



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

MCPB Item # _____
 4/12/07

MEMORANDUM

DATE: March 30, 2007

TO: Montgomery County Planning Board

VIA: Rose Krasnow, Chief *RK*
 Catherine Conlon, Subdivision Supervisor *CC*
 Robert Kronenberg, Acting Site Plan Supervisor *RK*
 Development Review Division



FROM: Richard A. Weaver, Preliminary Plan Reviewer *RAW*
 Joshua C. Sloan, Site Plan Reviewer *JS*
 Development Review Division

REVIEW TYPE: Preliminary & Site Plan Review
APPLYING FOR: Subdivision to create one lot for a total of 100,094 square feet of mixed use development (including 59,450 square feet of retail, 23,973 square feet of office, 2,730 square feet of restaurant, and 13 residential dwelling units) on 8.10 gross acres. Parking waiver of ten spaces.

PROJECT NAME: Ashton Meeting Place
CASE #: 120050060 (Preliminary) and 820060230 (Site)
REVIEW BASIS: Chapter 50, Montgomery County Subdivision Regulations
 Chapter 59, Montgomery County Zoning Ordinance

ZONE: C-1, R-60, and Sandy Spring/Ashton Rural Village Overlay Zone
LOCATION: Located in the southeast quadrant of the intersection of Ashton Road (MD 108) and New Hampshire Avenue (MD 650).

MASTER PLAN: Sandy Spring/Ashton

APPLICANT: Ashton Meeting, LLC
ENGINEER: Macris, Hendricks and Glascock.
ATTORNEY: Miller, Miller and Canby

FILING DATE: July 9, 2004 (Preliminary Plan)
 November 9, 2005 (Site Plan)

HEARING DATE: April 12, 2007

RECOMMENDATION: Denial of both the Preliminary Plan and the Site Plan

EXECUTIVE SUMMARY

Staff has concluded that neither the preliminary plan nor the site plan can be supported as submitted for several reasons. Each of these issues will be discussed in detail and should be considered independently and on its own merits. Regarding our analysis and recommendation, the preliminary plan and site plan conclusions are one and the same.

Outline of Denial

- 1) The plan does not comply with Section 59-C-18.18 - Sandy Spring/Ashton Rural Village Overlay Zone, of the Zoning Ordinance. The proposed development includes parking for commercial uses in residential zones. The allowance for such parking is subject to specific conditions, and this project fails to comply with those conditions.
- 2) The plan does not conform to specific language in Section 59-C-4.2 of the Zoning Ordinance related to the use of parking structures in the C-1 Zone. The proposed development includes a parking garage, which is not allowed as a permitted or special exception use in the C-1 Zone.
- 3) The proposed development does not substantially conform to the design guidelines for new development contained in the approved and adopted Sandy Spring/Ashton Master Plan and is not wholly compatible with the Master Plan.
- 4) The locations of buildings, structures, and pedestrian and vehicular circulation systems are not adequately safe and efficient as required by Section 59-D-3.4.(c) of the Zoning Ordinance. There are particular problems with the locations of buildings in relation to vehicular and pedestrian circulation patterns that should be reconsidered and conflicts between vehicular and pedestrian circulation patterns that should be avoided.
- 5) The plan fails to adequately protect environmentally sensitive areas as prescribed in Section 50-32(c) of the Subdivision Regulations. Structures, parking facilities, and storm water management facilities encroach into a wetland, wetland buffers, and stream buffers. Staff believes the encroachment is avoidable and unnecessary.

This staff report describes the existing site, the proposed development, and provides an analysis of the reasons for denial. It concludes with the necessary findings for both the preliminary and site plans.

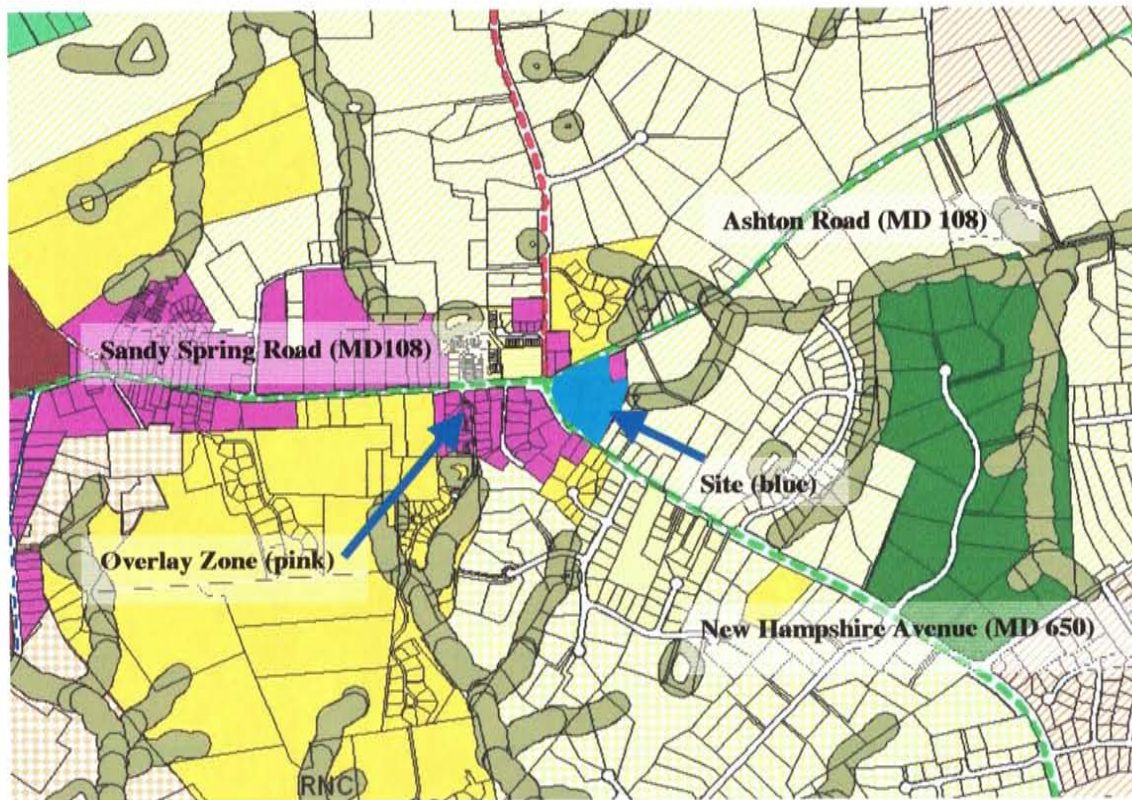
SITE DESCRIPTION

Attachments

- A. Vicinity Map
- B. Site Photos

Location, Adjacent Uses, & Site Features

The Subject Property (Property) is located in the southeast quadrant of the intersection of New Hampshire Avenue (MD 650) and Ashton Road (MD 108). This site is located in the easternmost area of the Sandy Spring/Ashton Rural Village Overlay Zone (SSARVOZ).



