



Chestnut Ridge: Preliminary Plan No. 120120250:

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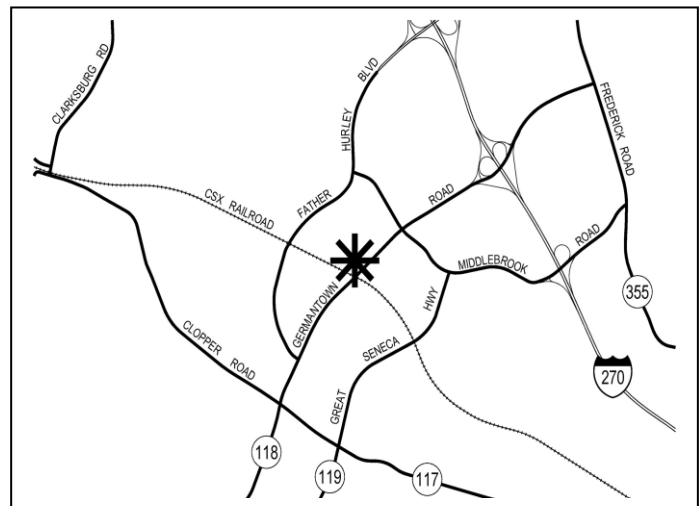
JAC John Carter, Chief, Area 3

Staff Report Date: 1/14/2015

Description

Chestnut Ridge: Preliminary Plan No. 120120250

Request to create an outlot and one lot for up to 9,980 square feet of commercial use, and to facilitate the abandonment and relocation of portions of Waters Road; located on the northwest side of Germantown Road (MD 118), at the current terminus of Waters Road, approximately 800 feet southwest of the intersection with Wisteria Drive; 1.4 acres; RMX-2 & RMX-2C Zones; 2009 Germantown Employment Area Sector Plan.



Staff Recommendation: *Approval with conditions*

Applicant: Morton Taubman (MSQ LLC)

Submitted: 05/05/2012

Summary

The Staff Report includes:

- Review under the Old Zoning Code in effect on October 29, 2014.
- This Preliminary Plan facilitates the completion of the Master Planned realignment of Waters Road by dedicating and constructing a new intersection with Germantown Road opposite Bowman Mill Drive and meeting the conditions of abandonment resolution AB-729 which abandons a portion of the existing Waters Road right-of-way. The Applicant also requests the Planning Board, under the provisions in 50-15(c)(2), grant an additional abandonment of a 20 foot wide strip of land dedicated by the Martens Property in Preliminary Plan 120110090, on Plat 24630 and not included as part of AB-729.
- The portion of Waters Road abandoned by AB-729, pursuant to 59-A-1.71, is Zoned RMX-2. The Applicant believes Staff interpretation is incorrect and believes the abandoned right-of-way should assume the RMX-2C Zone.
- The Application substantially conforms to most Master Plan recommendations, however unforeseen development constraints have made full conformance unpractical. Staff recommends the Board find that circumstances make full conformance to the Master Plan no longer appropriate as allowed in 50-35(l).

RECOMMENDATION: Approval, subject to the following conditions:

1. Approval under this Preliminary Plan is limited to one lot for up to 9,980 square feet of commercial and/or service uses generating no more than 123 weekday morning peak-hour trips during the morning peak period and 92 weekday evening peak-hour trips during the evening peak period, and one Outlot. The lot will include portions of Parcel No. 920 and 971, the right-of-way for Waters Road abandoned under County Council Resolution AB-729, and the additional Waters Road right-of-way abandoned under this Preliminary Plan.
2. The Certified Preliminary Plan must make the following changes:
 - a. Add the new total lot frontage along Waters Road relocated;
 - b. Modify the development standards to reflect that the proposed building side and rear yard setbacks will meet the minimum required in the RMX-2 and RMX2-C Zones as applied;
 - c. In the Development Standards section change the provided FAR from 0.18 to 0.26;
 - d. Identify the zoning for all abandoned portions of the Waters Road right-of-way as RMX-2.
3. The Applicant must comply with the following conditions of approval for the Final Forest Conservation Plan No. 120120250, approved as part of this Preliminary Plan:
 - a. Prior to clearing or grading the Applicant must record in the Montgomery County Land Records a Certificate of Compliance to use an M-NCPPC approved offsite forest mitigation bank. The Certificate of Compliance must provide 0.52 acres of mitigation credit to meet the reforestation requirement.
4. Plats for this Preliminary Plan may be submitted separately for the Waters Road right-of-way and the approved lot.
5. Prior to the recordation of a plat for the Waters Road right-of-way, the Applicant must satisfy the following:
 - a. Access and improvements as required by MCDOT;
 - b. MCDPS requirements to ensure the construction of a seven-foot wide sidewalk along the property frontage of Waters Road realigned.
6. Prior to the recordation of a plat for the approved lot, the Applicant must provide the following to Staff:
 - a. Evidence of fee simple ownership of the former Waters Road right-of-way abandoned under County Council AB-729 and the additional 7,189 square feet of the Waters Road right-of-way abandoned as part of this Preliminary Plan that will be included in the boundaries of the approved lot;
 - b. An executed and recorded easement granting the Village at Germantown West (“Martens Property”) vehicular access to and from Waters Road through the Subject Property. The easement must allow such access upon the opening of the realigned Waters Road to traffic.
7. No structural building permits may be issued until the plat for the approved lot has been recorded. Prior to the recordation of a plat for the approved lot, the Applicant may conduct the following site work: clearing, grading, utility work, construction of temporary vehicular access from the Martens Property to the realigned Waters Road through the Subject Property, improvements to the realigned Waters Road, and improvements to the intersection of the realigned Waters Road and MD 118.

8. The Applicant must dedicate and show on the record plat(s) the following dedications, as shown on the approved Preliminary Plan:
 - a. 70 feet of right-of-way for a new Waters Road alignment intersecting with MD 118, opposite Bowman Mill Drive, consistent with the Germantown Master Plan;
 - b. 75 feet of right-of-way from centerline along the Subject Property's frontage on Germantown Road (MD 118).
9. Prior to issuance of building permits, the Applicant must submit a landscape and lighting plan for Staff review and approval.
10. The Planning Board has accepted the recommendations of the Maryland State Highway Administration ("MDSHA") in its letters dated September 12, 2014, October 23, 2014, and December 22, 2014, and hereby incorporates them as conditions of the Preliminary Plan approval. Therefore, the Applicant must comply with each of the recommendations as set forth in the letters, which may be amended by MDSHA provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
11. Prior to the recordation of right-of-way record plat(s) for realigned Waters Road, the Applicant must satisfy the provisions for intersection improvements as required by MDSHA.
12. Within 90 days of the realigned Waters Road opening to traffic, the Applicant must complete and submit to MDSHA a traffic signal warrant analysis for the intersection of realigned Waters Road/Bowman Mill Drive and Germantown Road (MD 118), using intersection count criteria as described in the MDSHA Guidelines. The Applicant must provide a copy of the traffic signal warrant analysis to Staff. If the analysis warrants installation of a traffic signal, the Applicant must install the traffic signal as directed by MDSHA.
13. The Planning Board has accepted the recommendations of the Montgomery County Department of Permitting Service ("MCDPS") – Water Resources Section in its letter dated February 14, 2013, and hereby incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDPS – Water Resources Section provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
14. The Planning Board has accepted the recommendations of the Montgomery County Department of Transportation ("MCDOT") in its letter dated September 12, 2014, and hereby incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, including the construction of all road improvements within the rights-of-way, which may be amended by MCDOT provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
15. The certified Preliminary Plan must contain the following note:

"Unless specifically noted on this plan drawing or in the Planning Board conditions of approval, the building footprints, building heights, on-site parking, site circulation, and sidewalks shown on the Preliminary Plan are illustrative. The final locations of buildings, structures and hardscape will be determined at the time of issuance of building

permit(s). Please refer to the zoning data table for development standards such as setbacks, building restriction lines, building height, and lot coverage for each lot. Other limitations for site development may also be included in the conditions of the Planning Board's approval."

16. The record plat(s) must show all necessary easements.
17. The Adequate Public Facility (APF) review for the Preliminary Plan will remain valid for eighty-five (85) months from the date of mailing of this resolution.

SITE DESCRIPTION

The Subject Property is comprised of two unplatted Parcels No. 920 and 971 on Tax Map EU342, and a portion of right-of-way for Waters Road that is to be abandoned. The parcels and right-of-way form a triangularly shaped property located on the northwest side of Germantown Road, at the current cul-de-sac terminus of Waters Road, approximately 800 feet south of the intersection of Wisteria Lane, and just north of the CSX railway (“Property” or “Subject Property”). The two parcels are zoned RMX-2C, and the right-of-way for Waters Road is zoned RMX-2 pursuant to Sec. 59-A-1.71(a), which states: “Normally, all publicly owned rights-of-way for roads, streets, alleys, easements, or transit routes are classified in the least intense of adjacent zones. In order to define clearly the location of rights-of-way, the official zoning maps will not depict the zoning within existing rights-of-way.” As described in 59-A-1.71(a), the zoning for the Waters Road right-of-way was not depicted on the official zoning map applicable to this Preliminary Plan application. The Subject Property is in the 2009 Germantown Employment Area Sector Plan (“Master Plan”). The Up-County Regional Service Center is located about half a mile northeast of the Subject Property at the intersection of Germantown Road and Middlebrook Road, and the Germantown MARC station is located immediately across Germantown Road (Image 1) within easy walking distance.

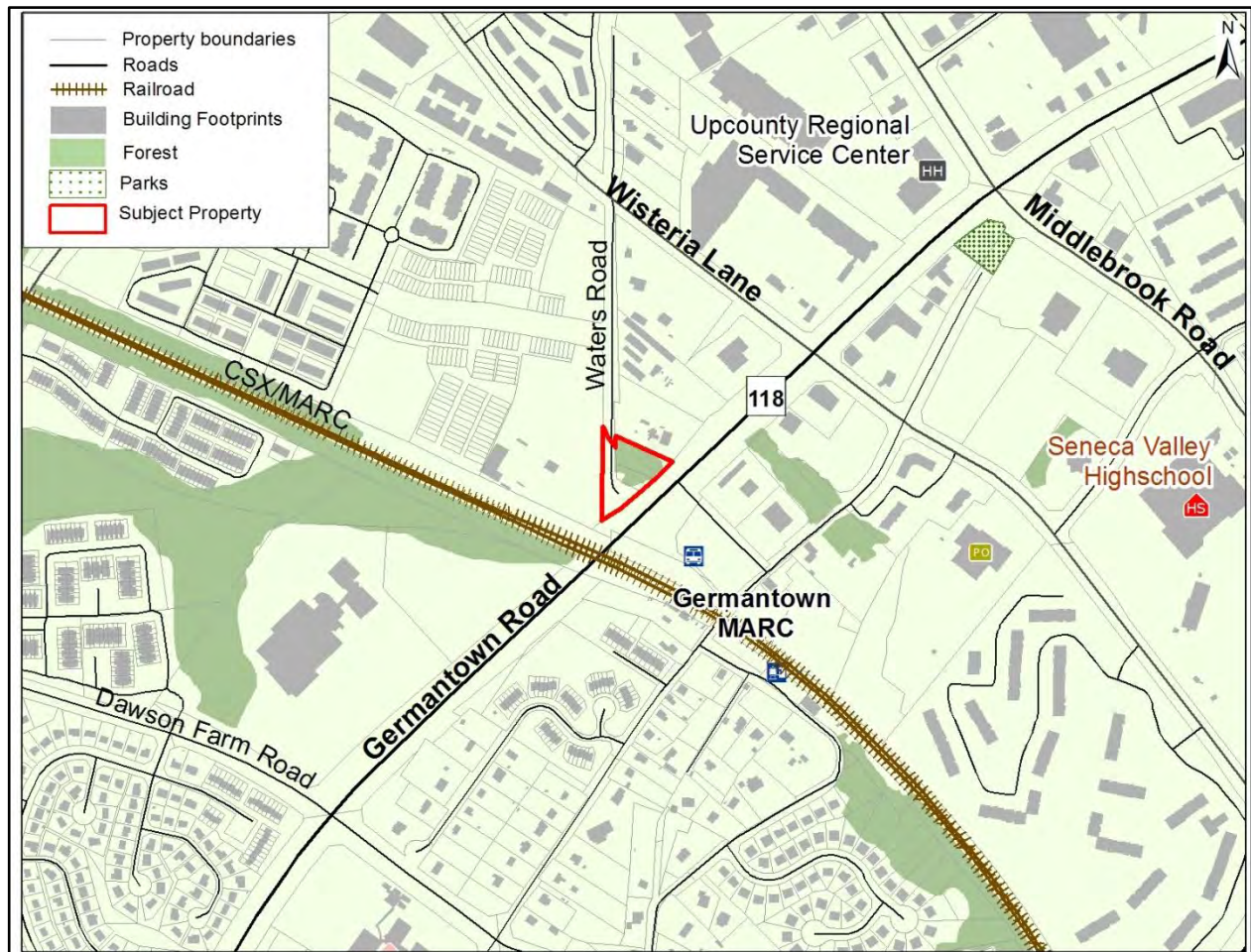


Image 1

Currently, the two parcels that are part of the Subject Property are unimproved and partially forested and the right-of-way is improved with a section of Waters Road, which currently terminates in a cul-de-sac prior to reaching Germantown Road (Image 2). There is an existing large diameter, sewer force main located under the pavement of Waters Road which transmits sewage generated in Clarksburg to the Seneca sewage treatment plant. There are no significant environmental features on or near the Subject Property. The Property is located in the Little Seneca Creek watershed, designated as use III-P waters. The elevation of the Property sits a few feet lower than the elevation of Germantown Road, and gently slopes from northeast to southwest.

To the northeast of the Subject Property are parcels zoned RMX-2C that are improved with an automotive service business and storage facilities. To the west of the Property is an approved Site Plan No. 820110130 (as amended), Village at Germantown West(aka "Martens Property") which is under construction for 304 multi-family dwellings, 166 one-family attached dwellings and 14,426 square feet of retail in the RMX-2 Zone. Confronting along Germantown Road is parking for the Germantown MARC station in the TMX-2 Zone.

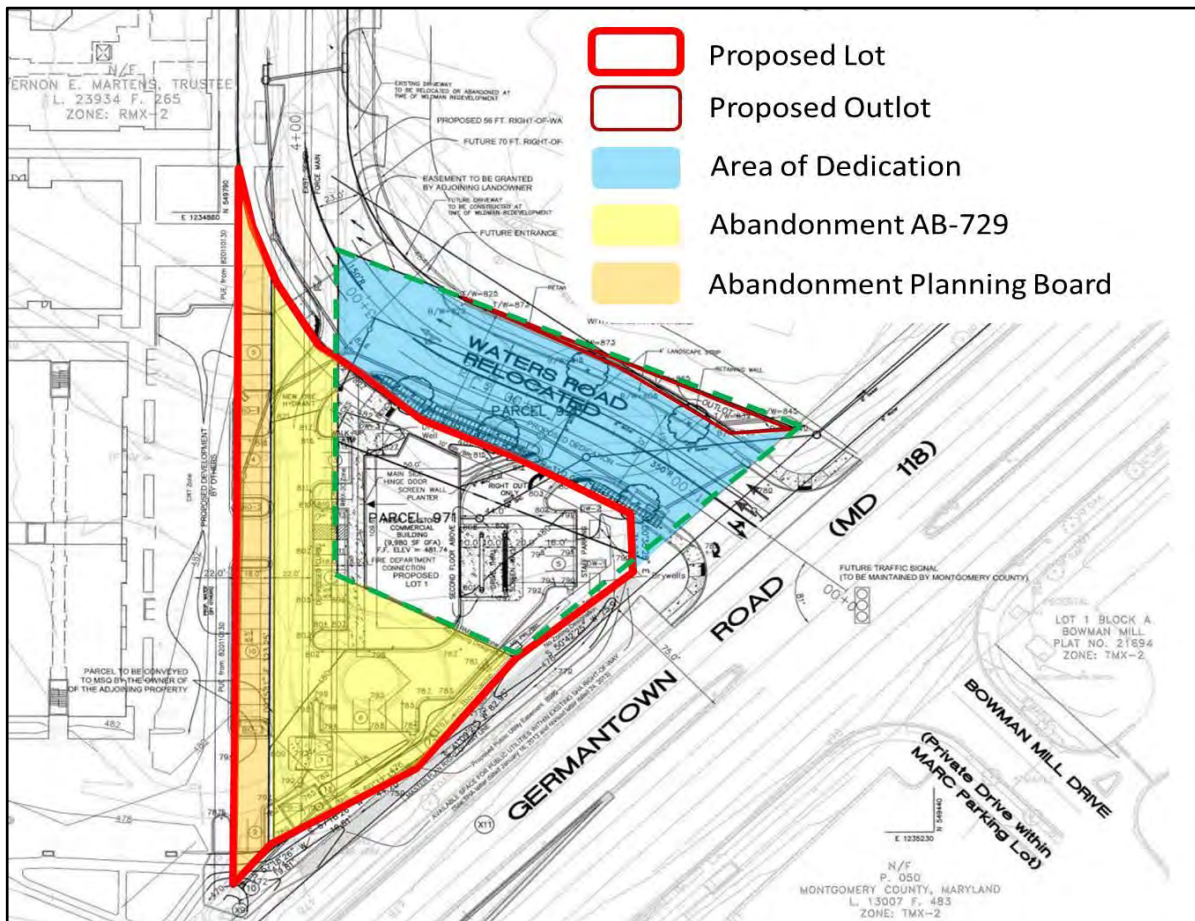


Image 2

PROJECT DESCRIPTION

Preliminary Plan No. 120120250, Chestnut Ridge ("Application" or "Preliminary Plan") proposes to record a 0.877 acre lot for the development of up to 9,980 square feet of commercial use, a 1,013 square foot outlot, and 0.37 acres of dedication for the Master Planned relocation of Waters Road

(Attachment 1 and Image 3). Approval of this Preliminary Plan will satisfy certain conditions of the abandonment process for County Council Resolution AB-729, dated March 18, 2013 (Attachment 3), which allows the abandonment of 16,236 square feet of Waters Road in exchange for a dedicated new alignment for Waters Road and the issuance of a permit and posting of a performance bond for construction of the new road segment. In addition to the abandonment included as part of AB-729, the Applicant is seeking abandonment through the Planning Board of an additional 7,189 square foot portion of Water Road right-of-way which was dedicated by the Martens Property, as a condition of that plan's preliminary plan approval and shown on Plat 42630. The required construction of realigned Waters Road to Germantown Road will be done as a business district road based on a cross section approved by MCDOT (Attachment 7) including four total lanes (48 feet of pavement), a seven foot wide sidewalk, and a four foot wide green panel with street trees across the Subject Property frontage. The Waters Road right-of-way is accommodate sidewalks and trees on the opposite side of the road, but MCDOT has suggested they not be installed until redevelopment occurs across that frontage. The intersection of Waters Road with Germantown Road (MD 118) will be built as a full access intersection, directly opposite Bowman Mill Drive, as approved by MDSA.



On the proposed lot, the Application contains a drawing showing a two story commercial building with up to 9,980 square feet of commercial space, a first floor drive-through with two drive-through lanes, parking, an internal connection to the Martens Property, a full movement access point to Waters Road realigned, and a right out only exit onto Waters Road realigned. The development will access public water and sewer and provides for on-site stormwater management.

ANALYSIS AND FINDINGS – Chapter 50

Conformance to the Master Plan

The Application is in substantial conformance to all applicable elements of the the 2009 Germantown Employment Area Sector Plan (“Master Plan”), except for those related to urban form, which Staff recommends the Board find to be no longer appropriate under Section 50-35(l) of the Subdivision Regulations.

The Subject Property, identified by a red star in image 4 below, is in the West End Neighborhood of the Town Center/West End district. The land use portion of the Master Plan identifies the Property as part of reference area 34 – Waters Road Triangle Properties (image 5), with specific recommendations for land use and urban form made on pages 53 – 55 of the Master Plan. The development of the Subject Property is also integrally connected to the larger Martens Property identified as TC-33 in the Master Plan, which is located all along the west side of Waters Road and has recommendations for land use and urban form in the same section.

