



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

PGCPB No. 11-03(C)

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File No. SP-060003/01

C O R R E C T E D     R E S O L U T I O N

WHEREAS, the Prince George's County Planning Board has reviewed SP-060003/01, Wachovia Bank ATM requesting an additional ATM to an existing by-pass lane in accordance with Subtitle 27 of the Prince George's County Code; and

WHEREAS, after consideration of the evidence presented at the public hearing on January 13, 2011, the Prince George's County Planning Board finds:

- A. **Location and Field Inspection:** The subject site is improved with a Wachovia bank with three drive-through lanes and an automated teller machine (ATM). The .85-acre parcel is located at the southeast corner of Baltimore Avenue (US 1) and East-West Highway (MD 410) in Riverdale Park, Maryland. This site is located in Planning Area 68 and Council District 3. No environmental features are found on the site.
- B. **History:** The subject property was zoned C-S-C as of the May 1994 *Approved Master Plan and Sectional Map Amendment for Planning Area 68*. The January 2004 *Approved Town of Riverdale Park Mixed-Use Town Center Zone Development Plan* rezoned the property M-U-T-C. The existing Wachovia Bank building, associated parking and building-mounted walk-up automated teller machine (ATM) was approved by Special Permit Application SP-060003 on July 12, 2007. Subsequently, the site has been fully developed and is currently in use.

The existing Wachovia Bank has a long history of M-U-TC Committee and Planning Board review (beginning March 16, 2006 to the present application). The technical staff report presented to the Planning Board on April 12, 2007, provided the recommendation, "...that if the Board deems drive-thru lanes acceptable at this site, then the number of lanes should be reduced not to exceed three lanes and that one allows an ATM with vehicular access." The purpose of limiting the number of drive-thru lanes and relocating the ATM out of the drive-thru was to create a walkable, pedestrian-friendly commercial establishment based on the goals and standards of the development plan. The approved application removed the ATM from the drive-through lane and created a walk-up ATM at the entry plaza to Wachovia bank. As such, the applicant did not specifically request a departure from Standard 8, (in the M-U-TC Development Plan) which provides that ATM's should not have vehicular access, in their original application which is a part of the current special permit application. The Planning Board agreed with the technical staff that the bank should be limited to no more than three lanes (page 37 Standard 6 of the M-U-TC Development Plan), without reference, however, to Standard 8.

- C. **Master Plan Recommendation:** The 2002 *Prince George's County Approved General Plan* places the site within the Developed Tier. The vision for the developed tier is a network of sustainable transit supporting, mixed-use, pedestrian-oriented, medium- to high-density neighborhoods. The vision for Centers is mixed residential and nonresidential uses at moderate to high densities and intensities, with a strong emphasis on transit-oriented development. This

application is consistent with the 2002 General Plan Development Pattern policies for the Developed Tier.

The 2004 *Approved Town of Riverdale Park Mixed-Use Town Center Zone Development Plan* rezoned the property from C-S-C to the M-U-TC Zone. The M-U-T-C Zone:

- provides for a mix of commercial and limited residential uses which establish a safe, vibrant, 24-hour environment; designed to promote appropriate redevelopment of, and the preservation and adaptive reuse of selected buildings in, older commercial areas;
- establishes a flexible regulatory framework, based on community input, to encourage compatible development and redevelopment;
- mandates approval of a Development Plan at the time of zoning approval, that includes minimum and maximum Development Standards and Guidelines, in both written and graphic form, to guide and promote local revitalization efforts; and
- provides for legally existing buildings to be expanded or altered, and existing uses for which valid permits have been issued to be considered permitted uses, and eliminating nonconforming building and use regulations for the same.

This application does conform to the mixed-use town center land use recommendations of the 2004 *Approved Town of Riverdale Park Mixed-Use Town Center Zone Development Plan*. However, the application does not conform to the development Standard 8, which is discussed in greater detail in the "Community Planning" section of this report.

- D. **Request:** The special permit revision application is for the addition of one ATM to an existing by-pass lane, located to the north of the three drive-through teller lanes of an existing Wachovia Bank located within the Town of Riverdale Park. In order for the Planning Board to grant departures from the strict application of any standard or guideline approved in the 2004 *Approved Town of Riverdale Park Mixed-Use Town Center Zone Development Plan*, the Planning Board must make the findings listed in Section 27-548.00.01 of the Zoning Ordinance. This application is filed in accordance with the procedures set forth in Section 27.239.01 for Special Permits because this type of departure does not have a designation in the Zoning Ordinance.

- E. **Neighborhood and Surrounding Uses:** The site is surrounded by the following uses:

- **North:** Across East-West Highway, Commercial uses in the M-U-T-C Zone.
- **South:** Commercial uses in the M-U-T-C Zone.
- **East:** Across Beale, Vacant property in the M-U-T-C Zone.
- **West:** Across Baltimore Avenue, McDonald's in the M-U-T-C Zone.