The Property is comprised of four platted properties identified as Parcel "F", Parcel "A", Outlot "A", Lot 1, and seven unplatted parcels (P456, P509, P457, P454, P411, P357 and P356) all shown on Tax Map page JT42. The total acreage of the Property is 8.1 acres of which 4.7 acres are zoned C-1 and 3.4 acres are zoned R-60; the net site area is 7.0 acres after right-of-way dedication. The Property is currently occupied by a Sandy Spring Bank located at the intersection of the two state highways; there is a small utility shed of unknown use located to the east of the bank. Three other structures were recently razed on the site.

Uses surrounding the site area as follows: to the north across MD 108 is a closed convenience store and gas station that dates back to the 1930's; to the west is a gas station at the intersection, the Cricket Book Store, and the Alloway office building. Directly south are scattered residential units, some of which house special exception uses; to the east is a PEPCO substation with low density residential beyond. In the northwest quadrant of the intersection of MD 650 and MD 108 there is a strip shopping center.

The Property's highest point is at the intersection of the two state highways. The grade then slopes downward towards the wetland and stream in the eastern corner. Most of the site is

mowed lawn with scattered trees. The wetland and environmental buffers are associated with a headwater Use IV-P stream that connects to the Patuxent River watershed. The Patuxent is a tributary to the Triadelphia and Rocky Gorge Reservoirs, which supply drinking water for parts of Montgomery, Howard, and Prince George’s counties. A Category I conservation easement located on Outlot “A” protects a portion of the site’s environmental buffer (28,110 square feet out of square feet 66,860 of onsite buffer area) and was created as part of a previous preliminary plan approval.



Aerial view of site looking southeast.

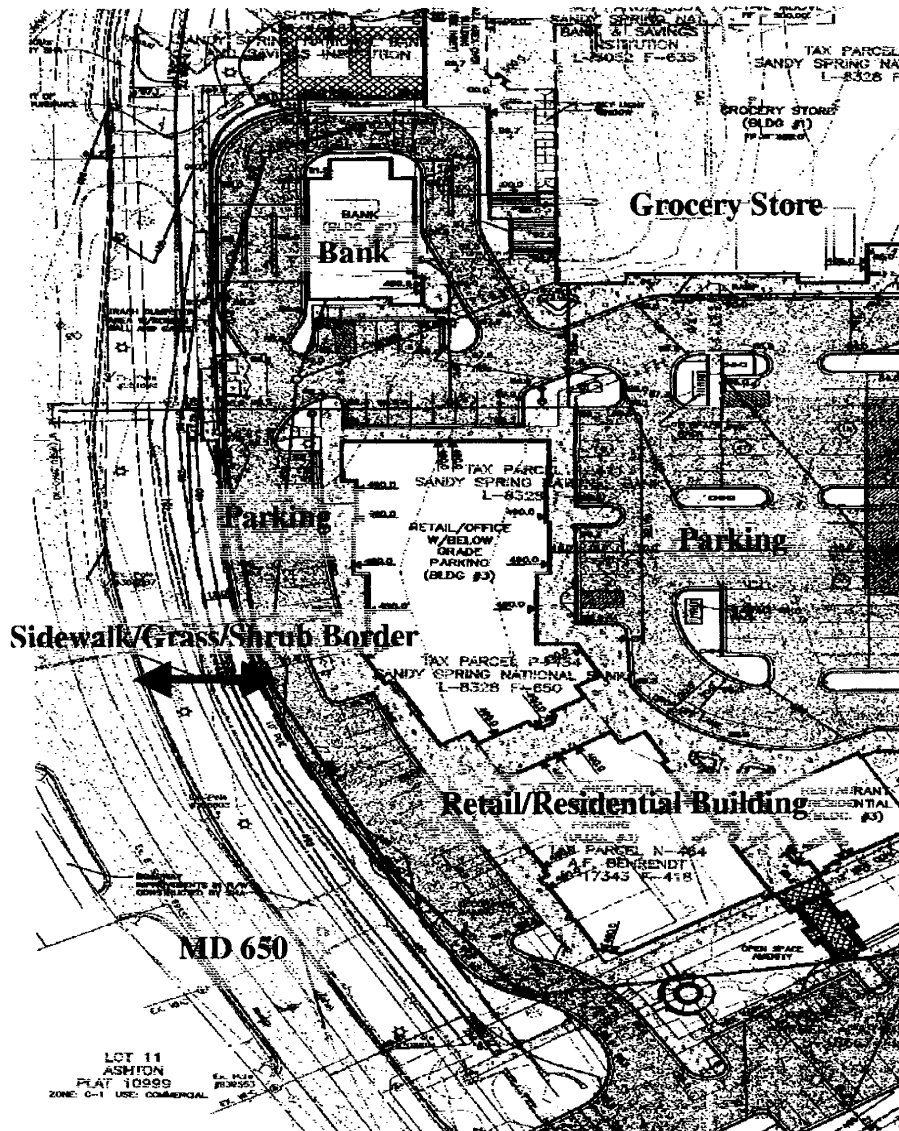
PROJECT DESCRIPTION

Attachments

- C. Preliminary Plan
- D. Site Plan

Proposed Development

The application proposes to create one lot to accommodate 54,450 square feet of retail space (including 33,120 square feet for a grocery store); 23,973 square feet of office space; 2,730 square feet for restaurant use; and, 13 residential dwelling units (condominiums). The total floor area ratio (FAR) for the project is 0.49. The Maryland State Highway Administration (MDSHA) has approved access to the site at two locations: one on MD 650 and one on MD 108. The existing branch of the Sandy Spring Bank is to be rebuilt at the intersection of the two state highways as a separate, freestanding building with a below-grade, drive-through access. The grocery store is to be located to the east of the bank with its façade to the interior of the site. To meet certain master plan goals a strip of retail and office space was added along the back of the grocery store to activate the street front along MD 108. On-street parking was also added along MD 108 and has been approved by the MDSHA.



Detail of Site Plan Along MD 650

Along the MD 650 frontage there is a strip of retail, office, and restaurant space; this building is terminated by a community open space at its southern end. The 13 residential units will be located on the second and third floor of this structure. The building does not front directly on MD 650 - instead, a single loaded parking area with two-way traffic, a shrub border, grass strip, and sidewalk separate it from the road. The remainder of the surface parking is provided in the interior of the Property and is generally hidden from view from the adjacent roads. The plan also proposes 49 parking spaces in a subsurface structure under the retail/residential building along MD 650. This parking structure is to be used primarily by the residents of the 13 units and the owners or lessees of the retail stores but is open to the retail patrons. Access to the underground parking is immediately to the south of the restaurant.