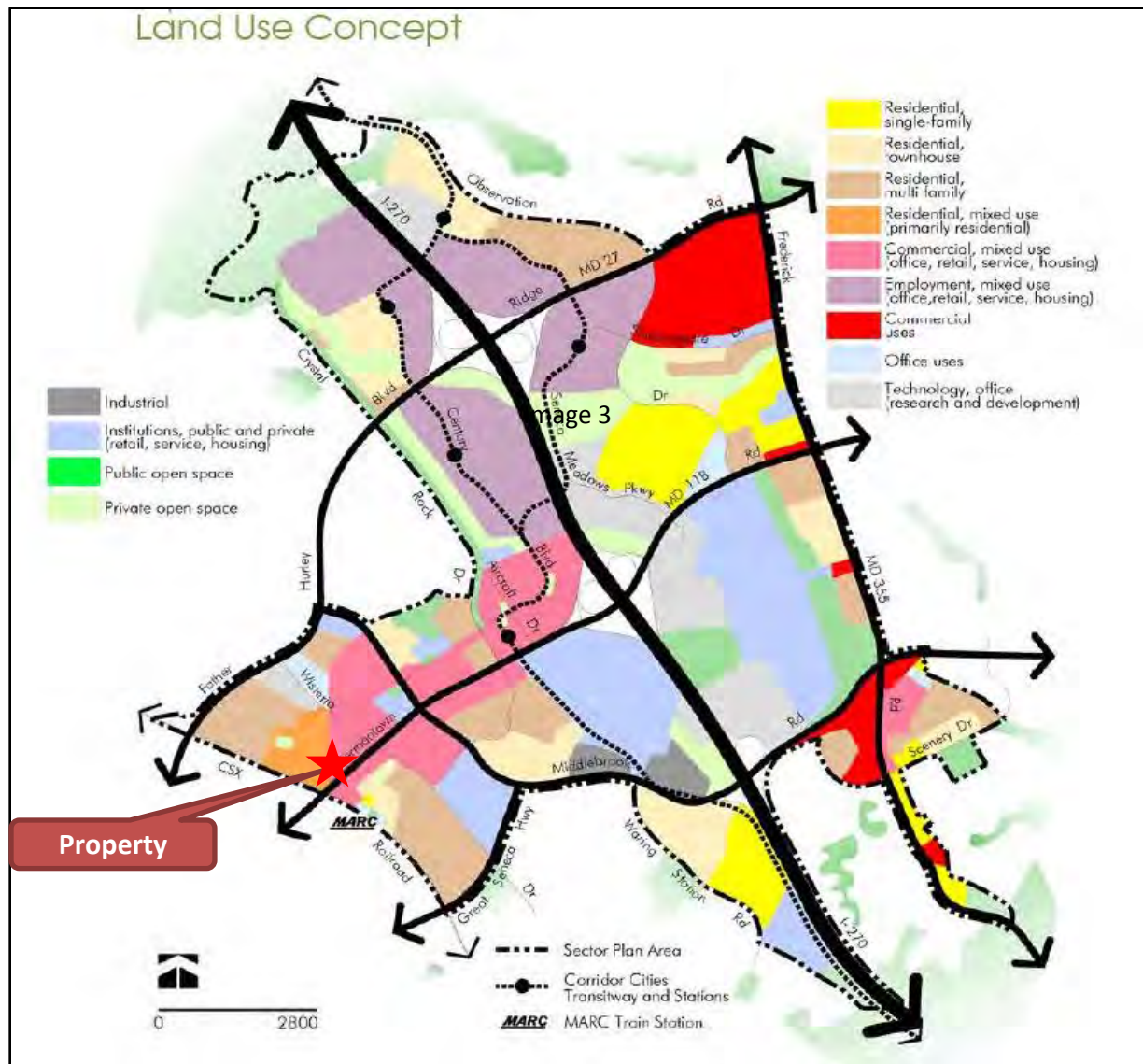


Image 4

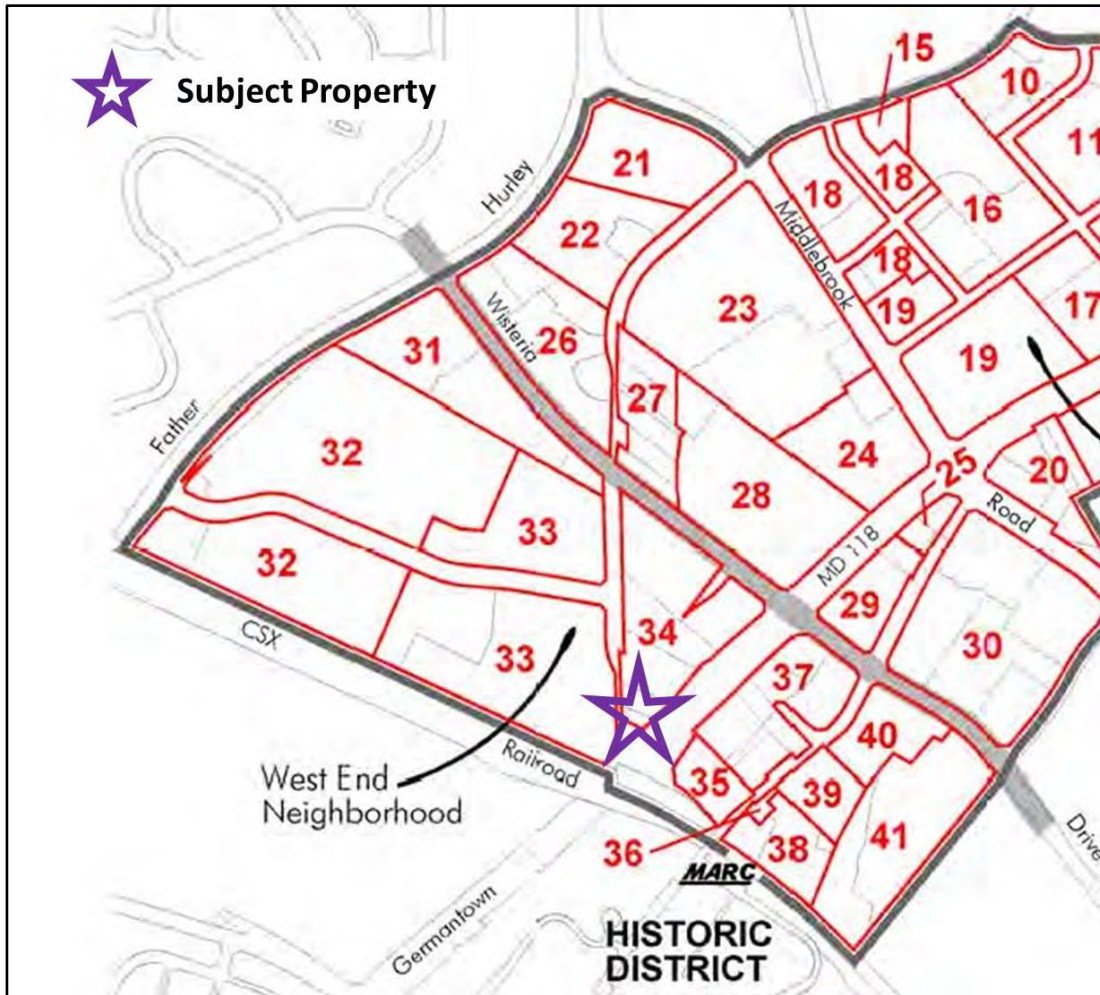


Image 5

The Master Plan has three general categories of recommendations relevant to the Subject Property; transportation, land use, and urban form, which are discussed below.

Transportation

The Application is in substantial conformance with the transportation recommendations in the Master Plan. The Master Plan recommends the realignment of Waters Road from its current terminus as a cul-de-sac into a new alignment that intersects with MD 118 directly opposite Bowman Mill Drive, to provide increased mobility for cars and pedestrians (Road B-5). The Applicant has already preceded with County Council abandonment hearings for most of the existing Waters Road cul-de-sac (AB-729) which will no longer be necessary should this realignment come to fruition. This Preliminary Plan implements additional steps that are critical to the completion of this abandonment resolution including the dedication of the new alignment of Waters Road and requiring the posting of permit and bond for the construction of new Waters Road. In addition, this Preliminary Plan Application addresses the need to abandon an additional 20 feet of right-of-way connected to the western side of Waters Road that was dedicated by the Martens Property as part of their plan approval and is shown on Plat 42630. The Applicant has petitioned the Planning Board (Attachment 5a and 5b) to abandon this as part of this Preliminary Plan pursuant to Section 50-15(c)(2). The abandonment of this additional 20 feet of right-of-way will provide the necessary assemblage of land (with a subsequent transfer of all abandoned land to

the Applicant), including the land area abandoned under AB-729 and Parcels 920 and 971, to assemble the 0.887 acre lot shown on the Preliminary Plan drawing. As part of the record plat that would follow the approval of this Preliminary Plan, the Applicant will dedicate 0.37 acres of land for the new alignment of Waters Road to allow a new intersection with MD 118 opposite Bowman Mill Drive. The design of the new intersection has been coordinated and approved by MDSA.

The Master Plan recommends a right-of-way of 80 feet for Waters Road and a class 3 on-road shared bikeway, to be built to business district standards. Due to property ownership constraints, the Applicant and MCDOT, in coordination with Staff, have worked out a design along the Property frontage allowing for dedication of a 70 foot wide right-of-way, and construction of a business district road with a cross section including four total lanes, and a 7 foot wide sidewalk on the Applicant's side of the road including street trees. The right-of-way as provided is adequate to provide a sidewalk and street trees on the opposite side of Waters Road, but they will not be constructed as part of this Application. As the new road approaches the intersection with MD 118, the two approach lanes allow for a shared left turn onto northbound MD 118 and through movement onto Bowman Mill Road and the MARC station, and right turning movements on to southbound MD 118. As traveling on Waters Road from the intersection, there will be two northbound lanes with the left lane will quickly ending along the Subject Property frontage as a left turn lane into the parking lot for Subject Property. North of this turn lane, Waters Road will taper into a two lane business district street with on street parking and sidewalks. These details as described have been shown on the submitted Preliminary Plan drawing (Attachment 7). Staff believes that 70 foot right-of-way dedication is adequate to achieve the desired road alignment recommended by the Master Plan and fulfills the Master Plan's vision to create a pedestrian friendly environment and to provide for the necessary stormwater management. In addition, the Master Plan recommends a 150 foot wide right-of-way for MD 118 with a six lane cross section and a median, which has already been dedicated and constructed prior to this Preliminary Plan. The implementation of the Waters Road/MD 118 intersection as proposed under this Application is a significant advancement of the Master Plan vision to promote the walkability of communities in and near the MARC station. The desirability to get this intersection designed and constructed at this time cannot be overstated.

Land Use

The Application is in substantial conformance with the land use section of the Master Plan. The land use recommendations contained in the Master Plan for the Subject Property include a total of 420,000 square feet of employment and retail, and up to 400 dwelling units, split between the Martens Property, and the Waters Road Triangle properties (TC-33 and TC-34, Image 5). The Master Plan anticipates a higher mix of commercial uses on the Waters Road Triangle Properties (TC-34) and as such, the Preliminary Plan proposes 9,980 square feet of commercial uses split between office and retail. The Subject Property is only a small portion of the larger TC-33 and TC-34 geography, therefore the small amount of proposed commercial use and lack of residential use is not contradictory to the Master Plan vision for this part of Germantown, especially as one considers its location next to the very large and predominantly residential Martens Property.

Urban Form

The Application is not in substantial conformance to the urban form section of the Master Plan; however, the lack of conformance is primarily due to elements beyond the Applicants control. The urban form recommendations include; treatment of Waters Road as a main street; achieving street-oriented development that establishes a building line to define the street and sidewalk with building heights of at least 3 floors; orienting commercial development to be visible from MD 118; and locating parking to the rear of buildings. The Subject Property has a highly constrained building envelope that is

defined by an existing easement around a regional sewer force main that runs under the old alignment of Waters Road, under the Subject Property, and to MD 118. This sewer easement has greatly reduced the buildable area of the Property and severely limits the size and location of any proposed building (Attachment 12). The limited building envelope does promote a structure with a commercial presence on the realigned Waters Road and MD 118, with parking in the rear. However the constraints do not provide for the parking capacity or buildable land to obtain the density needed to create an adequate building wall to frame the street, and does it provide an incentive to request for optional method development. The constraints of the sewer force main was not anticipated or identified by the Master Plan based on the various illustrations contained within showing larger street framing buildings, making it impossible to fully achieve the desired vision. It is Staff's opinion that the constraints can be used as the basis of a Planning Board finding that the relevant Master Plan recommendations are no longer appropriate, as described in Chapter 50-35(I). Staff recommends the Board find that the presence of the sewer force main has severely restricted the potential development of the Subject Property in a way that limits the potential density and makes some of the recommendations of the urban guidelines in the Master Plan, such as using the buildings width and height to frame the street, inappropriate.

Public Facilities

Roads and Transportation Facilities

The Preliminary Plan proposes access to relocated Waters Road at two locations; one with full vehicular movement, and the second for right-out only movement. Internal circulation between the Subject Property and the Martens Property to the west has been coordinated and the two development projects will ultimately create what will function as one parking facility between the commercial uses located in this area. Pedestrian access is provided by a lead sidewalk that will enter the site next to the full movement access point, connecting to the seven foot wide sidewalk shown along Waters Road.

There are two existing Ride-On bus routes (No. 61 and No. 83) that offer bus transit service to the Subject Property and the development is easily walkable to the Germantown MARC Station. The Application provides the necessary land area to advance the full movement intersection of Waters Road/Bowman Mill Drive and MD 118. MDSHA has approved construction of a full movement intersection and has found that traffic projections warrant signalization (Attachments 8c). MDSHA is requiring a follow-up signal warrant analysis after the intersection opens to the public to verify the warrants are met, prior to activation of the traffic signal. The intersection may be engineered and constructed assuming future signalization. The construction plans include two lanes on Waters Road approaching MD 118, two lanes departing from MD 118, the lengthening of the left turn lane from eastbound MD 118 left onto Waters Road and the installation of ADA compliant ramps to facilitate pedestrian crossings of Waters Road and MD 118. The construction and signalization of this intersection will not only greatly improve access to the Subject Property, but to a broad area of Germantown Town Center west, including improved safety and access for pedestrians to the Germantown MARC station.

Existing transportation improvements are adequate to serve the Application. The Applicant has not committed to a specific mix of commercial land uses; the studied uses represents the highest peak-hour trip generating land uses permitted by the zoning on the Subject Property that fit within a 9,980 square foot two story commercial building, and the ultimate land uses will need to comply with zoning at the time of building permit. A traffic study was analyzed as part of the Preliminary Plan because the proposed two story commercial building, with 5,000 square feet of ground floor fast food restaurant with drive through, and 4,980 square feet of second story office generate 30 or more peak-hour trips within the weekday morning and weekday evening peak periods. The studied maximum permitted uses

will generate 123 weekday morning peak-hour trips during the morning peak and 92 weekday evening peak-hour trips during the evening peak. In the traffic study, it was assumed that about 50% of the trips would be new trips to the Subject Property that were not already passing by (“Primary Trips”) and that 50% would be trips that are passing by that decided to divert to the Subject Property. The traffic study analyzed the impact of the Primary Trips to the surrounding intersections, calculating the critical lane volumes (“CLVs”) for existing conditions, background conditions and total (build out) conditions. The result of this analysis can be seen in Table 1.

Table 1 – CLV Values

Studied Intersection	CLV Standard	Traffic Condition					
		Existing		Background		Total	
		AM	PM	AM	PM	AM	PM
Waters Road & Wisteria Drive	1,600	283	418	576	707	492	611
MD 118 & Wisteria Drive	1,600	661	948	766	1,090	764	997
MD 118 & Bowman Mill Drive/Waters Road Extended	1,600	533	721	546	745	605	850
MD 118 & Dawson Farm Road	1,425	597	568	641	644	650	644

As shown in Table 1, the CLV traffic values for morning and evening peak-hours at all four studied intersections remain well below the CLV standards set in the Germantown Town Center, and the Germantown West Policy Areas. For two of the studied intersections, the Total CLV values are actually less than the Background CLV values because area trips were redistributed based on the construction of a full movement intersection at Waters Road/Bowman Mill Drive and MD 118. No additional transportation improvements are required by the Local Area Transportation Review (“LATR”) guidelines.

The Subject Property is located within the Germantown Town Center Policy Area for the Policy Area Review test. Because the final plan was submitted on or before March 30, 2013, or 30 days after the Planning Board adopts the *LATR & Transportation Policy Area Review (TPAR) Guidelines*, the Applicant may choose to satisfy the “policy area review” test by either the Policy Area Mobility Review (PAMR) or TPAR test. Since the PAMR mitigation is 0% in the Germantown West Policy Area, the Applicant selected PAMR over TPAR. Thus, the “policy area review” test is satisfied as documented is the Applicant’s letter dated February 19, 2013 (Attachment 11).

Other Public Facilities and Services

Other public facilities and services are available and will be adequate to serve the Application. The Subject Property is in the water and sewer categories W-1 and S-1 and has access to existing public utilities located in the MD 118 right-of-way. Other utilities including electric and telecommunications services are adequate to serve the development. The Application has been reviewed by the Montgomery County Department of Fire and Rescue Service who have determined that the Application has adequate access for fire and rescue vehicles (Attachment 9). Other public facilities and services, such as police stations, and health services are currently operating within the standards set by the Subdivision Staging Policy Resolution currently in effect.

Environment

Environmental Guidelines

A Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) #420120620 for the Property was approved on March 27, 2012. The NRI/FSD identifies the environmental constraints and forest resources on the Subject Property. There is 0.43 acres of existing forest on the Property and six trees 24"-29" DBH onsite and immediately adjacent to the Property, there are no trees 30" DBH or greater onsite or adjacent to the Subject Property.

Forest Conservation

A Final Forest Conservation Plan ("FFCP") (Attachment 2) for the Property was submitted with the Preliminary Plan. The FFCP shows 0.43 acres of forest clearing and no forest retention; all six trees 24"-29" DBH shown on the NRI/FSD are proposed for removal. Since there are no trees 30" DBH or greater no tree variance is required. The PFCP worksheet generates a 0.52 acre reforestation requirement, which will be met offsite.

Stormwater Management

MCDPS approved a stormwater management concept on February 14, 2013 (Attachment 10). The concept proposes to meet stormwater management goals through the use of drywells, a planter box micro-biofilter, bioswales and Silvacells.

Compliance with the Subdivision Regulations and Zoning Ordinance

This Application has been reviewed for compliance with the Montgomery County Code, Chapter 50, the Subdivision Regulations. The Application meets all applicable sections. The proposed lot size, width, shape and orientation are appropriate for the location of the subdivision in the Germantown Employment Area Master Plan and the lot's dimensional characteristics will adequately accommodate the intended use shown on the Preliminary Plan.

Abandonment, Section 50-15(c)(2)

As introduced in the Master Plan section of this report, the Applicant is requesting that the Planning Board abandon, pursuant to Section 50-15(c)(2), a 7,189.74 square foot area of Waters Road right-of-way that was part of dedication required by the Martens Preliminary Plan No. 120110090 and shown on Plat No. 24630 (Attachment 4). Section 50-15(c)(2) authorizes the Planning Board to abandon all or part of an area of right-of-way that has not been previously in public use, pursuant to Section 49-68. Section 49-68 grants the Planning Board the authority to abandon right-of-way after proper noticing, if the Planning Board finds that the right-of-way is not necessary for anticipated future public use or that an alternative alignment or location will not adversely affect the public interest. The abandoned land must be incorporated into a plat and required alternative dedications for right-of-way or easements must also be shown on the plat. The Applicant sent notice on October 4, 2013 to all parties of interest, and neither Staff nor the Applicant received any objections to the petition. The subject right-of-way was only recently recorded with the approval of plat 24630 in 2013 and no public improvements have been constructed in the dedicated area. This Application also proposes the dedication of 0.37 acres for an alternative alignment of Waters Road which is recommended in the Master Plan. Staff believes the abandonment request meets the requirements of Section 50-15(c)(2) and 49-68, and recommends the Planning Board grant this abandonment request.

The lot was reviewed for compliance with the dimensional requirements for the RMX-2 and RMX-2C zones as specified in the Zoning Ordinance. This Application was reviewed under the Standard Method of development and therefore the dimensional requirements and restrictions for the RMX-2C Zone is the same as the C2 Zone set forth in Section 59-C-4.351 for building height and 59-C-4.353-4.355 for setbacks, green area and nuisances. Uses are those allowed in the Optional Method development set forth in 59-C-10.3.2. The RMX-2 Zone under standard method must follow all of the dimensional requirements and use types as specified for the R-200 Zone found in 59-C-1.31. The lot will meet all the dimensional requirements for area, frontage, and width, and the proposed structures can meet all required setbacks. A summary of this review is included in Table 2.

Table 2 – Data Table RMX-2 and RMX-2C Zone Standard Method

PLAN DATA	Zoning Ordinance Development Standard		Proposed for Approval by the Preliminary Plan
	RMX-2	RMX-2C	
Minimum Lot Area	20,000 sq. ft.	N/A	0.877 acres +/-
Lot Width	100 ft.	N/A	230 ft. +/-
Lot Frontage	25 ft.	N/A	249.7 ft. +/- total
Setbacks			
Front*	40 ft. Min.	10 ft.	10 ft.
Side*	12 ft. Min./ 25 ft. total	None**	12 ft. Min./ 25 ft. total
Rear*	30 ft. Min.	None**	30 ft. Min.
Lot Coverage for buildings*	25% max.	0.3 FAR	Less than 0.3 FAR
Green Area	N/A	10% or more	34% ¹
Building Height*	40 ft. max.	42 ft. max	42 ft. or less ¹
MPDUs	N/A		No
TDRs	N/A		No
Site Plan Required	No		No

- 1 Determined by MCDPS at the time of building permit.
- 2 * Commercial structures only permitted on the RMX-2C portion of property
- 3 **Adjoining properties are not residential zones/development therefore no setbacks required

Zoning of Abandoned Right-of-Way, Section 59-A-1.71(a)

Part of the proposed lot is comprised of approximately 16,236 square feet of land that is existing right-of-way, for which zoning is not depicted on the official zoning map applicable to this application. Staff and the Applicant disagree on the zoning of the portion of Waters Road that will be abandoned. The process for determining the zoning of right-of-way is explained in Section 59-A-1.71(a). This section states "...all publicly owned rights-of-way for roads, streets, alleys, easements or transit routes are classified in the least intense of adjacent zones". The zoning to the west of the abandoned right-of-way is RMX-2 (Martens Property), and the zoning to the east side is RMX-2C (Figure 6). Staff believes the least intense zone that is adjacent to the abandoned right-of-way is the RMX-2 Zone.

