

MEMORANDUM: REMAND - LOCAL MAP AMENDMENT

DATE: April 14, 2006

TO: Montgomery County Planning Board

VIA: Rose Krasnow, Development Review Chief *RK*
Carlton Gilbert, Zoning Supervisor *Gilbert*

FROM: Joel A. Gallihue, AICP, Senior Planner (301) 495-2119 *JAG*

SUBJECT: **Local Map Amendment No. G-836:** J. Kirby Development, LLC and Vedanta Center of Greater Washington seeks reclassification of 16 acres of land from the RE-2 zone to the PD-2 zone for 20 single family detached residences (one existing), 12 single family attached residences and 6 townhouse units (MPDU) and expansion of an existing worship center. Proposed rental units for senior independent living were deleted from the proposal. Located at intersection of Bel Pre and Homecrest roads. Aspen Hill Master Plan.

FILING DATE: February 22, 2005 (revised June 10, 2005)

PUBLIC HEARING: May 9, 2006

STAFF RECOMMENDATION: Approval, of the Planned Development Zone (PD-2) for 20 single family detached residences (one existing), 12 single family attached residences, 6 townhouse units (MPDU), and expansion of an existing worship center based upon the following findings:

1. The application complies with the purpose clause of the planned development zone (59-C-7.11).
2. The requested planned development zone is compatible with the surrounding uses.
3. The rezoning does conform to the recommendations of the 1994 Approved and Adopted Aspen Hill Master Plan.

SUMMARY

This development plan for this application has been revised since the Planning Board reviewed the case and recommended approval.¹ The revision removes one proposed single-family detached dwelling and makes changes to the binding elements and notes on the plan. The Planning Board meeting is being held to review a revised development plan that the applicant has submitted following the District Council's remand of the case to the Hearing Examiner. The Hearing Examiner raised concerns about the compatibility of the proposal and because there continues to be opposition, despite the revision. Technical staff continues to recommend approval of the proposed rezoning as revised. For reference the original technical staff report and the Hearing Examiner report have been attached.

Reasons for Remand and Analysis

The Hearing Examiner found that the proposed Development Plan is not in substantial compliance with the Aspen Hill Master Plan, does not comply with the purposes, standards and regulations of the PD zone, does not provide for a form of development that will be compatible with adjacent development, and does not provide sufficient certainty to fully evaluate the adequacy and safety of external access points. In response, the applicant has made some changes to the development plan. Each finding is examined below in the context of changes made, and the perspective of technical staff is noted. Upon considering the technical analysis and any testimony, the Planning Board may make a new recommendation on the revised plan and transmit this recommendation to the Hearing Examiner.

1. *Substantial Compliance with the Aspen Hill Master Plan*

The Hearing Examiner states that the development "Would be in substantial compliance with all of the Master Plan's recommendations except those concerning an internal roadway with access from Homecrest Road."² The concern is in regards to what is identified as "Roadway C" on the development plan. Roadway C has implications beyond this particular development because it is an important element of the Master Plan objectives for the Bel Pre Road Area. When the Master Plan designated this "Area 8" and considered access for new development that would be environmentally sensitive, a goal of providing an internal road was set for this area. Roadway C fulfills this goal on the property and the dedication prepares for any future development off-site. The Hearing Examiner recognized the importance of this goal and, in checking the development plan to be certain the goal was implemented, became concerned with language in the binding elements. The concern is that a binding element stating that the project will have "no more than two" access points on Homecrest

¹ On a motion by Commissioner Robinson and seconded by Commissioner Bryant with Commissioner Wellington and Chairman Berlage voting in favor of the motion and Vice Chair Purdue absent for the motion at its regular meeting held in Silver Spring, Maryland on Thursday, October 20, 2005

² Zoning And Administrative Hearings Opinion, Page. 76.

Road could result in less than two access points, potentially thwarting the goal of providing the interior connector road. The purpose of this textual element was actually to provide assurance to staff that a site plan would not be submitted with an earlier design, which put driveways on Homecrest Road. With that said, any impediment to the implementation of Roadway C should be removed. The binding element has been revised to say, "Access will be from a single point on Bel Pre Road and two points on Homecrest Road. This language dispels the concern raised by the Hearing Examiner and also prevents the possibility of multiple driveways on Homecrest.

Another concern was that the plan showed 50' of right of way for Roadway C which was recommended for approval by technical staff. The Aspen Hill Master Plan notes that since "the proposed road [i.e. Roadway C] may be close to the existing entrance of the Aspen Hill Racquet and Tennis Club, the Montgomery County Department of Transportation may deem the proximity of two entrances to be a safety hazard. If so, access should be provided from the new street when it is constructed as a primary residential street to the location where access may have to be provided to the Racquet and Tennis Club. After that point, the street would continue as a secondary residential street through the Bel Pre Road properties in a circuitous alignment and ultimately intersect Bel Pre Road opposite Rippling Brook" (page 238). The proposed development scheme provides dedication to accomplish this Bel Pre parallel road in Roadway C. Staff believed that the proposed street with a 50-foot right-of-way is consistent with the goal of the master plan if the DPWT considers the proposed roadway to be adequate for the number of units in the proposal. Since no development is currently proposed for the Racquet Club, staff believed that consolidation or widening of the street to a primary standard at this location could be accommodated at the time a new entrance or consolidation of entrances is need when the adjoining Racquet Club property redevelops.

