



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

**MCPB HEARING
DATE:**

June 23, 2011

REPORT DATE:

June 8, 2011

TO:

Montgomery County Planning Board

VIA:

John Carter, Chief *JC*
Area 3

FROM:

Sandra Pereira *SP*
Area 3, Lead Reviewer
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SUBJECT:

Project Plan 92002002B: Martens Property

455 dwelling units (including 12.5% MPDUs) and 14,486 SF of retail on 26.48 acres, near the intersection of Wisteria Drive and Waters Road, RMX-2 Zone, Germantown Sector Plan.

APPLICANT:

Buchanan Acquisitions, LLC

FILING DATE:

January 4, 2011

RECOMMENDATION:

Approval with conditions

**EXECUTIVE
SUMMARY:**

The mixed-use development includes four multi-family buildings with a combined total of 286 dwelling units, 169 townhouses, and 14,486 square feet of retail uses located in the ground floor of two Buildings. Overall, this development proposes a 0.74 FAR. The public facilities and amenities provided include a clubhouse with an indoor exercise room and an indoor community space, a swimming pool, a wading pool, two tot lots, two open play areas II, nine seating areas, a dog park, and a pedestrian system. In addition, the Applicant has also proffered to reconstruct Waters Road with 31-foot wide pavement, curb and gutter and street trees within the existing 51-foot right-of-way. Alternatively, if the full 70-foot right-of-way becomes available, Waters Road will be reconstructed by the Applicant with 38-foot wide pavement, curb and gutter and street trees on both sides.

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RECOMMENDATION AND CONDITIONS

Staff recommends approval of Project Plan No. 92002002B, Martens Property, for a mixed-use development with 14,486 SF of retail and 455 dwelling units (including 12.5% MPDUs), on 26.48 acres. All site development elements as shown on the plans stamped by the M-NCPPC on April 22, 2011, are required except as modified by the following conditions:

1. Project Plan Conformance

The proposed development must comply with the conditions of approval for Project Plan No. 920020020 [Attachment A], except as modified by this application.

2. Site Plan Conformance

Site Plan No. 82003003B must be amended to allow the proposed increase in residential density on the 62.4-acre site prior to approval of the subject application.

3. Previous Approvals

All previous approvals remain in full force and effect unless modified by this application.

4. Development Ceiling

The proposed development for Phase II (26.48 acres) is limited to a 0.74 FAR including 14,486 SF of retail and 455 dwelling units.

5. Housing

The proposed development must provide a minimum of 12.5 percent as MPDUs onsite, consistent with the requirements of Chapter 25A.

6. Building Access Points

- a) The multi-family buildings fronting on Waters Road must have a minimum of one (ideally more) pedestrian ingress/egress points off Waters Road for the residential units.
- b) The commercial portion of this development must be located along Waters Road and have individual pedestrian ingress/egress points off Waters Road.

7. Transportation

The Applicant must reconstruct Waters Road to include a minimum 31-foot wide pavement width with curb and gutter and street trees within a minimum 51-foot-wide right-of-way as shown on the project plan as Option 2 and with the addition of street trees on the east side of the road. Alternatively, if the full 70-foot right-of-way becomes available through dedication by others before Applicant commences reconstruction of Waters Road, the Applicant must reconstruct Waters Road to include a 38-foot-wide pavement width with curb and gutter and street trees as shown on the project plan as Option 1.

8. Waters Road Connection to MD 118

The Applicant must design the final alignment and identify future dedications for the construction of the Waters Road connection to MD 118 prior to approval of the Applicant's preliminary plan.

9. Forest Conservation

Prior to certified site plan, submit a revised Final Forest Conservation Plan specifying either on-site or off-site methods to meet the afforestation requirements of the site.

10. Public facilities and amenities

- a) The public facilities and amenities provided must include at a minimum a clubhouse with an indoor exercise room and an indoor community space, a swimming pool, a wading pool, two tot lots, two open play areas, nine seating areas, a dog park (if permitted by site conditions), and a pedestrian system. However, the Planning Board may approve other facilities that are equal to or better than these at the time of site plan approval.
- b) The final design and details of the public facilities and amenities will be determined during site plan review.
- c) The proposed Green Commons area must front on Waterford Hills Boulevard and be easily and readily accessible to the general public.

11. Coordination for Additional Approvals Required Prior to Preliminary Plan and Site Plan Approval

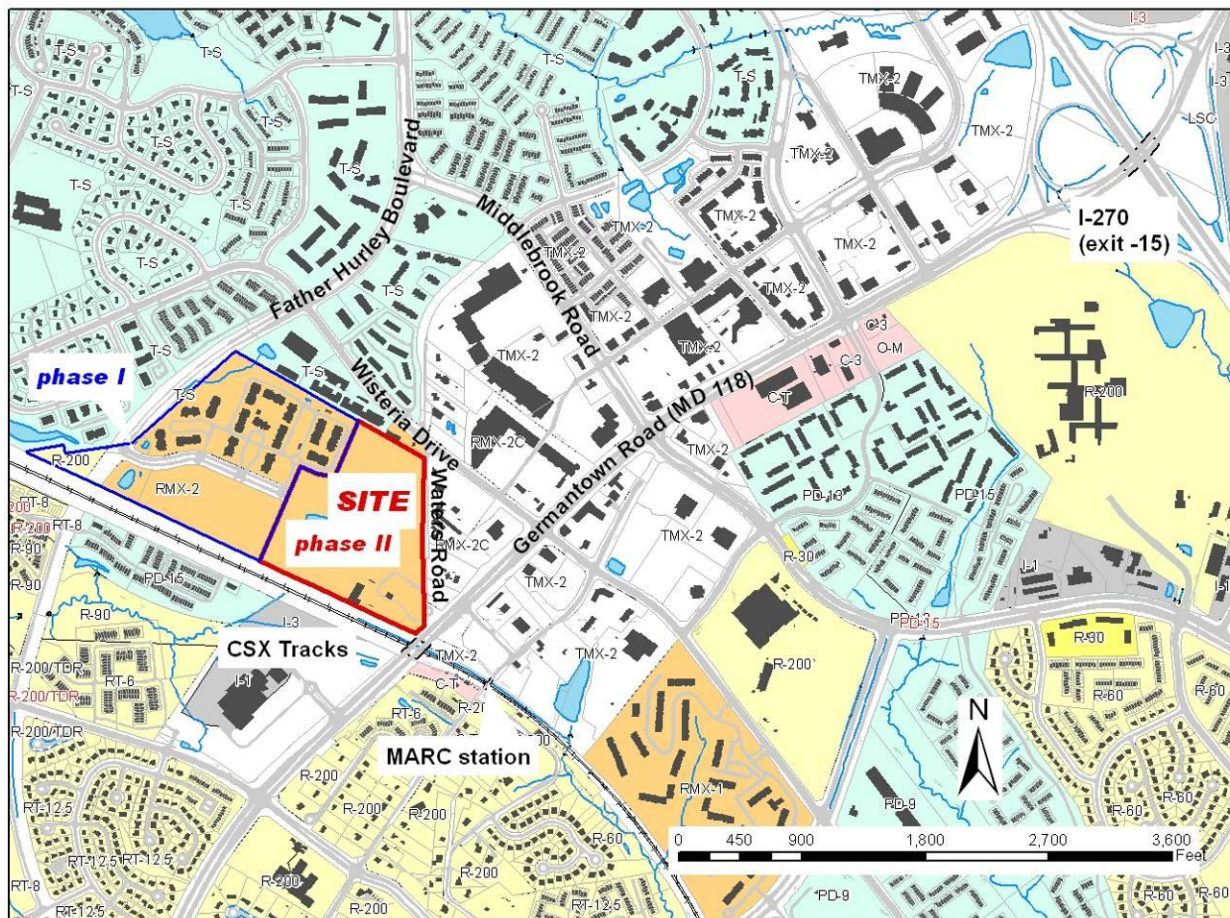
- a) The Applicant must obtain written approval from the Montgomery County Department of Transportation (MCDOT) for the final design and extent of any and all streetscape improvements within the rights-of-way.
- b) The Applicant must submit the traffic signal warrant analyses at preliminary plan consistent with the MCDOT's request [Attachment B].
- c) The final cross-section and right-of-way dimensions for Waterford Hills Boulevard and Waters Road will be finalized at the time of preliminary plan approval in coordination with MCDOT using the new Context Sensitive Design standards.
- d) A detailed development program including project phasing and construction of amenities and Waters Road improvements will be required prior to approval of the certified site plan.
- e) The final details of the noise study and follow-up recommendations will be determined at the time of site plan approval.

SITE DESCRIPTION

Vicinity

The subject property is located within the 62.58-acre tract formerly known as the Fairfield at Germantown. The larger tract is located on the west end of the Germantown Town Center District and southwest of Wisteria Drive between Father Hurley Boulevard to the west and Waters Road to the east. The southern edge of the tract, approximately 2,500 feet in length, is defined by the CSX tracks that serve the MARC Station to the east. Portions of the property are within ¼ mile radius of the Germantown MARC Station. The property is also located within one mile of the proposed Corridor-Cities Transitway.

The larger tract was divided into 2 phases. Phase I, which consists of approximately 36.1 acres on the western half of the tract, has been improved with more than 600 multi-family dwellings units as part of the original Fairfield of Germantown approval. Phase II, consisting of approximately 26.48 acres on the east side of the larger tract abutting Waters Road, is currently unimproved and subject of the current amendment.



Vicinity Map

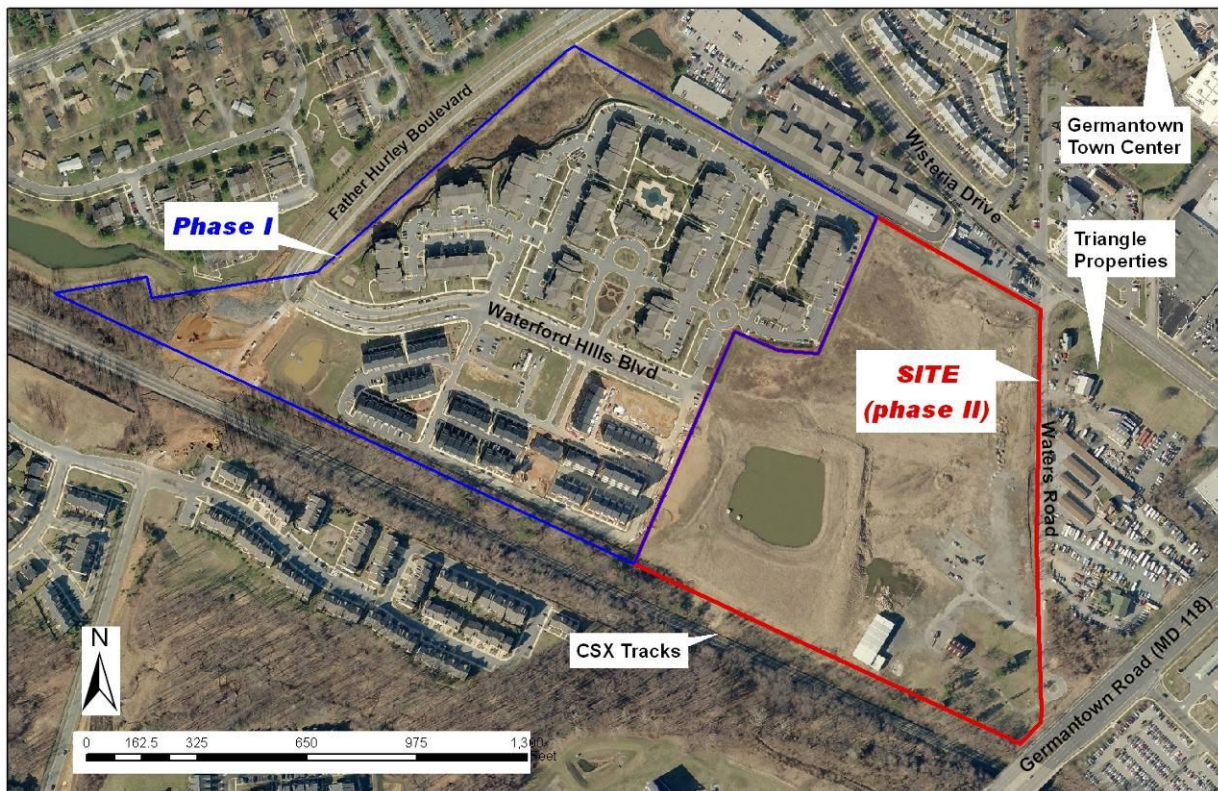
The site is zoned RMX-2. Surrounding properties across Waters Road to the east are zoned RMX-2C and are improved with industrial/commercial uses. Across the CSX tracks to the south,

properties are zoned PD-15 and I-3 and are developed with one-family attached houses and industrial uses, respectively. Along MD 118, there are a series of underdeveloped, industrial/commercial properties. The northern boundary adjoins properties zoned RMX-2 and T-S with existing commercial uses that face Wisteria Drive.

In addition to its proximity to major thoroughfares, existing and planned transit opportunities, and the emerging town center, the site is located within 2.3 miles of the new South Germantown Recreational Park, Seneca Creek State Park, Little Seneca Lake and Blackhill Regional Park, and within five miles of Little Bennett Regional Park and Ovid Hazen Wells Park.