The plan proposes significant dedications to the two adjacent state highways. The MDSHA has a design and funding in place for a significant upgrade to the intersection of MD 650 and MD 108 that is inextricably bound to this project. The applicant is required to provide certain improvements including left, through, and right-turn lanes on both eastbound and westbound MD108 and MD650. Sidewalks will also be required on both roads.

The landscape is enhanced with street trees along MD 650 and MD 108. The northwest corner of the property, directly on the intersection, is designed as a large green space with a small plaza connecting the bank and grocery store buildings as requested by members of the community. Two existing trees within this open space area will be saved. The green space adjacent to the retail/residential building is designed to provide passive recreational opportunities for residents and patrons. It will contain a fountain, pergola, plantings, and a lawn. Numerous plant beds and screening plants are used throughout the site to add visual interest and block views from the residential neighborhoods and into the parking lots.

Lighting is provided along both street fronts and throughout the site to ensure that the site provides safe and functional space at night. There will be no glare or excessive illumination on adjacent residential areas.

Most of the pedestrian paving is concrete or scored and tinted concrete. Stone benches are provided in the open space amenity area. The parking lot contains an area of permeable paving to mitigate some run-off. Stormwater management facilities are primarily housed under the parking lot and on an adjacent facility that SHA will construct.

ANALYSIS

The following section describes the rationale for denial based on Zoning Ordinance requirements, Master Plan compliance, and Subdivision Regulations. It should be stated that this is an unusually complex case due to the difficulty of interpreting the particulars of the Zoning Ordinance, the Sandy Spring/Ashton Master Plan and the Rural Village Overlay Zone. For purposes of this report staff has concentrated primarily on an analysis of the issues that lead us to our recommendation of denial.

■ Zoning Ordinance Requirements

Attachments

- E. Letter from Miller, Miller & Canby
- F. Letter countersigned by the Department of Permitting Services

The Sandy Spring/Ashton Rural Village Overlay Zone (SSARVOZ) was established in the Zoning Ordinance to ensure compliance and consistency with the recommendations of the Sandy Spring/Ashton Master Plan. Although the plan complies with some of these recommendations, it does not comply with two specific Zoning Ordinance stipulations.

1. Parking for Commercial Uses in the R-60 Zone

The plan proposes parking for commercial uses in the R-60 zoned portion of this property. In virtually all circumstances “Parking of automobiles, off-street, in connection with commercial uses” is allowed in the R-60 zone if approved by special exception (59-C-1.31(b)). In the cases where that commercial use is on land zoned C-1, however, section 59-C-4.345 states, “The off-street parking required by Article 59-E must be provided on land which is in the C-1 zone, except as required in the special exception provisions of section 59-G-2.39 or 59-G-2.40.” Section 59-G-2.39 describes the findings and requirements necessary to grant a special exception for off-street parking in zones where it is not permitted by right. Section 59-G-2.40 has no bearing on this case.

Section 59-G-2.39(b) requires that “the commercial uses to be served by the [parking] facility are not in the C-T or the C-1 zone unless the land in the C-1 zone complies with the exceptions to this provision stated in either subparagraph (h) or subparagraph (i)”. Neither subparagraph applies to this case. Consequently, if there were no further complications, parking in connection with the C-1 zoned uses on the R-60 zoned portion of the subject site would not be allowed.

Notwithstanding the requirements of the underlying zones, the Sandy Spring/Ashton Rural Village Overlay Zone (SSARVOZ) does, under specific circumstances, allow for parking related to commercial uses in the R-60 zone without the need to obtain a special exception. In particular, there are two sections of the Zoning Ordinance that make reference to parking “in connection with” or “for” commercial uses in residential zones. The first is in the section on Commercial development: Development standards, 59-C-18.182(b)(2)(D):

In areas recommended in the Sandy Spring/Ashton Master Plan for mixed use development, development should [be] consistent with the recommendation of the master plan. In the residential portions of the mixed-use areas, off-street parking for commercial uses is allowed without a requirement for approval of a special exception.

The second is in the section on Off-street parking and loading, 59-C-18.185(b):

Properties in a residential zone that are designated in the Sandy Spring/Ashton Master Plan as suitable for mixed use or non-residential use may be utilized for off-street parking in connection with commercial uses without the necessity for approval of a special exception under Sec. 59-G-2.39.

The relevant question is whether the subject property is in an “area recommended...for mixed use development” and/or whether it is a “property in a residential zone that [is] designated...as suitable for mixed use or non-residential use.” The latter question is easier to answer than the first.

Although the entire southeast quadrant of the intersection of MD 108 and MD 650 is mentioned with respect to the type of residential development that should occur, the properties on the subject site, including those in a residential zone, are not designated as suitable for mixed use or non-residential use in the Sandy Spring/Ashton Master Plan (SS/AMP). Therefore, section 59-C-18.185(b) cannot apply to this project. The question could be raised as to whether this section is thus rendered meaningless or can be applied to other properties. In fact, page 34 of the SS/AMP designates three properties as suitable for parking in connection with commercial uses.

To allow better design, incorporate the village green and accommodate the new fire station, this Plan recommends allowing parking in connection with the commercial uses on the properties east of Brooke Road, which also front on MD 108, where properties are zoned commercial and residential.

So, section 59-C-18.185(b) of the zoning ordinance can be applied to certain properties in the SSARVOZ but cannot be applied to the subject property.

The former question relating to whether the subject site is an area recommended in the Sandy Spring/Ashton Master Plan for mixed use development is harder to answer, but there are several sections of the master plan that have been analyzed. The only mention of anything akin to “mixed use” is on page 31 in the section on development guidelines that apply to both village centers: “Encourage a land-use mix of stores and homes by maintaining the existing mix of commercial and residential zoning within the village centers.” This implies that businesses should or could be next to homes next to institutional uses, etc. according to the existing zoning pattern. But does this also imply that the entirety of both village centers is to be considered “mixed use”? If this is the case, then any “residential portion” of the village centers is open to parking for commercial uses without the need for a special exception and staff does not believe this to be the intent of the master plan.