The Zoning Ordinance states that when developing under the standard method of development, the RMX-2 Zone shall use the R-200 Zone development standards, and the RMX-2C Zone shall use the C-2 development standards. The R-200 Zone permits significantly less development intensity and has fewer allowable uses than the C-2 Zone. Also it is Staff practice to recognize a certain square footage of

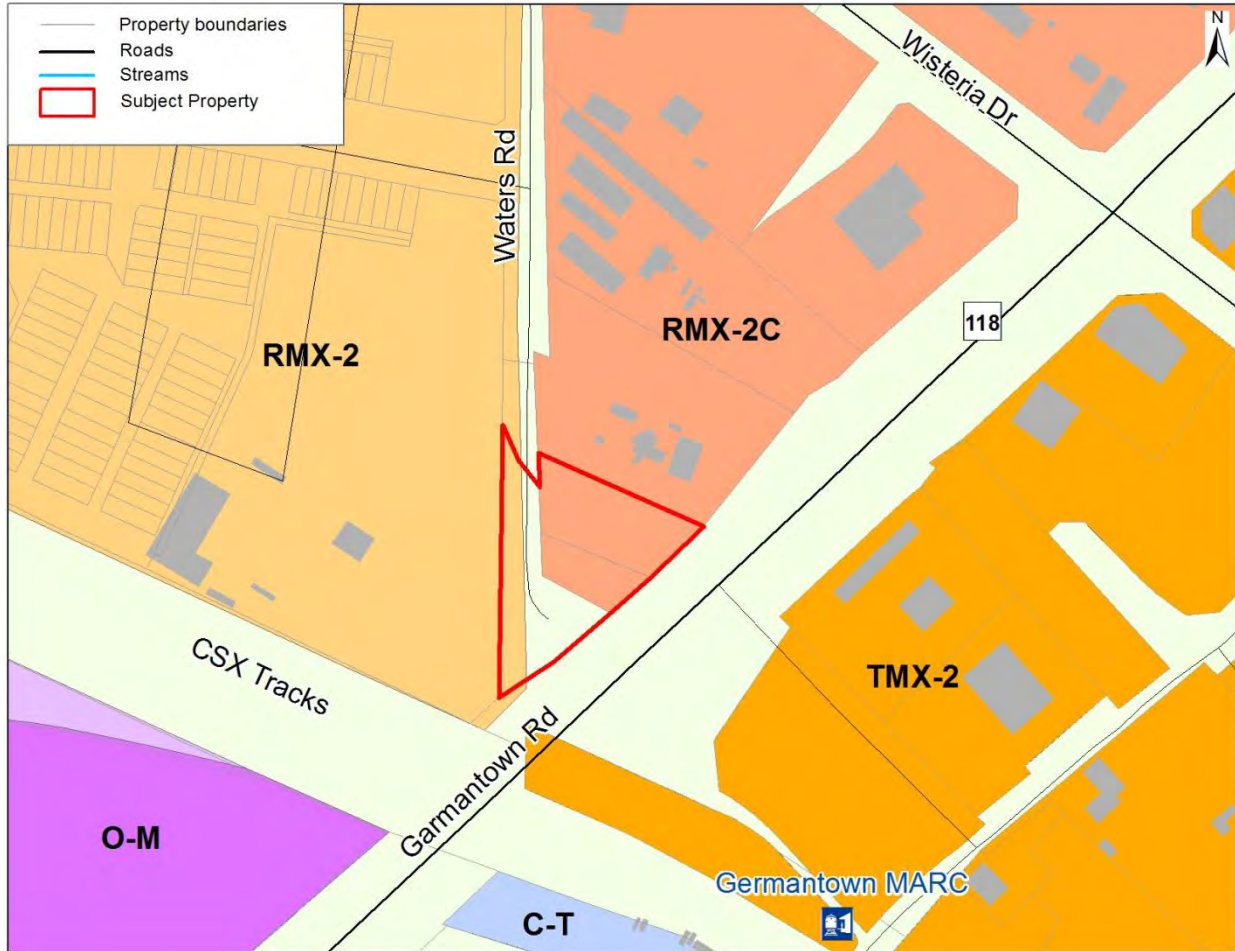


Image 6

residential development as a less intense use than the same amount of commercial square footage because commercial uses are more intensely used by people, thus generating more vehicle trips per square foot creating a greater impact to the transportation system and requiring more area be used for parking. Further, the Master Plan recommends that the RMX-2 and RMX-2C Zones located on either side of the abandoned right-of-way be developed at an intensity up to 0.8 FAR if using the optional method of development, but specifies that the RMX-2 Zoned Martens Property shall have a greater portion of their total FAR as residential uses and the RMX-2C Waters Road Triangle properties shall have a greater portion of their total FAR as commercial uses (Image 6). This Master Plan recommendation recommending more residential density in the RMX-2 Zone and more commercial density in the RMX-2C Zone reinforces Staff's position that the RMX-2 Zone is the least intense of adjacent zones to the portion of Waters Road right-of-way being abandoned.

The Applicant's argument to Staff is that Staff should consider the approved density and method of development on the properties on either side of the right-of-way when determining which zone is less intense, rather than just looking at the development standards allowed in the zones. The Applicant points out that RMX-2 Zone Martens Property is approved under the optional method of development with a FAR of 0.74 while the proposed development density in the RMX-2C Zone will be approved as a standard method of development with a FAR under 0.3, and therefore the RMX-2C Zone is the less intense of adjacent zones. Staff recognizes that the Martens Property being developed under the

optional method of development with a 0.74 FAR is more *dense* than the Subject Property's proposed standard method density of 0.26 FAR, but disagrees that the method of development and approved density has any bearing in the underlying *intensity* of the zones. The ability to develop as standard method or optional method is available in both zones and the chosen method development only affects the implementation of development standards and density on a property, but does not actually change the allowed intensity in the zone. The least intense zone that borders the right-of-way area to be abandoned is the RMX-2 Zone and therefore the Waters Road right-of-way abandoned and contained within the boundaries of this Preliminary Plan is zoned RMX-2. The Application has been reviewed by other applicable county agencies, all of whom have recommended approval of the Application.

CITIZEN CORRESPONDENCE AND ISSUES

This Application was submitted and noticed in accordance with all Planning Board adopted procedures. A sign referencing the Application was posted along the Subject Property's frontage with Germantown Road and Waters Road. The Applicant advertised and subsequently held a pre-submission meeting at the Upcounty Regional Service Center on January 17, 2012. According to the minutes of the meeting five people were in attendance. The people in attendance were only from the Applicant or the neighboring Martens development teams, therefore the meeting minutes reflect that the time was used to carry out ongoing coordination and development agreements between the two parties. As of the writing of this staff report, Staff has not received any correspondence from the community regarding this Application. Staff has received a letter from the Martens Property (Attachment 13) providing their support for this Application's request to abandon Waters Road, their future intent to grant their claims to any underlying fee of the abandoned road to the Applicant, and their general approval of the use requested with this Application.

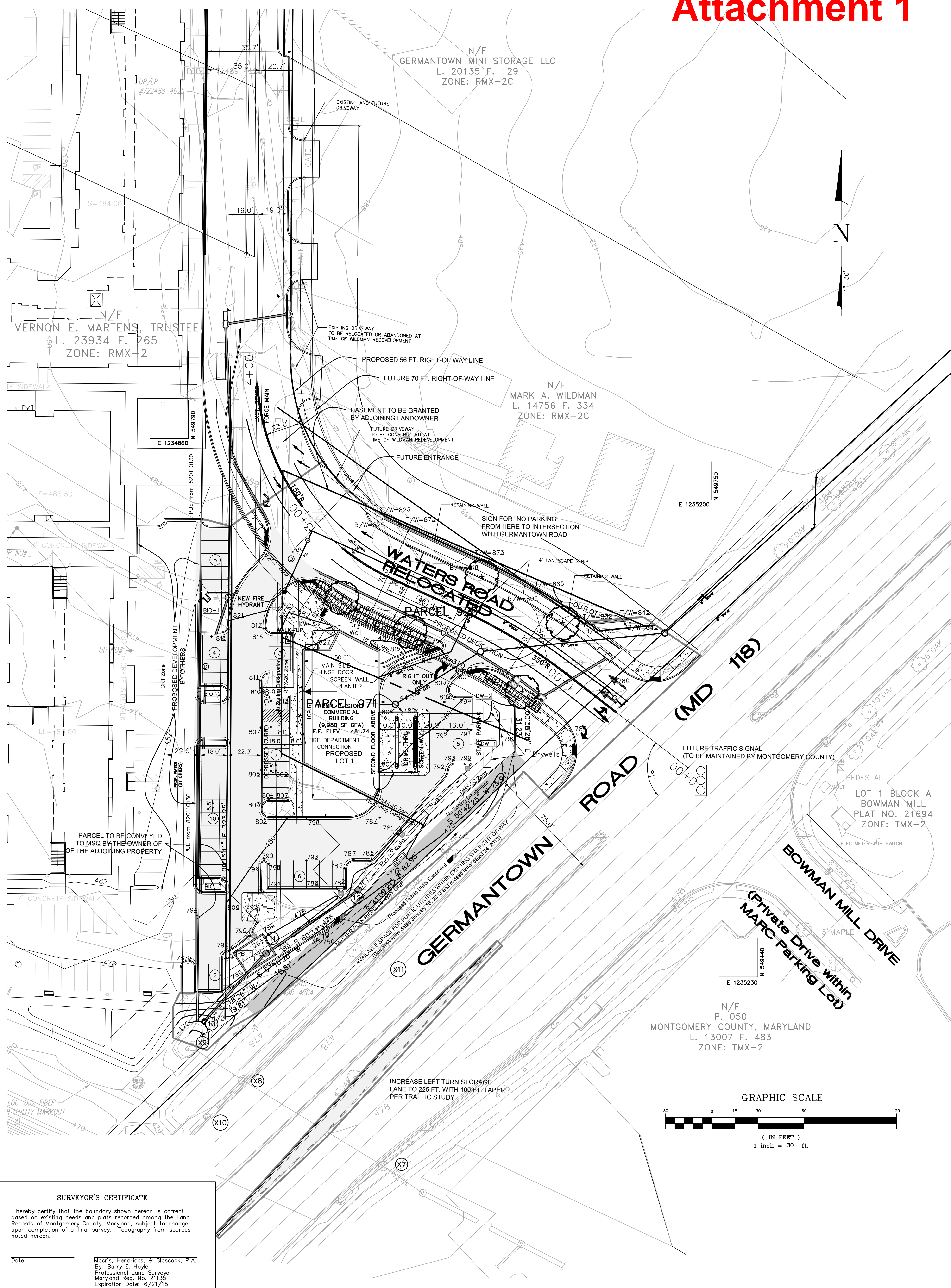
CONCLUSION

The proposed lot meets all requirements of the Subdivision Regulations, the requirements of the Zoning Ordinance, and substantially conforms to the recommendations of the Germantown Employment Area Master Plan, with certain findings by the Planning Board as discussed herein. Access and public facilities will be adequate to serve the proposed lot for the proposed use, and the Application has been reviewed by other applicable county agencies and utility companies, all of whom have recommended approval of the Preliminary Plan. Approval of the Application with the conditions specified above is recommended.

Attachments

- Attachment 1 – Preliminary Plan
- Attachment 2 – Final Forest Conservation Plan
- Attachment 3 – Council Resolution AB-729
- Attachment 4 – Plat 24630
- Attachment 5a, 5b – Petition for Abandonment to PB, to agencies
- Attachment 6 – Abandonment Petition responses
- Attachment 7 – MCDOT Approval
- Attachment 8a, 8b, 8c – MDSHA TIS Approval, Approval as amended, and Signal Warrant
- Attachment 9 – Fire & Rescue approval
- Attachment 10 – MCDPS Stormwater Approval
- Attachment 11 – PAMR request
- Attachment 12 – Development Constraints
- Attachment 13 – Martens Property Letter

Attachment 1



SITE DATA

SUBJECT PROPERTY: TAX MAP EU42, PARCELS P.920, P.971, AND WATERS ROAD ABANDONED

GROSS TRACT AREA: 55,641 SQUARE FEET OR 1.27504 ACRES

RIGHT-OF-WAY DEDICATION: 16,240 SQUARE FEET OR 0.37281 ACRES

NET LOT AREA: 38,197 SQUARE FEET OR 0.87688 ACRES

PROPOSED NUMBER OF LOTS: 1 LOT (38,197 SQUARE FEET OR 0.87688 ACRES) 1 OUTLOT (1,015 SQUARE FEET OR 0.02325 ACRES)

ZONING CLASSIFICATION: RMX-2C, RESIDENTIAL-MIXED USE DEVELOPMENT, SPECIALTY CENTER, COMMERCIAL BASE (1)

PROPERTY ADDRESS: WATERS ROAD GERMANTOWN, MD 20874

TAX ACCOUNT No.: 02-00025603, 02-02101550

SEWER SERVICE AREA CATEGORY: S-1

WATER SERVICE AREA CATEGORY: W-1

SEWER BASIN: SENECA CREEK BASIN

TYPE OF SEWAGE DISPOSAL: WSSC

TYPE OF WATER SUPPLY: WSSC

PROPOSED USE: COMMERCIAL (RETAIL)

OWNER: M SQ, LLC 1201 15TH STREET NW SUITE 200 WASHINGTON, DC 20005-2842

APPLICANT: M SQ, LLC 1201 15TH STREET NW SUITE 200 WASHINGTON, DC 20005-2842

DEVELOPMENT STANDARDS

STANDARD METHOD OF DEVELOPMENT
RMX-2C. Standard method commercial projects in these zones must comply with the standards and requirements of the standard method of development in the C-2 Zone

	REQUIRED/ALLOWED	PROVIDED
BUILDING HEIGHT (59-C-4.351) (a) The maximum building height at any point measured from the finished grade is 3 stories of 42 feet.	42 FT.	28 FT.
FLOOR AREA (59-C-10.2.1.3) A maximum floor area ratio of 0.3 is permitted under this form of development	0.30 FAR OR 16,662 SQ. FT.	0.18 FAR OR 9,980 SQ. FT.
SETBACKS (59-C-4.353) All buildings must be set back from lot lines at least as follows: (a) Front (1) The front building line must not be less than 10 feet from the front lot line. (2) A setback is not required when a "main street" type of development is recommended in a master or sector plan. (b) Side and Rear (1) If the lot adjoins a residential zone, the setback must not be less than required in the adjoining zone. (2) In all other cases no setback is required. (3) No yard must be less than 3 feet in width.	10 FT. NONE ⁽¹⁾ 30 FT. ⁽²⁾ 0 FT. 3 FT.	N/A N/A N/A N/A
GREEN AREA (59-C-4.354) Green area shall constitute at least 10 percent of the area of the lot.	10% or 3,812 SQ. FT.	34.1% or 12,989 SQ. FT.
NUISANCES (59-C-4.355) Any use which is found by the board to be a public nuisance, by reason of the emission of dust, fumes, gas, smoke, odor, noise, vibration or other disturbance, is and shall expressly prohibited in the C-2 zone.		

⁽¹⁾ Germentown master plan does recommend a "main street" type of development for this property. ⁽²⁾ The adjoining residential zone is CRT and is being developed under the RMX-2, Optional Method of Development, therefore Minimum Building Setbacks (59-C-10.8.8. (d)) From abutting commercial or industrial zoning, Residential Buildings: 30 FT.

OFF STREET PARKING AND LOADING (59-E)

	REQUIRED/ALLOWED	PROVIDED
SURFACE PARKING FACILITY AREA-		16,600 SQ. FT.
OFFICE PARKING POLICY AREA- PROXIMATE TO METRO/RAIL STATION-		Northern More than 1600 FT.
LANDSCAPING (59-E-2.7)		
LANDSCAPE STRIP AREA ADJACENT TO A STREET RIGHT-OF-WAY (59-E-2.7.1) Parking facilities located adjacent to a street right-of-way shall provide a landscaping strip at least 10 feet in width.	10 FT.	10 FT.
INTERNAL LANDSCAPING (59-E-2.7.3)	5% or 830 SQ. FT.	8.4% or 1,400 SQ. FT.

SETBACK (59-E-2.81)(a) modified in the following situations:
if a parking facility adjoins an existing or planned public right-of-way that is 120 feet or more in width, the provision for a landscape strip, as per 2004 Code § 59-E-2.7.1, 2004 Code § 59-E-2.81(b). Because the parking facility is recommended for commercial use and/or used for public or private off-street parking no setback is required as per 2004 Code § 9-E-2.81(a).

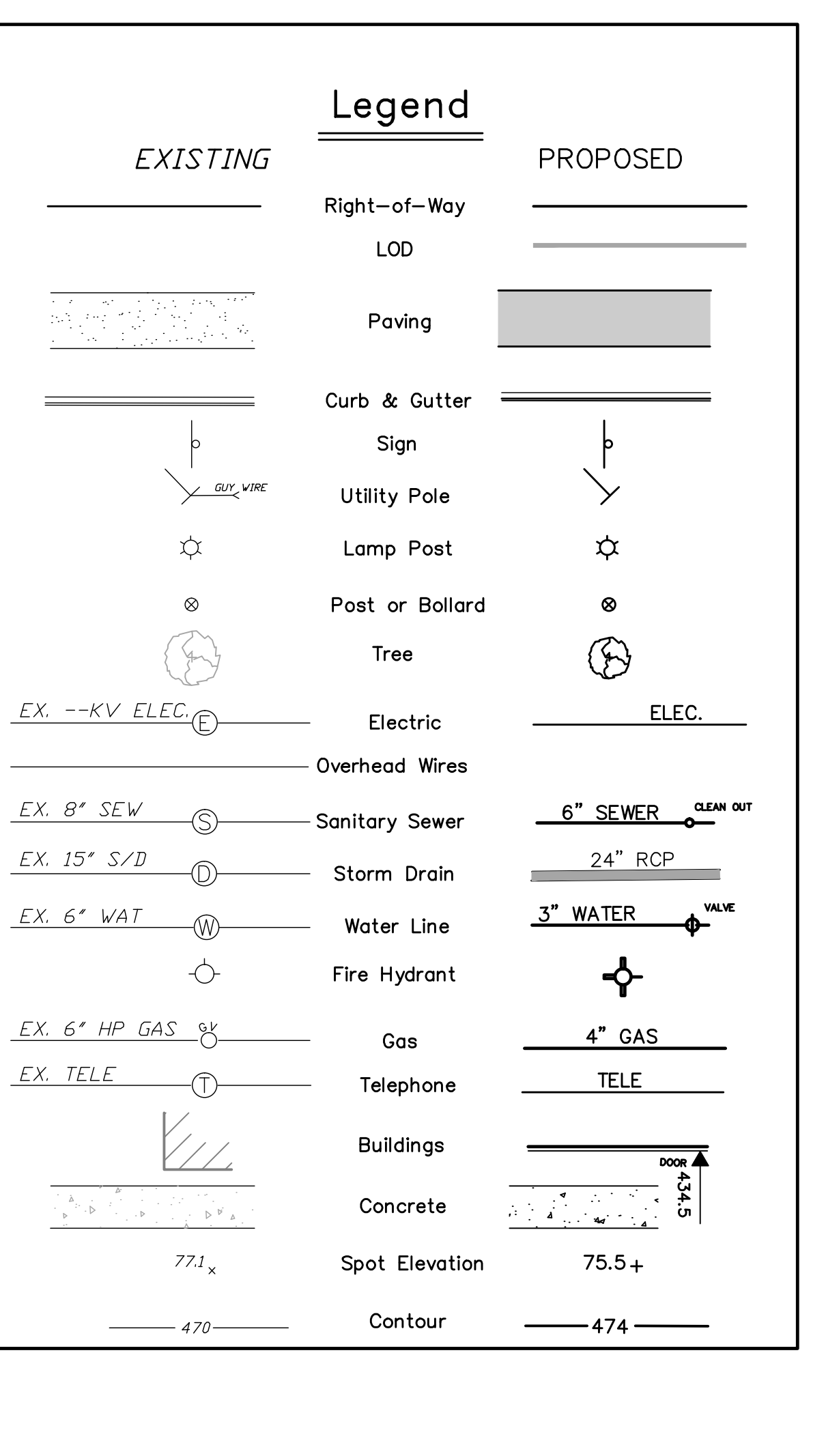
	10 FT. Landscape Strip	10 FT. Landscape Strip
Confronting Front yard (MD 118)	10 FT.	10 FT.
Adjoining Rear Yard	N/A	N/A
Adjoining Side Yard	0 FT.	0 FT.

