
**MEMORANDUM**

TO: Montgomery County Planning Board

FROM: Carol Rubin, Associate General Counsel 
301-495-4646

DATE: May 6, 2014

RE: Granby Woods Limited Preliminary Plan Amendment 11981058A

The referenced matter is scheduled for Planning Board action on the May 8, 2014, Consent Agenda. In lieu of a revised Staff Report, the following provides you with the revised the condition of approval as agreed by and between the owners of the Granby Woods Lots, and William Hendry and Granby Farm LLC, the adjoining property owner who had initially objected to release of the Covenant.

For your ease of review the revised condition of approval is shown below, marked-up from the Staff Report dated April 24, 2014, which was included in your packets:

The Planning Board will release the Covenant upon submission to Staff of i) evidence that the Deed of Dedication for Outlot "D" has been recorded among the Land Records for Montgomery County, Maryland, and ii) a fully executed agreement by and between i) the ~~owners of Lot 35, Lot 36 and Outlot D, and Lot 37, all in Block B in the Granby Woods Subdivision~~ ("Granby Woods Lot Owners"), and ii) ~~Granby Farm LLC~~ (the Granby Farm Owner") that provides for at least the following:

1. ~~No later than June 30, 2014, the~~The owner(s) of Outlot "D" will dedicate Outlot "D" (as shown on the Granby Woods Subdivision plat) with necessary supporting easements, as a public right-of-way to Montgomery County, Maryland through recordation of a Deed of Dedication, approved by the County.
2. Upon recordation of the Deed of Dedication, the Granby Farm Owner will waive all claims to any future financial contribution from the Granby

Woods Lot Owners toward the cost of construction of any public road of any kind within Outlot "D".

3. Notice of any petition for abandonment of Outlot "D" must be sent to the Granby Farm Owner.

4. If Outlot "D" ever is abandoned, fee simple title to the entire Outlot "D" will revert to the owner(s) of Lot 36 (and no portion of Outlot "D" will revert to any other adjoining or abutting property owner(s)).

The revised condition is reflected in the enclosed draft Resolution.

The Release has been revised for some clean-up after review by the Applicants' Counsel. Nothing of substance was changed.

Tax ID Nos.:
08-02616845 (Lot 35)
08-02616867 (Lot 37)
08-02616856 (Lot 36)

RELEASE
OF
COVENANT FOR FUTURE DEDICATION OF RIGHT OF WAY AND
CONSTRUCTION OF ROAD

THIS RELEASE OF COVENANT FOR FUTURE DEDICATION OF RIGHT OF WAY AND CONSTRUCTION OF ROAD ("Release") is made this ____ day of _____, 20__, by the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission ("Planning Board").

WHEREAS, a Covenant for Future Dedication of Right-Of-Way and Construction of Road, dated March 12, 1986, was recorded among the Land Records of Montgomery County, Maryland on April 3, 1987, in Liber 7623 at Folio 861 ("Covenant"), which burdened certain real property, more particularly described as Lots 35, 36 and Outlot "D", and 37, Block "B," in the Granby Woods Subdivision recorded among the Land Records of Montgomery County, Maryland at Plat 15862 in Plat Book 137 ("Property"). The Covenant is incorporated by reference and all capitalized terms shall have the same meaning in this Release, unless otherwise indicated; and

WHEREAS, pursuant to the Covenant, when requested by either The Maryland-National Capital Park and Planning Commission, the Planning Board, or Montgomery County, Maryland ("County"), the owners of the Property ("Covenantors"), jointly and severally are required to:

1. Dedicate Outlot "D" (as shown on the Granby Woods Subdivision plat) with necessary supporting easements, as public right-of-way to Montgomery County, Maryland; and
2. Construct within Outlot "D" a secondary public street, at Covenantors' expense, to Montgomery County specifications.

WHEREAS, as a condition of this Release, the owner of Outlot "D" must convey Outlot "D," with necessary supporting easements, as public right-of-way to Montgomery County, Maryland by Deed of Dedication in a form approved by the County; and

WHEREAS, the Covenantors have reached a private agreement with Granby Farm LLC, the owners of the adjoining property that would benefit from the dedication of Outlot "D" and construction of a secondary public street within Outlot "D"; and

WHEREAS, the Granby Farm LLC has agreed to the terms of this Release; and

WHEREAS, the Covenants are binding upon and run with the land, specifically, the Property, perpetually, unless and until released by The Maryland-National Capital Park and Planning Commission, the Planning Board, or the County, its successors or assigns; and

WHEREAS, by MCPB Resolution No. 14-35, adopted on May 8, 2014, the Planning Board authorized full release of the Covenant, subject to certain conditions that have been met as of the date of this Release.

NOW THEREFORE, the Covenant is hereby released in full, is of no further force or effect, and the Covenantors, their successors and assigns are hereby released from any and all the obligations under the Covenant, including the obligation to construct or finance construction of the public street over Outlot "D".

WITNESS, the following signatures and seals on the day and year first above written.

WITNESS:

THE MARYLAND-NATIONAL CAPITAL PARK AND
PLANNING COMMISSION:

Patricia Colihan Barney, Executive Director

State of Maryland
County of Prince George's

On this _____ day of _____, _____ before me, the undersigned individual, personally appeared Patricia Colihan Barney, who acknowledged to be the Executive Director, and that as such being authorized to do so, executed the foregoing instrument for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Notary Public

My Commission Expires: _____

AFTER RECORDING PLEASE RETURN TO: