



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

March 24, 2017

Mr. Isiah Leggett  
Montgomery County Executive  
Office of the County Executive  
101 Monroe Street  
Rockville, Maryland 20850

Mr. Roger Berliner  
President, Montgomery County Council  
Council Office Building  
100 Maryland Avenue  
Rockville, Maryland 20850

Dear Mr. Leggett and Mr. Berliner:

Thank you for your March 16, 2017 letter regarding the sketch plan prepared by Regency Centers (formerly Equity One) for its Westwood Shopping Center site in Westbard. Although the letter was addressed to Planning Board Chairman Casey Anderson, I am responding because the letter relates to a pending regulatory matter.

Bringing in a mediator who can help the parties come to a mutually satisfactory agreement about the archaeological investigation into the grave site is an excellent idea. However, neither Chairman Anderson nor any other Planning Board member can participate in the mediation, since the pending regulatory application would make any such discussion outside of a public hearing *ex parte* communication. Additionally, the Planning Board cannot bind itself to the outcome of a mediation in a regulatory proceeding.

Planning Department staff, however, can participate in the mediation and is prepared to do so. From the start, we have supported the goal of better understanding the history of the property, and we recognize the importance of ensuring that the archaeological work is done with the utmost sensitivity.

We believe it is very important for representatives from Regency Centers to also be included in the mediation. The land in question is private property and the owner will need to both approve any process for an archaeological study to be done on their property and grant permission to access the property.

It is important to note that the Planning Department serves in a regulatory role in this case - we can place conditions on a development application or recommend denial; however, we cannot compel a property owner to participate in a study not already required by our development regulations. Staff worked diligently to get Regency Centers to agree to undertake an archaeological study and then worked to get them to delay doing the study until an agreement could be reached with Macedonia Baptist Church on a peer review process. Regency Centers has delayed doing the archaeological study for three months in order to continue discussions on the peer review process.

The Planning Board, at its meeting on February 23, instructed Planning Department staff to ensure that the archaeological study was done in a timely manner, preferably within two months. The Board was clear that the study should proceed with or without the added benefit of a peer review group. We know that the property owner, Regency Centers, is negotiating with the Ottery Group, a cultural resources management firm, to undertake the study as soon as possible.

We have shared your letter with Regency Centers, but the property owner is not legally bound to postpone starting the archaeological study – in fact, at the February 23 hearing, the Board and many people in the community expressed impatience that the work had not already been done. Therefore, it is all the more important that the mediation occurs soon.

I look forward to learning more about your plans for this discussion and will be in touch with Joy Nurmi about next steps.

Sincerely,  
  
Gwen Wright  
Montgomery County Planning Director