Further, it seems illogical to say, “in areas recommended in the SS/AMP” if the entire area is thus recommended. It can be argued that the village centers are such areas and are distinct from other areas of the overlay zone but there is no such designation of a mixed-use project for this site to take advantage of the parking provision within the master plan. In fact, prior to approval, the Montgomery County Council removed language such as “flexibility in siting commercial and residential uses on adjacent properties in designated areas” and more

importantly modified the second bullet under the Recommendations for the Ashton Village Center as follows:

Limit residential development in the southeast quadrant to single-family detached homes only, rather than townhouses. This plan recognizes that special exception uses may be appropriate as well. ~~This plan recommends that there be flexibility in placement of commercial uses in the southeast quadrant to encourage design that better integrates residential and commercial uses. This flexibility is allowed through the proposed Sandy Spring/Ashton Rural Village Overlay Zone.~~ The existing zoning should be confirmed. (Page 20 of the Resolution, Page 39 SSAMP)

By removing the third and fourth sentences of the recommendation, the Council directly addressed this area of the Overlay Zone and removed any recommendation for mixed use on the Property and thereby removed any designation that would allow parking for commercial uses in the residential zones. Due to an unfortunate editing error, the text remains in the master plan as originally written, not as amended and approved by the Resolution.

Another example of the Council's intent is seen in their editing of the third sub-bullet in the development guidelines of the Recommendations for the Village Centers:

Encourage a land-use mix of stores and homes by maintaining the existing mix of commercial and residential zoning within the village centers together. ~~A mix should be combined within sites and buildings to increase activities.~~ (Page 16 of the Resolution, Page 31 SSAMP)

The underlined section was added by the Council and the strikethrough was removed. Thus, we conclude that the "land-use mix" is in relation to separate but adjacent uses as reflected by the zoning patterns and the parking in connection with this C-1 property is not allowed on this portion of R-60 land.

2. Parking structures in the C-1 Zone.

As mentioned in the project description, a below-grade parking structure takes up the entire cellar area of the retail/residential building. There are six reasons that the Zoning Ordinance does not allow such a parking garage on the is particular site and C-1 Zones in general. But first we provide a synopsis of the applicant's line of reasoning; the full explanation is in their attached letter, which is countersigned by the Department of Permitting Services.

The applicant argues that structured parking is allowed on the subject site because it is part of the off-street parking requirements for the site. The first premise of this argument is that Section 59-C-4.2, Land Uses, which are allowed in commercial zones, states that, "Parking of motor vehicles, off-street, in connection with any use permitted," is permitted in all of the commercial zones. The second premise is that "Off-street" parking is interpreted to allow surface parking and/or structured parking that supports any use permitted on site. To support this interpretation, the applicant references section 59-E-1.2, which states, "All garage or other

structured space allocated for the parking of vehicles in basements, on the roofs of buildings, or otherwise within buildings shall be considered part of the required off-street parking facilities.” Thus, the term, “off-street parking facilities”, is partially defined through section 59-E-1.2 to include garages, structures, rooftop parking, and in fact, any parking on or within a building. Therefore, the conclusion is that parking structures are allowed in connection with any use permitted.

Staff strongly disagrees, finding six reasons that the Zoning Ordinance does not allow such a parking garage on this particular site and C-1 Zones in general. These reasons are enumerated below.

- 1) *If parking garages are allowed everywhere off-street parking in connection with permitted uses is allowed, parking garages would be permissible in virtually every zone.*

For example, Section 59-C-1.13, Land Uses, for residential zones, includes the same text: “Parking of motor vehicles, off-street, in connection with any use permitted in the zone.” And, as in the commercial zones, this use is permitted for all residential zones. Thus, under the logic of the applicant’s argument, one could argue that “structured parking” is allowed in any residential zone. An identical argument and inference can be made in every industrial zone and every agricultural zone. These are zones that do not offer any garage parking as a possible permitted use and for good reason because parking structures allow more vehicles to take up less land area. This, in turn, impacts how much density can be placed on any given site. Clearly, limiting parking to surface parking is one means to limit the density allowed in those zones - especially in zones where there is no development standard concerning floor area ratio or dwelling units per acre.

- 2) *If we follow the logic of the applicant’s argument further, several sections of the Zoning Ordinance are rendered meaningless.*

Most notably, the several definitions of “Automobile, Garage, Group/Private/Public” in section 59-A-2.1 are rendered meaningless. In fact, the entire row of the land use table for “Parking garages, automobile” becomes meaningless. This is implied by the fact that we now have a definition of off-street parking, which includes “garages, structures, etc.” and it is used to infer an allowed use through the “Parking, off-street...” land use. Thus, we circumvent the land use restrictions on parking garages, which is limited to several specific zones, such as C-P, C-2, most CBD, and several MX zones. Also, because there is not a definition of “Parking Structure”, we should instead look to the specific provisions in the Zoning Ordinance as is and not create new terms and definitions or render existing ones meaningless.

- 3) *The provision for off-street parking is for permitted uses, not those allowed by special exception.*

Even if one were to accept the Applicant's position that the "off-street" use controls, its argument still would not endure. Section 59-C-4.2, Land Uses., which are allowed in commercial zones, states that, "Dwellings" in the C-1 zone may be allowed only by special exception. Dwellings are not a "permitted" use, and, consequently, parking for dwellings is not a permitted use and it doesn't seem that the use, "Parking of motor vehicles, off-street, in connection with any use permitted," applies to this set of facts, namely, the parking is for dwellings which are allowed only by special exception.

4) *This parking structure is not an accessory use or accessory building.*

Commercial and multi-family parking garages, in particular garages or structures with more than six (6) spaces, are not accessory buildings: they are built only when the subject site does not allow for surface parking due to area or aesthetic/compatibility constraints. An accessory building is "A building subordinate, and located on the same lot with, a main building, the use of which is clearly incidental to that of the main building or the use of the land, and which is not attached by any part of a common wall or common roof to the main building". (Section 59-A-2.1.) ("Subordinate means that the footprint of the accessory building is smaller than the footprint of the main building". (ibid)) Meeting the required parking standards for commercial or multi-family use of the land is not an incidental matter. Nor are they an accessory use when they are provided for uses that would not be viable without them. In that case they become necessary and, thus, are not "incidental" to the development.

5) *The Zoning Ordinance uses limitations on parking to limit density.*

In the specific case of the C-1 zone, the distinct purpose of the zone, which has no FAR limit - only height, setbacks, green area and land use restrictions, is to "provide locations for convenience shopping facilities in which are found retail commercial uses which have a neighborhood orientation and which supply necessities usually requiring frequent purchasing with a minimum of consumer travel. Such facilities should not be so large or so broad in scope of services as to attract substantial amounts of trade from outside the neighborhood." Limiting parking by prohibiting parking garages is one way to limit these larger scales.