Site Analysis

The subject site consists of approximately 26.48 acres located west of Waters Road. It is currently unimproved. This portion of the property is heavily disturbed with rubble, vehicle storage and commercial/industrial staging areas. An existing stormwater management pond is located within this disturbed area near the railroad tracks. There is an existing 36-inch sanitary force main under Waters Road and a WSSC easement along the northern property boundary.



Aerial Photo Looking North

The property contains no forest. There are six trees 30 inches and greater diameter at breast height (DBH) and four trees between 24” and 30” DBH on the property. The site’s topography includes moderate slopes (> 15%) and steep slopes (> 25%). There is a stream running through the adjacent properties to the southwest of the subject property. The property contains no

wetlands and 0.34 acres of environmental buffers as a result of the adjacent stream. The property is within the Little Seneca Creek watershed; a Use III-P watershed. The Countywide Stream Protection Strategy (CSPS) rates streams in this watershed as fair.

PROJECT DESCRIPTION

Background

The original project plan for Fairfield at Germantown approved a mixed use development with 610 garden apartments including 92 MPDUs (or 15%) and 250,000 GSF office/retail on 62.4 acres. The development was divided into two phases, with the residential portion occurring in Phase I and the commercial portion in Phase II. Construction is complete on the residential portion affiliated with Site Plan No. 820030030, and subsequent amendments (82003003A and 82003003B). Site Plan 820030030 limited the residential density to 604 dwelling units including 91 MPDUs (or 15%).

Phase II was the subject of project plan amendment No. 92002002A, which was never brought before the Planning Board. The current application, seeking to amend Phase II, replaces the approved commercial uses with predominantly residential uses. Although this application only amends Phase II, certain development standards and requirements of the zone and recommendations of the Germantown Sector Plan were assessed comprehensively for the entire site.

The preliminary plan for Fairfield at Germantown, approved concurrently with the original project plan, expired August 16, 2005. The Applicant requested an extension of the expired preliminary plan and the preliminary plan validity period, which was denied by the Planning Board on April 6, 2006. The approved Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) and Forest Conservation Plan (FCP) for the 62.4-acre site approved with the preliminary plan for Fairfield at Germantown expired for those portions of the site that had not been platted yet when the Preliminary Plan expired.

The original project plan has not expired because it was validated by the approved site plans for Phase I. The approvals specifically noted that the project plan would need to be amended when the Phase II site plan was submitted.

Previous Approvals

On June 13, 2002, the Planning Board approved with conditions **Project Plan No. 920020020** for Fairfield at Germantown (Planning Board Resolution dated June 19, 2002) for 610 garden apartments (including 92 MPDUs) and 250,000 GSF office/retail on 62.4 acres. [Attachment A]

On June 13, 2002, the Planning Board approved with conditions **Preliminary Plan No. 120020680** for Fairfield at Germantown (Planning Board Resolution dated July 16, 2002) for a maximum of 610 multi-family dwelling units and 250,000 GSF office/retail use on 62.4 acres.

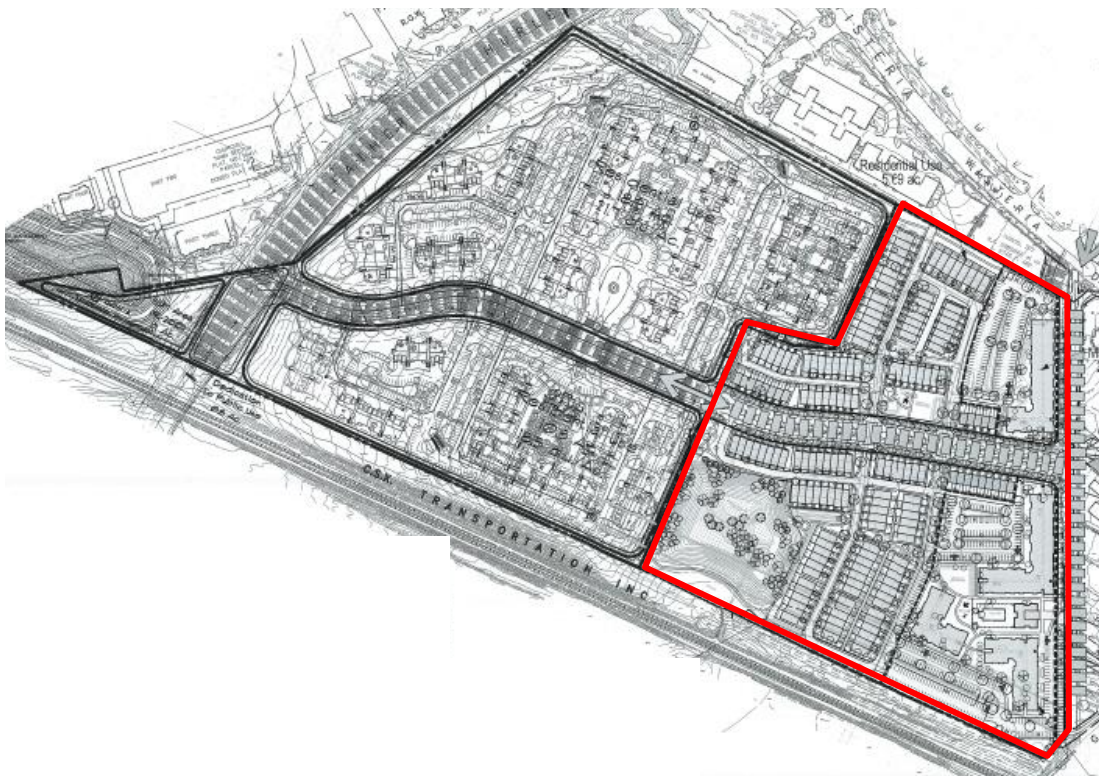
On January 16, 2003, the Planning Board approved with conditions **Site Plan No. 820030030** (Planning Board Resolution dated January 28, 2003) for 604 housing units, including 91 MPDUs on 62.4 gross acres.

On March 17, 2005, the Planning Board approved with conditions Site Plan Amendment No. **82003003A** (Planning Board Resolution dated December 16, 2005) to change the unit type of the 200 residential units south of Waterford Hills Boulevard from multi-family rental apartments to multi-family condominium units. The amendment maintained the approved number of residential dwellings units and MPDUs, the approved lot pattern and recreational amenities.

On March 13, 2008, the Planning Board approved with conditions Site Plan Amendment No. **82003003B** (Planning Board Resolution No. 08-63) for revisions to playground equipment, mailboxes, lighting, landscape, sidewalks; addition of recycling container locations; adjustment of Building 12 location; and updates to the Forest Conservation Plan.

Project Plan Amendment No. **92002002A** was originally filed in 2006 to amend Phase II of Fairfield at Germantown by proposing 205,922 square feet of commercial retail development on 26.40 gross acres (Costco). This application was withdrawn in April 2007 because an extension of the preliminary plan's validity period was not granted.

Pending Site Plan Amendment No. **82003003C** is on the June 23, 2011 Planning Board's consent agenda to clarify condition of approval no. 2 by specifying 604 housing units on 36.1 acres rather than 62.4 acres.



Overall Project Plan with amended Phase II outlined in red

Proposal

The amended project plan proposes to amend Phase II of the original approval. Phase II, encompassing 26.48 acres and located on the east side of the larger tract abutting Waters Road, was originally approved for 250,000 GSF of office/retail uses. The amendment now proposes to replace the office/retail uses with 455 residential dwelling units (including 12.5% MPDUs) and 14,486 SF of retail.

Land Use

The mixed-use development includes four multi-family buildings with a combined total of 286 dwelling units, 169 townhouses, and 14,486 square feet of retail uses located in the ground floor of Buildings 1 and 3. Overall, this development proposes a 0.74 FAR for the Phase II portion of the property (26.48 acres).



Illustrative Rendering

Building Orientation

The project is oriented along a principal east-west axis – Waterford Hills Boulevard – providing a connection between Father Hurley Boulevard and Waters Road. Several north/south internal connections complete the grid network of streets around which the residential units are proposed. The grid network facilitates vehicular and pedestrian movement through and within the project.

Buildings along the Waterford Hills Boulevard provide a strong street edge and are oriented towards the street with rear-loaded garages. Buildings along the north/south internal connector streets are mostly front loaded with rear yards and green space in the rear. The 4-story multi-family buildings with a maximum height of 60 feet are oriented to Waters Road as recommended in the Sector Plan.



Illustrative front elevation of rear-loaded units



Illustrative rear elevation of rear-loaded units

Vehicular and Pedestrian Circulation

Access to the site will be provided via an entrance on Waters Road and an extension of Waterford Hills Boulevard as a central corridor through the site connecting to Father Hurley Boulevard. Waterford Hills Boulevard is also part of a future extension of the Town Center 'Main Street,' which is envisioned as a pedestrian-friendly thoroughfare through the community. Sidewalks are proposed on both sides of the boulevard and special pavement is identified at intersection crossings to enhance and further highlight the pedestrian environment. A center median is proposed with a continuous row of street trees.

Pedestrians will access the site via sidewalks on all public and private streets. In addition, pedestrians will be able to access the site from MD 118 (and the MARC Station beyond) via an 8-foot wide pathway connecting the cul-de-sac on existing Waters Road to the sidewalk along MD 118. This pedestrian connection combined with the sidewalk system onsite, effectively accommodates pedestrian traffic from the residential neighborhoods to the west, through the site to the MARC Station. Within the site, the sidewalk system provides access to all the public spaces and amenities including a meandering pathway around the periphery of the SWM dry pond. Seating areas will be provided at selected nodes.



Public Use Space and Amenities Plan

Public Use Space & Amenities

The proposed development will provide 13.2 acres or 50% of the net lot area as green space. The on-site amenities are divided into 3 main areas, which are connected visually to each other and linked by smaller open spaces, sidewalks, and landscaping: (1) The green commons, located north of Waterford Hills Boulevard, contains a tot lot, open play area II and seating areas. Because of its location and visibility, this amenity is envisioned to serve the greater community; (2) the southeast amenity area enclosed by the multi-family buildings contains a clubhouse with an indoor exercise room and an indoor community space, a swimming pool, a wading pool, a tot lot, open play area II and seating areas; and (3) the southwest amenity area surrounding a SWM dry pond includes a dog park, seating areas, and a pedestrian path. Although it has limited recreational uses, the SWM pond will be heavily landscaped and will serve primarily as a visual amenity.



Perspective rendering of the Green Commons looking Northwest from Waterford Hills Blvd

As part of this optional method of development project, the Applicant has proffered to reconstruct Waters Road with 31-foot wide pavement, curb and gutter and street trees within the existing 51-foot right-of-way. Alternatively, if the full 70-foot right-of-way becomes available through dedication, Waters Road will be reconstructed by the Applicant with 38-foot wide pavement, curb and gutter and street trees on both sides.

Improvements to Waters Road are essential given the project's orientation to and access from Waters Road, and the current conditions of that road. Waters Road provides the only access to the Martens and Fairfield at Germantown properties from the east. In addition, the proposed multi-family buildings are oriented to Waters Road and follow this road alignment. Waters Road has not been improved and is in poor condition. Final details of the proposed open space and public amenities will be determined during the review of the site plan.

FINDINGS

According to Section 59-D-2.43 of the Montgomery County Zoning Ordinance, in reaching its determination on a project plan the Planning Board must consider the following:

- (a) The nature of the proposed site and development, including its size and shape, and the proposed size, shape, height, arrangement and design of structures, and its consistency with an urban renewal plan approved under chapter 56.
- (b) Whether the open spaces, including developed open space, would serve as convenient areas for recreation, relaxation and social activities for the residents and patrons of the development and are planned, designed and situated to function as necessary physical and aesthetic open areas among and between individuals structures and groups of structures, and whether the setbacks, yards and related walkways are located and of sufficient dimensions to provide for adequate light, air, pedestrian circulation and necessary vehicular access.
- (c) Whether the vehicular circulation system, including access and off-street parking and loading, is designed to provide an efficient, safe and convenient transportation system.
- (d) Whether the pedestrian circulation system is located, designed and of sufficient size to conveniently handle pedestrian traffic efficiently and without congestion; the extent to which the pedestrian circulation system is separated from vehicular roadways so as to be safe, pleasing and efficient for movement of pedestrians; and whether the pedestrian circulation system provides efficient, convenient and adequate linkages among residential areas, open spaces, recreational areas, commercial and employment areas and public facilities.
- (e) The adequacy of landscaping, screening, parking and loading areas, service areas, lighting and signs, in relation to the type of use and neighborhood.
- (f) The adequacy of provisions for construction of moderately priced dwelling units in accordance with chapter 25a if that chapter applies.
- (g) The staging program and schedule of development.
- (h) The adequacy of forest conservation measures proposed to meet any requirements under chapter 22a.
- (i) The adequacy of water resource protection measures proposed to meet any requirements under chapter 19.

As the following Findings demonstrate, the subject project plan amendment adequately addresses each of these considerations, as conditioned by the Staff Recommendation.