NUMBER OF SPACES REQUIRED (59-E-3)
Retail, general: Commercial establishments devoted to retail sales, merchandising or similar use, except furniture stores, 5 parking spaces for each 1000 gross leasable square feet.
Therefore, 5,000 SQ. FT. / 1,000 X 5.0 = 25.0 SPACES

Office Development: Base parking requirements for offices shall be determined in accordance with a property's Office Parking Policy Area designation and the proximity of the property to a Metro/rail station.
Therefore, 4,980 SQ. FT. / 1,000 X 3.0 = 14.9 SPACES

TOTAL REQUIRED 39.9 or 40 SPACES 42 SPACES

- GENERAL NOTES**
- BOUNDARY INFORMATION SHOWN HEREON IS BASED ON A SURVEY BY: LOIEDERMAN SOLTSEZ ASSOCIATES, INC.
 - TOPOGRAPHIC INFORMATION SHOWN HEREON IS BASED ON A SURVEY BY: LOIEDERMAN SOLTSEZ ASSOCIATES, INC.
 - EXISTING UTILITIES SHOWN HEREON ARE BASED ON A SURVEY BY: LOIEDERMAN SOLTSEZ, INC. AND AVAILABLE RECORD PLANS.
 - SUBJECT PROPERTY IS NOT LOCATED WITHIN A SPECIAL PROTECTION AREA (SPA) OR THE PRIMARY MANAGEMENT AREA (PMA).
 - SUBJECT PROPERTY IS TRIBUTARY TO LITTLE SENECA CREEK. THIS PORTION OF THE SENECA CREEK WATERSHED IS DESIGNATED AS USE CLASS III-P BY THE STATE OF MARYLAND.
 - SUBJECT PROPERTY IS LOCATED WITHIN ZONE "X" (AREAS OF 0.2% ANNUAL CHANCE FLOOD; AREAS OF 1% ANNUAL CHANCE FLOOD WITH AVERAGE DEPTHS OF LESS THAN 1 FOOT; OR DRAINAGE AREAS LESS THAN 1 SQUARE MILE) AS SHOWN ON FLOOD INSURANCE RATE MAP FOR MONTGOMERY COUNTY MARYLAND, MAP NUMBER 24031C0170D, EFFECTIVE DATE SEPTEMBER 29, 2006.
 - SUBJECT PROPERTY DOES NOT CONTAIN "WATERS OF THE UNITED STATES", WETLANDS, OR THEIR ASSOCIATED BUFFERS.
 - SUBJECT PROPERTY IS NOT IDENTIFIED IN THE LOCATIONAL ATLAS AND INDEX OF HISTORIC SITES.
 - SUBJECT PROPERTY IS NOT IDENTIFIED IN THE MASTER PLAN FOR HISTORIC PRESERVATION.
 - SUBJECT PROPERTY IS NOT LOCATED WITHIN AN INCORPORATED MUNICIPALITY.
 - SUBJECT PROPERTY IS NOT LOCATED WITHIN A SPECIAL TAXING DISTRICT.
 - SUBJECT PROPERTY IS LOCATED WITHIN THE NORTHWEST CLUSTER.
 - ALL PROPOSED UTILITIES SHOWN HEREON ARE CONCEPTUAL AND SUBJECT TO CHANGE. SEE APPROVED UTILITY DRAWINGS. (WASHINGTON SUBURBAN SANITARY COMMISSION, ALLEGHANY POWER, VERIZON, COMCAST AND WASHINGTON GAS)
 - PROPERTY LINES AND AREAS ARE SUBJECT TO ADJUSTMENT AT THE TIME OF SUBDIVISION RECORD PLAT COMPUTATION.
 - THE ULTIMATE BUILDING USE AND GROSS FLOOR AREA SPLIT BETWEEN RETAIL, COMMERCIAL, AND OFFICE MAY VARY AT THE TIME OF BUILDING PERMIT, SO LONG AS THE ENTIRE STRUCTURE IS BUILT WITHIN THE PORTION OF THE PROPERTY THAT IS SUBJECT TO THE RMX-2C ZONE DEVELOPMENT STANDARDS. THE TOTAL GROSS FLOOR AREA DOES NOT EXCEED 9,980 SQUARE FEET, THE TRAFFIC IMPACT IS EQUAL TO OR LESS THAN WHAT WAS STUDIED FOR APPROVAL OF THIS APPLICATION, AND THE USE IS ALLOWED IN THE RMX-2C ZONE UNDER STANDARD METHOD.
 - AT THE TIME OF BUILDING PERMIT THE INGRESS/EGRESS TRAFFIC CIRCULATION PATTERNS (INCLUDING THE RIGHT-OUT ONLY ACCESS ONTO WATERS ROAD EXTENDED) SHALL CONFORM TO THE PATTERN SHOWN ON THE APPROVED PRELIMINARY PLAN OF SUBDIVISION.
 - THE BUILDING LOCATIONS AND FOOTPRINTS SHOWN ON THIS PRELIMINARY PLAN OF SUBDIVISION ARE ILLUSTRATIVE EXCEPT: AT THE TIME OF BUILDING PERMIT REVIEW THE ORIENTATION OF THE BUILDING AND DRIVE-THROUGH COMPONENTS SHALL SUBSTANTIALLY CONFORM TO THE ORIENTATION SHOWN ON THE APPROVED PRELIMINARY PLAN OF SUBDIVISION. FINAL BUILDING LOCATIONS AND FOOTPRINTS WILL BE DETERMINED AT THE TIME OF BUILDING PERMIT. REFER TO THE DEVELOPMENT STANDARDS TABLE FOR SETBACKS, BUILDING RESTRICTION LINES, LOT COVERAGE, ETC. FOR EACH LOT. OTHER LIMITATIONS ON THE DEVELOPMENT OF THE SITE MAY BE INCLUDED IN THE CONDITIONS OF THE PLANNING BOARD APPROVAL.
 - THE APPLICANT MAY CONDUCT THE FOLLOWING SITE DEVELOPMENT WORK BEFORE PLAT RECORDATION: CLEARING, GRADING, PAVING, UTILITY WORK, INGRESS/EGRESS TO THE SITE TO, AND INCLUDING, THE DRIVEWAY TO THE MARTENS/BUCHANAN PROPERTY, WATERS ROAD REALIGNED, AND THE INTERSECTION WITH MD 118; THE PLAT MUST BE RECORDED BEFORE THE APPLICANT CAN OBTAIN A STRUCTURAL BUILDING PERMIT OR FINAL ACCEPTANCE OF ALL PUBLIC RIGHT-OF-WAY IMPROVEMENTS.
 - AS EXISTING RIGHT-OF-WAY, WATERS ROAD HAS NO ZONING DESIGNATION. UPON APPROVAL OF THE ABANDONMENT, AND AS PER CODE § 59-7.1.1.B, THE RIGHT-OF-WAY SHALL BE SUBJECT TO THE DEVELOPMENT STANDARDS OF THE RMX-2C ZONE IN EFFECT PRIOR TO OCTOBER 30, 2014.



OWNER/DEVELOPER
M SQ, LLC
1201 15TH STREET NW., SUITE 200
WASHINGTON, DC
CONTACT: MORTON TAUBMAN
PHONE: 202-347-9090
EMAIL: MTAUBMAN@HTLAW.COM

SURVEYOR'S CERTIFICATE
I hereby certify that the boundary shown hereon is correct based on existing deeds and plats recorded among the Land Records of Montgomery County, Maryland, subject to change upon completion of a final survey. Topography from sources noted hereon.

Date: _____
Macris, Hendricks, & Glascock, P.A.
By: Barry E. Hoyle
Professional Land Surveyor
Maryland Reg. No. 21135
Expiration Date: 6/21/15

TAX MAP EU 42 WSSC 227NW13

**PRELIMINARY PLAN OF SUBDIVISION
PLAN VIEW
CHESTNUT RIDGE
PARCELS P920 & P971
2ND ELECTION DISTRICT - MONTGOMERY COUNTY - MARYLAND**

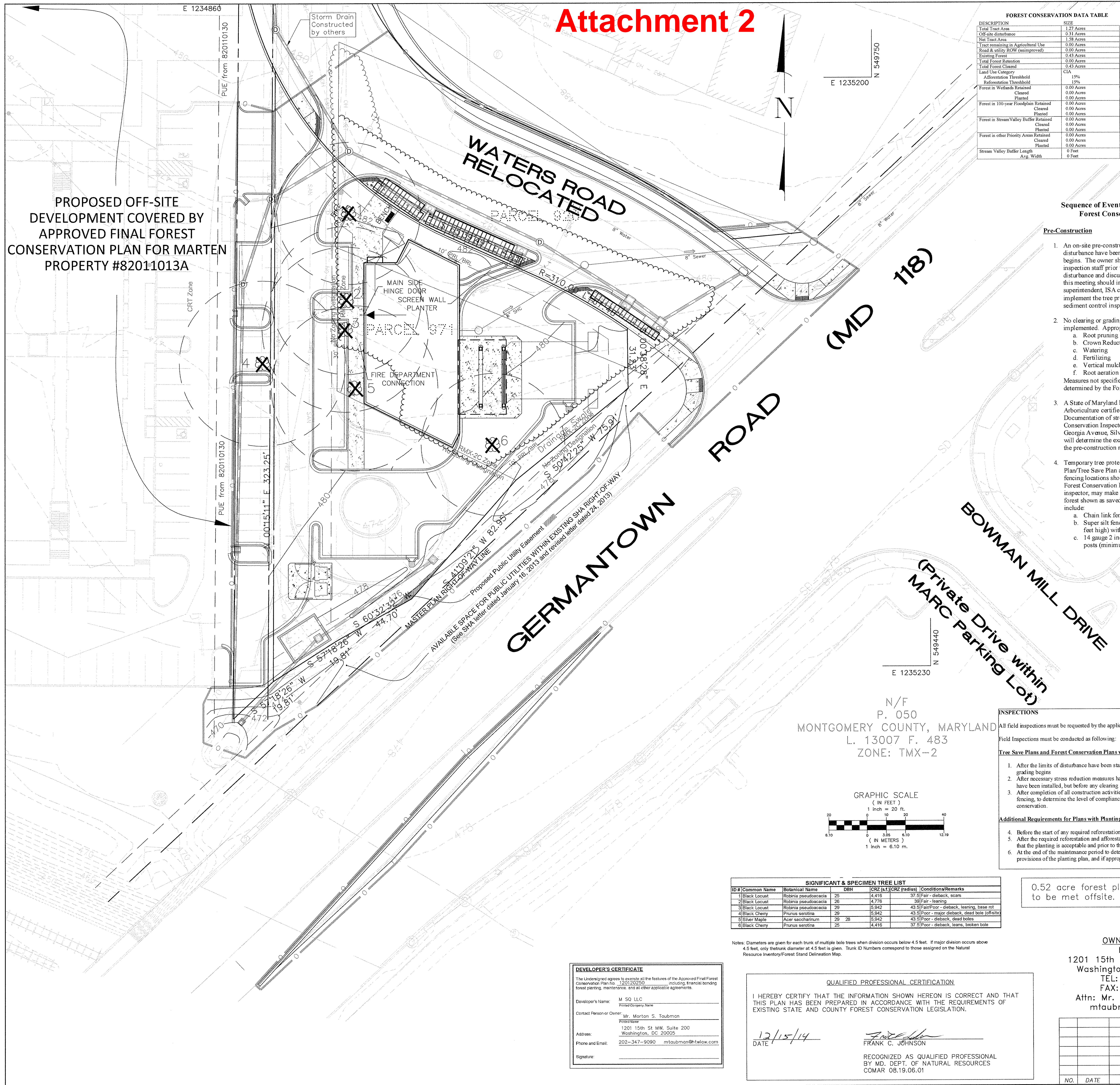
NO.	DATE	DESCRIPTION	BY
7	12/05/14	Revised per MNOPPC Comments	SEC
6	11/06/14	Revised per MAW Comments	SEC
5	10/17/14	Plan Re-Submittal	SEC
4	08/26/13	Revised per Fire Comments	SEC
3	08/01/13	Plan Re-Submittal	SEC
2	04/15/13	Revised per DRC Comments	SEC
1	02/21/13	Revised per M Comments	SEC

MHG Macris, Hendricks & Glascock, P.A.
Engineers ■ Planners
Landscape Architects ■ Surveyors

9220 Wightman Road, Suite 120
Montgomery Village, Maryland
20886-1279
Phone: 301.670.0840
Fax: 301.948.0693
www.mhgpa.com

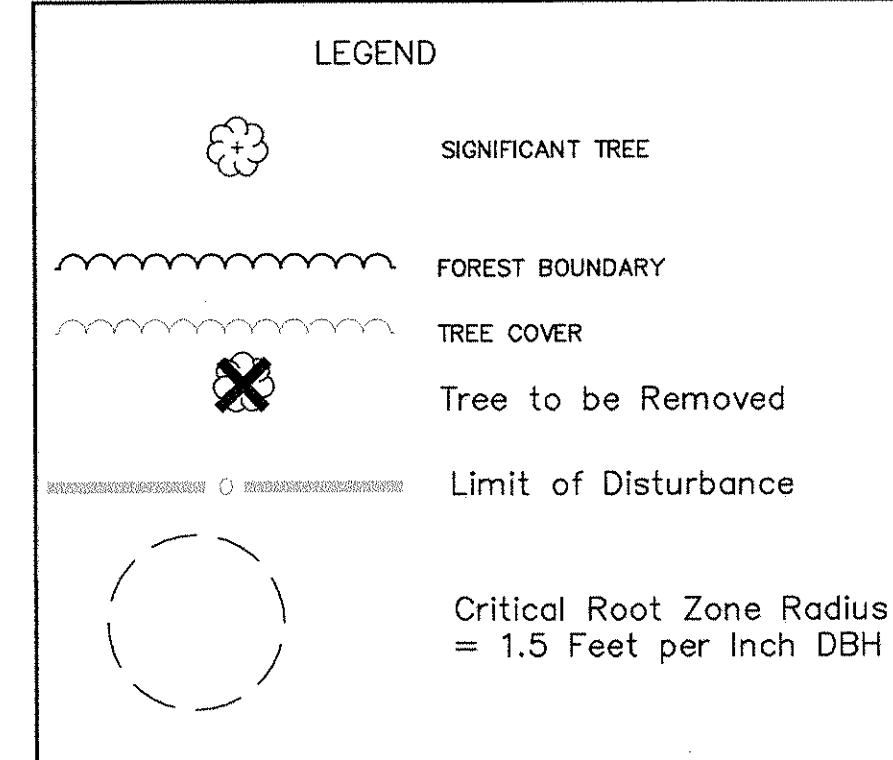
Proj. Mgr. Designer
MWP MWP
Date Scale
5-9-12 1"=30'
Project No. Sheet
2011.125.11 1 of 5

Attachment 2



PROPOSED OFF-SITE DEVELOPMENT COVERED BY APPROVED FINAL FOREST CONSERVATION PLAN FOR MARTEN PROPERTY #82011013A

DESCRIPTION	SIZE
Total Tract Area	1.27 Acres
Off-site disturbance	0.11 Acres
Net Tract Area	1.16 Acres
Tract remaining in Agricultural Use	0.00 Acres
Road & utility ROW (unimproved)	0.00 Acres
Existing Forest	0.43 Acres
Total Forest Retention	0.43 Acres
Total Forest Cleared	0.73 Acres
Land Use Category	15% CIA
Afforestation Threshold	15%
Reforestation Threshold	15%
Forest in Wetland Retained	0.00 Acres
Forest in Wetland Cleared	0.00 Acres
Forest in 100-year Floodplain Retained	0.00 Acres
Forest in 100-year Floodplain Cleared	0.00 Acres
Forest in Stream Valley Buffer Retained	0.00 Acres
Forest in Stream Valley Buffer Cleared	0.00 Acres
Forest in other Priority Areas Retained	0.00 Acres
Forest in other Priority Areas Cleared	0.00 Acres
Stream Valley Buffer Length	0 Feet
Avg. Width	0 Feet



VICINITY MAP
SCALE 1" = 2,000'
COPYRIGHT 1994 BY ADC OF ALEXANDRIA, INC.
PERMITTED USE NO. 20192133

Sequence of Events for Properties Required To Comply With Forest Conservation Plans and/or Tree Save Plans

Pre-Construction

1. An on-site pre-construction meeting shall be required after the limits of disturbance have been staked and flagged, but before any clearing or grading begins. The owner shall contact the Montgomery County Planning Department inspection staff prior to commencing construction to verify the limits of disturbance and discuss tree protection and tree care measures. The attendees at this meeting should include: developer's representative, construction superintendent, ISA certified arborist or MD license tree expert that will implement the tree protection measures, Forest Conservation Inspector, and DPS sediment control inspector.
2. No clearing or grading shall begin before stress-reduction measures have been implemented. Appropriate measures may include, but are not limited to:
 - a. Root pruning
 - b. Crown Reduction or pruning
 - c. Watering
 - d. Fertilizing
 - e. Vertical mulching
 - f. Root aeration matting
 Measures not specified on the forest conservation plan may be required as determined by the Forest Conservation Inspector in coordination with the arborist.
3. A State of Maryland licensed tree expert, or an International Society of Arboriculture certified arborist must perform all stress reduction measures. Documentation of stress reduction measures must be either observed by the Forest Conservation Inspector or sent to the Forest Conservation Inspector at 8787 Georgia Avenue, Silver Spring, MD 20910. The Forest Conservation Inspector will determine the exact method to convey the stress reduction measures during the pre-construction meeting.
4. Temporary tree protection devices shall be installed per the Forest Conservation Plan/Tree Save Plan and prior to any construction activities. Tree protection fencing locations should be staked prior to the pre-construction meeting. The Forest Conservation Inspector, in coordination with the DPS sediment control inspector, may make field adjustments to increase the survivability of trees and forest shown as saved on the approved plan. Temporary tree protect devices may include:
 - a. Chain link fence (four feet high)
 - b. Super silt fence with wire strung between the support poles (minimum 4 feet high) with high visibility flagging.
 - c. 14 gauge 2 inch x 4 inch welded wire fencing supported by steel T-bar posts (minimum 4 feet high) with high visibility flagging.

5. Temporary protection devices shall be maintained and installed by the contractor for the duration of construction project and must not be altered without prior approval from the Forest Conservation Inspector. No equipment, trucks, materials, or debris may be stored within the tree protection fence areas during the entire construction project. No vehicle or equipment access to the fenced area will be permitted. Tree protection shall not be removed without prior approval of Forest Conservation Inspector.
6. Forest retention area signs shall be installed as required by the Forest Conservation Inspector, or as shown approved plan.
7. Long-term protection devices will be installed per the Forest Conservation Plan/Tree Save Plan and attached details. Installation will occur at the appropriate time during the construction project. Refer to the plan drawing for long-term protection measures to be installed.

During Construction

8. Periodic inspections by Forest Conservation Inspector will occur during the construction project. Corrections and repairs to all tree protection devices, as determined by the Forest Conservation Inspector, must be made within the timeframe established by the Forest Conservation Inspector.

Post-Construction

9. After construction is completed, an inspection shall be requested. Corrective measures which may be required include:
 - a. Removal and replacement of dead and dying trees
 - b. Pruning of dead or declining limbs
 - c. Soil aeration
 - d. Fertilization
 - e. Watering
 - f. Wound repair
 - g. Clean up of retention areas
10. After inspection and completion of corrective measures have been undertaken, all temporary protection devices shall be removed from the site. Removal of tree protection devices that also operate for erosion and sediment control must be coordinated with both the Department of Permitting Services and the Forest Conservation Inspector. No additional grading, sodding, or burial may take place after the tree protection fencing is removed.

FOREST CONSERVATION WORKSHEET

NET TRACT AREA:	5-Aug-02
A. Total tract area	1.58
B. Land dedication areas (parks, county facility, etc.)	0.00
C. Land dedication for roads or utilities (not being constructed by this plan)	0.00
D. Area to remain in commercial agricultural production/use	0.00
E. Other deductions (specify)	0.00
F. Net Tract Area	1.58

LAND USE CATEGORY: (from Trees Technical Manual)	Input the number "1" under the appropriate land use, limit to only one entry.
ARA	0
MDR	0
IDA	0
HDR	0
MPD	0
CIA	1

G. Afforestation Threshold	15%	x F =	0.24
H. Conservation Threshold	15%	x F =	0.24

EXISTING FOREST COVER:	
I. Existing forest cover	0.43
J. Area of forest above afforestation threshold	0.19
K. Area of forest above conservation threshold	0.19

BREAK EVEN POINT:	
L. Forest retention above threshold with no mitigation	0.28
M. Clearing permitted without mitigation	0.15

PROPOSED FOREST CLEARING:	
N. Total area of forest to be cleared	0.43
O. Total area of forest to be retained	0.00

PLANTING REQUIREMENTS:	
P. Reforestation for clearing above conservation threshold	0.05
Q. Reforestation for clearing below conservation threshold	0.47
R. Credit for retention above conservation threshold	0.00
S. Total reforestation required	0.52
T. Total reforestation required	0.00
U. Credit for landscaping (may not exceed 20% of "S")	0.00
V. Total reforestation and afforestation required	0.52

INSPECTIONS
All field inspections must be requested by the application.
Field Inspections must be conducted as following:
Tree Save Plans and Forest Conservation Plans without Planting Requirements
1. After the limits of disturbance have been staked and flagged, but before any clearing or grading begins.
2. After necessary stress reduction measures have been completed and protection measures have been installed, but before any clearing and grading begin.
3. After completion of all construction activities, but before removal of tree protection fencing, to determine the level of compliance with the provision of the forest conservation.
Additional Requirements for Plans with Planting Requirements
4. Before the start of any required reforestation and afforestation planning.
5. After the required reforestation and afforestation planning has been completed to verify that the planting is acceptable and prior to the start the maintenance period.
6. At the end of the maintenance period to determine the level of compliance with the provisions of the planting plan, and if appropriate, release of the performance bond.

0.52 acre forest planting requirement to be met offsite.

ID#	Common Name	Botanical Name	DBH	CRZ (FT/CRZ radius)	Conditions/Remarks
1	Black Locust	Robinia pseudoacacia	25	4.418	37.5/Fair - dieback, scars
2	Black Locust	Robinia pseudoacacia	25	4.776	38/Fair - leaning
3	Black Locust	Robinia pseudoacacia	29	5.942	43.5/Poor - dieback, leaning, base rot
4	Black Cherry	Prunus serotina	29	5.942	43.5/Poor - major dieback, dead bole (offsite)
5	Silver Maple	Acer saccharinum	29	5.942	43.5/Poor - dieback, dead bole
6	Black Cherry	Prunus serotina	25	4.418	37.5/Poor - dieback, leans, broken bole

Notes: Diameters are given for each trunk of multiple bole trees when division occurs below 4.5 feet. If major division occurs above 4.5 feet, only the trunk diameter at 4.5 feet is given. Trunk ID Numbers correspond to those assigned on the Natural Resource Inventory/Forest Stand Delineation Map.