The neighborhood is defined by the following boundaries:

- **North:** Tuckerman Street
- **South:** Madison Street
- **East:** Lafayette Avenue
- **West:** 44<sup>th</sup> Avenue

**F. Special Permit Findings: Section 27-239.02(a)(B) and Section 27-548.00.01:**

The Planning Board may grant a Special Permit in the M-U-TC Zone if it finds that the site plan is in conformance with the approved Town Center Development Plan and its guidelines and specific criteria for the particular use. In the event a Special Permit is approved by the Planning Board, the approval is conditional upon the issuance of a building or use and occupancy permit by the Department of Environmental Resources, Permits and Review Division. When a Special Permit is approved, any requirements or conditions deemed necessary to protect adjacent properties and the general neighborhood may be added.

The Planning Board is authorized to allow departures from the strict application of any standard or guideline approved in a Town Center Development Plan in accordance with the procedures set forth in Section 27-239.01 of the Zoning Ordinance and subject to the following findings:

**Section 27-548.00.01(a)(2)(A):**

**A specific parcel of land has exceptional narrowness, shallowness, or shape; exceptional topographic conditions; or other extraordinary situations or conditions;**

The extraordinary situations or conditions is that Standard 8 on page 37, of the 2004 *Approved Town of Riverdale Park Mixed-Use Town Center Zone Development Plan*, states that ATMs may not have vehicular access, which limits the ability of Wachovia Bank to offer a variety of banking services to its customers. There is a single existing building mounted walk-up ATM located at the front of the building facing Baltimore Avenue (US 1) which is heavily used by Wachovia customers often resulting in long lines, especially during non-business hours because this is the only ATM in the area. There are three existing drive-through lanes, which were approved with the original development application. The addition of a drive-through ATM is not likely to detract from the use of the walk-up ATM given the heavy pedestrian traffic in this area of Riverdale Park.

Bank customers using a drive-up ATM are virtually indistinguishable from customers using the drive-up tellers. Given that the approved site plan provided three drive-up teller lanes, there was an expectation that there would be considerable amounts of bank customers in their cars. It makes sense that the bank should be able to offer the drive-up ATM as a convenience to these anticipated customers. The addition of an ATM to any one of the existing drive-through lanes would provide

Wachovia Bank customers and the community accessibility to services that are severely limited by Standard 8.

**Section 27-548.00.01(a)(2)(B):**

**The strict application of the Development Plan will result in peculiar and unusual practical difficulties to, or exceptional or undue hardship upon, the owner of the property; and**

The strict application of the Development Plan will result in peculiar and unusual practical difficulties to, or exceptional or undue hardship upon, the owner of the property, because the strict application of the standard denies Wachovia Bank the opportunity to provide adequate and safe service by limiting service options to its customers. Without the requested departure, Wachovia customers will be forced to either wait in lines to use the only ATM, limit night-time banking or not be secure. It should also be noted that Wachovia Bank is the only banking facility located along the northbound travel lanes of Baltimore Avenue (US 1) in Maryland, a 2.6 mile drive from the District line. The next banking facilities are in College Park. Bank of America has a banking facility in College Park that has three drive-through lanes, with one lane having a drive-up ATM and two walk-up ATMs and new Capital One Bank facility in College Park that has three walk-up ATMs. The Commission finds that it was not the intent of the Development Plan to cause banks within the Town of Riverdale to be uncompetitive with banks in the surrounding areas.

**Section 27-548.00.01(a)(2)(C):**

**The departure will not substantially impair the intent, purpose, or integrity of the General Plan, Master Plan, or the Town Center Development Plan.**

The requested departure will not substantially impair the intent, purpose, or integrity of the General Plan, Master Plan, or the Town Center Development Plan, should the Planning Board allow an ATM in an existing drive-through lane. The by-pass lane is too narrow for adequate vehicular access. There is an existing single walk-up ATM accessible via Baltimore Avenue. There are three existing teller drive-thru lanes. Therefore the addition of the ATM to an existing drive-thru provides an additional secure alternative service to the community and existing bank customers without making any physical changes to the existing bank.

**G. Further Planning Board Findings and Comments from Other Entities:**

1. **Environmental Planning**—The site is exempt from the Woodland Conservation and Tree Preservation Ordinance.”
2. **Community Planning**—The M-U-TC Development Plan has two standards applicable to the case. On page 37, Access and Circulation, Standard 6 states, “Drive-thru windows are inconsistent with the pedestrian orientation of the town center and are strongly discouraged. Drive through window may only be considered if accessed by alleys and located on the rear of the property.” On page 37 of the plan, Access and Circulation,

Standard 8 states, "ATMs may be located on the front or side of the building, but **may not** have vehicular access." The word 'may not' means that the standard is mandatory and not discretionary.