Section 59-D-2.42 of the Zoning Ordinance establishes the findings that must be made by the Planning Board and, in concert with the considerations enumerated above, form the basis for the

Board's consideration of approval. In accordance herewith, the Staff makes the following findings:

(a) As conditioned, the proposal complies with all of the intents and requirements of the RMX-2 zone.

Section 59-C-10.1 of the Montgomery County Zoning Ordinance establishes the RMX-2 Zone, which is identified as Residential-Mixed Use Development, Specialty Center. Division 59-C-10 does not include a purpose and intent section for the RMX (Residential Mixed-Use) Zones, and the term 'specialty center' is not defined in the Zoning Ordinance. Staff also consulted the 1989 master plan and 2009 sector plan in order to address this finding. The 1989 master plan recommends rezoning this property from the I-1 Zone to the RMX Zone. However, neither of the documents provides a purpose and intent statement for the RMX Zone.

Therefore, Staff relies on the term 'Residential-Mixed Use Development' to help support its recommendation that the Application meets the general intent of the zone. Section 59-C-10.3.1 adds further guidance with the language:

"This optional method of development accommodates mixed use development comprised of planned retail centers and residential uses, at appropriate locations in the County. This method of development is a means to encourage development in accordance with the recommendations and guidelines of approved and adopted master plans." and

"Approval of this optional method of development is dependent upon the provision of certain public facilities and amenities by the developer. The requirement for public facilities and amenities is essential to support the mixture of uses at the increased densities of development allowed in this zone"

The project plan amendment proposes a mixed use development with primarily residential uses (455 units including townhouses and multi-family units) and some commercial uses (14,486 SF). The density and amenities achieved through the optional method of development enables the realization of the recommendations of the 2009 Approved and Adopted Germantown Employment Area Sector Plan, as described in Finding b) below.

The public facilities and amenities provided are divided into 3 main areas: (1) the Green Commons with a tot lot, open play area II and seating areas; (2) the southeast amenity area, which is enclosed by the multi-family buildings, and includes a clubhouse with an indoor exercise room and an indoor community space, a swimming pool, a wading pool, a tot lot, open play area II and seating areas; and (3) the southwest amenity area which surrounds a SWM dry pond and includes a dog park, seating areas, and a pedestrian path. In addition, the Applicant has also proffered to reconstruct Waters Road with 31-foot wide pavement, curb and gutter and street trees within the existing 51-foot right-of-way. Alternatively if the full 70-foot right-of-way becomes available, Waters Road will be reconstructed with 38-foot wide pavement, curb and gutter and street trees on both sides. Overall, these public facilities and amenities will support the mixture of uses at the increased densities proposed.

The subject project plan amendment is zoned RMX-2, which is governed by the development standards in Section 59-C-10.3 of the Montgomery County Zoning Ordinance. The Application meets the general requirements of the zone, under the optional method of development, as demonstrated in the data table below on page 16.

Pursuant to 59-C-10.3, the minimum green area requirement is 15% for the commercial portions of a site and 50% for the residential portions. Since the commercial portion of this development is minimal, located within the residential buildings, and has a lower green space requirement, the entire site was considered primarily residential and thus the minimum 50% requirement was applied to the entire site. This ensured that both the commercial and residential green area requirements were met. The project plan meets the requirement by providing 50% (or 13.2 acres) green space on site. Collectively, both phases of the entire development satisfy the green space requirement.

The proposed development meets the density requirements of the zone and recommendations in the Sector Plan. The overall density, which is proposed at 0.74 FAR for the 26.48-acre site, is slightly below the maximum density of 0.8 FAR recommended by the Sector Plan for this site (p.53). The commercial density proposed is well below the maximum 0.5 FAR allowed and the gross leasable floor area is well below the maximum 600,000 SF allowed. The residential density proposed at 17.18 du/ac is below the 30 du/ac allowed by the zone.

The project plan meets the minimum building setbacks requirements, except for the 30-foot setback requirement from residential zoning other than one-family. Although the RMX-2 zone is not a typical residential zone, for the purposes of this setback requirement, it is considered a 'residential zoning other than one-family.' The Applicant requests a reduction to 15 feet (50% reduction) from the multi-family residentially zoned property located along the northwestern edge of the project. Section 59-C-10.3.8 of the Zoning Ordinance specifically allows the Planning Board to reduce this setback by no more than 50% "upon a finding that trees or other features on the site permit a lesser setback without adversely affecting development on an abutting property." Staff finds that the 50% setback reduction will not adversely affect the adjacent multi-family residential properties located to the northwest of the Property for several reasons. First, the existing multi-family residential properties are setback from the property line a minimum of 50 feet. This setback accommodates parking areas and landscaping surrounding the buildings and contributes to an adequate physical separation from the project. Second, building heights for the existing multi-family buildings range between 47 to 51 feet, which are higher than the projected buildings heights of 30 to 40 feet for the townhouse buildings. Thus, the adjoining residential properties will retain adequate ventilation, light and air without the need for a larger, mitigating setback along the Property's northeastern boundary. Third, the proposed townhouses will be oriented with their fronts towards the property line and multi-family buildings beyond, which also supports a reduced setback.

Project Data Table for the RMX-2 Zone (Optional Method of Development)

Development Standard	Zoning Ordinance	Approved with Project Plan 920020020	Proposed for Approval with 92002002B (entire site)	Proposed for Approval with 92002002B (amended area)
Site Area (acres)				
Gross Tract Area Phase I Phase II	n/a	<u>62.4</u> (36.0) (26.4)	<u>62.58</u> (36.10) (26.48)	26.48
Less Dedication for Public ROW Water's Road Waterford Hills Blvd Father Hurley Blvd	n/a	<u>7.5</u> (1.4) (5.2) (0.9)	<u>7.06</u> (0.77) (5.39) (0.90)	<u>3.12</u> (0.77) (2.35) (0.00)
Net Lot Area Phase I Phase II	n/a	54.9	<u>55.52</u> (32.16) (23.36)	(23.36)
Density				
Max. Commercial (FAR) [59-C-10.3.4]	0.5	0.09	0.005	0.01
Max. gross leasable (non-residential) floor area (SF) [59-C-10.3.5]	600,000	250,000	14,486	14,486
Residential D.U.s (> 30 acres site area) [59-C-10.3.6]	150 min.	610	1,059 ^(a)	455
Max. Residential Density (du/acre) [59-C-10.3.7]	30 residential areas 40 commercial areas	9.77	16.9	17.18
MPDUs [Chapter 25A]	12.5%	15% (92 MPDUs)	14% (148 MPDUs) ^(a)	12.5% (57 MPDUs)
Max. Total FAR Phase I Phase II - residential - commercial - clubhouse	0.8 ^(b)	<u>0.35 (944,221 SF)</u> 0.26 (694,821 SF) 0.09 (250,000 SF)	<u>0.53 (1,435,229 SF)</u> 0.22 (586,536 SF) 0.31 (848,693 SF)	<u>0.74 (848,693 SF)</u> (828,707 SF) (14,486 SF) (5,500 SF)
Min. Green Area or outside amenity area [59-C-10.3.3]				
Residential Commercial	50% 15%	50% (784,080 SF) 15% (172,498 SF)	51.0% (31.9 ac.) ^(c)	50.0% (13.2 ac.)
Min. Building Setbacks (ft) [59-C-10.3.8]				
From one-family	100	n/a	n/a	n/a

residential zoning				
From residential zoning other than one-family (RMX-2/TS/RMX-2C)				
- Residential buildings	30	40	15 ^(d)	15 ^(d)
- Commercial bldgs	50	70	n/a	n/a
From Any Street			To be determined at Site Plan ^(e)	
- Residential buildings	30	25		
One-family				
Multi-family				
- Commercial bldgs	25	10		
From abutting commercial or industrial zoning (I-3/PD-15 Zone)		n/a	n/a	n/a
- Residential buildings	30			
- Commercial bldgs	25			
Max. Building Height (ft.)				
Overall	60 ^(f)			
Townhouse	n/a			45
Multi-family	n/a			60
Parking (number of spaces) ^(g)				
Office	3 sp/1000 SF	120	n/a	n/a
Retail	5 sp/1000 SF	1047	51 ^(h) (@ 3.5sp/1000)	51 (@ 3.5sp/1000)
Residential		<u>854</u>	<u>1,589</u> ^(h)	<u>737</u>
1-Bedroom	1.25 sp/unit	413 (330 units)	525 (420 units)	150 (120 units)
2-Bedroom	1.5 sp/unit	357 (238 units)	642 (428 units)	249 (166 units)
3-Bedroom	2 sp/unit	84 (42 units)	422 (211 units)	338 (169 units)
Total spaces				
Required		2,021	1,640 ^(h)	788
Approved/Proposed		2,225	2,119 ^(h)	1,099 ^(g)

^(a) Site Plan 82003003B approved a maximum of 604 dwelling units including 91 MPDUs (or 15%). This approval superseded the project plan residential cap, therefore the proposed tabulations for the entire site (4th column in the table) were calculated using the approved 82003003B and the proposed tabulations for the amended area (5th column in the table).

^(b) Per the 2009 Approved and Adopted Germantown Employment Area Sector Plan recommendations for this site (p.53).

^(c) Includes 18.74 acres of green space provided in Phase I.

^(d) The Planning Board may reduce the minimum setbacks, no greater than 50% upon a finding that trees or other features on the site permit a lesser setback without adversely affecting development on an abutting property. The Applicant requests a reduction of the minimum setback from 30 to 15 feet for the front facing units. The required 30-foot setback is met for the rear facing units. Although the RMX-2 zone is not a typical residential zone, for the purposes of this setback requirement, it is considered a residential zoning other than one-family.

^(e) Minimum building setback from streets to be determined at site plan once the final cross-section and right-of-way dimensions for Waterford Hills Boulevard and Waters Road have been finalized.

^(f) According to the Germantown Urban Design Guidelines (June 2010), page 31.

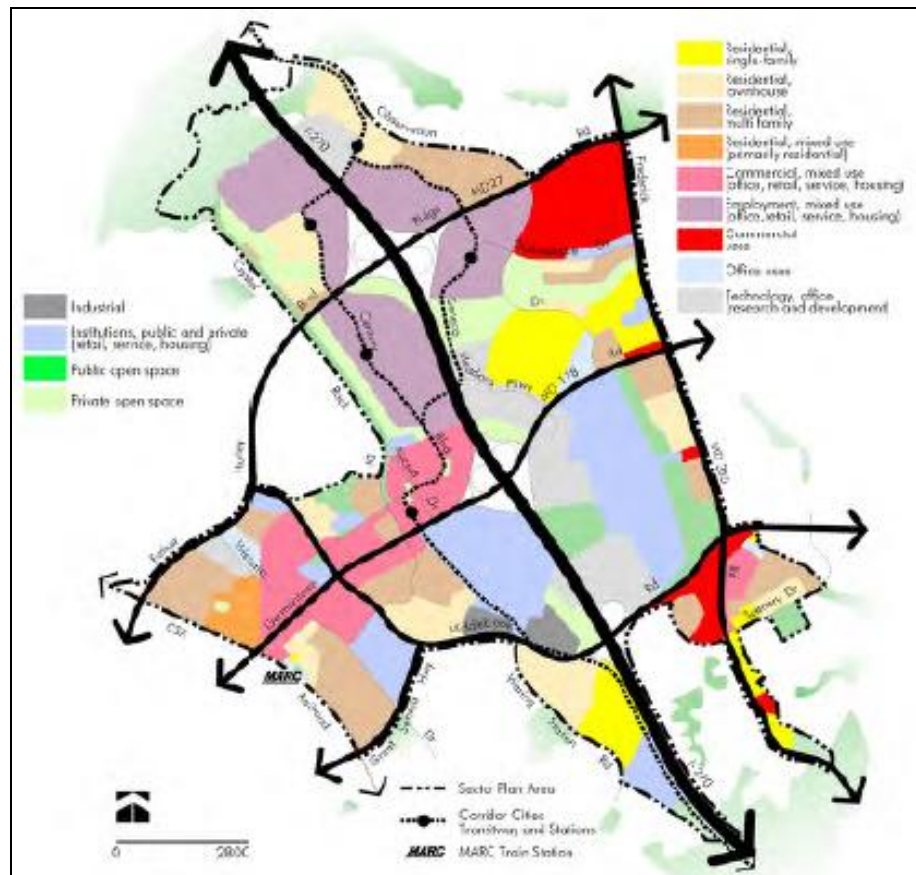
(g) The final number of parking spaces will be determined at the time of site plan approval when the bedroom mix has been finalized.

(h) Totals based on numbers approved with Site Plan 820030030B which superseded the earlier project plan approval.

(b) The proposal conforms to the approved and adopted Master or Sector Plan or an Urban Renewal Plan approved under Chapter 56.

The Project Plan is consistent with and in substantial conformance to the 2009 Approved and Adopted Germantown Employment Area Sector Plan (SP). The Amended Project Plan:

- conforms to the overall and specific land use guidelines of the Sector Plan;
- is consistent with the flexible density provisions of the County Council’s text Resolution (SP p.102 and p.18 of Resolution) applicable to the Martens site and contained within The West End, Land Use recommendations (SP p.53);
- follows the Sector Plan’s RMX-2 zoning designation for the site; and includes commercial retail uses at a density significantly lower than the 0.5 FAR density maximum for the RMX-2 zone; and
- is in conformance with the Urban Form (SP p.50-51) and June 2010 Germantown Urban Design Guidelines.

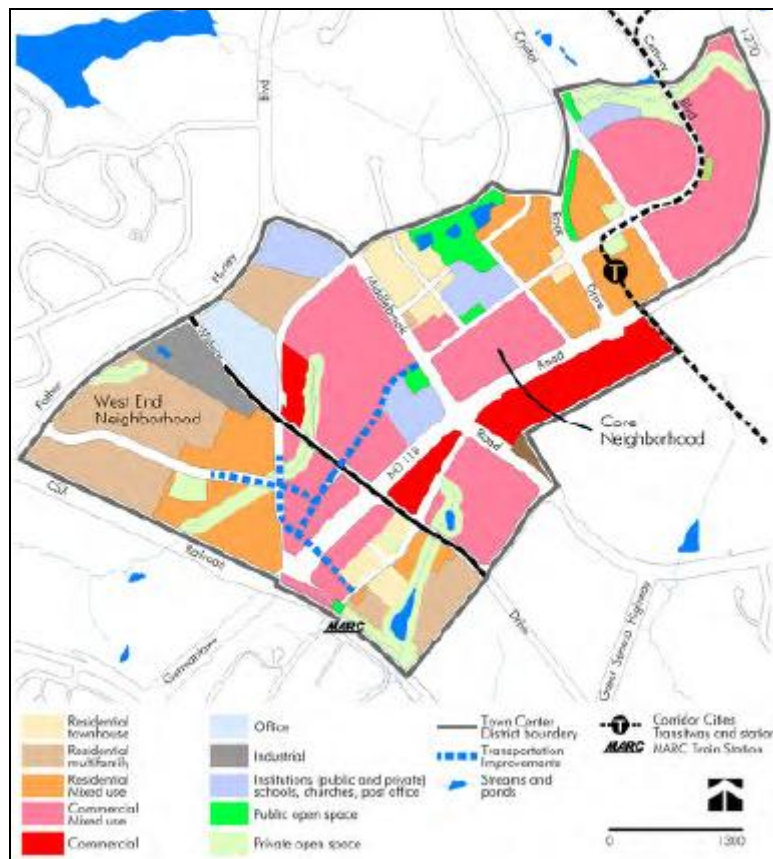


Germantown Town Center Land Use Concept (source: Germantown Sector Plan, p.44)

Applicable Sector Plan Goals, Objectives, and Provisions for Land Use

The primary Sector Plan guidance for the Martens Application, the 26.48 acre unbuilt portion of the property, is established in the Sector Plan's Land Use and Town Center/ West End Land Use plan exhibits (SP p.44-45). The designated land use for the property is Residential, mixed use (primarily residential).

- The proposed mixed use development with the majority of the land use as residential (455 residential units) and the inclusion of supporting retail uses (14,486 square feet) follows these Sector Plan guidelines.



Town Center/West End Land Use Concept (source: Germantown Sector Plan, p.45)

One of the overall key recommendations of the Sector Plan is to “Create Germantown as a strategic location for employment in the County. Highway access and an eventual connection to a transit network will make Germantown accessible and attractive to employers.” (SP p.45).

- The proposed mixed use plan will contribute to these recommendations by assisting to transform this undeveloped area with a mix of uses that will support nearby future employment uses.
- The Martens development will also significantly improve the roadway infrastructure in this West End area near the MARC Station and adjacent to the future Commercial,

mixed use (primarily commercial) land use designation for the Waters Road Triangle properties.

The Sector Plan places an emphasis on transit oriented, employment and mixed use development in the Study Area (SP p.8-10, and p.44-45). The Plan's vision includes:

- Germantown (as) the center of business and community life in upper Montgomery County (SP p.8)
- (an) increase (in) employment (SP p.9)

Due to the Plan's emphasis on employment and during the initial review phases of the Application, staff recommended and discussed with the Applicant the potential for an increase in the employment portion of the proposed land use mix. The Applicant had analyzed the development mix for the Martens site and included convincing documentation related to the specific mix of uses proposed, including opinions from two real estate firms specializing in office and retail development (Attachment C). This information asserts:

- "there appears to be no economic basis that any office space development would be economically feasible" for the property, and
- The Applicant should be strongly discouraged from providing any additional retail footage above the (approx.) 14,000 sq. ft. originally proposed

The Applicant has increased the proposed retail area from 13,984 sq. ft. to 14,486 sq. ft.

Staff has determined that the land use mix as proposed is consistent with the Sector Plan's recommendations, for employment and mixed uses, to:

- Balance development with infrastructure capacity (SP p.10), and
- (Create) a transit centered community (SP p.44)

Sector Plan Density and Zoning Provisions

The County Council Resolution No. 16-1126 for the Sector Plan (SP p.102 and p.18 of Resolution) and the supporting land use provisions within the Urban Form sections of the Plan (SP p.53) establish development density provisions for the Martens Property (TC-22) (TC-33) with text addressing both the Martens and adjacent Waters Road (TC-23) (TC-34) land areas:

- Redevelop the Martens and the Waters Rd. properties with a maximum of 420,000 sq. ft. of employment and retail and 400 dwelling units;
- Density distributed to permit up to 200,000 sq. ft. of commercial uses and 300 units on the Martens property and up to 220,000 sq. ft. of commercial uses and 100 units on Waters Rd. Triangle properties;
- The residential component may be increased with an offsetting decrease in commercial density so that the maximum density does not exceed 0.8 FAR;
- The Martens property should retain its RMX-2 zoning, while the Water Rd. Triangle properties should be rezoned to RMX-2C to ensure that existing businesses are conforming uses.

The Project Plan for Martens includes:

- 26.48 acres;
- 834,207 sq. ft. including residential and clubhouse uses
 - 828,707 sq. ft. of residential
 - 5,500 sq. ft. clubhouse
- 14, 486 sq. ft. of commercial uses on the first floor of two mixed use multi-family buildings
- A total of 848,693 sq. ft. for residential and commercial development

The resulting density for the total project is 0.74 FAR and is within the total 0.8 FAR allowance for the property as established in the Sector Plan. The allowable 0.8 FAR provision of the Sector Plan (SP p.53) establishes flexibility to increase the specified residential unit totals for both of the designated Martens and Waters Road properties.

- The proposed residential FAR and density increase allowance is consistent with the Residential, mixed use (primarily residential) Land use category designated for the property in the Sector Plan's Land Use and Town Center/ West End Land Use plans (MP p.44-45).
- The Application meets the offsetting provision for commercial uses in the Sector Plan, although Staff would have preferred additional commercial density on the Martens property. The proposed commercial area is significantly less than both the 200,000 sq. ft. referenced in the Sector Plan and the allowable 0.5 FAR of commercial use allowed in the RMX-2 zoning category for the property. The 0.5 commercial FAR maximum for RMX-2 would allow 576,734 sq. ft. of commercial uses for the 26.84 ac. Martens site.



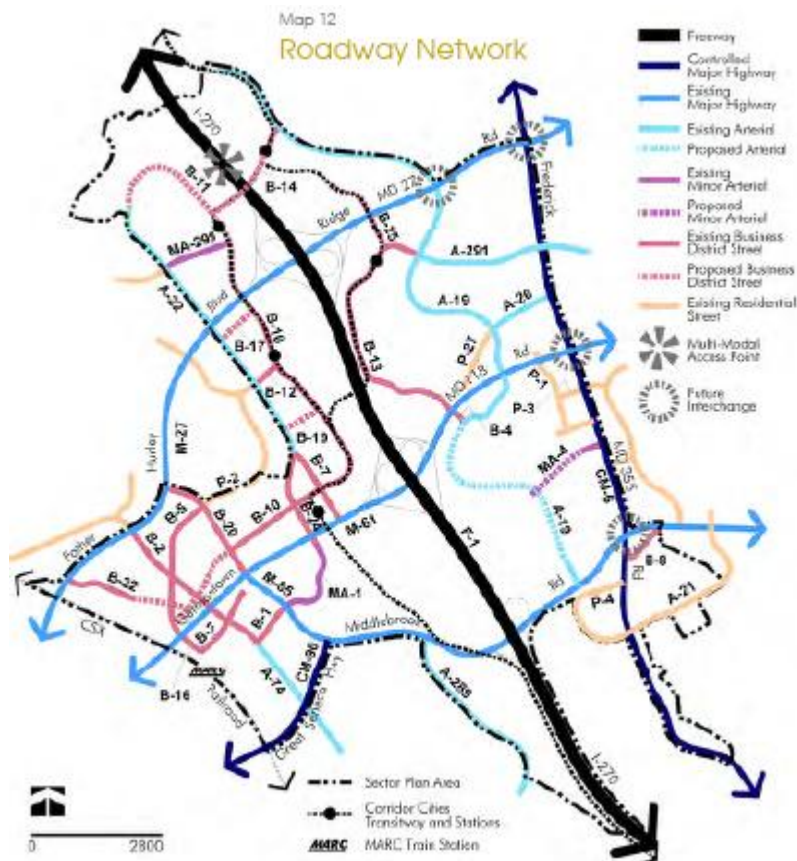
Street Character of Germantown Town Center (source: Germantown Sector Plan, p.33)

Germantown Sector Plan Urban Form recommendations and June 2010 Germantown Urban Design Guidelines

Primary form and access plan exhibits applicable to the Martens property are included in the “Street Character, Roadway Network, West End Land Use, and Town Center Urban Form” sections of the Sector Plan, and in the Buildings diagram within the Design Guidelines.

These referenced Sector Plan exhibits include roadway access location and land use diagrams for the Martens property:

- Coordination involving the Applicant, M-NCPPC staff, MCDOT staff, and owners of the southern section of the adjacent Waters Road triangle properties has resulted in agreements that will allow roadway plans for these adjacent properties to develop consistent with the general master plan locations and guidelines.



Roadway Network of Germantown Town Center (source: Germantown Sector Plan, p.36)

Design Guidelines / Buildings Form Diagram (SP Design Guidelines, p.31)

The following guidelines from this exhibit are described together with responses of how the proposed plan meets the guidelines:

“Building setbacks should be primarily 20 to 25 feet along most streets, 30 to 35 feet along MD 118, and 15 to 20 feet along streets with right of way of 100 feet (or) less”

- The plan conforms to the Guidelines for building setbacks of 20-25 feet along most streets as measured from the curb. On Waters Road, which has a right of way of less than 100 feet, the building setbacks will be a minimum of 20 feet as measured from the curb.

“Maximum building heights should be located around the transit station, stepping down toward the edges of the district.”

- The taller multifamily buildings are located along Waters Road and are a maximum of 60 ft. high. The townhouses located to the west of the multi-family buildings step down in building heights and will be a maximum of 45 ft. high.

Building heights of up to 60 feet at the subject site.

- No building will exceed 60 feet in height.

Streetscape pedestrian promenades continuous along the access roadways between the streets and the adjacent street frontage of the building forms

- The Martens plan, with buildings fronting the streets, meets this guideline.



Urban Form for the West End of the Town Center (source: Germantown Sector Plan, p.49)

(c) *Because of its location, size, intensity, design, operational characteristics and staging, it would be compatible with and not detrimental to existing or potential development in the general neighborhood.*

The site is located on the west end of the Germantown Town Center area abutting the CSX tracks and within a ½ mile radius of the MARC Station. The proposed mixed-use development includes four multi-family buildings with a combined total of 286 dwelling units and 170 townhouses. The 14,486 square feet of retail uses are distributed in the ground floor of Buildings 1 and 3. Overall, this development proposes a 0.74 FAR. The residential density proposed at 17.2 du/ac is comparable to the residential density at Fairfield of Germantown at 16.8 du/ac. The location, size and intensity are compatible with existing and potential development in the general neighborhood.

The project is oriented along a principal east-west axis – Waterford Hills Boulevard – providing a connection between Father Hurley Boulevard and Waters Road. Several north/south internal connections complete the grid network of streets around which the residential units are proposed. The grid network facilitates vehicular and pedestrian movement through and within the project and the general neighborhood.

Buildings along the central boulevard provide a strong street edge and are oriented towards the street with rear-loaded garages. Buildings along the north/south internal connector streets are mostly front loaded with rear yards and green space in the rear. The 4-story multi-family buildings with a maximum height of 60 feet are oriented to Waters Road as recommended in the Sector Plan. The design, orientation, and intensity of uses provides a desirable and compatible transition between the existing residential development to the west and the more commercial uses to the east of Waters Road and along MD 118.



Conceptual elevation for multi-family buildings 1 and 3

Compatibility with the CSX tracks and mitigation of the effects caused by this proximity is achieved through the design and locations of the various buildings and amenities on site. The SWM pond is proposed to be moved to the southeast corner of the site abutting the tracks, which effectively increases the separation between the townhouses (north of the pond) and the tracks. Noise mitigation measures will be implemented to buffer noise from the townhouse buildings at the far south of the project. A parking structure is proposed against the CSX tracks to help buffer noise for the multi-family buildings.