The Hearing Examiner took a different position on how access could be coordinated. This position rejects the uncertainty of waiting for consolidation if the Aspen Hill Country Club redevelops and expects Roadway C to have a 60-foot right-of-way. The applicant has acquiesced and revised the plan to show 60' for the entire segment of Roadway C on the site. The benefit of this change is more certainty for the District Council that approving the Development Plan serves the goals of their adopted Master Plan. The wider right-of-way is just that and wouldn't lead to any unnecessary pavement width in the segment of Roadway C that would serve as a secondary road east of the future connection to the Aspen Hill Country Club. Technical staff supports this change.

2. *Purpose of PD Zone - Form of Development*

The compatibility of the proposed development form is questioned, particularly with respect to the western side which faces Homecrest Road. The Hearing Examiner identifies concern about, "a dense form of development on the west

side of the site that is not compatible with the surrounding area.”³ In the analysis of the purpose clause for the PD zone, it is later explained⁴ that the concern about a dense form of development arises when the development is broken into its western third and the density is measured for that section. In that case, twenty-six units in about 5.3 acres would have a density of 4.9 units per acre. This causes concern to the Hearing Examiner because it is about ten times denser than the RE-2 zoned properties across the street and denser than the 2.4 dwelling units per acre that can be accomplished in surrounding zones.⁵ The revised plan would remove one unit, lowering the density in this concept to 4.7 units to the acre. The Hearing Examiner observes that the density in this section could have been lower in a scheme, which proposed to locate homes on Roadway C.

Technical staff continues to believe the proposed development form is compatible. The Hearing Examiner’s concern about compatibility considers density but there are other factors to measuring compatibility. Another measure is similarity of unit type. Importantly the PD zone has a section devoted to compatibility⁶ which is met by this development and met in this section because single family detached dwellings are adjacent to the same. Buffering is important and has been enhanced with the current design.⁷ Technical staff believes that returning to a scheme that would string single loaded houses on Roadway C would significantly dilute the identity of the development by reducing opportunity for social interaction, running counter to an important Master Plan goal.⁸

Technical staff returned to the compatibility finding in the purpose clause of the zone⁹ and considered it important that the wording states a purpose is to, “assure compatibility and coordination of each development with existing and proposed surrounding land *uses*.” (Emphasis added) Technical staff believes that the fact that this section seeks compatibility of *uses* while Section 59-C-7.15, focuses on setbacks between unit types is an important distinction. The purpose clause finding of compatibility is about uses. Certainly, both uses are residential, but this proposal also meets Section 59-C-7.15 by proposing to locate new single family detached units across the street from other single family detached units.

³ Zoning And Administrative Hearings Opinion, Page 3.

⁴ Zoning And Administrative Hearings Opinion, Page 83.

⁵ In the standard method of development with MPDU units.

⁶ Section 59-C-7.15 of the Zoning Ordinance states that where land classified under the PD Zone adjoins land for which the area master plan recommends a one-family detached zone, no building other than a one-family detached residence may be constructed within 100 feet of such adjoining land.

⁷ Buffering has been particularly important because the design, in balancing an attempt to create a place for community interaction off of a busy road and limit access points on Homecrest will cause the houses on Homecrest to face the internal street.

⁸ Master Plan, page 3. Note that the original staff report elaborates on the weakness of such a scheme on page 3.

⁹ §59-C-7.11, Eighth paragraph, second part.

It may also be that there is a weakness in the concept of effective density in the western third of the development because the comparison should be between 4.7 du/acre and 2.4 du/acre and not compared against the low two-acre lot density of the RE-2 zone. In considering the confronting RE-2 zoned land it is also important to recognize the intensity of the existing senior housing developments on the opposite side of Homecrest Road as well as the existing single family homes.¹⁰ The master plan recommended PD-2 zoning for the site fully acknowledging it was a higher density zoning than RE-2. The plan did this to encourage consolidation of parcels, which would minimize the number of entrances onto Bel Pre Road and facilitate the creation of an internal road network that would minimize the impact of development on Bel Pre Creek. These two master plan goals taken together with the existing worship center on site certainly limit site design options. Despite those constraints, the density of the western section (4.7 du/a) is a little less than double the average density of the development (2.4 du/a) and this is found by technical staff to be an appropriate use of the flexibility of the zone. The PD-2 zone choice is consistent with the plan¹¹ and accomplishing its goals for this site and the PD zone compatibility standard is met by this design. Technical staff concludes that the purpose clause compatibility objective is met by this design.

3. *Adequacy and Safety of External Access Points*

As noted above, the Hearing Examiner was concerned that a textual binding element could cause one of the two access points shown on Homecrest Road to not be built. The applicant has changed the element to say there will be two access points on Homecrest Road, eliminating this concern. The Hearing Examiner had taken this concern and found that it inhibited the District Council from fully evaluating the access and circulation plan.¹² Obviously, the subsequent subdivision and site plan review are appropriate stages of review to examine the access and circulation plan in more detail. The District Council can now be certain that the Development Plan will have two, and only two, access points on Homecrest Road. Any other configuration would require the developer to return to the District Council with a Development Plan Amendment application. Technical staff notes that the Hearing Examiner was not raising this concern as a result of a specific exchange which may be found on the record of the hearing about adequacy of sight distance. The Hearing Examiner concluded, "At this preliminary stage, without actual road profiles and final grading, the Hearing

¹⁰ Certainly the staff position is not to imitate that development, as can be seen by the position against the original submission. Still the existing senior housing is an obvious part of the existing context.

¹¹ Important earlier improvements to this plan were to remove a large senior housing building from Homecrest and to lower the proposal to PD-2.

¹² Zoning And Administrative Hearings Opinion, Page 3.