DEVELOPER'S CERTIFICATE
The Undersigned agrees to execute all the features of the Approved Final Forest Conservation Plan No. 202-02250, including financial bonding for tree planting, maintenance, and all other applicable agreements.
Developer's Name: M SQ LLC
Contact Person or Owner: Mr. Morton S. Taubman
Address: 1201 15th St NW, Suite 200, Washington, DC 20005
Phone and Email: 202-347-9090 mstaubman@htwlaw.com
Signature: _____

QUALIFIED PROFESSIONAL CERTIFICATION
I HEREBY CERTIFY THAT THE INFORMATION SHOWN HEREON IS CORRECT AND THAT THIS PLAN HAS BEEN PREPARED IN ACCORDANCE WITH THE REQUIREMENTS OF EXISTING STATE AND COUNTY FOREST CONSERVATION LEGISLATION.
DATE: 12/15/14
FRANK C. JOHNSON
RECOGNIZED AS QUALIFIED PROFESSIONAL BY MD. DEPT. OF NATURAL RESOURCES COMAR 08.19.06.01

OWNER/APPLICANT
M SQ, LLC
1201 15th Street NW, Suite 200
Washington, DC 20005-2842
TEL: 202.347.9090
FAX: 202.659.2679
Attn: Mr. Morton S. Taubman
mtaubman@htwlaw.com

TAX MAP EU 342 WSSC 227NW13

FINAL FOREST CONSERVATION PLAN
CHESTNUT RIDGE
PARCELS P920 & P971
2ND ELECTION DISTRICT - MONTGOMERY COUNTY - MARYLAND

MHG Macris, Hendricks & Glascock, P.A.
Engineers • Planners
Landscape Architects • Surveyors
9220 Wightman Road, Suite 120
Montgomery Village, Maryland
20886-1279
Phone 301.670.0840
Fax 301.948.0693
www.mhga.com

Proj. Mgr.	Designer
SEC	FCJ
Date	Scale
11-07-14	1"=20'
Project No.	Sheet
2011.125.11	1 of 1

NO.	DATE	DESCRIPTION	BY

2013 MAR 18 AM 11:1

FILED
LORETTA E. KNIGHT
CLERK'S OFFICE
MONTGOMERY CO. MD

Attachment 3

Resolution No.: 17-665
Introduced: February 12, 2013
Adopted: February 12, 2013

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By County Council

SUBJECT: DPWT Docket No. AB729
Abandonment – Portion of Waters Road
Town Sector, Germantown

Background

1. By letter dated February 3, 2012 from Miles & Stockbridge on behalf of its client, M SQ., LLC, the Applicant, a request was made for the County to abandon a portion of Waters Road in the Town Sector of Germantown. The portion of Waters Road right-of-way for which abandonment is sought adjoins property owned by the Applicant.
2. A Public Hearing to consider the abandonment proposal was held on May 16, 2012 by the designee of the County Executive.
3. Verizon objected unless an easement is granted for its facilities.
4. Washington Gas did not respond within 60 days, and therefore, concurrence is presumed.
5. Washington Suburban Sanitary Commission objected unless an easement is granted.
6. Neither PEPCO nor Allegheny Power responded within 60 days, and therefore, concurrence is presumed.
7. The Montgomery County Planning Board did not comment but rather requested additional time to consider the abandonment request with the Applicant's Preliminary Plan No. 120120250.
8. The Department of Transportation (DOT) recommended approval conditioned upon: a) the applicant must dedicate a new alignment for Waters Road to intersect with Germantown Road (MD 118) and build that segment to County standards; b) applicant must grant easements to the County for the maintenance of storm drainage facilities and any affected utilities and/or relocate these facilities and grant easements; c) applicant must pay fair market value for that portion of the right-of-way owned in fee by the County; and d) the abandonment is conditioned upon the Planning Board's approval of Preliminary Plan No. 120120250, Chestnut Ridge.

NO FEE

- 9. The Department of Fire and Rescue Services advised that Preliminary Plan No. 120120250 associated with the abandonment request must provide code compliant fire department vehicular access as approved by the Montgomery County Office of the Fire Marshal.
- 10. The Police Department did not respond within 60 days and therefore, concurrence is presumed.
- 11. The County Executive recommends approval of the proposed abandonment.


Action

The County Council for Montgomery County, Maryland, finds that a portion of Waters Road as described on the attached Schedules A and B prepared by MHG in the Town Sector of Germantown proposed for abandonment is no longer necessary for public use, pursuant to Section 49-63 of the Montgomery County Code, and approves the abandonment subject to the following conditions which must be satisfied at Applicant's sole cost and expense prior to the abandonment becoming effective:

- 1. The Applicant must dedicate a new alignment for Waters Road to intersect with MD 118, obtain a permit from Montgomery County Department of Permitting Services to build the road, and post a performance bond;
- 2. The abandonment would not be effective until condition 1, above, has been met;
- 3. The Applicant must grant easements to the County for maintenance of storm drainage facilities and public utilities affected, and/or relocate these facilities and grant easements;
- 4. The Applicant must pay fair market value for that portion of the right-of-way that the County owns in fee simple;
- 5. The Montgomery County Planning Board's approval of Preliminary Plan No. 120120250, Chestnut Ridge, and any conditions thereof;
- 6. The County Attorney must record among the Land Records of Montgomery County, Maryland, a copy of this Resolution approving the abandonment of the subject area; and
- 7. Any person aggrieved by the action of the Council for abandonment may appeal to the Circuit Court within 30 days after the date such action is taken by Council.

This is a correct copy of Council Action.

Linda M. Lauer
Linda M. Lauer, Clerk of the Council


 I HEREBY CERTIFY THAT THE FOREGOING
 IS A TRUE AND CORRECT COPY.
Linda M. Lauer
 CLERK OF THE COUNTY COUNCIL
 FOR MONTGOMERY COUNTY, MARYLAND

40330 000

SCHEDULE A DESCRIPTION OF ABANDONMENT OF PART OF WATERS ROAD

Being a parcel of land, located in Election District No. 2 of Montgomery County, Maryland, hereinafter described in, through, over and across the property acquired by Montgomery County, Maryland by Civil Action Case No. 40276 by document dated February 19, 1992 and recorded among the Land Records of Montgomery County, Maryland in Liber 10228 at Folio 584 and also part of existing Waters Road right-of-way and being more particularly described by Macris, Hendricks and Glascock, P.A. on January 13, 2012 in the Maryland State Plane NAD 83/91 datum as follows:

Beginning at a point on and 47.23 feet from the beginning of the 2nd or North 0°04'24" East, 108.74 foot line of a conveyance from Maurice Staquet and Monique Staquet to M SQ., LLC by deed dated September 25, 2009 and recorded among said Land Records in Liber 38114 at Folio 254; said point also being on the easterly right-of-way line of Waters Road, a variable width right-of-way, then binding with part of said 2nd line and the easterly limits of said Waters Road and all of the 2nd line of a conveyance from Maurice Staquet and Monique Staquet to M SQ., LLC by deed dated September 25, 2009 and recorded among said Land Records in Liber 38114 at Folio 250

1. South 00°06'44" West, 122.65 feet to a point at the end of the 1st or North 63°12'16" West, 104.52 foot line of said Liber 38114 at Folio 250; said point also being at the northerly corner of said Civil Action Case No. 40276, then binding with the northerly limits of said Civil Action Case No. 40276 and said 1st line
2. South 63°10'44" East, 104.52 feet to a point on the northerly right-of-way line of Germantown Road, Maryland Route 118 as delineated on SHA Plat No. 51179, then leaving said 1st line and the northerly limits of said Civil Action Case No. 40276 and binding with the northerly limits of said

Germantown Road, Maryland Route 118 the following three (3) courses and distances

3. South $41^{\circ}10'33''$ West, 82.95 feet to a point, then
4. South $60^{\circ}33'37''$ West, 44.70 feet to a point, then
5. South $57^{\circ}38'43''$ West, 36.07 feet to a point at the end of the 7th or South $0^{\circ}15'11''$ west, 482.03 foot line of a conveyance from Vernon Martens, Jr., Successor Trustee of the Martens Family Trust to Buchanan Pinkard Germantown, LLC and Village West, LLC by deed dated December 15, 2011 and recorded among said Land Records in Liber 42903 at Folio 337; said point also being on the westerly limits of said Waters Road, then binding with part of said 7th line and the westerly limits of said Waters Road
6. North $00^{\circ}49'36''$ West, 328.80 feet to a point, then leaving said 7th line and the westerly limits of said Waters Road to cross and include part of said Waters Road
7. 66.13 feet along the arc of curve deflecting to the left, with a radius of 185.00 feet and a chord bearing and distance of South $32^{\circ}52'56''$ East, 65.78 feet to the point of beginning; containing an area of 16,236 square feet or 0.37273 of an acre of land and as delineated on Schedule B attached hereto and made a part hereof by this reference.

Certified correct to the best of our professional knowledge, information and belief and this survey/description was performed by me or under my supervision and is in conformance with Title 9, Subtitle 13, Chapter 6, Section 12 of the Minimum Standards of Practice for Land Surveyors. If the seal and signature are not violet colored, the document is a copy that should be assumed to contain unauthorized alterations. The certification contained on this document does not apply to

M. A. Hendricks and Glascock, P.A.
 Jonathan A. Russell, Property Line Surveyor
 Md. Registration No. 350
 Expiration Date: 10/15/2012



SA_RWA-JR-2012-01-13.doc
 2011.125.11

CURVE	ARC LENGTH	RADIUS	DELTA ANGLE	CHORD BEARING	CHORD LENGTH
C1	66.13'	185.00'	20°28'54"	S 32°52'56" E	65.78'

N/F
**BUCHANAN PINKARD GERMANTOWN, LLC
 & VILLAGE WEST, LLC**
 L42903 F.337

7th or S 00°15'11" W, 482.03' LINE (L42903 F.337)
 N 00°49'36" W 328.7983'

WATERS RD. ABANDONMENT

16,236 Sq. Ft.

POINT OF BEGINNING

C1

WATERS ROAD

S 00°06'44" W 122.65' 47.23'

4th or S03°00'00"W, 183.35' LINE
 L.10228 F.584

2nd or N00°05'41"E 75.42'
 LINE L.38114 F.250

2nd or N00°04'24"E, 108.74' LINE
 L.38114 F.254

MONT. CO.
 CIVIL ACTION
 CASE No. 40276
 L.10228 F.584

3rd or N61°15'00"W, 182.05' LINE
 L.10228 F.584
 1st or N 63°12'16" W 104.52'
 L.38114 F.250

N/F
 M SQ., LLC
 L.38114 F.250

N/F
 M SQ., LLC
 L.38114 F.254

N/F
 MARK A. WILDMAN
 L.14756 F.334

GERMANTOWN ROAD
 MD RTE. No. 118
 SRC PLAT No. 51179

MSP NAD 83/913



SCHEDULE B
 PART OF
WATERS ROAD
ABANDONMENT

SCALE: 1" = 50' JANUARY, 2012
 MONTGOMERY COUNTY, MARYLAND



Macris, Hendricks & Glascock, P.A.

Engineers • Planners
 Landscape Architects • Surveyors

MONTGOMERY COUNTY CIRCUIT COURT (Land Records) [MSA CE 63-46292] LEK 46335, p. 0332


11113

11113

Attachment 4

SURVEYOR'S CERTIFICATE

I hereby certify to the best of my professional knowledge, information and belief that the information shown hereon is correct, that it is a subdivision of part of the property conveyed by Vernon E. Martens, Trustee of the Martens Family Trust Agreement to Buchanan Pinkard Germantown, LLC, a Maryland limited liability company and Village West, LLC, a Maryland limited liability company, by deed dated December 15, 2011 and recorded among the Land Records of Montgomery County, Maryland in Liber 42903 at Folio 337.

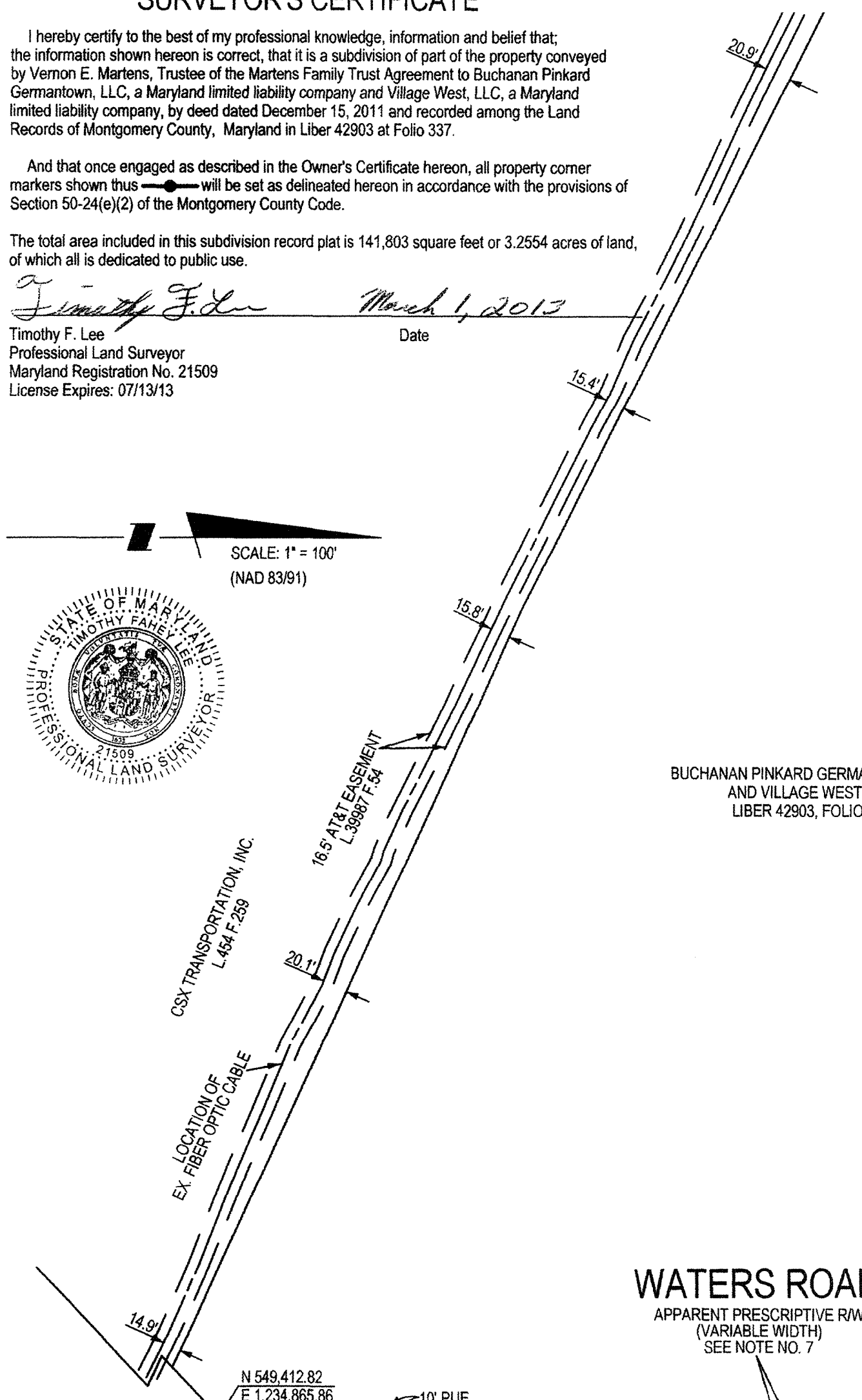
And that once engaged as described in the Owner's Certificate hereon, all property corner markers shown thus  will be set as delineated hereon in accordance with the provisions of Section 50-24(e)(2) of the Montgomery County Code.

The total area included in this subdivision record plat is 141,803 square feet or 3.2554 acres of land, of which all is dedicated to public use.

Timothy F. Lee March 1, 2013
Date

Timothy F. Lee
Professional Land Surveyor
Maryland Registration No. 21509
License Expires: 07/13/13

SCALE: 1" = 100'
(NAD 83/91)



BUCHANAN PINKARD GERMANTOWN, LLC
AND VILLAGE WEST, LLC
LIBER 42903, FOLIO 337

GERMANTOWN ROAD
(VARIABLE WIDTH R/W)
SHA PLAT NO. 51179

WATERS ROAD
APPARENT PRESCRIPTIVE R/W
(VARIABLE WIDTH)
SEE NOTE NO. 7

WATERFORD HILLS BOULEVARD
(110' R/W)

BUCHANAN PINKARD GERMANTOWN, LLC
AND VILLAGE WEST, LLC
LIBER 42903, FOLIO 337

PLAT NO. 24630

OWNER'S CERTIFICATE

We, the undersigned, owner(s) of the property described hereon, hereby adopt this plat of subdivision, dedicate the streets shown hereon to public use and grant to Montgomery County, Maryland, a temporary slope easement, fifteen (15) feet wide across the property, adjacent, contiguous, and parallel to all street right-of-way lines; said slope easement shall be extinguished at such time as the improvements on the abutting right-of-way have been completed and accepted for maintenance by Montgomery County, Maryland.

Further, we grant to the applicable utility companies, their respective successors, and assigns, an easement, in on and over the land herein identified as "PUBLIC UTILITY EASEMENT" and identified as PUE hereon with the terms and provisions of said grant being set forth in that certain document entitled "Declaration of Terms and Provisions for Public Utility Easements" recorded among the Land Records of Montgomery County, Maryland in Liber 3834 at Folio 457, which said terms incorporated herein by this reference.

As owners of this subdivision, we, our successors, agents and assigns will cause all property corners and any other monumentation to be set by a registered Maryland Surveyor in accordance with Section 50-24(e)(2) of the Montgomery County Code.

There are no recorded suits, actions at law, liens, leases, mortgages, or trusts affecting the property included in this plan of subdivision, except for certain deeds of trust, and all parties in interest, thereto have indicated there assent.

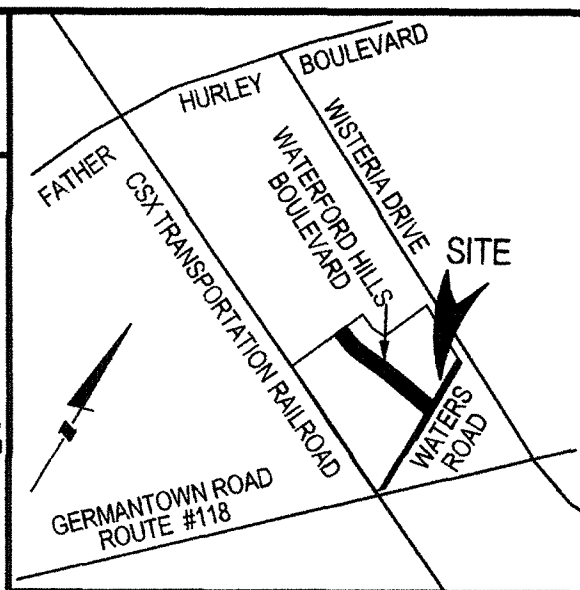
Village West, LLC
By: Buchanan Pinkard Residential GP, LLC
Its Sole Member
By: Buchanan Pinkard Residential, LLC
Its Sole Member

Brian Benningoff 7/7/13
Date Witness/Attest

Robert Pinkard 3/8/13
Date Witness/Attest

BUCHANAN PINKARD GERMANTOWN, LLC,
a Maryland limited liability company
Robert Pinkard 3/8/13
Date Witness/Attest

Robert Pinkard
Date Witness/Attest



VICINITY MAP
SCALE: 1" = 2000'

EAGLEBANK, a Maryland chartered bank
(L. 42903 F. 344 & L. 43371 F. 295)

John A. ...
Name: *John A. ...*
Title: *Vice President*
Date: *3/7/2013*

NVR, Inc., a Virginia corporation (L. 43371 F. 295)

David ...
Name: *David ...*
Title: *V.P.*

David ... 3/7/13
Date Witness

GPO VAMD, LLC (L. 42903 F. 344)

Joseph A. ...
Name: *Joseph A. ...*
Title: *Vice President*
Date: *3/4/13*

LOUDOUN COMMERCIAL TITLE, LLC
(L. 42903 F. 344 & L. 43371 F. 295)

Robert M. ...
Name: *Robert M. ...*
Title: *President*
Date: *3/8/13*

RECEIVED
AUG 08 2013
Clerk of the Circuit Court
Montgomery County, Md.

SUBDIVISION RECORD PLAT
STREET DEDICATION
WATERS ROAD AND
WATERFORD HILLS BOULEVARD
VILLAGE WEST
AT GERMANTOWN
TOWN CENTER

CLARKSBURG (2nd) ELECTION DISTRICT
MONTGOMERY COUNTY, MARYLAND
SCALE: 1" = 100' JANUARY 2012

P&P # 220121730

NOTES

- All terms, conditions, agreements, limitations, and requirements associated with any preliminary plan, site plan, project plan, or any other plan, allowing the development of the property, approved by the Montgomery County Planning Board are intended to survive and not be extinguished by the recordation of this plat, unless expressly contemplated by the plan as approved. The official files for any such Plan(s) are maintained by the Planning Board and are available for review during normal business hours.
- The property shown hereon is subject to the requirements of Chapter 22A Montgomery County Forest Conservation Law, including approval of the Final Forest Conservation Plan and appropriate Agreements Prior to issuance of the Sediment Control Permit.

NOTES: CONTINUED

- This subdivision record plat is not intended to show every matter affecting the ownership and/or use, nor every matter restricting the ownership and/or use of the property. The subdivision record plat is not intended to replace an examination of title or to depict or note all matters affecting title.
- W.S.S.C 200 scale reference: 227 NW 13
- This property appears on Montgomery County Tax Maps EU 341 and EU342.
- This plat is limited to the uses and conditions of amended Preliminary Plan No. 120110090 and Site Plan No. 820110130, entitled "Martens Property".
- No deed or plat could be found that established the right of way for the existing road and that the road is maintained by Montgomery County, Maryland.

Curve Table

Delta	Radius	Length	Tangent	Chord Bearing	Chord Dist.
1 05°16'03"	1,945.00'	178.81'	89.47'	N 82°43'21" W	178.75'
2 18°44'49"	555.00'	181.59'	91.62'	N 75°58'58" W	180.78'
3 18°44'49"	445.00'	145.60'	73.46'	S 75°58'58" E	144.95'
4 05°16'03"	2,055.00'	188.92'	94.53'	S 82°43'21" E	188.86'

SCALE: 1" = 100'

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
MONTGOMERY COUNTY PLANNING BOARD
APPROVED - May 2, 2013
James M. ... CHAIRMAN
Joseph B. ... SECRETARY
David ... TREASURER

MONTGOMERY COUNTY, MARYLAND
DEPARTMENT OF PERMITTING SERVICES
APPROVED - July 25, 2013
Diana ... DIRECTOR

RECORDED
PLAT



ROCKVILLE OFFICE
2 Research Place, Suite 100 Rockville, MD 20850 t.301.948.2750 f.301.948.9067
Engineering Planning Surveying Environmental Sciences
www.LSAssociates.net

M.N.C.P. & P.C. RECORD FILE NO. - 635-13

220121730/20110090/215188201213A RMX-2

P000235 MSA SSU 1249 30231 635-13

Attachment 5a



THE LAW OFFICE OF
Michele
Rosenfeld LLC

January 8, 2015

Mr. Ben Berbert
MNCPPC
8787 Georgia Avenue
Silver Spring MD 20910

RE: Preliminary Plan No. 120120250
Chestnut Ridge - Supplement to Statement of Justification

Dear Mr. Berbert:

This letter responds to your December 18, 2014 email request for additional information in support of the applicant's request that the Planning Board approve an abandonment of 7,189.74 +/- square feet of land previously dedicated to public use by Plat No. 24630 as required by the conditions of approval for the "Martens Property," now under construction.

Section 50-15(c) of the Subdivision Regulations empowers the Planning Board to "authorize the abandonment of all or part of [dedicated] land" provided that the land that is the subject of the abandonment request "has not been in public use." If approved, the abandonment is implemented through approval of a preliminary plan, *i.e.*, Preliminary Plan No. 120120250. The Planning Board's authority is derived from Section 49-68 of the County's Road Code ("Road Code"). See Exhibit One. Before the Board can approve an abandonment under this provision, the applicant must send notice of the proposed abandonment to a number of specified entities, which the applicant has done. Road Code 49-68(b); see Exhibit Two. The Planning Board must presume that if there is no response within 60 days that there is no objection to the proposed abandonment; no recipient of the notification of proposed abandonment filed any objection. Road Code § 49-68(d). The only response was a letter from Washington Gas indicating no objection to the abandonment. See Exhibit Three.

The land subject to the abandonment request (a) has never been in public use; (b) is not needed for future public use; and (c) is being abandoned with the support (among others) of Montgomery County's Department of Transportation to facilitate a land exchange that will allow the applicant to dedicate new right-of-way, to enable the realignment of Waters Road (a master-plan recommended realignment). Consequently, the new alignment "will not adversely affect the public interest" (Road Code § 49-68(e)) and moreover will further the public interest by implementing this master plan goal.

Sincerely,

A handwritten signature in blue ink, appearing to read "Michele Rosenfeld".

Michele Rosenfeld

Exhibits

Cc: Mr. Nick Dumais, Associate General Counsel

Exhibit One

Sec. 49-68. Abandonment of previously unused rights-of-way.

(a) If any right-of-way, except a right-of-way located entirely in a municipality which has independent zoning and subdivision authority, has not been in public use, one or more abutting property owners may petition the Planning Board to abandon the right-of-way. The petition must take the form of a preliminary plan for the subdivision of land, and must state the reason for the proposed abandonment and show any proposed relocation or realignment of the right-of-way, where applicable.

(b) The petitioner must notify:

- (1) each person with a recorded financial interest in land abutting the right-of-way;
- (2) the Department of Transportation;
- (3) the County Fire and Rescue Service;
- (4) the Police Department;
- (5) the Washington Suburban Sanitary Commission, when applicable;
- (6) each public utility operating in the area;
- (7) the governing body of each incorporated municipality or special taxing district which adjoins the right-of-way sought to be abandoned; and
- (8) Any grantee of a franchise under Article 2, if the franchise authorizes the grantee to install or use any facility in, over, or under the affected right-of-way.

(c) The Planning Board must solicit the comments of each notice recipient, and then promptly determine whether:

- (1) the right-of-way previously was improved or used for the purposes for which it was intended or dedicated; and
- (2) the right-of-way is necessary for anticipated public use.

(d) If a recipient of notice under subsection (b) does not respond within 60 days after the notice is sent, the Planning Board must presume that the recipient does not oppose the proposal.

(e) If the Planning Board finds that the right-of-way is not necessary for anticipated future public use or that an alternative alignment or location will not adversely affect the public interest, the Board may authorize the right-of-way to be abandoned by incorporating the abandoned land into an amended plat of subdivision. The amended subdivision plat must require the dedication of any land needed for rights-of-way, easements, and other public uses. (1982 L.M.C., ch. 46, § 4; 1989 L.M.C., ch. 28, § 1; 1996 L.M.C., ch. 4, § 1; [2007 L.M.C., ch. 8, § 1](#); [2008 L.M.C., ch. 5, § 1](#).)



THE LAW OFFICE OF
**Michele
Rosenfeld** LLC
October 4, 2013

Exhibit Two

Notice Of Preliminary Plan Seeking Abandonment Of A
PORTION OF WATERS ROAD, TOWN SECTOR, GERMANTOWN
Preliminary Plan No. 120120250

To Whom It May Concern:

M SQ., LLC ("Applicant") is seeking abandonment of a portion of Waters Road as part of Preliminary Plan No. 120120250. The portion of Waters Road proposed for abandonment adjoins property owned by the Applicant and is located north of MD Route 118, Germantown Road. The abandonment of the subject right-of-way will facilitate the relocation of Waters Road to connect directly to MD Route 118 as recommended by the 2009 Germantown Employment Area Sector Plan. The enclosed schematic identifies the portion of Waters Road that the Applicant seeks to have abandoned. Planning Board approval of Preliminary Plan No. 120120250 will finalize the abandonment of this segment of Waters Road as approved by the Montgomery County Council in Council Resolution No. 17-665 dated February 12, 2013.

Montgomery County law allows you sixty (60) days from the date of this letter to provide comments to the Montgomery County Planning Board. Please forward comments to Planning Board staff at:

Benjamin Berbert, Senior Planner Area 3
MNCPPC
8787 Georgia Avenue
Silver Spring MD 20910

Comments may also be emailed to Mr. Berbert at: benjamin.berbert@montgomeryplanning.org

With a copy to:

Michele Rosenfeld, Esq.
The Law Office of Michele Rosenfeld LLC
11913 Ambleside Drive
Potomac MD 20854-2107

Copy may be emailed to Ms. Rosenfeld at: rosenfeldlaw@mail.com

Sincerely,

A handwritten signature in blue ink that reads "Michele Rosenfeld".

Michele Rosenfeld

Enclosure

Cc list on following page 2 of 2

Mailing List:

Notice Of Preliminary Plan Seeking Abandonment Of A
PORTION OF WATERS ROAD, TOWN SECTOR, GERMANTOWN

Preliminary Plan No. 120120250

Benjamin Berbert, MNCPPC

8787 Georgia Avenue, Silver Spring MD 20910

Buchanan Pickard Germantown, LLC; Village West, LLC; Buchanan Pinkard Residential GP,
LLC: c/o Buchanan Partners, 9841 Washingtonian Boulevard, Suite 300, Gaithersburg
MD 20878

Eaglebank, 7815 Woodmont Avenue, Bethesda, MD 20814

NVR, Inc., 11700 Plaza America Drive, Suite 500, Reston VA 20190

GPO VAMD, LLC, c/o Great Point Investors LLC, Two Center Plaza, Suite 410, Boston MA
02108

Loudon Commercial Title, LLC , 108 South Street, SE, Suite 8, Leesburg VA 20175

M SQ., LLC

c/o Morton Taubman, Esq., 1201 15th Street NW, Suite 200, Washington DC 20005

Montgomery County Department of Transportation

Greg Leck, 100 Edison Park Drive, 4th Floor, Gaithersburg MD 20878

Mike Cassidy, 100 Edison Park Drive, 4th Floor, Gaithersburg MD 20878

Montgomery County Fire and Rescue Services

Marie LeBaw, 255 Rockville Pike, Second Floor, Rockville MD 20850

Montgomery County Police Department

J. Thomas Manger, Chief, Police Headquarters, 100 Edison Park Drive, Gaithersburg
MD 20878

Washington Suburban Sanitary Commission

Ahmad Karami, Unit Coordinator, Systems Infrastructure Group, 14501 Sweitzer Lane,
Laurel MD 20707-5902

Washington Gas Light Company

Allan Melliza, 6801 Industrial Road, Springfield VA 22151

Verizon Communications

Gabor Varsa, 13101 Columbia Pike, Silver Spring MD 20904

PEPCO

Mike Brown, 201 E. Gude Drive, Rockville MD 20850



December 6, 2013

Benjamin Berbert, Senior Planner Area 3
MNCPPC
8787 Georgia Avenue
Silver Spring, MD 20910

Re: No Conflict Letter for Portion of Waters Road Abandonment
No.: 120120250
WGL BCA 145820

Mr. Berbert,

Per your request by The Law Office of Michele Rosenfeld, the "Waters Road Abandonment" Plan, submitted with a Transmittal dated October 4, 2013, was evaluated to determine if the plans pose a conflict with existing or proposed natural gas facilities. Upon reviewing the request, it has been determined that there are no existing natural gas facilities located within the portion of Water Road to be abandoned.

If you decide to deviate from the provide schematic dated July 12, 2013, be sure to provide Washington Gas with an updated copy before performing any work. Be advised that updated plans will be subject to a full review. Please use caution when excavating near Washington Gas Facilities. Be sure to notify "MISS UTILITY" (811) at least 48 hours prior to the start of an excavation for confirmation. Should you have any questions regarding potential conflicts, questions, or concerns, do not hesitate to contact me via the methods listed herein.

Sincerely,

A handwritten signature in black ink that reads "Jeffrey Hicks".

Jeffrey Hicks, E.I.T

JHicks@Washgas.com

(703) 750-5972

Attached: Washington Gas Quad Map

With a copy sent to:
Michele Rosenfeld, Esq.
The Law Office of Michele Rosenfeld LLC.
11913 Ambleside Drive
Potomac MD, 20854-2107



Notice Of Preliminary Plan Seeking Abandonment Of A
PORTION OF WATERS ROAD, TOWN SECTOR, GERMANTOWN

Preliminary Plan No. 120120250

To Whom It May Concern:

M SQ., LLC ("Applicant") is seeking abandonment of a portion of Waters Road as part of Preliminary Plan No. 120120250. The portion of Waters Road proposed for abandonment adjoins property owned by the Applicant and is located north of MD Route 118, Germantown Road. The abandonment of the subject right-of-way will facilitate the relocation of Waters Road to connect directly to MD Route 118 as recommended by the 2009 Germantown Employment Area Sector Plan. The enclosed schematic identifies the portion of Waters Road that the Applicant seeks to have abandoned. Planning Board approval of Preliminary Plan No. 120120250 will finalize the abandonment of this segment of Waters Road as approved by the Montgomery County Council in Council Resolution No. 17-665 dated February 12, 2013.

Montgomery County law allows you sixty (60) days from the date of this letter to provide comments to the Montgomery County Planning Board. Please forward comments to Planning Board staff at:

Benjamin Berbert, Senior Planner Area 3
MNCPPC

8787 Georgia Avenue
Silver Spring MD 20910

Comments may also be emailed to Mr. Berbert at: benjamin.berbert@montgomeryplanning.org

With a copy to:

Michele Rosenfeld, Esq.
The Law Office of Michele Rosenfeld LLC
11913 Ambleside Drive
Potomac MD 20854-2107

Copy may be emailed to Ms. Rosenfeld at: rosenfeldlaw@mail.com

Sincerely,

Michele Rosenfeld

Enclosure

Cc list on following page 2 of 2

Mailing List:

Notice Of Preliminary Plan Seeking Abandonment Of A
PORTION OF WATERS ROAD, TOWN SECTOR, GERMANTOWN

Preliminary Plan No. 120120250

Benjamin Berbert, MNCPPC
8787 Georgia Avenue, Silver Spring MD 20910

Buchanan Pickard Germantown, LLC; Village West, LLC; Buchanan Pinkard Residential GP,
LLC: c/o Buchanan Partners, 9841 Washingtonian Boulevard, Suite 300, Gaithersburg
MD 20878

Eaglebank, 7815 Woodmont Avenue, Bethesda, MD 20814

NVR, Inc., 11700 Plaza America Drive, Suite 500, Reston VA 20190

GPO VAMD, LLC, c/o Great Point Investors LLC, Two Center Plaza, Suite 410, Boston MA
02108

Loudon Commercial Title, LLC , 108 South Street, SE, Suite 8, Leesburg VA 20175

M SQ., LLC
c/o Morton Taubman, Esq., 1201 15th Street NW, Suite 200, Washington DC 20005

Montgomery County Department of Transportation
Greg Leck, 100 Edison Park Drive, 4th Floor, Gaithersburg MD 20878
Mike Cassidy, 100 Edison Park Drive, 4th Floor, Gaithersburg MD 20878

Montgomery County Fire and Rescue Services
Marie LeBaw, 255 Rockville Pike, Second Floor, Rockville MD 20850

Montgomery County Police Department
J. Thomas Manger, Chief, Police Headquarters, 100 Edison Park Drive, Gaithersburg
MD 20878

Washington Suburban Sanitary Commission
Ahmad Karami, Unit Coordinator, Systems Infrastructure Group, 14501 Sweitzer Lane,
Laurel MD 20707-5902

Washington Gas Light Company
Allan Melliza, 6801 Industrial Road, Springfield VA 22151

Verizon Communications
Gabor Varsa, 13101 Columbia Pike, Silver Spring MD 20904

PEPCO
Mike Brown, 201 E. Gude Drive, Rockville MD 20850

Attachment 6



Washington Suburban Sanitary Commission

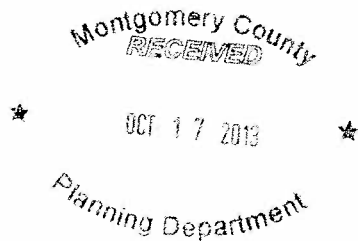
14501 Sweitzer Lane • Laurel, Maryland 20707-5901

COMMISSIONERS
Gene W. Counihan, Chair
Chris Lawson, Vice Chair
Mary Hopkins-Navies
Antonio L. Jones
Hon. Adrienne A. Mandel
Dr. Roscoe M. Moore, Jr.

GENERAL MANAGER
Jerry N. Johnson

October 10, 2013

Mr. Benjamin Berbert
Senior Planner Area 3
MNCPPC
8787 Georgia Avenue
Silver Spring, Maryland 20910



Re: RMS File No. 14RMS7812A
Proposed Abandonment of a Portion of
Waters Road, Town Sector – Germantown

Dear Mr. Berbert:

This is in response to your letter dated October 4, 2013, wherein you request that the WSSC consent to the above referenced abandonment.

The Commission has examined its records and finds that it has no facilities within the proposed abandonment area. Therefore, the Commission will consent to the abandonment of that portion of land subject to the conditions imposed in this letter.

This consent is valid for 180 days from the date hereof and is void and of no further legal effect thereafter unless the Maryland-National Capitol Park and Planning Commission has formally approved the abandonment prior to its expiration. The Commission reserves the right to withdraw this consent at any time prior to the expiration of the 180 days or the formal abandonment by the Park and Planning Commission.

Finally, please note that any assessments, including house connection charges, of abutting property are not affected by this action. Should you have any questions or require additional information, you may contact me directly at (301) 206-8668 or by e-mail at DAbleit@wsscwater.com.

Sincerely,

A handwritten signature in black ink that reads 'Douglas W. Ableiter'.

Douglas W. Ableiter
Project Manager I
Relocations Unit
Infrastructure Systems Group

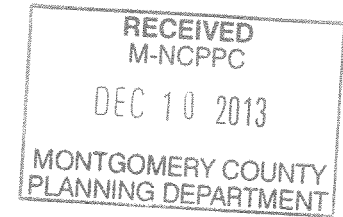
Enclosure



6801 Industrial Road
Springfield, Virginia 22151

December 6, 2013

Benjamin Berbert, Senior Planner Area 3
MNCPPC
8787 Georgia Avenue
Silver Spring, MD 20910



Re: No Conflict Letter for Portion of Waters Road Abandonment
No.: 120120250
WGL BCA 145820

Mr. Berbert,

Per your request by The Law Office of Michele Rosenfeld, the "Waters Road Abandonment" Plan, submitted with a Transmittal dated October 4, 2013, was evaluated to determine if the plans pose a conflict with existing or proposed natural gas facilities. Upon reviewing the request, it has been determined that there are no existing natural gas facilities located within the portion of Water Road to be abandoned.

If you decide to deviate from the provide schematic dated July 12, 2013, be sure to provide Washington Gas with an updated copy before performing any work. Be advised that updated plans will be subject to a full review. Please use caution when excavating near Washington Gas Facilities. Be sure to notify "MISS UTILITY" (811) at least 48 hours prior to the start of an excavation for confirmation. Should you have any questions regarding potential conflicts, questions, or concerns, do not hesitate to contact me via the methods listed herein.

Sincerely,

A handwritten signature in black ink that reads "Jeffrey Hicks".

Jeffrey Hicks, E.I.T
JHicks@Washgas.com
(703) 750-5972

Attached: Washington Gas Quad Map

With a copy sent to:
Michele Rosenfeld, Esq.
The Law Office of Michele Rosenfeld LLC.
11913 Ambleside Drive
Potomac MD, 20854-2107

Attachment 7



DEPARTMENT OF TRANSPORTATION

Isiah Leggett
County Executive

Arthur Holmes, Jr.
Director

September 12, 2014

Mr. Benjamin Berbert, Senior Planner
Area 3 Planning Division
The Maryland-National Capital
Park & Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910-3760

Ben:
Dear Mr. Berbert:

RE: Preliminary Plan No. 120120250
Chestnut Ridge

We have completed our review of the revised preliminary plan dated August 1, 2013. An earlier version of this plan was reviewed by the Development Review Committee at its meeting on July 9, 2012. We regret that completion of this plan review has been delayed due to issues related to the abandonment of a portion of existing Waters Road, site access and frontage improvements, as well as questions about the Traffic Impact Studies. We recommend approval of the plan subject to the following comments:

All Planning Board Opinions relating to this plan or any subsequent revision, project plans or site plans should be submitted to the Department of Permitting Services in the package for record plats, storm drain, grading or paving plans, or application for access permit. Include this letter and all other correspondence from this department.

1. Necessary dedication of Germantown Road (MD 118) in accordance with the master plan.
2. Full width dedication and construction of Waters Road from the intersection with Germantown Road (MD118) through the horizontal curve (approximately centerline station 4+00) as a business district road in accordance with the master plan. To accommodate the seven (7) foot wide sidewalks, the master planned signed/shared roadway/on-road bike path, and four travel lanes (two southbound approach, two northbound departure – including an exclusive northbound left turn into the site) lanes within a seventy (70) foot wide right-of-way, we recommend modifying the business district street MC-2003.02 as follows:
 - o Twelve (12) foot lawn panels on each side of the right-to-way to ultimately provide one (1) foot wide maintenance panels, seven (7) foot wide concrete sidewalks, and four (4) foot lawn panels with minor species street trees on each side of the right-of-way. NOTE: For this project, we recommend deferring construction of the sidewalk on the east side of Waters Road until development of the adjacent Wildman property due to pedestrian safety concerns.
 - o Forty eight (48) foot pavement section to provide two-fourteen (14) foot curb lanes and two-ten foot (10) foot travel lanes in each direction.

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

3. To accommodate the aforementioned recommended typical section, a Public Improvements Easement will be necessary along the section of Waters Road/Germantown Road (MD118) through the horizontal curve, in order to accommodate the required one (1) foot wide maintenance strip.

Since the one (1) foot wide maintenance strip will not necessitate any permanent improvements, the currently proposed ten (10) foot wide Public Utilities Easement and the proposed ten (10) foot wide Building Restriction line will not be affected by this proposal. Therefore, the proposed ten (10) foot wide Public Utilities Easement can overlap the one (1) foot wide maintenance strip.

The applicant will need to execute a Declaration of Public Improvements Easement document in order to create the Public Improvements Easement. That document is to be recorded in the Land Records of Montgomery County, with the liber and folio referenced on the record plat.

4. We support providing silva cells as stormwater management for relocated Waters Road within the public right-of-way.
5. Grant necessary slope and drainage easements. Slope easements are to be determined by study or set at the building restriction line.
6. Grade establishments for all new public streets and/or pedestrian paths must be approved prior to submission of the record plat.
7. Size storm drain easement(s) prior to record plat. No fences will be allowed within the storm drain easement(s) without a revocable permit from the Department of Permitting Services and a recorded Maintenance and Liability Agreement.
8. We remain concerned about the sight distances for the proposed southern entrance to the Wildman Property (approximately centerline station 3+00). We recommend this detail be deferred to the permit stage. The applicant will need to demonstrate (after rough grading of Waters Road) that they will be able to achieve the minimum two hundred (200) feet of visibility in each direction to implement construction of the proposed entrance.
9. The geometry for the southern driveway to this site is to be designed for PASSENGER VEHICLES EXIT ONLY. ON-SITE TRUCK, ENTRANCES, CIRCULATION AND EXITS MUST BE DIRECTED TO THE NORTHERN ENTRANCE.

At the permit stage, the Signs and Markings Plan should reflect posting of the following signs along Waters Road Extended:

- NO LEFT TURN (R3-2) on northbound Waters Road approaching the southern driveway.
- NO LEFT TURN (R3-2) + NO TRUCKS OVER 7000 LBS GVW exiting the site on the southern driveway.
- NO RIGHT TURN (R3-1) on southern Waters Road approaching southern driveway.
- NO STOPPING on both sides of Waters Road between MD 118 and the northern horizontal curve (approximately centerline station 3+00).

10. In accordance with Section 49-33(e) of the Montgomery County Code, sidewalks are required to serve the proposed subdivision. Sidewalks are to be provided on both sides of the proposed public streets excluding the area that fronts the Wildman property east of the Chestnut Ridge entrance as sidewalk will not be installed until the time of the Wildman property redevelopment.
11. The parking layout plan will be reviewed by the Department of Permitting Services at the site plan or building permit stage, whichever comes first. To facilitate their review, that plan should delineate and dimension the proposed on-site travel lanes, parking spaces, curb radii, handicap parking spaces and access facilities, and sidewalks. The applicant may wish to contact Mr. Sam Farhadi of that Department at (240) 777-6333 to discuss the parking lot design.
12. Curb radii for intersection type driveways should be sufficient to accommodate the turning movements of the largest vehicle expected to frequent the site. In order to ensure adequate driveway capacity, particularly egress volume, provide a minimum fifty (50) foot tangent section before encountering cross traffic on-site, for all driveways.
13. Truck loading space requirements to be determined in accordance with the Executive Branch's "Off-Street Loading Space" policy.