All special permit applications are referred to the Town of Riverdale Park for review by the mayor and town council, as well as, the M-U-TC Committee. The Planning Board may only approve a special permit contrary to the recommendation of a municipality containing the subject land within its boundaries upon the affirmative vote of four-fifths of the members of the full Planning Board.

In the original Special Permit the applicant complied with the request to incorporate a walk-up ATM, and the drive-through infrastructure already exists with a teller window, planning staff would recommend approval of one ATM machine to an existing drive-through lane. The addition of the ATM would not significantly impair the integrity, or intent, of the development plan.

3. **Urban Design**—The proposed ATM faces East-West Highway, some degree of screening from the roadway should be provided, while retaining visibility of the area from the road for safety reasons. Staff feels that the proposed four-foot metal fence with brick pilasters and a row of low evergreen shrubs in the area between the proposed ATM and the right-of-way is acceptable to produce the required design effect, but also recommends the addition of one shade tree within this area, with a minimum branching height of six feet for the needed visibility.
4. **Riverdale Park Mixed-Use Town Center Design Review Committee**—On November 3, 2010, the M-U-TC Committee reviewed the application opted to defer a decision until the December 1, 2010 meeting. When the M-U-TC Committee reconvened in December the group voted unanimously to approve the application with the condition that the drive-up ATM be installed within one of the three existing drive-through teller lanes. The M-U-TC Committee also included a stipulation that Wachovia make a donation to the TORP for no less than \$25,000 for the purpose of pedestrian-oriented improvements including, but not limited to, the trolley trail, within the historic core of the M-U-TC Zone, or, Wachovia can, at its option, install a second pedestrian ATM instead of making the donation. However, staff can not include this as a condition because based on discussions with our legal office, there does not appear to be a "rational nexus" between the request and the proposed condition. Staff believes the goals and standards of the 2004 *Approved Town of Riverdale Park Mixed-Use Town Center Zone Development Plan* are being met with the condition to place the ATM in an existing drive-through lane.
5. **Town of Riverdale Park**—The Town of Riverdale Park Council submitted a letter and Resolution 2011-R-04, dated January 10, 2011, recommending denial of the Special Permit Application citing non-conformance of the application to the 2004 *Approved Town of Riverdale Park Mixed-Use Town Center Zone Development Plan*. The reason for the denial was because "the special permit revision application departs from the strict

application of any standard or guideline approved in the 2004 *Approved Town of Riverdale Park Mixed-Use Town Center Zone Development Plan*, and a strict interpretation of the zone was a strong component of the decision by [the] Riverdale Park Town Council to recommend denial of the application. The request for an additional drive-through ATM stands in opposition of the Town's goal of promoting and protecting pedestrian accessibility along the Route 1 corridor."

6. **Town of Edmonston**—No comment was offered.
7. **City of College Park**—No comment was offered.
8. **City of Hyattsville**—No comment was offered.
9. **Town of University Park**—No comment was offered.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to Subtitle 27 of the Prince George's County Code, the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission adopted the findings contained herein and APPROVED the above-noted application, subject to the following conditions:

1. The applicant shall submit revised plans showing the placement of a single ATM in one of the three existing drive-through lanes prior to the issuance of a permit.
2. The applicant shall provide one additional shade tree, with a minimum branching height of six feet, in the landscape area between the proposed ATM and the right-of-way of East-West High (MD 410) way either at the time of installation of the ATM or in the next planting season if the ATM is installed during the Winter months.

BE IT FURTHER RESOLVED, that an appeal of the Planning Board's action must be filed with the \*~~[District Council]~~ Circuit Court for Prince George's County, Maryland within thirty (30) days of the final notice of the Planning Board's decision.

\*Denotes Correction

Underlining indicates new language

[Brackets] and ~~strike through~~ indicate deleted language

\* \* \* \* \*

This is to certify that the foregoing is a true and correct copy of the action taken by the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission on the motion of Commissioner Clark, seconded by Commissioner Squire, with Commissioners Clark, Squire, Cavitt, \*[Vaughns] and Parker voting in favor of the \*motion, and with Commissioner Vaughns opposing the motion at its regular meeting held on Thursday, January 13, 2011, in Upper Marlboro, Maryland.

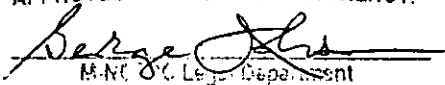
Adopted by the Prince George's County Planning Board this 3<sup>rd</sup> day of February 2011 \*and corrected February 14, 2011.

Patricia Colihan Barney  
Executive Director

By   
Jessica Jones  
Acting Planning Board Administrator

PCB:JJ:IT:arj

APPROVED AS TO LEGAL SUFFICIENCY.

  
M-NCDC Legal Department

Date 2/15/11

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