Examiner is persuaded by the preponderance of the evidence that sight distances are adequate to support the zoning request. The more authoritative of two measurements^[1] found that all sight distances meet county standards.”¹³

4. *Illustrative Building Locations*

The Hearing Examiner found that a provision on the Development Plan stating that building locations are entirely illustrative was a serious deficiency. The note was located under the “Proposed Lot and Parcel Table” as a reference noted by asterisk. Apparently the note came as a result of an exchange between the applicant’s representative and the Hearing Examiner that led to the confusion. The note is located in the same place on the plan as an asterisk to the “Proposed Lot and Parcel Table” but now has been revised to state, “Areas shown are approximate. Final determination of areas shall be determined at subsequent Preliminary Plan and Site Plan.” Technical staff notes that this language strikes a balance between giving the District Council certainty about the Development Plan without advancing all of the detail from the Preliminary Plan and Site Plan process into the zoning analysis.

5. *Green Area.*

In a similar vein as the illustrative building locations, the Hearing Examiner found that a provision on the Development Plan stating that the green area, shown at 46 percent of the site, could decrease by as much as a third, down to the minimum 30 percent required in the zone, was a serious deficiency. The note was located as an asterisk to the development standards. The Development Plan is now revised to state, “Green Area provided is approximate and subject to change based on final engineering and further revision during subsequent Preliminary Plan and Site Plan proceedings, provided that minimum of 45% of gross area will be provided.” Technical staff again finds this language strikes a good balance between the instant zoning review and required subsequent reviews.

6. *Number of Units in Binding Element*

The opinions of the Hearing Examiner and District Council reference other minor deficiencies of the development plan. For example, one was confusion caused by the first binding element and the general notes which seemed to imply there would not be flexibility to do fewer units if such a development was found to be better in the subsequent reviews. Both notes were revised to include the words, “up to” to allow flexibility to do less. One current flaw that is being corrected is that the first binding element continues to reference 39 units when one was

[1] The Hearing Examiner is referring to the sight distance analysis of Traffic Engineer Mr. Wesley Guckert as opposed to the sight distance analysis presented by Mr. Richard Kauffunger. She notes that, “Even Mr. Kauffunger found only a deficiency of less than one percent of the required distance.”

¹³ Zoning And Administrative Hearings Opinion, Page 41

removed to improve Homecrest Road and allow a sixty-foot right-of-way for Roadway C. This is a typographical error and should reference 38 units as is shown graphically on the plan and in the General Notes. With this correction, Technical Staff feels the minor deficiency is resolved.

7. *Area of Vedanta Center Expansion*

In the course of multiple revisions the area of the Vedanta Center Expansion came to be misreported as 6,000± sq. ft when the phasing plan referenced 6,500± sq. ft. This was a typographical error and has been corrected. With this correction, Technical Staff feels the minor deficiency is resolved.

8. *Fencing and Landscaping on Homecrest Road.*

Textual binding element No. 4 states that fencing and landscaping “as shown on the Development Plan [emphasis added] along Homecrest Road (within 10 feet of the lot line) shall be maintained by the Homeowners Association. An observation was that the development plan did not actually show this fencing. The applicant considered the difficulty of presenting the information at the scale where one inch equals fifty feet and decided to submit an inset which shows the fence and is referenced on the development plan. The idea of this element incidentally is to ensure uniform maintenance of this side of the development. The clarification appears to resolve this minor concern.

9. *Homecrest Right- of-Way Dedication*

The Development Plan before the Hearing Examiner did not identify that there would be right-of-way dedication on Homecrest Road. The current revision of the Development Plan has a notation indicating the intended dedication of right-of-way on Homecrest Road.

10. *NRI/FSD*

The District Council opinion raised a concern that the NRI/FSD does not show MNCPPC approval and stated that a copy of the approved document should be submitted into the record because of 59-D-1.3(a). The original problem was that the Development Plan was accepted without this approval. Technical staff raised the issue and the applicant proceeded to get an approved NRI/FSD. It is a fact that the NRI/FSD was approved¹⁴ and on file at M-NCPPC. Technical staff has directed the applicant to place a copy of the stamped approved plan in the record.

¹⁴ No. 4-05251. The approval issued on June 6, 2005.

History of Design Changes

In the current design, J. Kirby Development, LLC and Vedanta Center of Greater Washington¹⁵ propose a rezoning from RE-2 to the PD-2 zone for the site of approximately 16 acres. The plan proposes 20 single family detached dwelling units (one existing), 12 one family attached dwelling units, and 6 townhouse units (MPDUs) and expansion of an existing worship center (appx. 6,500 square feet). The proposed zoning is in the low category (PD-2). This development proposal has gone through three major revisions to reach the current scheme.

The original proposal was considered for a recommendation of denial by staff. Initially, PD-7 and PD-4 versions were proposed which both exceeded the PD-2 density recommended in the 1994 Approved and Adopted Aspen Hill Master Plan. The original submission would have located another large building at an intersection where the Aspen Hill Master Plan specifically identifies a concern for over concentration of large-scale institutional uses. The various components of that plan were compartmentalized and increasing access points and making sharing of parking a challenge.¹⁶ In order to accomplish this scheme, a PD-7 classification would have been necessary when the plan only allows PD-2. While the plan calls for a road on the north side of the property, the single loaded configuration was thought by staff to be inefficient. Such a suburban and auto-oriented design is not inconceivable in the PD zone. However, staff suggested that better design could go further to advance the purpose clause objective to, “encourage a maximum of social and community interaction” among those who live and work within an area where visual character and internal pedestrian connections were lacking. The applicant made several efforts to resolve these matters with the senior housing component but then decided to drop that aspect of the proposal and redesign.

Having eliminated the senior housing, the next draft represented a fundamental improvement, in that the zone requested was PD-2. This brought the scheme into master plan conformance for density. Staff continued to argue for better social and community interaction as called for in the PD zone purpose clause. The open space area and some internal paths represented an improvement. Staff continued to object to the disparate assembly of the plan and was particularly concerned with the use of flag lots on Homecrest. Staff asked the applicant to provide internal pedestrian connections and work to integrate the worship center into the development. Subsequent to hearing various staff and community concerns, the applicant presented the current draft.

The most recent revisions are per the opinions of the Hearing Examiner and the District Council as explained above. Staff continues to believe the current scheme has many favorable components. By having the residential development grouped in a pattern that encourages interaction off the main roads, and the plan “creates a place” that has an

¹⁵ Land planning report indicates a Hindu worship center. Website indicates, “The center provides a spiritual home for devotees and friends who come for Sunday lectures, weeknight scripture classes, worship and meditation.” (<http://www.vedanta-dc.org/about.html>)

¹⁶ A link to promote shared parking between senior housing and the worship center is clearly a missed opportunity considering the parking deficit for senior housing and surplus for the worship center.

identity. Reinforcing this is an open space feature incorporated prominently into the interior development. The loss of a unit allows for a looser form of development along Homecrest, which is recommended by staff. While grouping of MPDUs can be a detriment, the small size of this development with environmental constraints leaves few options. While the MPDUs are not interspersed, they are integrated with the market rate units. Pedestrian connections link the worship center and related duplexes to the rest of the community. An emergency connection is available connecting the worship center to the interior street. Should roads be blocked, this provides emergency vehicles with an option but the design prohibits cut-through in normal situations. The master plan road on the north of the property is retained in this design and also benefits from the loss of a unit. The sixty-foot right-of-way provides certainty that the plan objective will be met even with the uncertainties for development of the adjacent properties.

COMMUNITY CONCERNS – Staff has spoken with homeowners and civic associations in the area on several occasions, including a recent meeting in response to the remand. Staff spoke to some members of the Layhill Alliance Association and other residents. They initially expressed opposition to the proposal. Staff explained that the Master Plan recommendation of PD-2 zoning using the senior housing bonus for one third of the site could yield more than six units to the acre. There were mixed feelings about this hypothetical situation. Some prefer the property to retain much more of the open appearance it currently has, citing the original “wedge” designation to support this desire. Others felt a PD-2 development without senior housing was more in keeping with the Master Plan objective of limiting institutions on major corridors. The applicant worked with citizens and continues to discuss the project, which led to these revisions. Staff believes most support the PD-2 proposal without senior housing. Based upon recent interactions, staff believes some remain concerned about the design on Homecrest Road. Notably those with objections are the residents of the RE-2 zoned houses across the street and their adult children who are representing their parents. Others include members of separate community groups that have formed. Staff believes it is fair to observe there are differences of opinion between various groups that appear to transcend this particular development application. Use of similar names by different groups also makes it difficult to give an accurate summary of the community concerns. Staff will assemble any new correspondence that arrives subsequent to this report and offer them as a supplemental on the day of the hearing.

CONCLUSION –

With respect to the revised application, staff finds that the purpose clause and the requirements of the Planned Development Zone to provide a broad range of housing types, to minimize the amount of grading necessary for construction through flexibility of standards, and to provide a pedestrian network that links existing and proposed communities to public facilities have been realized by this plan. Staff believes that the requested PD-2 zone meets the intent of the 1994 Approved and Adopted Aspen Hill Master Plan. Staff also recommends approval of the Development Plan and Binding Elements that accompany this application which limit the development to a maximum of

38 residential units. Staff recommends returning the revised application to the Hearing Examiner with a recommendation of approval.

Sec. 59-D-1.6 Approval by District Council

59-D-1.61. Findings.

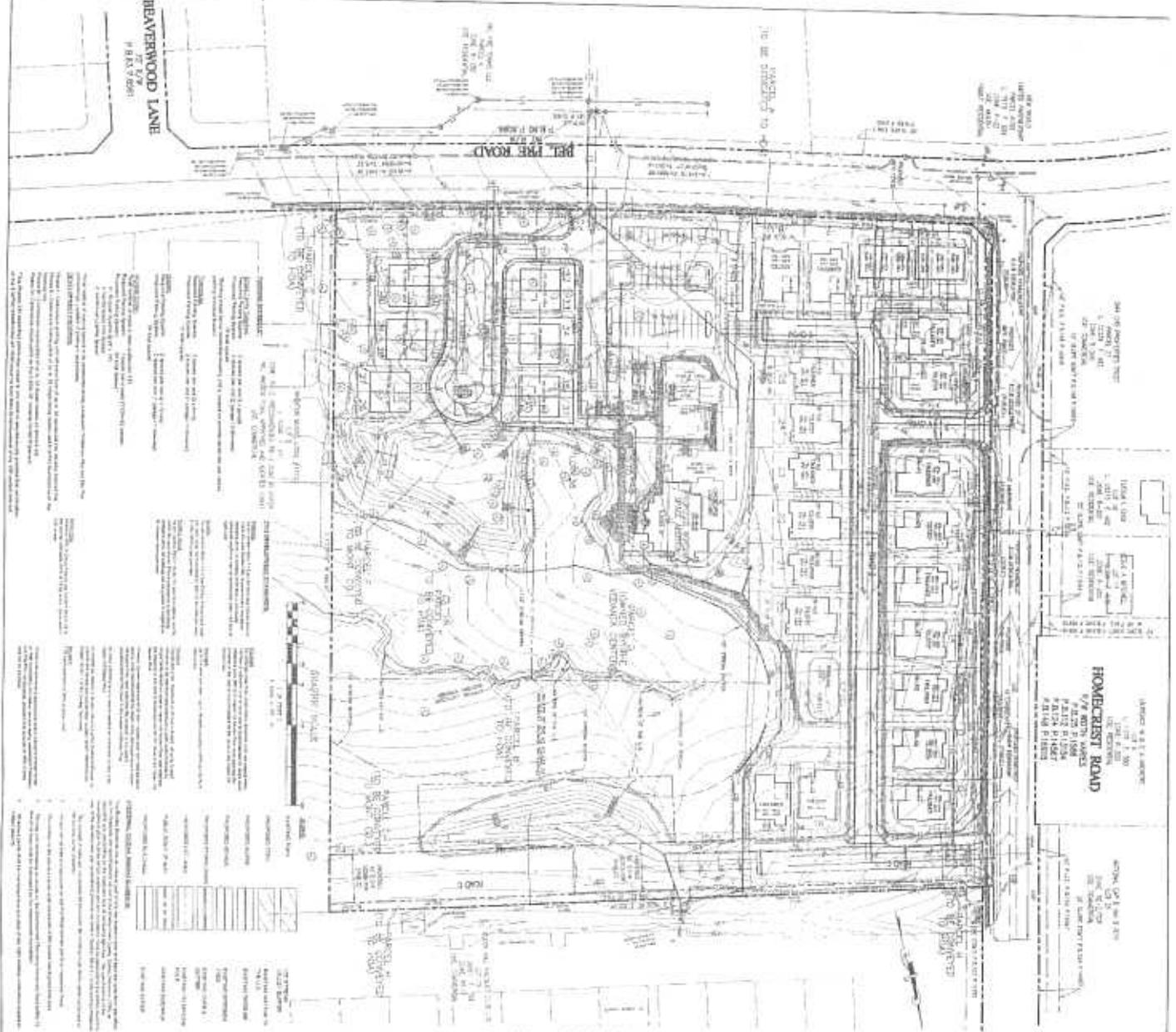
Before approving an application for classification in any of these zones, the district council must consider whether the application, including the development plan, fulfills the purposes and requirements set forth in article 59-C for the zone. In so doing, the district council must make the following specific findings, in addition to any other findings, which may be necessary and appropriate to the evaluation of the proposed reclassification:

- (a) *That the zone applied for is in substantial compliance with the use and density indicated by the master plan or sector plan, and that it does not conflict with the general plan, the county capital improvements program or other applicable county plans and policies.*
- (b) *That the proposed development would comply with the purposes, standards, and regulations of the zone as set forth in article 59-C, would provide for the maximum safety, convenience, and amenity of the residents of the development and would be compatible with adjacent development.*
- (c) *That the proposed internal vehicular and pedestrian circulation systems and points of external access are safe, adequate, and efficient.*
- (d) *That by its design, by minimizing grading and by other means, the proposed development would tend to prevent erosion of the soil and to preserve natural vegetation and other natural features of the site. Any applicable requirements for forest conservation under Chapter 22A and for water resource protection under Chapter 19 also must be satisfied. The district council may require more detailed findings on these matters by the planning board at the time of site plan approval as provided in division 59-D-3.*
- (e) *That any documents showing the ownership and method of assuring perpetual maintenance of any areas intended to be used for recreational or other common or quasi-public purposes are adequate and sufficient.*

Technical staff finds that the findings of 59-D-1.61 listed above can be made for this application as revised and believes this report provides sufficient analysis for the District Council to come to this conclusion.

Attachments

1. Revised Development Plan
2. Community Based Planning Referral
3. Transportation Planning Referral
4. Original Staff Report.
5. Zoning And Administrative Hearing
6. District Council Opinion.



NOTES:

1. All proposed improvements shall be installed in accordance with the latest edition of the applicable codes and standards.
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20. All proposed improvements shall be installed in accordance with the latest edition of the applicable codes and standards.

LEGEND:

- 1. Proposed Improvements
- 2. Existing Improvements
- 3. Proposed Landscaping
- 4. Existing Landscaping
- 5. Proposed Paving
- 6. Existing Paving
- 7. Proposed Utilities
- 8. Existing Utilities
- 9. Proposed Erosion Control
- 10. Existing Erosion Control
- 11. Proposed Stormwater Management
- 12. Existing Stormwater Management
- 13. Proposed Access
- 14. Existing Access
- 15. Proposed Fencing
- 16. Existing Fencing
- 17. Proposed Signage
- 18. Existing Signage
- 19. Proposed Lighting
- 20. Existing Lighting

GENERAL NOTES:

1. The proposed improvements shall be installed in accordance with the latest edition of the applicable codes and standards.
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<p>PRVA</p>		<p>DEVELOPMENT PLAN</p> <p>ASPEN HILL MANOR</p> <p>TAX MAP 1193 1886 GEORGIA AVE. THE PLUCK OWLEY, MD 20332</p> <p>10TH ELECTION DISTRICT MONTGOMERY COUNTY, MARYLAND</p>	<table border="1"> <thead> <tr> <th>NO.</th> <th>REVISION</th> <th>DATE</th> <th>BY</th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table>	NO.	REVISION	DATE	BY													<p>A RISKY DEVELOPMENT</p> <p>MOLLY HILL DEVELOPMENT</p> <p>Patton Harris East & Associates, pc</p> <p>Engineers, Surveyors, Architects, Landscape Architects</p> <p>1800 Oak Park Drive, Columbia, MD 21046 T 410.326.4400 F 410.326.4401</p>	<p>VICINITY MAP</p> <p>SCALE: 1"=200'</p>
NO.	REVISION	DATE	BY																		

