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## STAFF COMMENTS FOR PLANNING COMMISSION

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**MEETING DATE:** March 4, 2009

**SUBJECT:** **AFP-09-006**

**TITLE:** **Muddy Branch Square  
882 Muddy Branch Road**

**REQUEST:** **AMENDMENT TO FINAL PLAN APPROVAL**  
Change of Use from retail to office use

**ZONE:** C-2 (General Commercial) & MXD (Mixed Use  
Development)

**APPLICANT/DEVELOPER:** Josh Goldman – The Rappaport Companies  
**ENGINEER:** Gary Unterberg – Rodgers Consulting  
**ATTORNEY:** Jody Kline – Miller, Miller, & Canby

**STAFF LIAISON:** Jacqueline Marsh, Planner

**Enclosures:**

Staff Comments

Exhibit 1: Application

Exhibit 2: Site location map

Exhibit 3: Letter from Dr. Robert Graw, dated January 19, 2009

Exhibit 4: Letter from Dr. Robert Graw, dated January 21, 2009

Exhibit 5: Site plans

## **STAFF COMMENTS**

### **I. BACKGROUND:**

An application has been filed requesting approval for a change of use from retail to office at the Muddy Branch Square shopping center, located at 882 Muddy Branch Road (Exhibit #1). The property has frontage on Muddy Branch Road and is zoned both Mixed Use Development (MXD) and General Commercial (C-2).

### **II. SCOPE OF REVIEW:**

This application comes before the Planning Commission in accordance with §24-172A, which requires the Planning Commission to grant amendments to approved final site plans. The applicant is requesting to amend the approved site plan by requesting a change of an approved use, from retail to medical office.

### **III. SITE PLAN ANALYSIS AND FINDINGS:**

In accordance with §24-171, the Planning Commission has the authority to review and make determinations regarding the proposed plan for the purpose of protecting the public health, safety, and welfare. Section 24-170 outlines the findings for the approval of the site plan:

#### **Site Characteristics & Surrounding Land Use**

Muddy Branch Square is a retail strip center, located on an 11.7-acre parcel of property that has two major retail buildings with two stand alone pad sites and associated parking. The site is primarily surrounded by various residential communities, and a small portion of the NIKE missile site is directly adjacent to the north.

#### **Zoning History**

As previously noted, the site is zoned both C-2 and MXD. The shopping center first received approval in 1984 as a C-1 (Local Commercial) property. Later on, the bank site was added and in 1997 it was rezoned to C-2.

In the 1990s, the developers acquired a 2.75-acre portion of property located directly to the north of the shopping center which was included in the Lakelands site development approvals. As such, this property was zoned MXD. This property was incorporated into the Muddy Branch Square shopping center and a new 22,306 square foot retail section and parking lot improvements were approved by the Planning Commission in 1997 as site plan S-729(E). The site location map, Exhibit #2, demarcates which portion of the property is zoned MXD.

### **Current Proposal:**

Nighttime Care, in use as a medical office, is requesting to occupy 4,588 square feet of tenant space at the Muddy Branch Square shopping center. This space was formally occupied by a Hollywood Video, a retail use. The applicants have provided letters of intent formally outlining the use (Exhibits #3 & #4).

This change in use request will modify the parking calculations for the site (Exhibit #5). As the chart shows, the parking demand will be less than the previous retail use. The required parking will be reduced by fifteen (15) parking spaces.

There are no proposed architectural changes.

### **IV. SUMMARY OF FINDINGS:**

The proposed change of use is in conformance with the Zoning Ordinance and will not adversely affect the character of the surrounding area.

### **V. CONCLUSION:**

Staff recommends the Planning Commission make a motion **TO GRANT AFP-09-006, MUDDY BRANCH SQUARE SHOPPING CENTER CHANGE OF USE, AMENDMENT TO FINAL PLAN APPROVAL, FINDING IT IN CONFORMANCE WITH §§ 24-170 AND 24-172 OF THE CITY'S ZONING ORDINANCE.**

# AMENDMENT TO FINAL PLAN APPLICATION

Application #	AFP-09-006
Date Filed	7-5-09
Total Fee	\$500.00

In accordance with Section 24, Article V of the City Code

### 1. SUBJECT PROPERTY

Project Name "MUDDY BRANCH SQUARE"