6) *Last, there is a more reasonable interpretation of Section 59-E-1.2.*

Although parking is allowed for any permitted use, and garages or other structures are considered part of the required off-street parking facilities, this does not mean that garages are permitted anywhere off-street parking is required. This logic would suggest that garages are allowed in the residential, agricultural, and industrial zones, among others, because they also allow, "parking of motor vehicles, off-street, in connection with any use permitted", even though the table is silent on garages. With respect to the land use sections for most zones, the ordinance states, "No use is allowed except as indicated in the following table,"

but the logic stated above would allow garages. The intention of Section 59-E-1.2 is simply that parking within buildings or on their roofs must be considered by the reviewing agency when analyzing a plan for compliance with section 59-E provisions. Further, that section requires that even if there is a garage or structure, one must submit a parking facilities plan in conformance with section 59-E; it doesn't permit the construction of a garage or structure to meet minimum parking requirements. This section does not deal with permitting uses - it is concerned with the standards and requirements for all off-street parking, regardless of type.

The proposed structure is a parking garage and is subject to the land use table for commercial zones. It is Staff's position that, on this issue, the zoning ordinance as it currently stands is unambiguous and does not allow parking garages as a permitted use in the C-1 zone.

■ Master Plan Compliance

Attachments

G. Memorandum from Community Based Planning

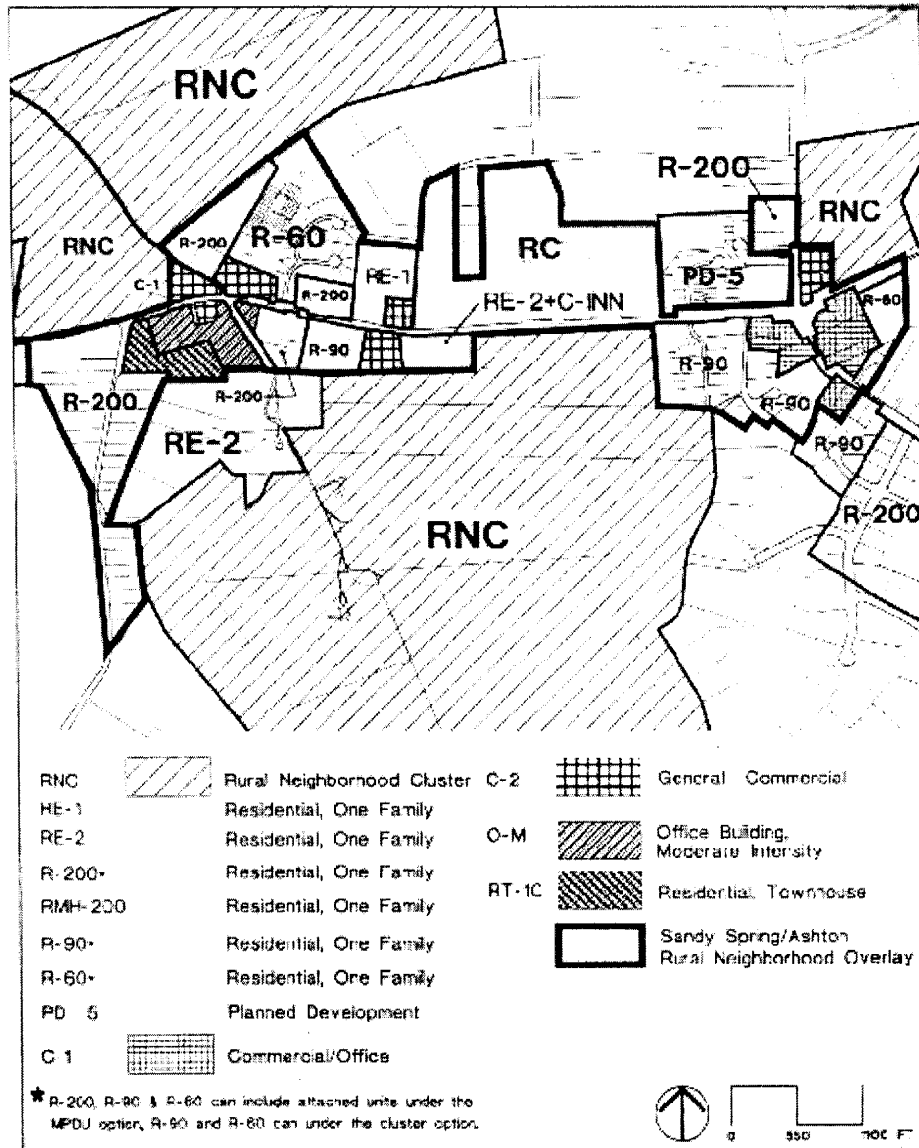
Consistency with the Master Plan and Compliance with Design Guidelines

The Sandy Spring/Ashton Master Plan was approved and adopted in 1998 and is the basis of two findings that are required by the Sandy Spring/Ashton Rural Village Overlay Zone (SSARVOZ). Community Based Planning (CBP) has done an excellent job in depicting the struggles the applicant, the community, and staff have had in trying to decipher the various pertinent issues. Their full memorandum is attached.

In brief, staff is of the opinion that the proposed development complies with the larger land use vision of the master plan and is consistent with many of its goals and recommendations. As CBP has noted, the recommendations of the master plan "are at best ambiguous and at worst contradictory and inconsistent". With respect to Zoning Ordinance section 59-C-18.186(a) that states that the site plan must be found to be "consistent with the recommendations" in the master plan, we find this to be generally true regarding land use and redevelopment issues. There are other issues of consistency, however, that are not met by this project including scale, functional design, and regulatory concerns.

ZONING PLAN FOR THE VILLAGE CENTERS

FIGURE 13



There is a more substantial problem with Zoning Ordinance section 59-C-18.184(b), which requires that any proposed development must “substantially conform with the design guidelines” in the master plan. In this case, there are several reasons why this finding cannot be made. There are several design guidelines specifically mentioned in the master plan:

- Provide attractive rural entries along roads leading to Sandy Spring and Ashton village centers. (Pg. 9).
- Ensure that the villages of Sandy Spring and Ashton maintain separate and distinct identities. (Pg. 29)

- Balance the need for increased road capacity along portions of MD 108 with the need to maintain a “main street” character on MD 108 within the village centers. (Pg. 31)
- Balance increased commercial density with the intent to maintain the small scale of the existing village centers. (Pg. 31)
- Use traditional village design. (Pg. 31)
- Encourage active fronts on buildings, such as porches and street entrances. (Pg. 31)
- Create pedestrian traffic with uses and designs that invite frequent visits by all members of the community. (Pg. 32)
- Encourage stores and other uses that provide services for local residents and are at a compatible scale. (Pg. 32)
- Create small parking areas that are well landscaped, preserve trees, and compatible with nearby uses both day and night. Place most off-street parking out of view of common space and active fronts, rather than between buildings and the street. (Pg. 32)
- Maintain the existing scale of Ashton village center and encourage improvements to its character. (Pg. 38)
- Exclusion of new auto-oriented or typically large-scale uses that are inconsistent with traditional rural development patterns. (Pg. 81)