On the certified preliminary plan, delineate the location and dimensions of any proposed truck loading and/or dumpster spaces.
14. Provide on-site handicap access facilities, parking spaces, ramps, etc. in accordance with the Americans with Disabilities Act.
15. Where perpendicular parking spaces border a sidewalk, a two (2) foot vehicle overhang is assumed. The applicant should either provide a seven (7) foot wide sidewalk or wheel stops within those parking spaces.
16. Prior to MCDPS approval of the record plat, the applicant must demonstrate satisfaction of the conditions of the County Council Resolution No. 17-665 (Abandonment – Portion of Waters Road).
17. Access and improvements along Germantown Road (MD 118) as required by the Maryland State Highway Administration.
18. Relocation of utilities along existing roads to accommodate the required roadway improvements shall be the responsibility of the applicant.
19. If the proposed development will alter any existing street lights, signing, and/or pavement markings, please contact Mr. Dan Sanayi of our Traffic Engineering Design and Operations Section at (240) 777-2190 for proper executing procedures. All costs associated with such relocations shall be the responsibility of the applicant.

20. If the proposed development will alter or impact any existing County maintained transportation system management component (i.e., traffic signals, signal poles, handboxes, surveillance cameras, etc.) or communication component (i.e., traffic signal interconnect, fiber optic lines, etc.), please contact Mr. Bruce Mangum of our Transportation Systems Engineering Team at (240) 777-2190 for proper executing procedures. All costs associated with such relocations shall be the responsibility of the applicant.

21. Trees in the County rights of way – spacing and species to be in accordance with the applicable MCDOT standards. Tree planning within the public right of way must be coordinated with the Department of Permitting Services Right-of-Way Plan Review Section.

As previously noted in comment no. 2, we recommend installing minor species street trees within a four (4) foot lawn panel due to context sensitive goals and right-of-way space limitations.

22. 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. Street grading, paving, curbs and gutters, concrete sidewalk and handicap ramps, storm drainage and appurtenances, and street trees along Waters Road as a modified business district road (MC-2005.02) as previously described in comment no. 2.

NOTE: Although we are not recommending construction of a concrete sidewalk on the east side of Waters Road at this time, we recommend the right-of-way be rough graded to facilitate construction of a sidewalk when the adjacent Wildman property subdivides. Construction of a temporary retaining along the east right-of-way line may be necessary to avoid grading into the Wildman property.

NOTE: the Public Utilities Easement is to be graded on a side slope not to exceed 4:1.

- B. Additional road improvements may be required as a result of the traffic study which is required and currently under agency reviews.
- C. Permanent monuments and property line markers, as required by Section 50-24(e) of the Subdivision Regulations.
- D. Erosion and sediment control measures as required by Section 50-35(j) and on-site stormwater management where applicable shall be provided by the Developer (at no cost to the County) at such locations deemed necessary by the Department of Permitting Services (DPS) and will comply with their specifications. Erosion and sediment control measures are to be built prior to construction of streets, houses and/or site grading and are to remain in operation (including maintenance) as long as deemed necessary by the DPS.
- E. Developer shall ensure final and proper completion and installation of all utility lines underground, for all new road construction.
- F. Developer shall provide street lights in accordance with the specifications, requirements, and standards prescribed by the MCDOT Division of Traffic Engineering and Operations.

Mr. Benjamin Berbert
Preliminary Plan No. 120120250
September 12, 2014
Page 5

Thank you for the opportunity to review this preliminary plan. If you have any questions or comments regarding this letter, please contact Ms. Monet L. Lea, our Development Review Area Engineer for this project at monet.lea@montgomerycountymd.gov or (240) 777-2197.

Sincerely,



Gregory M. Leck, Manager
Development Review Team

M:\correspondence\FY15\Traffic\active\120120250, Chestnut Ridge, MCDOT plan review ltr-Final.doc

cc: Morton Taubman
Mark Wildman
Stephen Crum Macris, Hendricks & Glascock
Stephen Orens Miles & Stockbridge
Russell Gestl Buchanan Partners
Scott Newill MSHA AMD
Preliminary Plan folder
Preliminary Plan letters notebook

cc-e: Richard Weaver M-NCPPC Area 3
Edward Axler M-NCPPC Area 3
John Carter M-NCPPC Area 3
Catherine Conlon M-NCPPC DARC
Atiq Panjshiri MCDPS RWPR
Sam Farhadi MCDPS RWPR
Michael Cassedy MCDOT DTE
Bruce Mangum MCDOT DTEO
Fred Lees MCDOT DTEO
Mark Terry MCDOT DTEO
Monet L. Lea MCDOT DTEO



DEPARTMENT OF TRANSPORTATION

Isiah Leggett
County Executive

January 21, 2015

Al R. Roshdieh
Acting Director

Mr. Benjamin Berbert, Senior Planner
Area 3 Planning Division
The Maryland-National Capital
Park & Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910-3760

RE: Preliminary Plan No. 120120250
Chestnut Ridge

AMENDMENT LETTER

Ben:
Dear Mr. Berbert:

This letter is to address several technical inaccuracies contained in our September 12, 2014 review comments letter, correct a previously undetected issue regarding site layout and access, and amend the recommended typical section of Waters Road to reflect the impacts of the recently adopted Bill 33-13.

1. All previous comments in our September 12, 2014 letter remain applicable unless modified below.
2. Comment no. 2 should be amended to reflect having the applicants dedicate a combination of right-of-way and Public Improvements Easements for the extension of relocated Waters Road between Germantown Road (MD118) and the proposed connection with existing Waters Road. The applicants astutely noted that our original comment requires dedication of a seventy (70) foot wide right-of-way – which technically is not feasible at this time.

We recommend the relocated Waters Road right-of-way dedication recommendation in comment no. 2 be amended to reflect:

- Dedication of a seventy (70) foot wide right-of-way between Germantown Road (MD118) and approximately centerline station 2+50, tapering back to the existing right-of-way.
- Grant a Public Improvements Easement along the east side of that roadway, through the limits of the proposed road realignment and connection, as necessary to achieve a seventy (70) foot wide right-of-way. This Public Improvements Easement is intended to be temporary – to be replaced by right-of-way dedication when the Wildman property is subdivided at a future date.

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

Mr. Benjamin Berbert
Preliminary Plan No. 120120250
January 21, 2015
Page two

3. Bill No. 33-13 ("Streets and Roads – Urban Road Standards and Pedestrian Safety Improvements) became effective December 3, 2014. The last section of that Bill (lines 202-204) contains the following statements: *"The Council declares that this legislation is necessary for the immediate protection of the public interest. This Act takes effect on the date when it becomes law."*

As this site is located within the limits of the urban area of the Germantown Town Center, the project is now subject to that legislation. Accordingly, we recommend the typical section dimensions for relocated Waters Road discussed in comment no. 2 be amended to read:

- Total pavement width = forty two (42) feet: two – ten (10) center lanes plus two – eleven (11) foot curb lanes
 - Two six (6) foot wide lawn panels with minor species street trees
 - Seven foot wide sidewalk panels (NOTE: for pedestrian safety concerns and our previous comment no. 10, we do not recommend constructing the sidewalk at this time along the east side of the road; that sidewalk should be built and extended when the Wildman property redevelops)
 - Two one (1) foot wide maintenance panels
4. Under the typical section recommended above, comment no. 3 of our previous letter is no longer necessary; it is hereby deleted.
 5. Comment no. 12 of our previous letter required the applicant to revise their on-site layout to *"... provide a minimum fifty (50) foot tangent section before encountering cross traffic on-site, for all driveways."* The applicants subsequently prepared several concept plans to address this comment, which would have inadvertently impacted the previously approved Fire Department Access Plan and affected pedestrian movements through the introduction of a new driveway apron on relocated Waters Road. After further review, it was decided that the original plan was preferable to the amended plans. As a result, we hereby delete the recommendation for a minimum fifty (50) foot tangent section (from the proposed driveway apron on relocated Waters Road) and support Planning Board approval of the original access design.

Thank you for your consideration of these amended recommendations. If you have any questions regarding these amended comments, please contact me at your earliest convenience.

Sincerely,



Gregory M. Leck, Manager
Development Review Team

M:/corres/FY15/Traffic/Active/120120250, Chestnut Ridge, 012115 MCDOT Amendment ltr.docx

CC: Morton Taubman MSQ LLC
Mark Wildman
Russell Gestl Buchanan Partners
Stephen Crum Macris, Hendricks & Glascock
Stephen Orens Miles & Stockbridge
John Carter M-NCPPC Area 3
Michael Garcia M-NCPPC Area 3
Scott Newill MSHA AMD
Preliminary Plan Folder
Preliminary Plan letters notebook

CC-E: Richard Weaver M-NCPPC Area 3
Marie LaBaw MCFRS
Atiq Panjshiri MCDPS RWPR
Michael Cassedy MCDOT PAS
Fred Lees MCDOT DTEO
Khursheed Bilgrami MCDOT DTEO
Mark Terry MCDOT DTEO
Deepak Somarajan MCDOT DTEO

Martin O'Malley, *Governor*
Anthony G. Brown, *Lt. Governor*



James T. Smith, Jr., *Secretary*
Melinda B. Peters, *Administrator*

September 12, 2014

Re: Montgomery County
MD 118
Chestnut Ridge
SHA Tracking No. 12APMO036XX
Traffic Impact Study
Mile Point 5.07

Mr. Ed Axler
Area 2 Planning Division
Maryland-National Capital Park and Planning Commission (M-NCPPC)
Montgomery County Planning Department
8787 Georgia Avenue
Silver Spring, Maryland 20910

Dear Mr. Axler:

Thank you for the opportunity to review the Traffic Impact Study (TIS) prepared by Wells and Associates, Inc., dated July 10, 2014, for the proposed Chestnut Ridge Property in Montgomery County, Maryland. The Maryland State Highway Administration (SHA) review is complete and we are pleased to respond.

The review determined the major report findings and the SHA comments and conclusions are as follows:

- Access to the 4,980 square foot office and 5,000 square foot fast-food restaurant space is proposed via one (1) full-movement access and one (1) right-out only access along the Waters Road extension to Germantown Road (MD 118).
- The study analyzed the following intersections under existing, background, and future conditions:
 - Wisteria Drive intersection with Waters Road
 - MD 118 intersection with Wisteria Drive
 - MD 118 intersection with Bowman Mill Drive
 - MD 118 intersection with Dawson Farm Road
- The report concludes that the study intersections will continue to operate at acceptable levels of service under future conditions.

Based on the information provided, please address the following comments in a point-by-point response:

My telephone number/toll-free number is _____
Maryland Relay Service for Impaired Hearing or Speech 1.800.735.2258 Statewide Toll Free

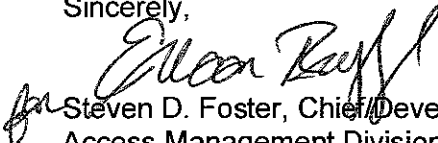
1. The response to Comment #2 on page A-2 incorrectly states that 36,831 of 43,483 vehicles to and from the north utilizing Father Hurley Boulevard represent 44%; it is actually 83%. Please revise the TIS accordingly.
2. Please correct Pages E-5 and F-5 (the existing and future CLV diagrams) for Bowman Mill Dr, which is labeled Bowman Road. Please update the diagrams and report as necessary.
3. Based on our assessment, we concur that a lengthened northbound left-turn bay is feasible. Please note that the bridge is 65' upstream from the end of the existing taper and may constrain the design.
4. For the proposed new signal at MD 118 and Waters Road, the permissive/protective phase coded in Synchro for the EB Waters Road left turning movement should be permissive phase only. Protected phase is not feasible for shared left/ thru lane. Please update the model, analysis, and report as necessary.
5. It appears that the proposed traffic signal at MD 118 and Waters Road/Bowman Mill Drive will meet warrants 1B, 2, 3A and 3B based on projected volumes. The developer will be required to provide a signal warrant analysis at the 75% phase of occupancy and at 100% build out and occupancy or at another milestone that SHA may determine is needed. The Developer shall be responsible for all costs associated with the design, construction, utility relocations, providing energy and maintenance of the signal. A condition of the access permit will require a surety to complete the signal warrant analysis and signal work to be held by SHA until work is completed. SHA will determine at a later date whether this intersection will need to be signalized.
6. The pedestrian timings seem adequate based on the Future Proposed Synchro signal timings. It should be noted that Montgomery County includes the all-red time in the time net crossing time required for pedestrians; this was not considered on Table 3-3. Please update the analysis and report as necessary.
7. In Figure 2-2, the revised Existing balanced volumes have a large difference in NB MD 118 volumes between the Dawson Farm Road and Bowman Mill Drive intersections. For example, the PM peak hour has a 275 vehicle difference (28%). The AM peak hour is approximately 10%. The Dawson Farm Road intersection volumes should be adjusted to be more in balance with the Bowman Mill Drive and Wisteria Drive intersections. Please update the analysis and report as necessary.
8. It is unclear if the Total traffic volumes account for any traffic that may divert to Waters Road via the inter-parcel connection located on the west side of the development. Please clarify and update the report as necessary.

The SHA will require the submission of six (6) hard copies and one (1) electronic revised traffic impact study and point-by-point response. Please send this information to the SHA Access Management Division addressed to Mr. Steven D. Foster to the attention of Ms. Erica

Mr. Ed Axler
12APMO036XX
Page No. 3
September 12, 2014

Rigby and reference the SHA Tracking Number on the submission. Unless specifically indicated in the SHA response of this study, the comments contained herewith do not supersede previous comments made on this development. Please keep in mind that you can view the reviewer and project status via the SHA Access Management Division's web page at <http://www.roads.maryland.gov/pages/amd.aspx>. If you have any questions or comments regarding the enclosed traffic report comments, please contact Mr. Jack A. Goode, II at (301) 881-2545 or via email at jgoode@amtengineering.com.

Sincerely,


Steven D. Foster, Chief Development Manager
Access Management Division

SDF/er/jg

cc: Mr. Matt Baker, SHA RIPD
Ms. Rola Daher, SHA DSED
Ms. Mary Deitz, SHA RIPD
Mr. Robert French, SHA CPD
Mr. Jack A. Goode, II, A. Morton Thomas & Associates, Inc.
Mr. Subrat Mahapatra, SHA DSED
Mr. Mark McKenzie, SHA AMD
Ms. Anyesha Mookherjee, SHA District 3 – Traffic
Mr. Scott Newill, SHA AMD
Mr. Johnson Owusu-Amoako, SHA CPD
Mr. Robert Piazza, SHA DSED
Mr. Saed Rahwanji, SHA TDSD
Ms. Erica Rigby, SHA AMD
Ms. Tina Saxon, SHA RIPD
Mr. Errol Stoute, SHA TDSD
Mr. Morteza Tadayon, SHA DSED
Mr. Morton S. Taubman, MSQ, LLC (mtaubman@htwlaw.com)
Mr. Mark Wildman, MSQ, LLC (markwildman@verizon.net)
Mr. Michael J. Workosky, Wells and Associates, Inc.

Martin O'Malley, *Governor*
Anthony G. Brown, *Lt. Governor*



Maryland Department of Transportation

James T. Smith, Jr., *Secretary*
Melinda B. Peters, *Administrator*

October 23, 2014

Re: Montgomery County
MD 118
Chestnut Ridge
SHA Tracking No.12APMO036XX
Traffic Impact Study
Mile Point 5.07

Mr. Michael Workosky
Wells + Associates, Inc.
1420 Spring Hill Road, Suite 610
Tysons, Virginia 22102

Dear Mr. Workosky:

Thank you for the opportunity to review the Traffic Impact Study (TIS) point-by-point response prepared by Wells and Associates, Inc., dated September 26, 2014, for the proposed Chestnut Ridge Property in Montgomery County, Maryland. The Maryland State Highway Administration (SHA) review is complete and we are pleased to respond.

The review determined the major report findings and the SHA comments and conclusions are as follows:

- Access to the 4,980 square foot office and 5,000 square foot fast-food restaurant space is proposed via one (1) full-movement access and one (1) right-out only access along the Waters Road extension to Germantown Road (MD 118).
- The study analyzed the following intersections under existing, background, and future conditions:
 - Wisteria Drive intersection with Waters Road
 - MD 118 intersection with Wisteria Drive
 - MD 118 intersection with Bowman Mill Drive
 - MD 118 intersection with Dawson Farm Road
- The report concludes that the study intersections will continue to operate at acceptable levels of service under future conditions.

Based on the information provided, the SHA offers the following comments:

1. The developer shall modify the existing left turn lane on the MD 118 approach to Waters Road in order to provide 225 feet of storage/deceleration lane and 100 feet of taper.

My telephone number/toll-free number is _____
Maryland Relay Service for Impaired Hearing or Speech 1.800.735.2258 Statewide Toll Free

Mr. Michael Workosky
12APMO036XX
Page No. 2
October 23, 2014

2. A Design Request (DR) will be required for the proposed signal at the MD 118 intersection with Waters Road once the updated Traffic Signal Warrant Analysis (TSWA) has been submitted for review and approved by SHA. Please send the DR to Ms. Anyesha Mookherjee, Assistant District Engineer – Traffic, with a copy to Mr. Steven D. Foster, Chief/Development Manager of the Access Management Division, and to the attention of the Project Reviewer. When proceeding with the DR process, both roadway geometric improvement plans and the traffic plans must be submitted for all submissions to SHA.
3. Please note, maintenance for a future traffic signal at the MD 118 intersection with Waters Road shall be the responsibility of either the Developer or Montgomery County.

The SHA concurs with the report findings for this project as currently proposed and will not require the submission of a revised TIS. However, an access permit will be required for all construction within the SHA right of way. Please submit seven (7) hard copies and one (1) electronic copy of design plans to the SHA Access Management Division addressed to Mr. Steven D. Foster. This plan submittal must include a signing and pavement marking plan along with traffic signal plans. Please reference the SHA Tracking Number on future submissions. Unless specifically indicated in the SHA response on this report, the comments contained herewith do not supersede previous comments made on this development. Please note that if this project has not obtained the SHA access permit and begun construction of improvements within five (5) years of this approval an updated analysis must be resubmitted for SHA review and concurrence that the proposed improvements continue to mitigate the development's traffic impacts prior to an extension of the approval. If you have questions or comments regarding the enclosed traffic review, please contact Mr. Eric Waltman at 410-545-5597 or ewaltman@sha.state.md.us.

Sincerely,


Steven D. Foster, Chief/Development Manager
Access Management Division

SDF/elw

cc: Mr. Ed Axler, M-NCPPC
Mr. Matt Baker, SHA RIPD
Ms. Samantha Biddle, SHA RIPD
Ms. Rola Daher, SHA DSED
Ms. Mary Deitz, SHA RIPD
Mr. Robert French, SHA CPD
Ms. Monet Lea, MCDOT
Mr. Subrat Mahapatra, SHA DSED
Mr. Mark McKenzie, SHA AMD

Mr. Michael Workosky
12APMO036XX
Page No. 3
October 23, 2014

Ms. Anyesha Mookherjee, SHA District 3
Mr. Scott Newill, SHA AMD
Mr. Johnson Owusu-Amoako, SHA CPD
Mr. Robert Piazza, SHA DSED
Mr. Saed Rahwanji, SHA TDSD
Ms. Erica Rigby, SHA AMD
Ms. Tina Saxon, SHA RIPD
Mr. Errol Stoué, SHA TDSD
Mr. Morteza Tadayon, SHA DSED
Mr. Morton S. Taubman, MSQ, LLC (mtaubman@htwlaw.com)
Mr. Eric Waltman, SHA AMD
Mr. Mark Wildman, MSQ, LLC (markwildman@verizon.net)

Martin O'Malley, Governor
Anthony G. Brown, Lt. Governor



James T. Smith, Jr., Secretary
Melinda B. Peters, Administrator

MARYLAND DEPARTMENT OF TRANSPORTATION

October 15, 2014

RE: Montgomery County
MD 118 Germantown Road
Marten's Property
SHA Tracking No. 11APMO007xx
Mile Point: 5.07

Ms. Lori Walter
Soltész
2 Research Place
Rockville, Maryland 20850

Dear Ms. Walter:

Thank you for the opportunity to review the road improvement plan for the proposed Marten's Property development in Montgomery County. The State Highway Administration (SHA) review is complete and we are pleased to respond.

Based on the information provided, please address the following comments in a point-by-point response:

District Traffic Comments:

1. Sheet 14 of 17:
 - a. Install a One Way (R6-1R 36" x 12") sign across from the Stop sign for Waters Road.
 - b. The (H) by the hatched crosswalk needs leaders pointing to the striping.
 - c. It is recommended a Stop Ahead sign (W3-1 24" x 24") be installed upstream of the Stop sign along Waters Road.
 - d. Please show how the proposed curb, at the beginning of the westbound right-turn lane, ties into the existing curb.
 - e. Remove the "Right Lane MUST Turn Right" sign for the westbound right turn.

Highway Hydraulics Comments:

1. Awaiting documentation of the County's approval.

Innovative Contracting Design Comments:

1. Sheets 8 + 8a: Bike lanes. Bicycle lanes must be accommodated when widening an existing roadway. The posted speed limit is 40 mph along MD 118. A minimum 5' wide bike lane is required. If the minimum width cannot be maintained for any reason a bicycle waiver must be submitted prior to permit approval and issuance.