Street Address 800 Muddy Branch Road, Gaithersburg

Zone C-2/MXD Historic area designation  Yes  No

Lot Par. 1A Block -- Subdivision AMBERFIELD

Tax Identification Number (MUST BE FILLED IN) 09-03219238

### 2. APPLICANT

Name MUDDY BRANCH SQUARE LIMITED PARTNERSHIP, c/o Josh Goldman, The Rappaport Companies

Street Address 8405 Greensboro Drive, Suite 830 Suite No. \_\_\_\_\_

City McLean State VA Zip Code 22102

Daytime Telephone 571-382-1200  
571-382-1237

### 3. ARCHITECT/ENGINEER/DEVELOPER

Architect's Name N/A

Architect's Maryland Registration Number \_\_\_\_\_ Telephone \_\_\_\_\_

Street Address \_\_\_\_\_ Suite Number \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

Engineer's Name N/A

Engineer's Maryland Registration Number \_\_\_\_\_ Telephone \_\_\_\_\_

Street Address \_\_\_\_\_ Suite Number \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

Developer's Name Same as Applicant Telephone \_\_\_\_\_

Street Address \_\_\_\_\_ Suite Number \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

Contact Person \_\_\_\_\_ Telephone \_\_\_\_\_

### 4. PROPERTY OWNER

Name Same as Applicant

Street Address \_\_\_\_\_ Suite No. \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

Daytime Telephone \_\_\_\_\_

### 5. CITY PROJECT NUMBER

Original Site Plan Number S-729 Date Approved 7/17/97

Name of previously approved Final Plan Same Name (Amendment to Final Plan)

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#1

6. WORK DESCRIPTION

Please state clearly changes requested from final approved plan.

Proposal is limited to change of use for 4600<sup>+</sup> (4588) SF of building area from "retail/commercial" per approval of S-729(e) to "office/professional" use.

7. PROJECT DETAIL INFORMATION

a. POPULATION CHANGES ( if any)

Changes in population estimated due to amendment.

Employee estimate: Total number Undetermined Total number per shift Undetermined  
 Resident estimate: Total number N/A Total number per dwelling unit N/A

b. PLEASE SUPPLY THE FOLLOWING INFORMATION

DEVELOPMENT INFORMATION:		REQUIRES EXISTING	PROPOSED
1. Site (square feet)		509,652 SF	509,652 SF
2. Site Area (acres)		11.70 A	11.70 A
3. Total Number of Dwelling Units/Lots		0	0
4. Height of Tallest Building		1 story	1 story
5. Green Area (square feet)		162,787*	162,787*
6. Number of Dwelling Units/Acre		0	0
7. Lot Coverage (percent)		N/A	N/A
8. Green Area (percent)		31.9%	31.9%
9. Residential		N/A	N/A
a. Single Family Detached	# Units		
b. Single Family Attached	# Units		
c. Multi-Family Condo	# Units		
d. Multi-Family Apartment	# Units		
e. Other			
10. Retail/Commercial	Sq. Ft.	110,750	106,162
11. Restaurant Class: <input type="checkbox"/> A <input type="checkbox"/> B <input type="checkbox"/> C	Sq. Ft.	(included in above)	
12. Office/Professional	Sq. Ft.	0	4,588
13. Warehouse/Storage	Sq. Ft.		
14. Parking		R:499/P:583	R:494/P:583
15. Shared Parking/Waiver			
16. Other			
17. Totals			

\*Per approved 7/17/97 Final Plan.

SUBMISSION REQUIREMENTS

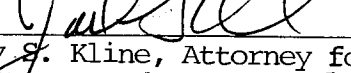
1. Set of plans per the respective checklist. Plans must be folded to 8 1/2 x 11."
2. Completion of the table above.

I have read and complied with the submission requirements and affirm that all statements contained herein are true and correct.