The proposed development provides the architectural character and interest appropriate to a village center and creates a separate and distinct aesthetic for Ashton. It does not, however, provide the recommended scale and active main-street the master plan envisions. In particular, the mass of the grocery store is inconsistent with the “small scale of the existing village centers”. Further, the separation of the buildings along MD 650 from the street does not provide “active fronts” or “street entrances” that would help “create pedestrian traffic”, whereas these exact features are provided along MD 108. And while the architectural details may improve the character of the village center and are based on traditional design motifs, the layout and massing is not in keeping with traditional rural development patterns. This is especially true with regard to the large-scale, auto-oriented nature of the project. Last, the parking in front of the buildings along MD 650 minimizes street activity and cuts pedestrians off from the site.

■ Environmental

Attachments

- H. Memorandum from Environmental Planning
- I. Biota Environmental Resource Functional Assessment Report

Compliance with Environmental Guidelines & Regulations

Environmental staff recommends denial due to the avoidable and unnecessary encroachments into the wetland, wetland buffers, and stream valley buffers on the Property based on the provisions of Section 50-32(c) of the Montgomery County Subdivision Regulations. Despite the fact that the proposed development has an underground parking facility, parking in the residential portion of the site, and requests a waiver of the required number of parking spaces, the project continues to rely on excessive grading, fill, and paving in the environmentally sensitive areas. This, in concert, with the design guideline concerns discussed above, reinforces

our position that the scale of the proposed development is inconsistent with contextual and site constraints.

The applicant maintains that the encroachment of the building and parking facilities into the wetland and its buffer are necessary and that they have exhausted all efforts to completely avoid the environmentally sensitive areas. Staff contends that the encroachments are avoidable and can be eliminated, with the realization that it may have significant implications for the viability of the grocery store and perhaps the economic viability of the project as a whole. Throughout the review of this plan, Environmental Planning staff has been involved in numerous meetings and negotiations with the applicant and concerned citizens. Their memorandum with detailed analyses and conclusions is attached.

In their assertion that the encroachments are necessary and unavoidable, the applicant has proposed a plan to mitigate the encroachment. The mitigation plan includes the revitalization of wetland areas and buffers, considerable afforestation, and improved water quantity and quality control. The applicant's consultant provides the following summary to the attached report:

In summary, the results of this environmental functional assessment reveal that the proposed improvement of the property will not have any adverse environmental impact upon the primary functions the existing wetlands provide. Through sound site design and the incorporation of innovative stormwater management practices, the ability of the wetlands to be retained on-site to provide a groundwater recharge functional benefit during small rainfall events, as well as their ability to provide groundwater discharge during larger rainfall events has been preserved and enhanced. In addition, the wetlands ability to provide sediment retention and pollution filtering, natural flood control and water quality improvements has been persevered [sic] and enhanced. The streambank stabilization, wildlife habitat and recreational amenities the existing wetland provide are generally characterized as of low value and will not be adversely impacted in association with the proposed site improvements. The proposed management of off-site stormwater run-off in combination with forested wetland mitigation and off-site reforestation serves to significantly enhance these functional benefits and, thus, provides full mitigation for all jurisdictional impacts associated with the project.

Staff respectfully disagrees with the proposal to mitigate the impacts. Based on the importance of the on-site headwaters, the uncertainty as to whether groundwater recharge will be sufficiently maintained by the proposed mitigation, and due to the amount of imperviousness proposed we believe that the recommendations of the relevant environmental regulations and guidelines should be strictly upheld.

■ Citizen Correspondence and Issues

Staff has provided the Planning Board with a comprehensive set of emails and letters on the proposed development. Given the volume of the correspondence it is not possible to address each and every concern. The Community Based Planning memorandum, attached to this report,

provides a very good synopsis of the evolution of this plan. The community has been extremely active in the review and involvement of this property. It is exceedingly clear that the citizens believe this property to be the cornerstone of the Ashton Village Center and that the form of its development is important to the success of “downtown” Ashton as a livable and economically viable community. To summarize, the citizens that we have heard from come from three camps:

- 1) Oppose the proposal citing that it is too big for the site and does not live up to the vision of the master plan as local service, rural village.
- 2) Support the concept of a mixed use, village center with a grocery store but at an appropriate size and scale that protects the environmental resources.
- 3) Support the plan as proposed.

It is difficult to give the Planning Board a sense of the degree of support from each camp. Suffice to say that staff has heard from a critical mass from each perspective, some camps having swapped members as the plan has evolved. It is safe to conclude that through the efforts of the applicant, they have seemingly won over more citizens than they have lost. In the numerous meetings with citizens on the plan, it is a rare occurrence to have ever made any one group entirely happy, but most understand that the Property does have some level of development potential and that if this plan is, in fact, denied, a new plan will be submitted possibly for something other than what is now proposed.

■ Transportation

Attachments

J. Memorandum from Transportation Planning

A traffic study was required for the subject development since it would generate 30 or more peak hour trips. The Transportation Planning Section of the County-Wide Planning Division evaluated the preliminary plan and traffic study. The recommendation for the project is conditional approval.

■ Concurrent Review

Special Exception

There is a current application for a Special Exception (S-2683) submitted for review. The special exception is a request to allow residential dwellings in the C-1 zoned land on the subject site. The applicant has decided to withhold pursuit of this approval due to the staff recommendations of denial of the Preliminary and Site Plans. If the Preliminary and Site Plans are ultimately approved, the Planning Board will need to hold a hearing on this Special Exception use.

FINDINGS

■ Preliminary Plan Review

Compliance with the Subdivision Regulations and Zoning Ordinance

This application has been reviewed for compliance with the Montgomery County Code, including Chapter 59, the Zoning Ordinance and Chapter 50, the Subdivision Regulations. As detailed and discussed in this staff report, there are significant inconsistencies between the plan and the County Code.

1. *The proposed development does not comply with Section 59-C-18.18. Sandy Spring/Ashton Rural Village Overlay Zone of the Zoning Ordinance.*

The proposed development includes parking for commercial uses on residential zones. The allowance for such parking is subject to specific constraints and this project fails to meet those constraints.

2. *The proposed development does not comply with Section 59-C-4.2. Land Uses of the Zoning Ordinance*

The proposed development includes a parking garage, which is not allowed as a permitted or special exception use in the C-1 Zone.

