it easy, or difficult, for code users to identify the requirements that are applicable to their project. Clarity is critical to allow users and staff to understand applicable requirements, processes, and procedures and to eliminate discretion, and therefore the opportunity for bias, where possible. The zoning ordinance has been updated in a piecemeal fashion since the last significant rewrite in 2009, which has resulted in internal inconsistencies within the zoning ordinance and in relation other chapters of the City Code. Prior to the Codify Module, the project team will conduct a

consistency review and evaluate existing language (applicability, approval criteria, etc.) for clarity and equitable outcomes.

Housing Diversity. The Comprehensive Plan calls for diversifying housing types throughout the city by allowing a range of housing types (such as middle housing, defined by the Comprehensive Plan as duplex, triplex, fourplex, and six plex units), and to improve the supply of affordable and attainable housing and moderately priced dwelling units (MPDUs). There are accompanying goals and actions to establish design standards to ensure consistency with the existing urban fabric.

Provision of Open Space and Neighborhood Amenities. The Comprehensive Plan calls for developing metrics for the provision of and design of open space and neighborhood amenities and considering ways to provide open space in areas of redevelopment or conversion from non-residential to residential uses.

Create Standards for Community Nodes. The Land Use Element calls for the establishment of “community nodes” throughout the city and calls for developing standards for these areas that would foster neighborhood amenities, foster walkability and multi-modal movement, and create a sense of place. These standards will be explored during the Calibration Module.

Coordinate Land Use and Transit. There is a desire to seize the opportunities for walkable urbanism and good design near high-capacity transit stops through the development of new development metrics and reduction of off-street parking requirements. New development standards to encourage more intense uses (transit-oriented development, or TOD) near Metro and BRT stations are recommended and will be further evaluated during the Calibration Module.

Employment Uses Should be Modernized, Provided Flexibility. The Economic Development Element calls for expanding permitted uses in commercial and industrial districts and focusing on expanding sectors such as Life Sciences. Given that office and retail properties have been in flux over the past several years, diversifying permitted land uses in commercial districts can be beneficial and foster flexibility and economic development.

Establish Design Standards for Residential Development and Pedestrian Areas. The Housing Element calls for the development of design standards for middle housing types, and numerous Planning Areas call for the establishment of design standards for detached and attached residential dwellings. Development of citywide standards¹ for detached and attached housing is recommended. Existing RMD and MX zone design standards should be reviewed and revised to ensure that they are achieving the desired outcome.

Transitions Between Differential Scales and Uses. Maintaining appropriate transitions between both varying uses and varying scales is mentioned throughout Rockville 2040 and in almost every Planning Area. Approaches to ensuring sensitive transitions between higher density development and single detached neighborhoods, while balancing Comprehensive Plan policies regarding intense development around Metro and BRT stations, will need to be evaluated during the Calibration Module.

¹ With the exception of East Rockville, which has adopted single detached dwelling design standards through the East Rockville Design Guidelines, and Lincoln Park, which is in the process of developing single detached dwelling design standards.

Review and Revise Parking Standards Throughout Rockville. Several Comprehensive Plan Elements and Planning Areas call for reviewing and revising (reducing) parking standards to ensure that minimum standards are balanced appropriately to each use and reductions are recommended near transit stations. Additionally, a review of requested waivers indicates that the majority of waivers requesting reductions to off-street parking are approved, suggesting that existing parking requirements are excessive. Existing parking standards should be evaluated and adjusted according to Comprehensive Plan policies and best practices. In most situations, this is likely to result in reduced off-street parking requirements.

Next Steps

It is important that the project team start off with a comprehensive, collaborative review of the community. This Diagnostic Report is the final deliverable within the first module of the project, called the Diagnostic Module. The consultant team structured this report so that it would act as a guide as we move into the next phase of the project, which is called Calibration. The Calibration Module is where the team does the hard work of problem solving and proposing new standards now that the shortcomings of the code have been “diagnosed.”