MUDDY BRANCH SQUARE LIMITED PARTNERSHIP  
 c/o Josh Goldman  
 The Rappaport Companies

Daytime Phone  
 571-382-1200  
 571-382-1237

Applicant's Name (please print)

Applicant's Signature By:   
 Jody S. Kline, Attorney for Applicant

Date 5 FEB 09  
 (revised 19 FEB 09)

Daytime Telephone

Miller, Miller & Canby  
 200B Monroe Street  
 Rockville, MD 20850  
 301-762-5212

AFP-09-006 Muddy Branch Square





January 19, 2009

Permit Office  
Gaithersburg, Maryland

To Whom It May Concern:

I am writing in connection with the planned opening of our Nighttime Pediatrics and Adult Care Too office in the Muddy Branch shopping center in Gaithersburg. We have operated for twenty years in Anne Arundel, and more recently Howard, Counties, and for the last twelve years in Rockville, Montgomery County, providing after-hours and weekend medical services for physicians when their offices are closed. Patients use our offices when their regular doctor is unavailable, and then return to their physicians for follow-up care. We schedule appointments for patients to ensure that the right amount of time is booked for each patient. Although as a matter of professional responsibility we will not turn away a person who walks in unaware of our appointment policy, we ask that the patient make an appointment for any future visit. We perform services normally performed in a physician's office, and do not act as a free-standing emergency room, health clinic or occupational health center. Instead, we provide "doctor office care" for community physicians whose offices are closed.

If you would like further clarification, or would like to visit our office in Rockville, I would be happy to speak with you. We are eager to move the application for the new Gaithersburg location forward soon as Gaithersburg has been identified by local physicians and residents as a needed resource when physicians are not available.

Thank you very much. My best contact number is my cell phone at 410-570-4855.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Graw, Jr.", with a long, sweeping flourish extending to the right.

Robert G. Graw, Jr., M.D.  
Lead Pediatrician

2772 Rutland Road  
Davidsonville, Ma  
443.607.1033  
Fax: 443.607.1041

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AFP-09-006  
#3



Via Email to: [JMarsh@gaitHERSBURGMD.GOV](mailto:JMarsh@gaitHERSBURGMD.GOV)

January 21, 2009

Ms. Jacqueline Marsh  
Planner  
Planning and Code Administration  
City of Gaithersburg  
31 S. Summit Avenue  
Gaithersburg, MD 20877

Re: Permit Application, Muddy Branch Shopping Center

Dear Ms. Marsh:

Thank you for taking my call today. I truly understand the confusion regarding the parking at our new location in the Muddy Branch Shopping Center. We had reviewed with the landlord and his representatives our needs and they explained to us that there was a special location for employee parking, with which we were in total agreement and will comply. We had also described to them that we would require a limited number of parking spaces allocated for patients (which, in our other locations, has usually been four spaces within a visible distance from the front door of the doctor's office). This is done in order to assist patients who may be ill, to lessen the walk for parents and/or patients utilizing our services.

In clarification of our needs, we will staff the following employees at the new location: two receptionists, one physician, one nurse and one part-time patient care technician. Based on your interpretation of the requirements for a doctor's office, you stated that we should allow four spaces for each doctor, and one additional space for every two non-physician employees. Based on those figures, it would seem then that the requirement for our staff and patients would be six spaces (4 for the physician and 2 for the four support staff employees).

You also explained to me that the Muddy Branch Shopping Center is zoned as retail space, except for 15 percent restaurant use. For the retail space, you stated that one parking space is allocated per 180 square feet of leased space. Our lease of 4,400 square feet therefore would allocate to us approximately 25 parking spaces. Please be reminded that the majority of our traffic is for after hours services when the shopping center is more likely to be empty and other retailers

2772 Rutland Road

David

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#4

have closed for the day, which should additionally diminish the worry level regarding sufficient parking.

As Mr. Sims and I explained to you, I am more than happy to have you travel to our Rockville location and visit with us to see how we provide medical care services. Perhaps someone in your office or neighborhood has had their children seen by one of our pediatricians when their family doctor's office was closed on an evening or weekend and could further explain their experience and the nature of the care we provide. I am willing to go to any Planning Commission meetings, which you explained to me are held every two weeks. Please let me know if we have been placed on the schedule for an upcoming Planning Commission meeting, or is this something I will need to pursue? I would like to attend an early meeting in order to ensure that we can move through the approval process as quickly as possible.

I look forward to talking with you after you receive the documents. Please call me on my cell phone at (410) 570-4855.

Sincerely,

Robert G. Graw, Jr., M.D.  
**Lead Pediatrician**