3. *The preliminary plan does not meet all of the applicable environmental requirements as stipulated in Section 50-32(c) of the Subdivision Regulations.*

The plan fails to adequately protect environmentally sensitive areas including wetlands, wetland buffers, and stream buffers.

■ Site Plan Review

Compliance with the Zoning Ordinance, Master Plan, & Applicable Environmental Requirements

1. *The site plan conforms to all non-illustrative elements of a development plan or diagrammatic plan, and all binding elements of a schematic development plan, certified by the Hearing Examiner under Section 59-D-1.64, or is consistent with an approved project plan for the optional method of development, if required, unless the Planning Board expressly modifies any element of the project plan;.*

An approved development plan or a project plan is not required for the subject development. A special exception is required to permit residential dwellings on the C-1 area of the subject site according to section 59-C-4.2.

2. *The Site Plan does not meet all of the requirements of the zone in which it is located, and where applicable conforms to an urban renewal plan approved under Chapter 56.*

The site plan meets many of the development standards for density, setbacks, building heights, and green space of the C-1, R-60, and Sandy Spring/Ashton Rural Village Overlay zones. The site plan does not, however, meet all of the requirements of these zones as we discussed in the Analysis section of the Staff Report. A statement of our findings regarding the overlay zone is provided below.

The site plan does not comply with certain land use requirements of the underlying C-1 or R-60 zones. In this instance, the proposed development includes a parking garage, which is not allowed by permit or by special exception in the C-1 zone. The detailed explanation of this issue is in the Analysis section of the Staff Report.

3. *The locations of buildings and structures, open spaces, landscaping, recreation facilities, and pedestrian and vehicular circulation systems are not adequate, safe, and efficient.*

a. Locations of Buildings and Structures:

The locations of the building and structures along MD 108 are adequate, safe, and efficient with respect to basic design parameters. With respect to their mass and the consequent impacts on village character and wetland encroachments, however, the location is incompatible with the site context.

The locations of the buildings, structures, and pedestrian and vehicular circulation systems along MD 650 are neither safe nor efficient. The duplication of streetlights and pedestrian sidewalks as well as the single-loaded parking in front of the storefronts are an inefficient use of resources and space. This design unnecessarily adds to impermeable surface and decreases the main street “walkability” of the site. This is especially true on a site with related environmental constraints.

Staff recommends that the buildings be pulled up to the street to provide a more efficient and safe pedestrian and vehicular environment as well as a safer, more efficient and more adequate in terms of environmental and site context.

b. Open Spaces:

The plan proposes 21% of the site to be dedicated green space. This space is composed primarily of the open-space amenities at both ends of the buildings along MD 650 and the wetland and stream areas.

c. Landscaping and Lighting:

The proposed landscaping on the site consists of street trees along MD 650 and MD 108; shrub borders along the parking lots adjacent to these roads; interior

landscape beds; trees and shrubs within the parking lot islands; and various deciduous and evergreen border plantings around the perimeter of the site.

The lighting plan consists of streetlights along MD 650 and MD 108; interior lamps and fixtures along all of the pedestrian paths; and parking lot fixtures on 25-foot poles. The streetlights are colonial in style, while the parking fixtures are standard commercial box fixtures. As noted in the Analysis section, the lighting will not produce excessive glare or illumination on adjacent residential areas.

d. Recreation Facilities

Recreation facilities are not required for the proposed development.

e. Pedestrian and Vehicular Circulation Systems

Access points to the site are to be provided from MD 650 and MD 108. These have been negotiated with SHA and are adequate, safe and, efficient.

The internal pedestrian and vehicular circulation is not adequate, safe, and efficient. There are two safety issues that are not resolved. The first is that pedestrians and bicyclists must cross traffic twice – across MD 650 and the internal parallel drive aisle – to get to the retail and residential building. Potential conflicts between pedestrians, bicyclists, and vehicles could be avoided by removing the access road and locating the buildings directly along MD 650. There are further complications with the proximity of the drive aisle to the drive-through egress, two dumpsters and a handicapped access ramp. The second safety issue is that traffic turning into the shopping center from MD 650 can immediately turn left into a parking area potentially backing traffic up into the state road as well as creating potential conflicts with pedestrians and vehicles coming in into and out of the various parking drive aisles and sidewalks at this point. Given the amount of traffic on MD 650 and the projections for trips in and out of the center, we recommend that this area be reconfigured to direct traffic further into the site to avoid such conflicts.

The associated bike paths and sidewalks that will be undertaken by SHA and DPWT are discussed in the Transportation Planning Memorandum. Interior sidewalks around the perimeters of the retail and residential buildings provide an adequate, safe, and efficient pedestrian environment with the notable exception of the problems in front of the buildings along MD 650.

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

The structures and uses proposed by the subject site plan are larger in scale and mass and have proposed uses that are not compatible with the rural village context and the existing small scale of the village center. A future plan that is less dense

could comply with the parking limitations and may well be able to avoid the environmentally sensitive wetlands and buffers on the site.

5. *The Site Plan does not meet all applicable requirements of Chapter 22A regarding forest conservation, Chapter 19 regarding water resource protection, and any other applicable law.*

As the discussion above and the detailed memorandum from Environmental Planning Staff make clear, the site plan does not comply with the applicable environmental requirements and guidelines for Montgomery County. Specifically, the proposed development does not provide adequate mitigation measures to protect environmentally sensitive areas as recommended by Section 50-32(c) of the Subdivision Regulations. Additionally, it is inconsistent with the Planning Board's Environmental Guidelines and the Functional Master Plan for the Patuxent River Watershed.

The proposed stormwater management concept consists of (1) on-site channel protection measures via underground storage and surface ponds; (2) on-site and off-site water quality control via stormfilter and a water quality inlet pretreatment. The stormwater management concept was approved by the Montgomery County Department of Permitting Services on December 22, 2006.

6. *The proposed development does not substantially conform with the design guidelines for new development contained in the approved and adopted Sandy Spring/Aston Master Plan as required by Section 59-C-18.184(b).*

The proposed development does not maintain a "main street" character along MD 650 as it does along MD 108. Instead the land use pattern is more suburban than village oriented in nature. The commercial density is out of balance with the small scale of the existing village center. While providing aspects of traditional village design, the lack of active fronts and street entrances diminishes the rural village character emphasized by the master plan. The pedestrian environment, although adequate internally, could be more inviting from the perspective of the surrounding village. Also, the services provided are much more regional in their purpose than local. This auto-oriented large-scale use is specifically excluded by the master plan due to its inconsistency with traditional rural development patterns. Finally, the parking areas are quite large and are placed adjacent to or in front of storefronts rather than behind the buildings.