The operational characteristics are compatible with, if not improved, for the existing residential community at Fairfield at Germantown. Waterford Hills Boulevard will be extended through the subject site and connect to Waters Road. This will provide more direct access to MD 118 (via Wisteria Drive). The development will also provide a sidewalk/path

system to the MARC Station. This development will add more residential at the edges of the town center which will enhance the viability of nearby retail, restaurant, and service-oriented businesses.



Illustrative rendering of the entrance to the proposed development at the intersection of Waters Road with Waterford Hills Boulevard

The staging of the project will be compatible with and not detrimental to existing or potential development in the general neighborhood. The project will be developed in five phases, which will be defined in greater detail at the time of site plan. Conceptually, the projected phases are as follows:

- Phase I: Pre-construction activities and road infrastructure, including:
 - Removal of contaminated soils from the property;
 - Relocation of the existing stormwater management pond;
 - Relocation of existing utilities;
 - Construction of Waterford Hills Boulevard extension through the property; and
 - Widening and construction of Waters Road between Wisteria Drive and Waterford Hills Boulevard
- Phase II: Construction of Buildings 1-3 (multi-family residential) and their associated parking
- Phase III: Construction of townhouses located in the southwestern portion of the property and associated parking
- Phase IV: Construction of Building 4 (multi-family residential) and its associated parking
- Phase V: Construction of the remainder of the townhouses located in the northeastern portion of the property and its associated parking

(d) *As conditioned, the proposal would not overburden existing public services nor those programmed for availability concurrently with each stage of construction and, if located within a transportation management district designated under Chapter 42A, article II, is subject to a traffic mitigation agreement that meets the requirements of that article.*

The proposal will not overburden existing public facilities and services nor those programmed for availability concurrently with each stage of construction. The proposed staging program provides a timely provision of services. The subject project plan for the proposed residential and commercial development at the Martens Property satisfies the LATR/PAMR requirements of the Adequate Public Facilities (APF) review. The property is not located within a transportation management district.

Local Area Transportation Review (LATR)

Ten intersections were identified as critical intersections affected by the proposed development and were examined in the traffic study to determine whether they meet the applicable congestion standards for this area. The congestion standards in the Germantown West and Germantown Town Center Policy Areas are 1,425 and 1,600 Critical Lane Volumes (CLV), respectively. The traffic analysis indicated that all examined intersections in the study area are currently operating at acceptable CLV standards during the weekday morning and afternoon peak hours and will continue to operate satisfactorily with the proposed development. Therefore, this project plan application meets the LATR requirements of the APF review. The result of the CLV analysis is summarized in Table 1.

Table 1: Calculated Critical Lane Volume Values at Studied Intersections

Intersections Analyzed	Existing		Background		Total	
	AM	PM	AM	PM	AM	PM
Father Hurley Blvd/ Middelbrook Rd	812	977	1318	1276	1329	1291
Father Hurley Blvd/ Wisteria Dr	833	789	864	1086	856	814
Father Hurley Blvd/ Dawson Farm Rd	452	537	459	612	462	614
Father Hurley Blvd/ Hopkins Rd	330	427	548	741	549	743
MD 118/ Father Hurley Blvd Extension	N/A	N/A	545	777	551	784
MD 118/ Dawson Farm Rd	779	844	665	696	668	704
MD 118/ Wisteria Dr	911	1312	717	952	804	1074
MD 118/ Middlebrook Rd	969	1210	953	1247	1025	1316
MD 119/ Wisteria Dr	641	966	713	973	715	984

Waters Rd/ Wisteria Dr	463	468	293	360	595	663
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Policy Area Mobility Review (PAMR)

A PAMR study is not required for the project because the project is located in the Germantown Town Center Policy Area, which does not require trip mitigation according to the current Growth Policy.

Adequacy of rights-of-way

The Applicant proposes a reduction of rights-of-way for Waterford Hill Boulevard from 112 to 104 feet and for Waters Road from 80 to 70 feet. The Applicant submitted a technical analysis justifying the proposed right-of-way reduction. Based on the technical analysis, even with the proposed right-of-way reduction on both Waterford Hills Boulevard and Waters Road, the roads would continue to provide adequate levels of service and traffic operation with the full development of the Martens property and buildout of the Sector Plan roadways. The right-of-way for Waters Road in the Germantown Sector Plan is 70 feet according to the referred cross-section of the Sector Plan’s right-of-way table. Therefore, staff conceptually supports the proposed reduction of the rights-of-way for Waterford Hills Boulevard and Waters Road with the final cross-section and right-of-way dimensions to be finalized in coordination with MCDOT using the new Context Sensitive Design standards at the time of preliminary plan approval.

Pedestrian and vehicular circulation

The road network within the project and in the area surrounding the property will be adequate to meet the traffic generated by the project. The proposed access points on Father Hurley Boulevard and Waters Road are adequate to accommodate the site-generated traffic. The proposed vehicular and pedestrian circulation systems are adequate, safe and efficient.

Other Public Facilities and Services

There is adequate public water and sewer capacity to serve the project. The project has been reviewed by the Montgomery County Fire and Rescue Service who have preliminarily determined that the Property has appropriate access for fire and rescue vehicles, subject to further refinement at the time of preliminary plan and site plan approvals [Attachment B].

The project is located in the Northwest School Cluster, which currently has adequate school capacity at the high school level. Although the Northwest School Cluster has inadequate school capacity at the elementary and middle school levels, the Northwest School Cluster permits new residential development subject to a school facility payment, which the Applicant is willing to provide. The Annual School Test effective July 1, 2011 indicates that the Northwest Cluster will have inadequate school capacity at the elementary and high school levels. Thus after July 1, 2011, a School Facility Payment will be required for residential development at the elementary and high school levels. A future preliminary plan application seeking Planning Board approval after July 1, 2011 will be subject to the Annual School Test results effective for FY12, as noted above.

- (e) *The proposal will be more efficient and desirable than could be accomplished by the use of the standard method of development.*

The proposal to develop under the optional method of development is more efficient and desirable than the standard method of development. The standard method for RMX-2 zones must comply with the standards and requirements of the R-200 zone. The standard method yields lower density, greater setbacks, larger lots, no public amenities or open space, and a single-family housing type, all in stark contrast to the recommendations of the Master Plan. The average density for R-200 is no more than 2.0 d.u./ acre versus the density recommended in the master plan. A density of 2.0 d.u./acre is insufficient to reach the critical mass and density envisioned for the west end of the Town Center and areas within ½ mile radius of the MARC Station. The project proposes residential development at more than 17 dwelling units/acre.

Additionally, under the standard method of development the requirement for public facilities and amenities would be removed. This project is providing several public facilities and amenities divided into 3 main areas: (1) the Green Commons with a tot lot, open play area II and seating areas; (2) the southeast amenity area, which is enclosed by the multi-family buildings, and includes a clubhouse with an indoor exercise room and an indoor community space, a swimming pool, a wading pool, a tot lot, open play area II and seating areas; and (3) the southwest amenity area which surrounds a SWM dry pond and includes a dog park, seating areas, and a pedestrian path. In addition, the Applicant has also proffered to reconstruct Waters Road with 31-foot wide pavement, curb and gutter and street trees within the existing 51-foot right-of-way. Alternatively if the full 70-foot right-of-way becomes available, Waters Road will be reconstructed with 38-foot wide pavement, curb and gutter and street trees on both sides. Overall, these public facilities and amenities will support the mixture of uses at the increased densities proposed. Given the recommendations of the Master Plan and the site's proximity to transit, employment and services, the optional method of development is much more desirable and efficient for this particular site.

- (f) *The proposal will include moderately priced dwelling units in accordance with Chapter 25A of this Code, if the requirements of that chapter apply.*

The proposed development will provide 12.5% of the total density as MPDUs onsite, consistent with the requirements of Chapter 25A. A final agreement between the Applicant and the Department of Housing and Community Affairs will be required at the time of site plan review.

The original project plan approved 15% of the base density as MPDUs onsite. This allowed a 22% density bonus above the base density for the site as established by the 1989 Germantown Master Plan, which was 500 dwelling units. Thus, the project plan approved 610 dwellings units including 92 MPDUs. Phase I of the project plan was built according to Site Plan 82003003B, which limited the residential density to 604 dwelling units including 91 MPDUs (or 15%). The MPDU requirement of the original approval was fulfilled by having 15% MPDUs consistently applied to Phase I. The current application for Phase II is consistent with the density cap in the 2009 Draft of the Sector Plan for the Germantown

Employment Area. The application does not request a density bonus and therefore is not required to provide MPDUs beyond the 12.5% requirement of Chapter 25A.

- (g) *When a Project Plan includes more than one lot under common ownership, or is a single lot containing two or more CBD zones, and is shown to transfer public open space or development density from on lot to another or transfer densities, within a lot with two or more CBD zones, pursuant to the special standards of either section 59-C 6.2351 or 59-C 6.2352 (whichever is applicable), the Project Plan may be approved by the Planning Board based on the following findings:*

The development does not propose any transfers of public open space or development density from one lot to another.

- (h) *As conditioned, the proposal satisfies any applicable requirements for forest conservation under Chapter 22A.*

As conditioned, the proposal satisfies the applicable requirements for forest conservation under Chapter 22A. The Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) #420111000 for the 26.48-acre site (Phase II) was approved on January 25, 2011. The proposed Forest Conservation Plan (FCP) does not propose to clear, retain, or afforest on-site. The forest conservation worksheet generates a 2.37-acre afforestation requirement. As conditioned, the afforestation requirement should be met by using either on-site or off-site methods rather than through fee-in-lieu. In addition, Staff recommends that the 0.34 acres of Stream Valley Buffer (“SVB”) on site should not be placed into a Category I conservation easement. This small and isolated section of SVB will not provide any additional protection to the stream since the stream is on the opposite side of the CSX railroad tracks.

Forest Conservation Variance

Section 22A-12(b)(3) of the County code requires applicants to identify certain trees, shrubs, plants, and specific areas as priority for retention and protection. This section of the code requires those areas to be left in an undisturbed condition unless the Applicant obtains a variance in accordance with Chapter 22A-21 of the County code. The law requires no impact to and the retention and protection to the greatest extent possible of all trees that measure 30 inches diameter at DBH or greater; any tree designated as the county champion tree; trees with a DBH 75% or greater than the diameter of the current State champion for that species; and rare, threatened and endangered species.

Under Chapter 22A-21 of the County Code a person may request in writing a variance from this Chapter if the person demonstrates that enforcement would result in unwarranted hardship to the person. The Applicant for a variance must:

- (1) Describe the special conditions peculiar to the property which would cause the unwarranted hardship;
- (2) Describe how enforcement of these rules will deprive the landowner of rights commonly enjoyed by others in similar areas;

- (3) Verify that State water quality standards will not be avoided or that a measurable degradation in water quality will not occur as a result of the granting of the variance; and
- (4) Provide any other information appropriate to support the request.

Since this project will require impact to 1 tree and the removal of 5 trees 30 inches and greater DBH, a variance is required. The Applicant is proposing some tree preservation measures to help ensure that the tree with proposed impacts will survive construction.

County Arborist's Recommendation

In accordance with Montgomery County Code, Section 22A-21(c), the Planning Department referred a copy of the variance request to the County Arborist in the Montgomery County Department of Environmental Protection for a written recommendation prior to acting on the request. The request was forwarded to the County Arborist on April 25, 2011. On May 7, 2011, the County Arborist issued her recommendations on the variance request [Attachment B]. The County Arborist's recommendation for the variance request was favorable, but included a recommendation for mitigation of the impacts.

Unwarranted Hardship Basis

The residential and commercial development proposed on this property is a permitted use in the RMX-2 zone and recommended by the master plan. There was a previously approved forest conservation plan for the entire site with development encompassing the entire site, and while the plan for this portion of the site expired, the development pattern proposed was always envisioned. Enforcement of protecting trees subject to a variance, by either not allowing impacts or removal, would cause major changes to the proposed plan and would be detrimental to the overall development of the multi-family units and commercial area within ¼ mile of the MARC Station. Staff agrees that the Applicant has a sufficient unwarranted hardship to consider a Variance request.

Variance Findings

The Planning Board must make findings that the Applicant has met all requirements of Chapter 22A-21 before granting the variance. Staff has made the following determination on the required findings:

1. *Will not confer on the Applicant a special privilege that would be denied to other applicants;*

Granting the variance will not confer a special privilege on the Applicant as the disturbance and removal of the specimen trees noted above are the minimum necessary in order to develop the property as illustrated on the plan provided.

2. *Is not based on conditions or circumstances which are the result of the actions by the Applicant;*

The requested variance is not based on conditions or circumstances which are the result of actions of the Applicant. The variance is based on the topography of the site and the proposed density as recommended in the master plan, and only impacted and/or removed as much as necessary to achieve the goals for the site.

- 3. Is not based on a condition relating to land or building use, either permitted or non-conforming, on a neighboring property;*

The requested variance is a result of the proposed development and not a result of land or building use on a neighboring property.