M-NCPPC



MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

8787 Georgia Avenue
Silver Spring, Maryland 20910-3760
301-495-4500, www.mncppc.org

March 24, 2006

MEMORANDUM

TO: Joel Gallihue, Zoning Analyst
Development Review Division

FROM: Khalid Afzal, Team Leader, Georgia Avenue Team *KA*

SUBJECT: G-836 Remanded

The proposed application to rezone an approximately 16-acre parcel On Homecrest Road in the Aspen Hill area from the current RE-2 Zone to the PD-2 Zone was reviewed by the Planning Board on October 20, 2005. The Community-Based Planning staff concluded at the time that the proposed rezoning was consistent with the goals and recommendations of the 1994 Aspen Hill Master Plan.

Recently, the County Council remanded the rezoning application back to the Hearing Examiner to resolve the community impact issues raised by one of the residential property owners across Homecrest Road. The applicant has submitted a revised plan, dated 3-10-06, which shows one less single-family unit in the block surrounded by Homecrest Road, Road A, Road B and Road C. This block had eight units in the plan approved by the Planning Board during its review on October 20, 2005. Community-Based Planning staff concludes that the revised plan is consistent with the goals and recommendations of the Master Plan. There are no other significant changes in the revised plan.

KA:tv: G:/Afzal/G-836 Remanded.doc

Revised: March 27, 2006
October 3, 2005MEMORANDUM

TO: Joel Gallihue, Planner
Development Review Division

VIA: Shahriar Etemadi, Supervisor
Transportation Planning

FROM: Ed Axler, Planner/Coordinator
Revised by David Paine, Planner/Coordinator
Transportation Planning

SUBJECT: Local Map Amendment No. G-836
Aspen Hill Manor (Homecrest Road Property)
Aspen Hill Policy Area

Note: Transportation Planning staff revised this memorandum on March 23, 2006 to reflect the opinion of District Council, that the proposed development allow for 19 single-family detached units rather than 20. Staff reaffirms the findings below, revised in bold to reflect the reduction in units. The revision would result in one less peak hour trip in the AM and PM.

This memorandum is Transportation Planning staff's adequate public facilities (APF) review of the subject local map amendment for the rezoning from the RE-2 zone to the PD-2 zone. A future preliminary plan would be required to reconfigure the existing Lots 3, 4, and 5 and record them as Lots 1 to 39 and Parcels A to E.

RECOMMENDATIONS

Transportation Planning staff recommends the following recommendations as part of the APF test for transportation requirements related to the subject local map amendment:

1. Limit the local map amendment to the following land uses:
 - a. 20 19 additional single-family detached units, one existing unit retained, and one existing unit removed from the site for a net total of 20 19 units.
 - b. 18 attached units consisting of 12 single-family, semi-detached units (duplex) and six townhouse units.
 - c. A 6,000+/- square-foot expansion to the existing house of worship that includes a new 212-seat main auditorium.
2. Limit activities associated with the house of worship to exclude programs that would generate peak-hour vehicular trips within the weekday morning and evening peak periods, such as a weekday childcare facility or private school. These uses would require a separate APF review.
3. At the time of preliminary plan review, dedicate right-of-ways at following locations:
 - a. Dedicate six feet of additional right-of-way required for a total of 35 feet from the centerline of Homecrest Road, a primary residential street.
 - b. Dedicate a 50-foot-wide right-of-way for a new road across the northern portion of the subject property, as recommended in the *Aspen Hill Master Plan*.

DISCUSSION

Site Location

The site is located in the northeast side of Bel Pre Road and Homecrest Road.

Vehicular Access Points

The site access points are proposed at following locations:

1. One access is provided from Bel Pre Road for the house of worship and 12 duplex units.
2. Two access points are provided from Homecrest Road.

Pedestrian and Bicycle Facilities

The proposed local map amendment will not adversely affect the existing pedestrian (5-foot-wide) and bicycle facilities along Bel Pre Road and Homecrest Road.

The applicant has proffered to construct the missing sidewalk links on Bel Pre Road and Homecrest Road. Lead-in sidewalk shall be provided into the site.

Available Transit Service

Transit service is available via Ride-On route 26 running along Homecrest Road and Bel Pre Road west of the site, and via Ride-On route 49 on Bel Pre Road.

Montgomery County Master-Planned Roadways and Bikeways

In accordance with the *Aspen Hill Master Plan*, the planned roadways and bikeway designations are shown below:

1. Bel Pre Road is designated as a five-lane arterial, A-40, with a recommended right-of-way width of 80 feet and an existing shared-use path (SP-30, in the *Countywide Bikeways Functional Master Plan*).
2. Homecrest Road is designated as a primary residential street, P-12, with a recommended right-of-way width of 70 feet as a signed shared roadway.

The Master Plan recommends construction of a future public street from Homecrest Road across the northern portion of the subject property. The future public street would provide access to the "western Bel Pre Road properties" if developed in the future.