7. *The site plan is not wholly consistent with the recommendations in the approved and adopted Sandy Spring/Ashton Master Plan.*

The site plan is generally consistent with the land use recommendations of the master plan, but fails to satisfy other recommendations, such as the design guidelines, parking restrictions, and the village scale as we have detailed in the Analysis.

8. *The site plan does not meet all of the requirements of the Sandy Spring/Ashton Rural Village Overlay Zone as well as the applicable requirements of the underlying zones.*

As detailed in the Analysis section of the Staff Report, while most of the requirements of the overlay zone and underlying zones are met, the proposed development includes two uses that do not comply with the Zoning Ordinance. As we discussed above, the proposed development includes a parking garage in the C-1 Zone, which is not permitted by right or special exception. Also, the proposed development includes parking for commercial uses on the R-60 Zoned portion of the subject site. This is not allowed because the property is not designated by the master plan as appropriate for such a use and because the area of the overlay zone is not recommended as a mixed-use area. That is, because the master plan specifically indicates separate land use mixes according to the standards of the existing zoning, the recommendations of flexible uses do not apply to this site.

CONCLUSION

Staff concludes that preliminary plan 120050060 does not comply with certain sections of the Montgomery County Zoning Ordinance and sections of the Subdivision Regulations. Specifically, the plan fails to comply with Sections 59-C-4.2 and 59-C-18.18 of the Zoning Ordinance, both of which affect the ability to provide adequate parking on the project. Because the project continues to encroach into wetlands, wetland buffers, and stream buffers with what staff believes to be otherwise avoidable encroachments, staff contends that the plan does not comply with Section 50-32(c) of the Subdivision Regulations which require protection of environmentally sensitive areas.

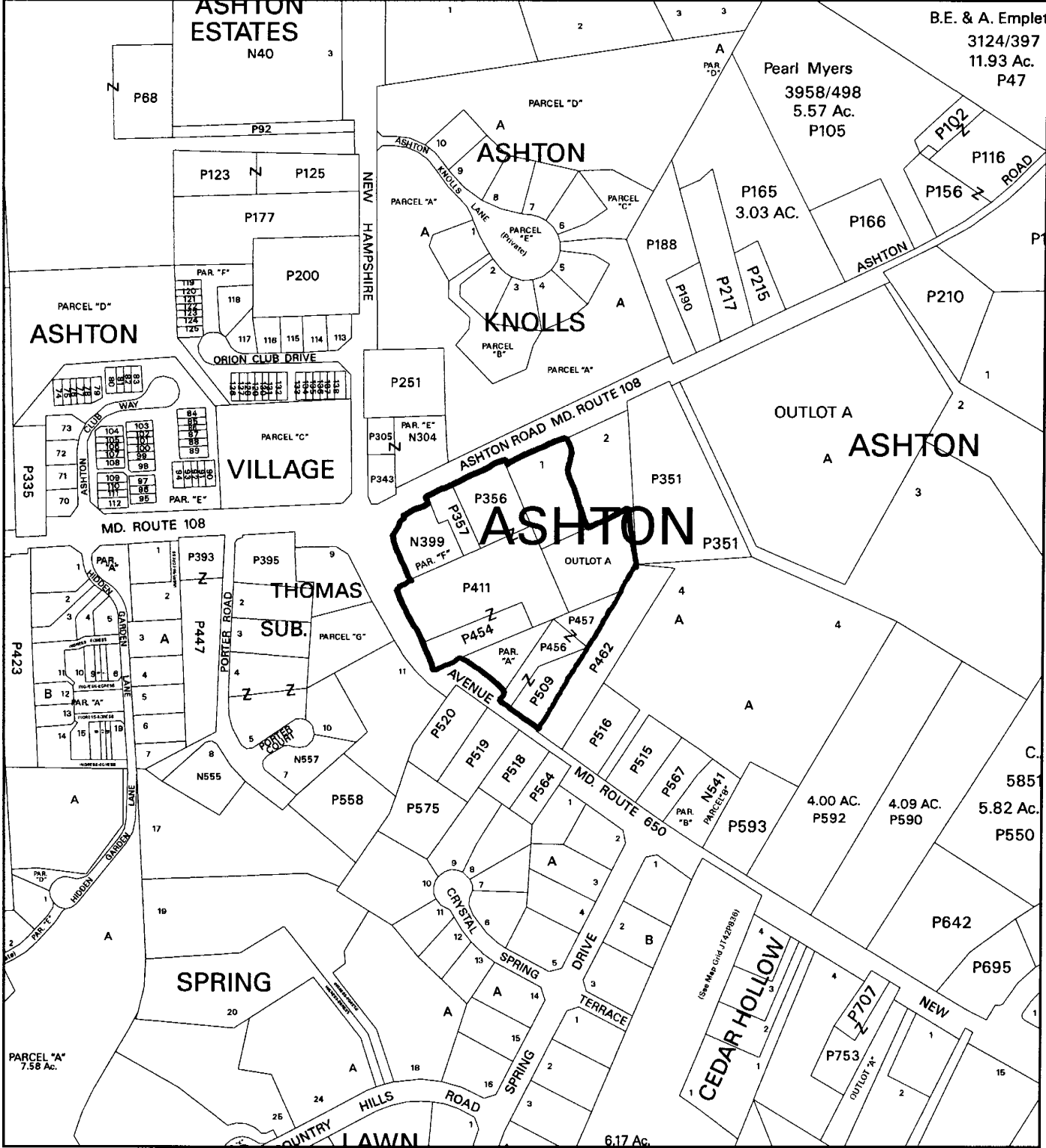
Staff also concludes that site plan 820060230 does not substantially conform with the design guidelines for new development contained in the approved and adopted Sandy Spring/Aston Master Plan and is not wholly consistent with the Master Plan recommendations. The location of the buildings and structures is not safe and efficient and the plan as proposed is not compatible with the rural village concept.

For all of these reasons, the development shown on the plan is too intense for this property and is recommended for denial. A future plan with less density should be able to comply with the parking limitations, avoid the environmentally sensitive wetlands and buffers on the site, and be more in keeping with the intent of the Rural Village Overlay Zone.

Attachments

- A. Vicinity Map
- B. Site Photos
- C. Preliminary Plan
- D. Site Plan
- E. Letter from Miller, Miller & Canby
- F. Letter countersigned from the Department of Permitting Services
- G. Memorandum from Community Based Planning
- H. Memorandum from Environmental Planning
- I. Biota Environmental Resource Functional Assessment Report
- J. Memorandum from Transportation Planning

ASHTON MEETING PLACE (1-05006)



Map compiled on August 02, 2004 at 10:46 AM | Site located on base sheet no - 224NW01

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Key Map



Research & Technology Center



1 inch = 400 feet
1 : 4800