- 4. Will not violate State water quality standards or cause measurable degradation in water quality.*

The requested variance will not violate State water quality standards or cause measurable degradation in water quality. The specimen trees being disturbed and/or removed are not within a stream buffer, wetland, or a special protection area. The Applicant proposes to use sediment and erosion control methods as part of a Stormwater Management Concept Plan, which has been submitted to and is under review by the Montgomery County Department of Permitting Services.

Forest Conservation Variance mitigation

Although there will be some disturbance within the critical root zone (CRZ) of Tree 9 on-site, this tree is a good candidate for safe retention. Therefore, staff is recommending that this tree be retained. Trees 5 and 10 are in very poor condition and in declining health even if no development was proposed. For this reason staff is recommending removal of trees 5 and 10 with no mitigation. Trees 2, 3, and 4 are in fair to good health, not within existing forest, and are only being removed as a result of the development of the site. The development of this site will significantly alter the hydrology that presently supports the survival of these three trees. Because of the change in hydrology and the limited potential for long term survival of these trees, Staff recommends mitigation.

Mitigation should be at a rate that approximates the form and function of the trees removed. Therefore, staff is recommending that replacement occur at a ratio of approximately 1" DBH for every 4" DBH removed, using trees that are 2" to 3" DBH. This means that for the 102 caliper inches of trees removed, the Applicant will mitigate with nine 3" DBH native canopy trees on the site. While these trees will not be as large as the trees lost, they will provide some immediate canopy and will help augment the canopy coverage and eventually fill in open areas of the forest where the large trees have been removed. All mitigation plantings should be specifically labeled and detailed on the revised forest Conservation Plan.

- (i) *As conditioned, the proposal satisfies any applicable requirements for water quality resources protection under Chapter 19.*

The Applicant submitted a stormwater management concept for the Project to the Montgomery County Department of Permitting Services, Water Resources Section, on October 21, 2010, which is currently under review and will need to be approved prior to preliminary plan approval.

- (j) *Any public use space or public facility or amenity to be provided off-site is consistent with the goals of the applicable Master or Sector Plan and serves the public interest better than providing the public use space or public facilities and amenities on-site.*

The project will significantly improve the proposed areas within the future right-of-way for Waters Road and Waterford Hills Boulevard. On Waterford Hills Road, the project will provide a landscaped median, closely spaced street trees, pedestrian oriented street lighting, and a wide sidewalk. On Waters Road, the project will also provide closely spaced street trees, pedestrian oriented street lighting, and a wide sidewalk on the west side and partial treatment of the east side depending on the available right-of-way. If the full right-of-way becomes available, full streetscaping will also be provided on the east side of Waters Road.

The proposed improvements to the public-of-way are consistent with the recommendations in the Germantown Sector Plan and the Design Guidelines. The landscape median, sidewalks, bikeway and the streetscaping are all recommended in the Germantown Sector Plan (pages 32, 33, 36 and 38).

The enhanced landscaping in the median along Waterford Hills Road, and the streetscaping along both sides of Waterford Hills Road and Waters Road are public facilities and amenities in addition to the minimum requirements in the Road Code. These improvements will be included in a maintenance agreement with Montgomery County.

The improvements within the public-right of way are necessary to provide access to the existing MARC Rail Station and the commercial area of the Germantown Town Center. They also significantly enhance pedestrian connections between dwelling units within the project and improve the character of the Germantown area. These improvements will foster the creation of a pedestrian oriented environment in the public interest for the Germantown area.

COMMUNITY CONCERNS

The Applicant has met all proper signage, noticing, and pre-submission meeting requirements. Staff has received correspondence on this matter primarily from two adjoining property owners (Parcels 915, 920 and 971). The main concerns raised are itemized below. For a full account please see correspondence in Attachment D.

1. The density proposed is above the Sector Plan recommendations for this site;
2. Lack of commercial development within the proposed Martens Project;
3. Lack of access to Route 118 from Waters Road as recommended in the Sector Plan.

Staff shared similar concerns related to the density and land use proposed as compared to the Sector Plan recommendations for this site. However, as discussed in the Findings section above, the proposal conforms to the Approved and Adopted Germantown Sector plan in terms of density and land use proposed as well as Zoning Ordinance requirements.

Concern #3 has been addressed throughout the course of the review and will continue to play a role as the project moves forward to the next stages of the approval process. The Sector Plan recommends a future road connection between Waters Road and MD-118 on private property outside the limits of this project (primarily on the adjoining Parcel 920). The Sector Plan is silent on the implementation or phasing of this road connector.

Even though the Applicant is not required to build the road connection as part of this project, Staff worked closely with the Applicant and the adjacent property owners to ensure that the proposed layout would not preclude or compromise the future road connection between Waters Road and MD-118 and to encourage a dialogue between the various property owners to implement this road connection.

As a result, the Applicant revised the layout of the southern portion of the site to accommodate future redevelopment of the adjoining property where the road connector would be located. The revisions included shifting Building 1 further away from the property line and providing surface parking in this area. This surface parking could potentially be shared with a future commercial use on the adjoining property.

The ongoing dialogue between the two property owners generated very positive synergies and a MOU, which is outside M-NCPPC's purview. The adjoining property owner intends to redevelop Parcels 920 and 971 with commercial uses or a bank. In addition to the road connection between Waters Road and MD 118, other issues to discuss when those properties redevelop are the cul-de-sac abandonment process, a potential access easement on the Martens Property, and potential shared parking with the Martens property. As conditioned, the Applicant has agreed to design the final alignment and identify future dedications for the construction of the Waters Road connection to MD 118 prior to Preliminary Plan approval. The final road alignment may or may not require road dedication from the Applicant's site.

ATTACHMENTS

- A. Previous Approvals
- B. Reviewing Agency Approvals
- C. Applicant's correspondence
- D. Community Correspondence

Attachment A
Previous Approvals



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

RECEIVED

MONTGOMERY COUNTY PLANNING BOARD

OPINION

DATE MAILED: June 19, 2002
PROJECT PLAN REVIEW # 9-02002
PROJECT NAME: Fairfield at Germantown

Action: Approval subject to conditions. Motion was made by Commissioner Wellington, seconded by Commissioner Robinson, with a vote of 4-0, Commissioners Bryant, Holmes, Robinson and Wellington voting for. Commissioner Perdue was necessarily absent.

The date of this written opinion is June 19, 2002 (which is the date that this opinion is mailed to all parties of record). Any party authorized by law to take an administrative appeal must initiate such an appeal, as provided in the Maryland Rules of Procedure, on or before July 19, 2002 (which is thirty days from the date of this written opinion). If no administrative appeal is timely filed, then this Project Plan shall remain valid until July 19, 2004 as provided in Section 59-D-2.7.

On June 13, 2002 Project Plan Review #9-02002 was brought before the Montgomery County Planning Board for a public hearing. At the public hearing, the Montgomery County Planning Board heard testimony and received evidence submitted in the record on the application. Based on the testimony and evidence presented and on the staff report, which is made a part hereof, the Montgomery County Planning Board finds:

1. *As conditioned, the proposal complies with all of the intents and requirements of the zone.*
2. *As conditioned, the proposal conforms to the approved and adopted sector plan or an urban renewal plan approved under Chapter 56. Not Applicable.*
3. *As conditioned, because of its location, size, intensity, design, operational characteristics and staging, the proposal is compatible with and not detrimental to existing or potential development in the general neighborhood.*
4. *As conditioned, the proposal does not overburden existing public services nor those programmed for availability concurrently with each stage of construction and, if located within a transportation management district designated under Chapter 42A, article II, is subject to a traffic mitigation agreement that meets the requirements of that article.*
5. *The proposal is more efficient and desirable than could be accomplished by the use of the standard method of development.*

- 6. *The proposal will include moderately priced dwellings units in accordance with Chapter 25A of this code, if requirements of that chapter apply.*
- 7. *When a Project Plan includes more than one lot under common ownership, or is a single lot containing two or more CBD zones, and is shown to transfer public open space or development density from one lot to another or transfer densities within a lot with two or more CBD zones, pursuant to the special standards of either Section 59-C-6.2351 or 59-C-6.2352 (whichever is applicable), the Project Plan may be approved by the Planning Board based on the following findings:*
 - A. *The Project will preserve an historic site, building, structure or area as shown on the Locational Atlas and Index of Historic Sites or the Master Plan for Historic; and/or*
 - B. *The Project will implement an urban renewal plan adopted pursuant to Chapter 56 of the Montgomery County Code; and/or*
 - C. *The Project will result in an overall land use configuration that is significantly superior to that which could otherwise be achieved.*

Not Applicable
- 8. *As conditioned, the proposal satisfies any applicable requirements for forest conservation under Chapter 22A.*
- 9. *As conditioned, the proposal satisfies any applicable requirements for water quality resource protection under Chapter 19.*

Therefore the Montgomery County Planning Board APPROVES Project Plan #9-02002, which consists of 610 garden apartments including 92 MPDUs and 250,000 GSF office/retail on 62.4 acres, with the following conditions:

- 1. *The commercial portion of this Project Plan is approved in concept only; the future commercial applicant must resubmit a complete Project Plan application for the commercial portion to the Planning Board for approval of the design, facilities and amenities later.*
- 2. *Provision of \$300,000 to the M-NCPPC for use in the Germantown Town Center Park on the former Miller property, to cover construction costs of park facilities and/or Library-site-related improvements, in an escrow account to be established prior to building permit release for the housing proposed.*
- 3. *Construction of the previously authorized removal of a free right turn from NW-bound Middlebrook to NE-bound MD #118, as part of the improvements described in the Transportation Planning staff memo which are conditions of approval of the Preliminary Plan.*
- 4. *Construction of two lanes of Father Hurley Boulevard from Wisteria SW to the site entrance, plus the full cross section of Father Hurley from Wisteria SW for a distance of approximately 600 feet, with final scope subject to pending minor realignment of Father Hurley by MCDPWT, to include a temporary transition from these six lanes to the two beyond. Final details are to be resolved as part of the Site Plan Review submission for Fairfield.*
- 5. *For Site Plan Review, conduct a noise analysis to determine the 65-db noise contour from the tracks and Father Hurley and to propose appropriate mitigation*
- 6. *Expanded NRI must be approved prior to submission of site plan. Tree #48 on NRI, a 55-inch Southern Red Oak in good condition, should be saved if possible.*
- 7. *All trails to be located outside environmental buffers*
- 8. *610 total units approved applies to the total 62.4 acre tract, not just Phase I*

Attachment B
Reviewing Agency Approvals



DEPARTMENT OF TRANSPORTATION

Isiah Leggett
County Executive

Arthur Holmes, Jr.
Director

March 5, 2011

Mr. John Carter, Team Leader, Area 3
The Maryland-National Capital
Park & Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910-3760

RE: Project Plan 9-2002002B
Martens Property

Dear Mr. Carter:

We have completed our review of the above amended project plan dated December 30, 2010. This plan was reviewed by the Development Review Committee at its meeting on February 7, 2011. We recommend the following comments to be addressed prior to submission of the amended preliminary plan:

1. All comments in our previous approval letters dated June 10, 2002 and June 13, 2002 for the preliminary plan 1-20020680, as they apply to this site, remain in effect.
2. Revise the public street layout in accordance with 2009 Approved and Adopted Sector Plan for the Germantown Employment Area. Such revisions may necessitate relocation of the proposed site access points and on-site buildings.
3. We believe that Executive Regulation No. 31-08AM (Context Sensitive Road Design Standards) applies to this plan – unless the applicant can satisfactorily demonstrate otherwise. Presuming that Executive Regulation is applicable, the applicant will need to submit Design Exception(s) for the reductions to the master planned road rights-of-way, proposed modified typical sections and non-peak hour on-street parking, median breaks spaced closer than six hundred (600) feet apart, proposed flat bottom ditches in the Waterford Hills Boulevard right-of-way, and any other proposed non-standard designs and practices in advance of submitting the preliminary plan package. (Please see comments 8 & 9 for more details.)
4. Analyze the capacity of the existing downstream public storm drain system and the impact of the post-development ten (10) year storm runoff on same. Since the proposed subdivision drains to an existing closed section street, include spread and inlet efficiency computations in the impact analysis.

The proposed enclosed storm drain system on the proposed public streets is to be designed to handle the ten (10) year post-development runoff, in accordance with the MCDOT Storm Drain Design Criteria.