Office of Environmental Design Comments:

1. The applicant has not adequately responded to our prior comments. Landscape plans with all required plan elements and SHA Landscape Notes were not submitted.
2. Landscape Guidance Documents. The applicant shall refer to the most recent versions of 'SHA Environmental Guide for Access and District Permit Applicants' and other landscape guidance documents when preparing resubmitted plans. These documents are available at <http://www.roads.maryland.gov/index.aspx?PageId=25>. Note: Revised versions are anticipated by November, 2014.
3. Roadside Tree Permit. Per our prior comments, 1:1 mitigation will be required for all tree removals over 4 in. diameter. The landscape plan developed by the applicant shall indicate the species, size, and location of all trees to be removed and installed in conformance with the Roadside Tree Permit.
4. Landscape Construction.
 - a. The applicant shall refer to Chapter 6.0 and verify the right of way line, limits of disturbance, and other required landscape elements on all sheets where such information may be necessary.
 - b. On 'Existing Conditions And Demolition Plan' - Sheet 2 of 17 of 'Road Improvement Plan Village West At Germantown Town Center Interim Right In / Right Out Connection To MD 118 And Phase 2 Waters Road Improvements' the applicant shall show all trees over 4 in. diameter within and adjacent to the limits of disturbance, and indicate all trees to be removed and to remain. Similar information shall be included on the Interim Right In / Right Out Connection to MD 188 and Phase 2 Waters Road Improvements, and other drawings as applicable.
 - c. The applicant shall refer to Chapters 5.3 and 6.2-g of the Environmental Guide and delineate TOCF and Tree Root Pruning in all areas where appropriate.
 - d. The applicant shall refer to Chapter 5.2 of the SHA Landscape Design Guide and verify that tree installation locations are appropriately offset from overhead and underground utilities. Some proposed locations outside the right of way do not indicate sufficient offset distance, which may adversely impact future utility service and maintenance.
 - e. The applicant shall conform with Chapter 6.0 and 6.1 of the 'Environmental Guide' and seal the landscape plans as required.
5. SHA Landscape Notes. The applicant shall include the title and all pertinent SHA Landscape Notes per Chapter 7.0 of the 'Environmental Guide'. Only the Notes actually required to construct the project shall be included. At this time it appears that Notes per the following Chapters of the 'Environmental Guide' are required: 7.2, 7.3, 7.4, 7.5, 7.6, 7.7, 7.8, 7.10, 7.11, 7.13, 7.14, 7.15, and 7.21. The applicant shall determine the need for Tree Branch Pruning and Tree Fertilizing, and include those Notes if appropriate. Other Notes may be required depending upon the final design of the project.
6. SHA Landscape QA Checklist. The applicant is requested to refer to Chapter 8 of the 'Environmental Guide' and perform a self-assessment to help ensure that resubmitted plans adequately address the concerns to be evaluated by the Office of Environmental Design.

Access Management Division (AMD) Comments:

1. On Sheet 1 of the road improvement plan it appears Note 13 is incomplete.

Ms. Lori Walter
SHA Tracking No.: 11APMO007xx
Page 3
October 15, 2014

2. Reference the Type 'C' end treatment, standard MD-605.03, and W Beam Traffic Barrier standard, MD-605.22. Remove any reference to the Type 'A' end treatment.
3. Include the road classification, Urban Other Primary Arterial, in the road name on the plans.
4. Increase the external right turn in curb radius to 57' and reducing the internal radius to 40'.
5. Include a 'Do Not Enter' sign R5-1, 30" x 30" at the access.
6. The width of the travel lane shall not include the curb and gutter. Please revise the lane widths and provide an 11' wide turning lane. This includes the Existing Waters Road typical section on sheet 4.
7. Provide a detail that illustrates the graded aggregate base extending 1' beyond the curb.
8. The hinge point of the graded slope shall be set back a minimum of 2' behind the sidewalk.
9. On Sheet 8 of the road improvement plan the legend is not clear.
10. Revise the cost estimate. See attachment.
11. The engineer must provide the mylar of the grade establishment plan to the Access Management Division for the District Engineer to sign.
12. Show a full traffic control island to prevent traffic accessing the state highway from the access turning left onto oncoming traffic.
13. Label the traffic control island construction as type 'A' monolithic concrete. Include the standard number on the title sheet.
14. Plans must be 22" x 34".
15. Provide the SHA right-of-way plat numbers.
16. Sheet 3 labels the posted speed limit as 50 mph while sheet 4 lists the posted speed limit along MD 118 as 40 mph. Please clarify.
17. Provide a sight distance evaluation worksheet signed and stamped by a Professional Engineer.

Further plan submittals should reflect the above comments. Please submit 7 sets of the revised plans, a CD containing the plans and supporting documentation in PDF format and 2 copies of the revised study, as well as a point by point response, to reflect the comments noted above directly to Mr. Steven Foster attention of Ben Norris. Please reference the SHA tracking number on future submissions. Please keep in mind that you can view the reviewer and project status via SHA Access Management Division web page at <http://www.roads.maryland.gov/pages/amd.aspx>. If you have any questions, or require additional information, please contact Mr. Ben Norris at 410-545-7439, by using our toll free number in Maryland only at 1-800-876-4742 (x7439) or via email at BNorris@sha.state.md.us.

Sincerely,



for Steven D. Foster, Chief/ Development Manager
Access Management Division

SDF/bjn
Attachment

cc: Mr. Benjamin Berbert, MGCP, Benjamin.berbert@montgomeryplanning.org
Mr. Greg Leck, Montgomery County Department of Transportation,
Greg.Leck@montgomerycountymd.gov
Mr. Mark McKenzie, SHA ARE

replaced

Ms. Lori Walter
SHA Tracking No.: 11APMO007xx
Page 4
October 15, 2014

Mr. Scott Newill, SHA RE
Mr. Jamey Pratt, MGCP Jamey.Pratt@montgomeryplanning.org
Mr. Charlie Turner, Willage West, LLC & Burchanan Pinkard Germantown, LLC
9841 Washington Blvd., Suite 300, Gaithersburg, Maryland 20878
M. Lori Walter, Soltesz, lwalter@solteszco.com
Mr. Brian Young, SHA DE

Attachment 8c



Martin O'Malley, *Governor*
Anthony G. Brown, *Lt. Governor*

James T. Smith, Jr., *Secretary*
Melinda B. Peters, *Administrator*

Maryland Department of Transportation

December 22, 2014

Re: **Montgomery County**
MD 118
Chestnut Ridge
SHA Tracking No.12APMO036XX
Traffic Impact Study
Mile Point 5.07

Mr. Michael Workosky
Wells + Associates, Inc.
1420 Spring Hill Road, Suite 610
Tysons, Virginia 22102

Dear Mr. Workosky:

Thank you for the opportunity to the Traffic Signal Warrant Analysis (TSWA) prepared by Wells and Associates, Inc., dated November 7, 2014, for the proposed Chestnut Ridge Property in Montgomery County, Maryland. The Maryland State Highway Administration (SHA) review is complete and we are pleased to respond.

- The report presented a signal warrant analysis of the MD 118 intersection with Bowman Mill Drive/Future Waters Road Extended.
- The report found that signal warrants are met under existing traffic conditions based on the current intersection geometry and would continue to be met under adjusted existing conditions with the extension of Waters Road (forming the fourth leg of the MD 118 intersection with Bowman Mill Drive).

Based on the information provided, the SHA offers the following comments:

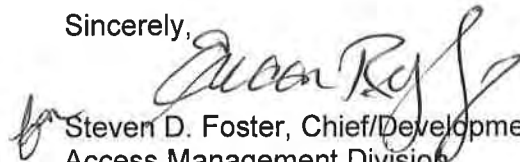
1. At this time, the SHA does not support signalization of the MD 118 intersection in its current 'T' configuration. However, the SHA does support the proposed extension of Waters Drive to MD 118. Once the extension is complete and traffic patterns have normalized, the intersection shall be recounted to confirm that traffic signal warrants continue to be satisfied.
2. In the interim, the developer may proceed with the Design Request (DR) to develop roadway geometric improvement plans and signalization plans for the ultimate intersection configuration. Please note that only below grade signal infrastructure will be permitted until the updated TSWA is approved.

My telephone number/toll-free number is _____
Maryland Relay Service for Impaired Hearing or Speech 1.800.735.2258 Statewide Toll Free

Mr. Michael Workosky
12APMO036XX
Page No. 2
December 22, 2014

An access permit will be required for all construction within the SHA right of way. Please submit seven (7) hard copies and one (1) electronic copy of design plans to the SHA Access Management Division addressed to Mr. Steven D. Foster. This plan submittal must include a signing and pavement marking plan along with traffic signal plans. Please reference the SHA Tracking Number on future submissions. Unless specifically indicated in the SHA response on this report, the comments contained herewith do not supersede previous comments made on this development. Please note that if this project has not obtained the SHA access permit and begun construction of improvements within five (5) years of this approval an updated analysis must be resubmitted for SHA review and concurrence that the proposed improvements continue to mitigate the development's traffic impacts prior to an extension of the approval. If you have questions or comments regarding the enclosed traffic review, please contact Mr. Eric Waltman at 410-545-5597 or ewaltman@sha.state.md.us.

Sincerely,


Steven D. Foster, Chief/Development Manager
Access Management Division

SDF/elw

cc: Mr. Ed Axler, M-NCPPC
Mr. Matt Baker, SHA RIPD
Ms. Samantha Biddle, SHA RIPD
Ms. Rola Daher, SHA DSED
Ms. Mary Deitz, SHA RIPD
Mr. Robert French, SHA CPD
Ms. Monet Lea, MCDOT
Mr. Subrat Mahapatra, SHA DSED
Mr. Mark McKenzie, SHA AMD
Ms. Anyesha Mookherjee, SHA District 3
Mr. Scott Newill, SHA AMD
Mr. Johnson Owusu-Amoako, SHA CPD
Mr. Robert Piazza, SHA DSED
Mr. Saed Rahwanji, SHA TDSD
Ms. Erica Rigby, SHA AMD
Ms. Tina Saxon, SHA RIPD
Mr. Errol Stoute, SHA TDSD
Mr. Morteza Tadayon, SHA DSED
Mr. Morton S. Taubman, MSQ, LLC (mtaubman@htwlaw.com)
Mr. Eric Waltman, SHA AMD
Mr. Mark Wildman, MSQ, LLC (markwildman@verizon.net)

Attachment 9



FIRE MARSHAL COMMENTS

DATE: 16-Sep-13
TO: Stephen Crum - scrum@mhgpa.com
Macris, Hendricks & Glascock
FROM: Marie LaBaw
RE: Chestnut Ridge
120120250

PLAN APPROVED

1. Review based only upon information contained on the plan submitted **16-Sep-13** .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.

Attachment 10



DEPARTMENT OF PERMITTING SERVICES

February 14, 2013

Diane R. Schwartz Jones
Director

Isiah Leggett
County Executive

Mr. Pearce Wroe
Macris, Hendricks and Glascock, P.A.
9220 Wightman Road, Suite 120
Montgomery Village, MD 20886

Re: Stormwater Management **CONCEPT** Request
for Chestnut Ridge
Preliminary Plan #: 120120250
SM File #: 242609
Tract Size/Zone: 1.1 acres/RMX-2C, RMX-2
Total Concept Area: 1.1 acres
Lots/Block: na
Parcel(s): P920, P971, former P974
Watershed: Little Seneca Creek

Dear Mr. Wroe:

Based on a review by the Department of Permitting Services Review Staff, the stormwater management concept for the above mentioned site is **acceptable**. The stormwater management concept proposes to meet required stormwater management goals via drywells, a planter box micro-biofilter, bioswales and Silvacells.

The following **items** will need to be addressed **during** the detailed sediment control/stormwater management plan stage:

1. Prior to permanent vegetative stabilization, all disturbed areas must be topsoiled per the latest Montgomery County Standards and Specifications for Topsoiling.
2. A detailed review of the stormwater management computations will occur at the time of detailed plan review.
3. An engineered sediment control plan must be submitted for this development.
4. All filtration media for manufactured best management practices, whether for new development or redevelopment, must consist of MDE approved material.
5. Landscaping shown on the approved Landscape Plan as part of the approved Site Plan are for illustrative purpose only and may be changed at the time of detailed plan review of the Sediment Control/Storm Water Management plans by the Mont. Co. Department of Permitting Services, Water Resources Section.

This list may not be all-inclusive and may change based on available information at the time.

Payment of a stormwater management contribution in accordance with Section 2 of the Stormwater Management Regulation 4-90 **is not required**.

This letter must appear on the sediment control/stormwater management plan at its initial submittal. The concept approval is based on all stormwater management structures being located

255 Rockville Pike, 2nd Floor • Rockville, Maryland 20850 • 240-777-6300 • 240-777-6256 TTY
www.montgomerycountymd.gov

outside of the Public Utility Easement, the Public Improvement Easement, and the Public Right of Way unless specifically approved on the concept plan. Any divergence from the information provided to this office; or additional information received during the development process; or a change in an applicable Executive Regulation may constitute grounds to rescind or amend any approval actions taken, and to reevaluate the site for additional or amended stormwater management requirements. If there are subsequent additions or modifications to the development, a separate concept request shall be required.

If you have any questions regarding these actions, please feel free to contact William Campbell at 240-777-6345.

Sincerely,



Mark C. Etheridge, Manager
Water Resources Section
Division of Land Development Services

MCE: jb 2/14/13

cc: C. Conlon
SM File # 242609

ESD Acres:	1.1
STRUCTURAL Acres:	0
WAIVED Acres:	0

Attachment 11



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

February 19, 2013

Morton Taubman
M Square, LLC
1201 15th Street, Nw
Suite 200
Washington, DC 20005

Dear Mr. Taubman:

You have a complete application for a preliminary plan of subdivision that was submitted before January 1, 2013 and is pending with the Montgomery County Planning Board (Plan Number 120120250). Your project is anticipated to generate more than three new trips and thus must comply with the areawide transportation requirements. The County Council adopted a new areawide transportation test for Adequate Public Facilities on November 13, 2012. There is some flexibility as to which test you may use according to the “Transition” provision of Resolution 17-601:

AP2 Transition

For any *complete application for subdivision approval* submitted before January 1, 2013, the applicant may meet its requirements under TP Transportation Policy Area Review by either complying with all applicable requirements of Transportation Policy Area Review under this resolution or all applicable requirements of Policy Area Mobility Review that were in force immediately before this resolution was amended in 2012. The applicant must decide, by the later of March 1, 2013, or 30 days after the Planning Board adopts guidelines to administer Transportation Policy Area Review, which set of requirements will apply to its application. (Emphasis added)

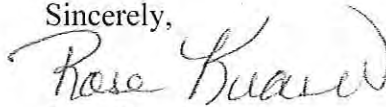
The Planning Board adopted the guidelines on January 24, 2013. According to the “Transition” provision above, you must respond before March 1, 2013 if you wish to use the requirements of the Policy Area Mobility Review (PAMR) instead of those for the Transportation Policy Area Review (TPAR). If we do not receive your request by March 1, 2013, your project must comply with the TPAR requirements. Please consult the attached

table in order to determine if you would prefer the PAMR requirements. Further information can be found at:

http://www.montgomeryplanning.org/transportation/latr_guidelines/latr_guidelines.shtm

If you wish to use the PAMR requirements, please sign and return this letter or send a separate communication stating the application number and name of the subdivision application. If you wish to communicate electronically, please e-mail the information to Alexandria.Murph@montgomeryplanning.org. If you have questions, please call Allie Murph at 301-495-4515 and she will direct your call to the appropriate plan reviewer.

Sincerely,



Rose Krasnow
Acting Director

I wish to use the Policy Area Mobility Test for Transportation:

Signed Step 2. 

Date 02-27-13

Print Name Stephen E. Crum, Agent for the Applicant

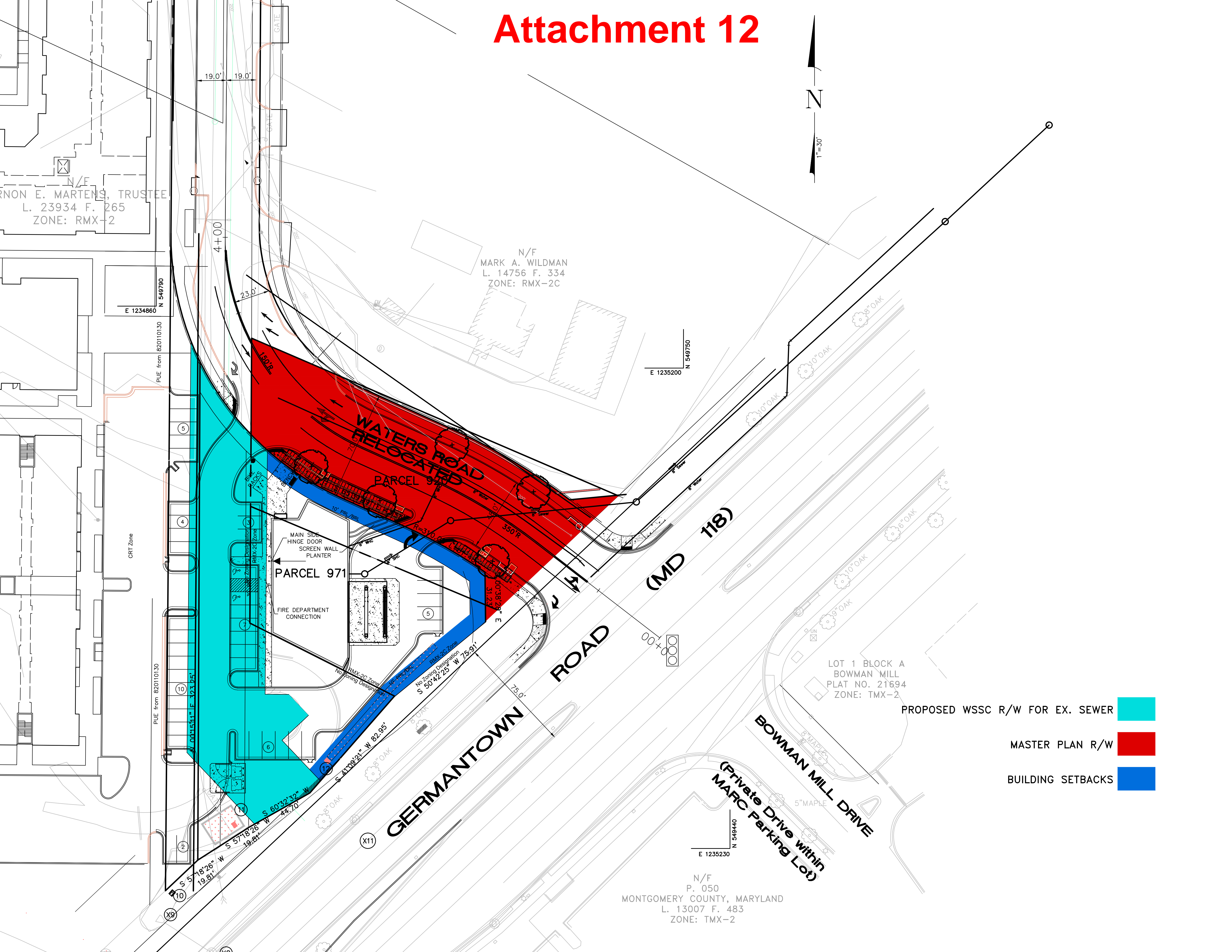
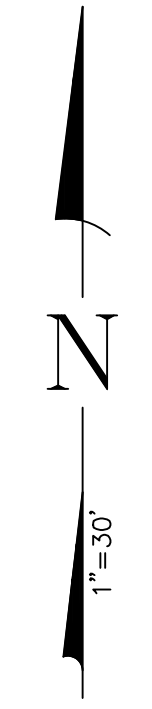
Application # 120120250

Project Name Chestnut Ridge

Attachment

RK:MD:am

Attachment 12



- PROPOSED WSSC R/W FOR EX. SEWER █
- MASTER PLAN R/W █
- BUILDING SETBACKS █

Attachment 13



ideas that work

Attorneys at Law

3 Bethesda Metro Center, Suite 460
Bethesda, MD 20814
www.lerchearly.com

Robert G. Brewer, Jr.

Tel. (301) 657-0165

Fax (301) 347-1772

rgbrewer@lerchearly.com

January 2, 2015

Mr. Benjamin Berbert
Senior Planner, Area 3
MNCPPC Montgomery Planning Department
8787 Georgia Avenue
Silver Spring, Maryland 20910

Re: Preliminary Plan #120120250; Chestnut Ridge

Dear Mr. Berbert,

As you know, we are counsel to Buchanan Pinkard Germantown, LLC, and Village West, LLC, the applicants in the various Martens Property applications along Waters Road in Germantown, Maryland (Preliminary Plan No. 120110090; Site Plan No. 820110130, all as amended). We are aware that the pending Chestnut Ridge preliminary plan of subdivision is scheduled for action by the Montgomery County Planning Board on January 29, 2015.

This letter is to affirm that our client is aware of the Chestnut Ridge preliminary plan and supports its approval by the Board. Specifically, as part of our client's regulatory approvals, it dedicated a new portion of Waters Road through Plat No. 24630 and consents to the abandonment of a portion of Waters Road contained on this Plat and proposed for inclusion in the Chestnut Ridge preliminary plan. Our client further consents to inclusion in the Chestnut Ridge preliminary plan of a portion of Waters Road abandoned by the Montgomery County Council in AB729. Finally, our client consents to the proposed realignment of Waters Road to connect to Maryland Rt. 118 opposite Bowman Mill Drive, an alignment our client has been promoting for several years now and which will be reflected in a right-of-way dedication plat.

Our client's positions above are all conditioned upon the execution and implementation of a pending Development Agreement drafted and negotiated between them, the Chestnut Ridge preliminary plan applicant, and Mark Wildman, as well as upon adjustment of the access from realigned Waters Road to the multi-family property portion of our client's development to the mutual satisfaction of all parties, including Montgomery County Department of Transportation and Montgomery County Department of Permitting Services.

Thank you very much.

Very truly yours,

Robert G. Brewer, Jr.

cc: Russell Gestl
Mort Taubman, Esq.
Steve Crum, P.E.