Local Area Transportation Review

The table below shows the number of peak-hour vehicular trips generated by the proposed land uses during the weekday morning and evening peak periods (i.e., 6:30 to 9:30 a.m. and 4:00 to 7:00 p.m., respectively):

Proposed Land Uses	Number of Units Increased	Weekday Peak-Hour Trips	
		Morning	Evening
Single-Family Detached Units	1 - 1+2019 = 20 19	49 18	22 21
Single-Family Attached Units	18	9	15
Expanded House of Worship	N/A- Generates No Peak-Hour Trips		
Total Vehicular Trips		28 27	37 36

Under the *FY 2005 Annual Growth Policy*, a traffic study is required to satisfy Local Area Transportation Review because the proposed land uses generate 30 or more peak-hour trips within the weekday evening peak period.

In the submitted traffic study, the table below summarizes the result of critical lane volume (CLV) values for the existing, background (approved but unbuilt developments), and total future traffic conditions.

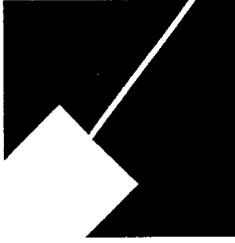
Intersection	Weekday Peak-Hour	Traffic Condition		
		Existing	Background	Total
Bel Pre Road & Beaverwood Lane	Morning	874	913	914
	Evening	858	914	916
Bel Pre Road & Homecrest Road	Morning	1,246	1,285	1,300
	Evening	860	901	920
Bel Pre Road & Site Access Point	Morning	N/A-Not Existing		923
	Evening	N/A-Not Existing		832
Homecrest Road & Northern Site Access Point	Morning	N/A-Not Existing		472
	Evening	N/A-Not Existing		411
Homecrest Road & Southern Site Access Point	Morning	N/A-Not Existing		478
	Evening	N/A-Not Existing		409

For both weekday peak-hours in all traffic conditions, the CLV values do not exceed the congestion/CLV standard of 1,500 for the Aspen Hill Policy Area at any of the five intersections.

DP:gw

cc: Glen Cook
Scott Wallace

memo to Galliburn re Aspen Hill Memo G 836

**MEMORANDUM: LOCAL MAP AMENDMENT**

DATE: October 11, 2005

TO: Montgomery County Planning Board

VIA: Rose Krasnow, Development Review Chief 
Carlton Gilbert, Zoning Supervisor 

FROM: Joel A. Gallihue, AICP 

SUBJECT: **Local Map Amendment No. G-836:** J. Kirby Development, LLC and Vedanta Center of Greater Washington seeks reclassification of 16 acres of land from the RE-2 zone to the PD-2 zone for 21 single family detached residences (one existing), 12 single family attached residences and 6 townhouse units (MPDU) and expansion of an existing worship center. Proposed rental units for senior independent living were deleted from the proposal. Located at intersection of Bel Pre and Homecrest roads. Aspen Hill Master Plan.

FILING DATE: February 22, 2005 (revised June 10, 2005)
PUBLIC HEARING: 11/04/2005

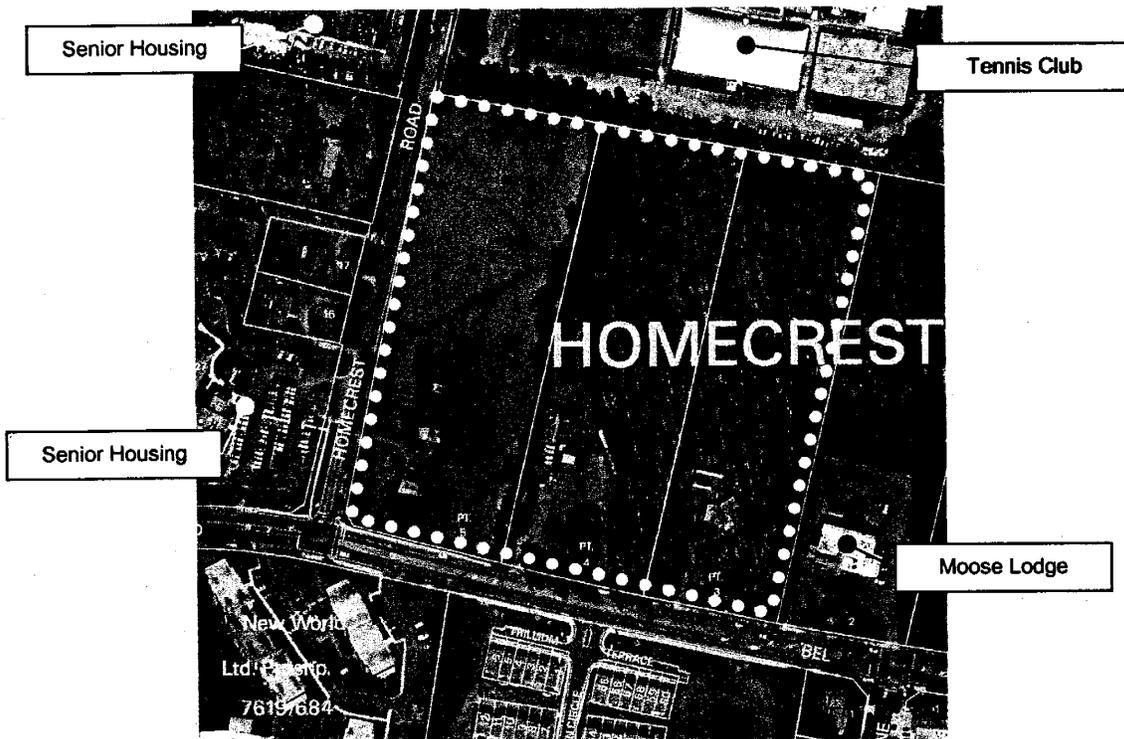
STAFF RECOMMENDATION: Approval, of the Planned Development Zone (PD-2) for 21 single family detached residences (one existing), 12 single family attached residences, 6 townhouse units (MPDU), and expansion of an existing worship center based upon the following findings:

1. The application complies with the purpose clause of the planned development zone (59-C-7.11).
2. The requested planned development zone is compatible with the surrounding uses.