Division of Traffic Engineering and Operations


100 Edison Park Drive, 4th Floor • Gaithersburg, Maryland 20878
Main Office 240-777-2190 • TTY 240-777-6013 • FAX 240-777-2080
trafficops@montgomerycountymd.gov

5. Provide concept street profile for the proposed public streets.
6. Provide a pedestrian circulation map and include pedestrian connection to Germantown Road from Waters Road.
7. Provide right-of-way truncations at intersections with proposed County roads. Dedicate additional right-of-way and construct standard cul-de-sac at terminus of Waters Road; modify proposed private street intersection geometry as necessary.
8. Private common driveways and private streets shall be determined through the subdivision process as part of the Planning Board's approval of a preliminary plan. The composition, typical section, horizontal alignment, profile, and drainage characteristics of private common driveways and private streets, beyond the public right-of-way, shall be approved by the Planning Board during their review of the preliminary plan. Also homeowners' documents should establish each driveway user's (property owner's) rights & responsibilities with respect to use, maintenance, & liability of the common driveway.
9. Median breaks – MCDOT policy is to not allow median breaks within 600' of one another. We are willing to revisit this issue at the preliminary plan stage after reviewing an ultimate traffic volumes queueing study for adjacent intersections. At this stage, we believe the proposed median on Town Center Drive will need to be extended to the north/west, with closure of the proposed southernmost median break.
10. Typical sections – Executive Regulation No. 31-08AM (Context Sensitive Road Design) applies to this project, unless the applicant can obtain necessary Design Exception(s). Coordination with DPS/Water Resources (for stormwater management in the right-of-way) and other MCDOT staff will need to occur. At or before the preliminary plan stage, we will need to review ultimate traffic projections and level of service calculations from the applicant's traffic engineer – to determine if we support elimination of the master planned parking lane & allowing on-street parking during off-peak periods.
11. Submit an updated Traffic Impact Study for the project, if required by the Planning Board. It is our understanding Policy Area Mobility Review (PAMR) requirements apply to this plan; if so, the proposed PAMR mitigation measures should be coordinated with Mr. Gary Erenrich of the MCDOT Directors Office, in advance of submitting the updated TIS. Mr. Erenrich may be contacted at 240-777-7170.
12. The Planning Board Opinion for the original Preliminary Plan for this site required the original developer to install a new traffic signal at the intersection of Father Hurley Boulevard and Wisteria Drive if it was warranted. It is unclear why the original applicant did not construct that signal, since MCDOT determined that it was warranted and installed the signal at County expense to remedy post-development intersection operations issues. We will revisit this issue to determine if this applicant should be responsible for reimbursing the County for those costs.
13. Submit a traffic signal warrant analysis for the intersection of Waters Road and Wisteria Drive, to determine if this development will necessitate such an improvement.

Mr. John Carter
Project Plan No. 9-2002002B
March 5, 2011
Page 3

14. Permit and bond will be required as a prerequisite to DPS approval of the record plat. The permit will include, but not necessarily be limited to, the following improvements:
- A. Improvements to the proposed public streets will be determined at the preliminary plan stage based on additional information to be provided.

Thank you for the opportunity to review this preliminary plan. If you have any questions or comments regarding this letter, please contact Mr. Sam Farhadi, our Development Review Area Engineer for this part of the County, at sam.farhadi@montgomerycountymd.gov or at (240) 777-2197.

Sincerely,

Gregory M. Leck, Manager
Development Review Team

m:/subdivision/farhas01/project plans/ 9-2002002B, Martens Property, gml revs.doc

cc: Russell Gestl; Buchanan Partners
Charles Turner; Buchanan Acquisitions, LLC
Vernon E. Martens; The Vernon E. Martens Revocable Trust
Philip Isaja; Loiederman Soltesz Associates, Inc.
Keely Lauretti; Loiederman Soltesz Associates, Inc.
Michael Workosky; Wells + Associates
Raymond Burns; MSHA EAPD
Robert Brewer, Jr., Lerch, Early and Brewer
Richard Weaver; M-NCPPC Area 3
Sandra Pereira; M-NCPPC Area 3
Ki Kim, M-NCPPC Area 3
Project Plan Folder
Project Plans Note Book

cc-e: Sarah Navid; DPS RWPR
Atiq Panjshiri; DPS RWPR
Emil Wolanin; DOT DTEO
Bruce Mangum; DOT DTEO
Fred Lees; DOT DTEO
Sam Farhadi; DOT DTEO



DEPARTMENT OF ENVIRONMENTAL PROTECTION

Isiah Leggett
County Executive

Robert G. Hoyt
Director

May 17, 2011

Françoise Carrier, Chair
Montgomery County Planning Board
Maryland National Capital Park & Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910

RE: Martens Property, DAIC 92002002B, NRI/FSD accepted on 12/17/2010

Dear Ms. Carrier:

The County Attorney's Office has advised me that the provisions contained in Section 5-1607 of Title 5 (Natural Resources) of the Maryland Code apply to any application required by Chapter 22A of the Montgomery County Code submitted after October 1, 2009. Since the application for the above referenced request is required to comply with Chapter 22A based on a review by the Maryland National Capital Park & Planning Commission (MNCPPC) and was submitted after this date, I am providing the following recommendation pertaining to this request for a variance.

Section 22A-21(d) of the Forest Conservation Law states that a variance must not be granted if granting the request:

1. Will confer on the applicant a special privilege that would be denied to other applicants;
2. Is based on conditions or circumstances which are the result of the actions by the applicant;
3. Arises from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property; or
4. Will violate State water quality standards or cause measurable degradation in water quality.

Applying the above conditions to the plan submitted by the applicant results in the following findings:

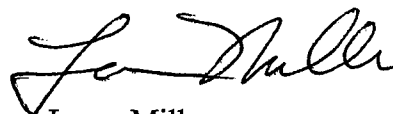
1. The granting of a variance in this case would not confer a special privilege on this applicant that would be denied other applicants as long as the same criteria are applied in each case. Therefore, the variance can be granted under this condition.

2. Based on a discussion on March 19, 2010 with representatives of the Maryland Department of Natural Resources Forest Service and the MNCPPC, the disturbance of trees, or other vegetation, is not interpreted as a condition or circumstance that is the direct result of the actions by the applicant and, therefore, the variance can be granted under this condition, as long as appropriate mitigation is provided for the resources disturbed.
3. The disturbance of trees, or other vegetation, by the applicant does not arise from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property. Therefore, the variance can be granted under this condition.
4. The disturbance of trees, or other vegetation, by the applicant will not result in a violation of State water quality standards or cause measurable degradation in water quality. Therefore, the variance can be granted under this condition.

Therefore, I recommend that this applicant qualify for a variance conditioned upon mitigating for the loss of resources due to removal or disturbance to trees, and other vegetation, subject to the law. Until other guidelines are developed, I recommend requiring mitigation based on the area of the critical root zone lost or disturbed. The mitigation can be met using any currently acceptable method under Chapter 22A of the Montgomery County Code.

If you have any questions, please do not hesitate to contact me directly.

Sincerely,



Laura Miller
County Arborist

cc: Robert Hoyt, Director
Walter Wilson, Associate County Attorney
Mark Pfefferle, Acting Chief



FIRE MARSHAL COMMENTS

DATE: 02-Jun-11
TO: Keely Laretti
Loiederman Soltesz Associates, Inc
FROM: Marie LaBaw
RE: Martens Property (Fairfield at Germantown)
82003003A 92002002B

PLAN APPROVED

1. Review based only upon information contained on the plan submitted **02-Jun-11** .Review and approval does not cover unsatisfactory installation resulting from errors, omissions, or failure to clearly indicate conditions on this plan.
2. Correction of unsatisfactory installation will be required upon inspection and service of notice of violation to a party responsible for the property.

**** All fire department water supplies necessary for FDC service must be within 7 ft of fire department vehicular access**

**** All structures must be accessed from address side.**

****Final FDC placement to be reviewed at time of preliminary plan**

**** Additional fire department access design details to be reviewed at preliminary and again at site plan submission.**

**** Hydrants must be placed within 7 ft of face of curb**



DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Isiah Leggett
County Executive

Richard Y. Nelson, Jr.
Director

April 4, 2011

Mr. Charles F. Turner
Vice President, Land Design & Construction
Buchanan Partners, LLC
9841 Washingtonian Blvd., Suite 300
Gaithersburg, MD 20878

RE: Martens Property (Project Plan Amendment No. 92002002B)

Dear Mr. Turner:

Thank you for taking the time, along with Brian Afnan of NVR, to meet with staff of the Department of Housing and Community Affairs (DHCA) last week to discuss your proposal for the townhouse MPDUs at the Martens Property. Lisa Schwartz and Essayas Ababu of my staff have reviewed the proposal with me.

The proposal includes twenty-two (22) 20-foot wide, rear-loaded garage townhouse MPDUs in three (3) dedicated sticks of nine (9), five (5), and eight (8) MPDUs, respectively, all located along Waterford Hills Boulevard, the main access to the site. Two of the MPDU townhouse sticks are located at the east end of the site on opposite sides of the boulevard, abutting the multi-family buildings. The third MPDU townhouse stick is located at the west end of the site, on the north side of the boulevard. An additional thirty-five (35) MPDUs will be located in multi-family garden apartment buildings.

As you are aware, DHCA generally prefers a more even distribution of MPDUs among market rate units than called for in your proposal. However, in this case DHCA is willing to accept your proposal for the following reasons:

- You have stated that because NVR will realize cost savings by locating the MPDU townhouses in dedicated sticks, NVR has agreed to provide 20-foot wide townhouse MPDUs with all three (3) bedrooms located on the second level, instead of 16-foot wide townhouse MPDUs that would be provided if the MPDUs were interspersed with market units.

Division of Housing and Code Enforcement

Code Enforcement FAX 240-777-3701	Moderately Priced Dwelling Unit FAX 240-777-3709	Housing Development & Loan Programs FAX 240-777-3691	Landlord-Tenant Affairs FAX 240-777-3691	Licensing & Registration Unit 240-777-3666 FAX 240-777-3699
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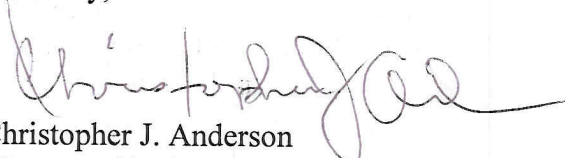
100 Maryland Avenue, 4th Floor • Rockville, Maryland 20850 • 240-777-3600 • www.montgomerycountymd.gov/dhca

- The MPDU townhouses will be the same width as the market townhouses located along Waterford Hills Boulevard, and therefore will blend in better with market units than would a 16-foot wide MPDU in a stick of 20-foot wide market townhouses.
- The proposed locations and configurations of the MPDU townhouses will lead to a more timely delivery of the MPDUs, resulting in better compliance with the MPDU staging requirements of Chapter 25A.
- Much of the southwest portion of the site will be a drainage area for a stormwater pond, and therefore the townhouses in this area will need to be built last. Given the MPDU staging requirements of Chapter 25A, this is not a desirable place to locate MPDUs. (None of the MPDUs in the current proposal are located in the drainage area.)
- Due to grade conditions, many of the proposed market townhouse sticks on the site will have English basements or buried rears, which are more expensive to build than the proposed MPDU townhouse unit type, which is slab on grade.

I appreciate that, as requested in DHCA's Development Review Committee (DRC) comments, you have increased the number of MPDU townhouses relative to multi-family MPDUs, so that there is now a proportional split between single-family and multi-family MPDUs. Please ensure that DHCA has the opportunity to review your revised MPDU numbers and bedroom proportions in the garden apartment buildings, and that you respond to DHCA's other DRC comments from the February 7, 2011 meeting.

If you have any questions, please call Lisa Schwartz at 240-777-3786.

Sincerely,



Christopher J. Anderson
Manager, Single Family Housing Programs

CJA:lss

cc: Brian Afnan, NVR
Sandra Pereira, M-NCPPC
Joseph T. Giloley, DHCA

Attachment C
Applicant's correspondence



March 16, 2011

Russell Gestl
James Roembke
Buchanan Partners
9841 Washingtonian Blvd.
Suite 300
Gaithersburg, MD 20878

Re: Martens Property Germantown, MD

Gentlemen:

Per your request, I have interviewed my office leasing brokers currently working with product in the I-270 corridor and Montgomery County and our market research specialist to determine if current office development might be supported for your site at this time. After compiling their research and reviewing the statistical data, I would not recommend pursuing office development for your site at this time. While I did not perform an economic feasibility analysis for this site, I have prepared several other economic feasibility analyses for new office development within the last three years for sites located in Bethesda, White Flint and Rockville. Based on the development costs estimated for those sites and comparing those costs with what the development costs might be for your site, in conjunction with the current and projected office rental market for Germantown, there appears to be no economic basis that any office space development would be economically feasible at this time.

There is approximately one million square feet of Class "A" office space in Germantown (abstracted from CoStar). That market is currently 74% leased and 72% occupied (28% vacant). By comparison all of Montgomery County is 88% leased and 84% occupied. And, the county's crown jewel, Bethesda, is 94% leased and 90% occupied. ¹

The last spec office building delivered in Germantown on a "for lease" basis is located at 12420 Milestone Center Drive (Building 3) containing 157,000 SF and has prominent visibility to I-270. This property has essentially remained vacant since its delivery in 2008, only having recently executed a lease with URS Corporation for 91,407 SF with occupancy scheduled for this July. Williamson Group developed a 58,000 square foot office building at 19785 Crystal Rock Drive in 2007, which was converted to a condo building and all units therein were sold. A substantial amount of the buyers were medical users.

In considering the question "will market demand in Germantown support the construction of a new office building located on the Martens Property", the answer in my opinion is "no" and should be discouraged at this time. In today's economy there are insufficient drivers for continued employment beyond the partial building lease at Milestone that would warrant construction of spec office space. Additionally, the vacancy rate for existing Class "A" office space spiked in the 3rd quarter of 2008 to approximately 30%. It has taken the past 2.5 years to lower that rate to 28%. ¹



Further research (abstracted from Reis, Inc. 3/2011) into historical and projected market rental rates, construction delivery and absorption of space further supports my recommendation not to pursue office development for your site at this time. Five year projected occupancy is projected not to exceed 86% despite very little new office inventory to be added to the I-270 – Gaithersburg / Germantown submarket. Effective office rents are currently approximately \$17.00 per square foot in the market, after peaking at \$20.40 in 2007 and projected to be under \$20.00 per square foot in 2015².

In the near term (5 – years), the Germantown office market has other superior office sites currently available (vacant stock) or planned or proposed when compared to your site as an office use. More than likely, any office users would migrate to those sites before locating to your site.

In general terms, before rental rates for office space will support new development, occupancy rates for the current inventory must first achieve or project to above 90% occupancy and then the users of office space must be willing to pay significantly higher rent than the market currently supports. At the point in time where stabilized rental rates increase high enough to support development costs beyond replacement cost, new development might be supported. In the near or mid term, it would be very difficult to project rental rates and / or market demand that would support the cost and other risks of development of new office inventory.

Sincerely

Thomas D. W. Fauquier
Principal

Underlying assumptions and analysis are available on request, however not presented with this report.

While any information referenced in this report/letter is from sources deemed reliable, it has not been independently verified by the author of this report/letter. Therefore the author and the company make no representations with respect to the information. All statistical references are approximate.

¹ Abstracted from CoStar 3/2011

² Abstracted from Reis, Inc. 3/2011

KLNBretail
Commercial Real Estate Services

42395 Ryan Road, Suite 200
Brambleton, VA 20148
703 722 2701 Direct
703 963 2894 Mobile
703 722 2730 Fax
cjudd@klnb.com

Cary A. Judd
Principal

March 21, 2011

VIA U.S. MAIL

Mr. Russ Gestl
Mr. James Roembke
Buchanan Partners
9841 Washingtonian Blvd.
Suite 300
Gaithersburg, MD 20878

Re: Proposed Development for the Martens Property, Germantown, MD

Dear Mr. Gestl and Mr. Roembke:

Per your request, I considered which type and how much retail square footage should be planned for your proposed Martens Property development in Germantown, MD. Based upon my research, I would strongly discourage any additional retail square footage above the 14,000 square feet that you already show on the project plan that was presented to me for review. The 14,000 square feet is more than ample to help with the convenience retail needs of your proposed development and the contiguous developments by Fairfield and Centex to the north.

Unanchored retail in this nontraditional retail environment will have difficulty attracting enough customers for most small "mom and pop" retail operators to succeed financially. We have seen many mixed use projects with this type of ground floor retail become overbuilt to the point of high turnover rates and vacancies in the retail component of the project which ultimately undermines the success of the other retail tenants. Many of the existing Class B and C retail centers in the Germantown market have struggled over the years to maintain high occupancy rates and become a real retail destination where most tenants achieve a high level of success.

As illustrated in the table below, there currently exists within 3 miles of the Martens property, over 1.5 million square feet of retail space including the Milestone Center (868,000 SF) which is anchored by Target, Wal-Mart, Home Depot, Staples, Kohl's, PetSmart, Best Buy and Giant Food.

Shopping Center	Size -SF	Major Tenants	Distance from Martens Property
Germantown Commons	200,420	Giant Food, DSW Petco, Office Depot	¼ mile
Shops at Town Center	108,000	Safeway, Wachovia, Starbucks, Baja	½ mile
Germantown Square	108,600	Outback, CVS, Washington Sports	¾ mile
Milestone Center	868,000	Target, Walmart, Home Depot, Best Buy	2.5 miles
Fox Chapel	115,200	Giant, Fitness First	2 miles
Middlebrook Square	50,000	McDonalds, KFC	½ mile
Kingsview Center	80,000	Giant	1 mile
Seneca Meadow	200,000	Wegmans (2012 opening projected)	2.25 miles

Closer to the Martens Property are Germantown Commons, Shops at Town Center, Sugarloaf Center and Century Station which would clearly be difficult to compete against. Two of these shopping centers have a very good tenant mix with traditional retail layouts that have provided for good success: **Germantown Commons:** DSW (Designer Shoe Warehouse), Bed Bath & Beyond, Petco, Office Depot and Giant Food; and **Shops at Town Center:** Safeway, FedEx, Panera Bread, Starbucks, and Ruby Tuesday.

In summary, the drawbacks for additional retail square footage on the Martens Property are as follows:

- Germantown's already ample supply of retail square footage for its population base;
- Poor visibility from the main traffic arteries; and
- Lack of a retail anchor tenant to draw customers from outside of the project.

As you are aware I am a partner in the firm of KLNB retail, which leases over 50 million square feet of retail space and represents over 170 national retailers in their store site selection for the Mid-Atlantic region. Please let me know if you would like additional information on this matter.

Sincerely,



Cary A. Judd

Attachment D
Community Correspondence

Pereira, Sandra

From: Mark Wildman [markwildman@verizon.net]
Sent: Tuesday, January 25, 2011 10:13 PM
To: Pereira, Sandra
Subject: RE: Pre-DRC 1/26/2011, Marten's Property 92002002B

Follow Up Flag: Follow up
Flag Status: Flagged

Ms Pereira,

Thanks for the Pre-DRC schedule change update.

As we discussed yesterday on the phone I have 3 initial concerns with the Martens property project plan. For your convenience I have recapped my concerns below.

- 1) Does the Martens project plan density conform to the allocated density within the Master Plan guidelines for the Martens property area? I want to ensure that no Master planned density has been removed from any adjacent properties to accommodate their desired density.
- 2) The Master plan shows a new connector road from Germantown Road (Rt.118) to Waters Road in order to facilitate the traffic needs of the 26 acre Martens site. Also, per the Master plan, the Waters Road cul de sac is abandoned and removed as roadway. The Martens Project Plan does not reflect the new connector road on their plan. Has the County made the decision that this connector road is no longer needed to facilitate the traffic needs in this area and the Martens development?
- 3) The Master plan shows this site as a mixed use area with commercial, retail and residential development with commercial and retail along Waters Road to create a work - live pedestrian friendly environment. The Martens Project Plan only identifies a total of 14,000 sf. of commercial and retail for the entire 26ac. (1,132,560 sf.) site. I would recommend, as per the master plan, more commercial and retail along Waters Road. This additional commercial and retail space would also create a cushion to transition from the proposed residential to the existing commercial development across Waters Road within the Waters Road Triangle area.

Hope this recap helps, and I thank you for your attention. I look forward to the Pre-DRC comments,
Mark Wildman

From: Pereira, Sandra [mailto:Sandra.Pereira@mncppc-mc.org]
Sent: Tuesday, January 25, 2011 4:08 PM
To: markwildman@verizon.net
Subject: FW: Pre-DRC 1/26/2011, Marten's Property

Mr. Wildman,

Just wanted to let you know that the pre-DRC meeting that I mentioned to you over the phone scheduled for tomorrow has been postponed per the email below. I'll keep you posted.

Thanks,

Sandra Pereira
Senior Planner

M-NCPPC Montgomery County Planning Department
8787 Georgia Avenue, Silver Spring, MD 20910
phone (301) 495-2186 :: fax (301) 495-1306
sandra.pereira@mncppc-mc.org

Pereira, Sandra

From: Mort Taubman [mtaubman@isiwdc.com]
Sent: Friday, February 18, 2011 11:36 AM
To: Sandra.Pereira@mncppc-mc.org.
Subject: RE: martens project

Follow Up Flag: Follow up
Flag Status: Flagged

Ms. Pereira:

As you now know, I am the managing member of a limited liability company (M SQ) that own Parcels 920 and 971 and I did receive your voice mail in response to my email dated February 2nd (below). I want to state that we continue our representation that we would be more than willing to provide our Parcel 920 as a right of way for the access to Route 118 to the Martens Project with a fair exchange of contiguous property for such right of way. I understand that the Buchanan Partners, based upon the presentation last night at the Upcounty Regional Services Center, are still presenting the proposed build out of the mixed use residential and retail development in the same manner as the February 7th presentation. Such presentation last night raises the identical issues raised in my email set forth below and we are concerned that the Buchanan Partners are ignoring the fundamental requirements set forth in the Master Plan developed by your agency over the past years. Accordingly, we are more than willing to meet with you and any other County and/or State agencies to provide our assistance in accomplishing the need to have proper access to Route 118 to the anticipated development of the Martens property. I look forward to meeting with you at your convenience. All the best

Morton S. Taubman

LESER, HUNTER, TAUBMAN & TAUBMAN

NEW YORK ■ WASHINGTON, DC ■ MIAMI BEACH ■ BOCA RATON

1201 15TH STREET, N.W.
SECOND FLOOR
WASHINGTON, D.C. 20005
202-347-9090
FAX: 202-659-2679
CELL: 202-437-5666



From: Mort Taubman
Sent: Wednesday, February 02, 2011 1:46 PM
To: 'Sandra.Pereira@mncppc-mc.org.'
Subject: martens project

Dear Ms. Pereira:

Please allow me to introduce myself to you. I am the managing member of M SQ, LLC, a Maryland limited liability company that own Parcels 920 and 971 (formally the Staquet property) on Waters Road across from the “Martens Project,” subject to the most recently submittal by the Buchanan Group to your agency. We have

reviewed the proposed development plan for the Martens Project and a number of issues arise in such review as compared to the Master Plan adopted by your agency for such site.

1. The lack of access to Route 118 as originally set forth in the Master Plan
2. The lack of commercial development within the proposed Martens Project
3. The lack of setback of the proposed buildings appear to over burden the density requirements of the proposed plan as compared to the Master Plan.

In light of our concerns, I have met with the principals of the Buchanan Group to raise my concerns and the following was discussed:

1. The Buchanan Group recognizes the need for the access to Route 118 for their proposed Project. Accordingly, we discussed the fact that M SQ, LLC would consider entering into a contract with Buchanan and Montgomery County, wherein M SQ, LLC would exchange its property located on Parcel 920 with Buchanan and Montgomery County to permit a road access through Parcel 920 to connect to Route 118 as reflected on the Master Plan. The anticipated contiguous property to be exchanged by Buchanan and Montgomery County (the anticipated abandoned cul de sac and a portion of the Martens Project) to M SQ permitting M SQ sufficient sq. feet of property to develop its remaining land with the exchanged property for its intended use. We believe an agreement can be reasonably reached by and among the parties to achieve such road access to route 118.
2. We discussed the lack of commercial development within the proposed Project and Buchanan explained that in light of the recent economic times, financing for commercial development has evaporated. Accordingly, Buchanan has eliminated such from its Project. This issue appears to be a point that needs to be addressed by your agency and should be resolved amicably.
3. The lack of setback and the proposed density appears to burden the allowable space on the Martens property. The Buchanan Group defended such proposed plan and again, I believe such needs to be addressed and resolved by your agency.

I understand a DRC hearing will be held on February 7, 2011. Unfortunately, I will not be able to attend such meeting due to business travels outside of the area. However, I am willing to make myself available to meet with you at your convenience before the anticipated February 7th meeting, either personally or telephonically. I look forward to discuss our concerns regarding the Martens Project with you and I am assured a reasonable solution can be developed for the Martens Project. All the best,

Morton S. Taubman

LESER, HUNTER, TAUBMAN & TAUBMAN

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Pereira, Sandra

From: Pereira, Sandra
Sent: Thursday, March 10, 2011 3:20 PM
To: 'pnmcgee@comcast.net'
Subject: RE: Plan # 92002002B

Paul,
Thank you for your email. The Germantown Sector Plan will be your best source of information for the future of the Triangle Properties. Any future redevelopment of the Triangle Properties will need to be in conformance with the Sector Plan.

As part of the current project plan application for the Martens Property (#92002002B), we will require certain improvements along Waters Road, which include amongst other things determining the ultimate width of the road and the extent to be built by the Buchanan Partners. At this time, however, we're still under review and our recommendations have not been finalized.

Lastly, you may access our online database in order to find out more about the Martens project and what is being proposed. Instructions as follows:

- 1) Click on http://www.mcatlas.org/Development_Info/Default.aspx
- 2) Scroll down on that page
- 3) Click on the link "Search for Related Plans & Reports"
- 4) On the new page, you will find links to various documents, including "submitted plans" and "application materials"

Please don't hesitate to contact me should you have additional questions.

Sincerely,

Sandra Pereira
Senior Planner, Area 3

M-NCPPC Montgomery County Planning Department
8787 Georgia Avenue, Silver Spring, MD 20910
phone (301) 495-2186 :: fax (301) 495-1306
sandra.pereira@mncppc-mc.org

From: pnmcgee@comcast.net [mailto:pnmcgee@comcast.net]
Sent: Wednesday, March 09, 2011 9:58 AM
To: Pereira, Sandra
Subject: Plan # 92002002B

Dear Sandy,
I am the owner of Germantown Mini-Storage LLC which is across from Buchanan Partners project on Waters road in Germantown. I am interested in knowing what the plans are for the triangle property which we are part of. There was a road planed to go across our property at one time and I would like to know if that is still in the planing. Also I would like to know what the plans are for Waters road. How wide it will be and when it will be done.
If you could give me that information and any others which relates to my property I would appreciate it.
Thank you very much.