3. The rezoning does conform with the recommendations of the 1994 Approved and Adopted Aspen Hill Master Plan.

SUMMARY

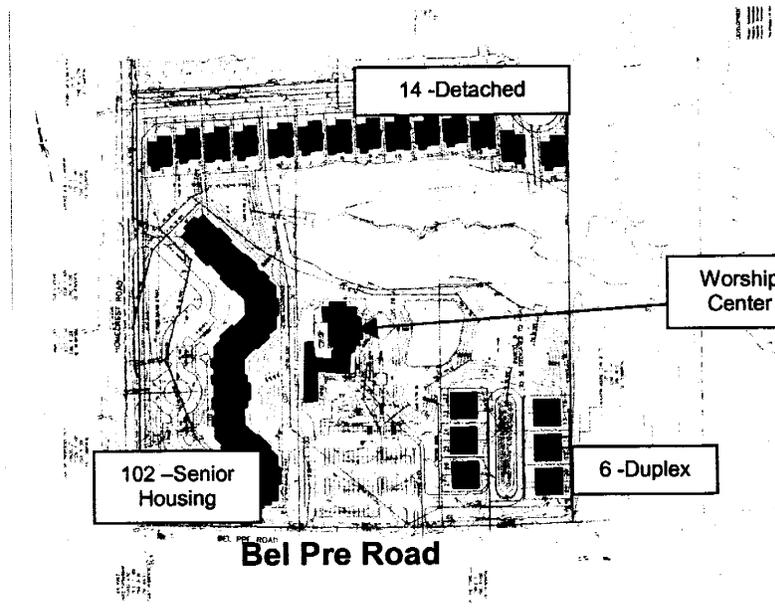
J. Kirby Development, LLC and Vedanta Center of Greater Washington¹ propose a rezoning from RE-2 to the PD-2 zone. The subject property for the rezoning tracts measure approximately 16 acres in area. The project includes parts of lots 3, 4 and 5 of the "Homecrest" subdivision recorded in Plat Book 25, Plat 1586. The addresses of the property are 2929, 3001, and 3031 Bel Pre Road, Silver Spring, MD. The plan proposes 21 single family detached dwelling units (one existing), 12 one family attached dwelling units, and 6 townhouse units (MPDUs) and expansion of an existing worship center (appx. 6,000 square feet) on approximately 16 acres of land. The proposed zoning is in the low category (PD-2). This development proposal has gone through three major revisions to reach the current scheme.



The original proposal was considered for a recommendation of denial by staff. Initially, PD-4 and then PD-7 was proposed which both exceeded the PD-2 density recommended in the 1994 Approved and Adopted Aspen Hill Master Plan. Additionally, proposed use of the senior housing bonus exceeded the

¹ Land planning report indicates a Hindu worship center. Website indicates, "The center provides a spiritual home for devotees and friends who come for Sunday lectures, weeknight scripture classes, worship and meditation." (<http://www.vedanta-dc.org/about.html>)

maximum one third of tract for calculating the bonus, per 59-C-7.14(d)(3)(c)². The original submission would have located another large building at an intersection where the Aspen Hill Master Plan specifically identifies a concern for over concentration of large-scale institutional uses.

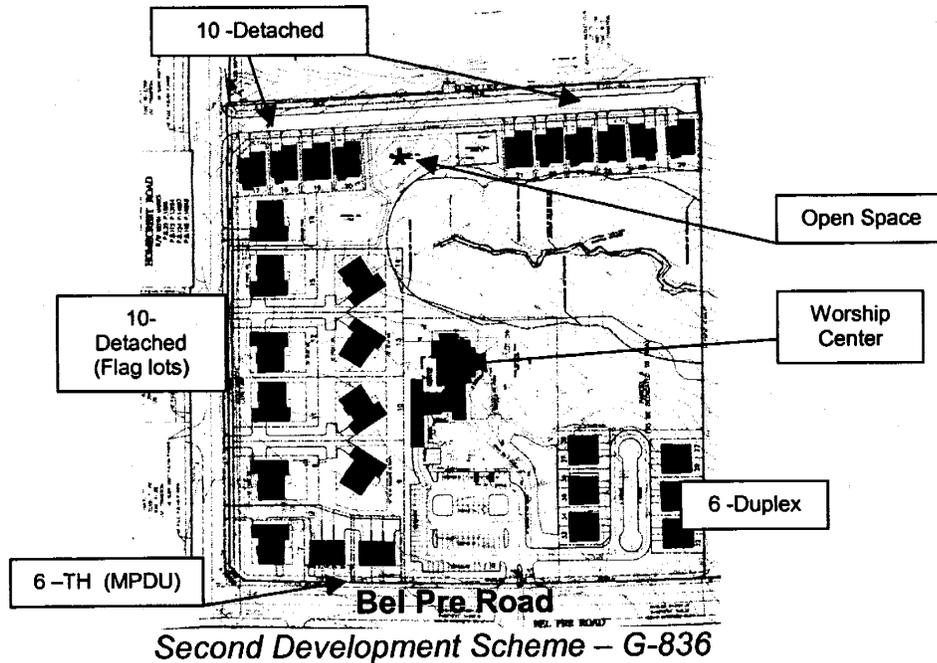


Initial Development Scheme - G-836

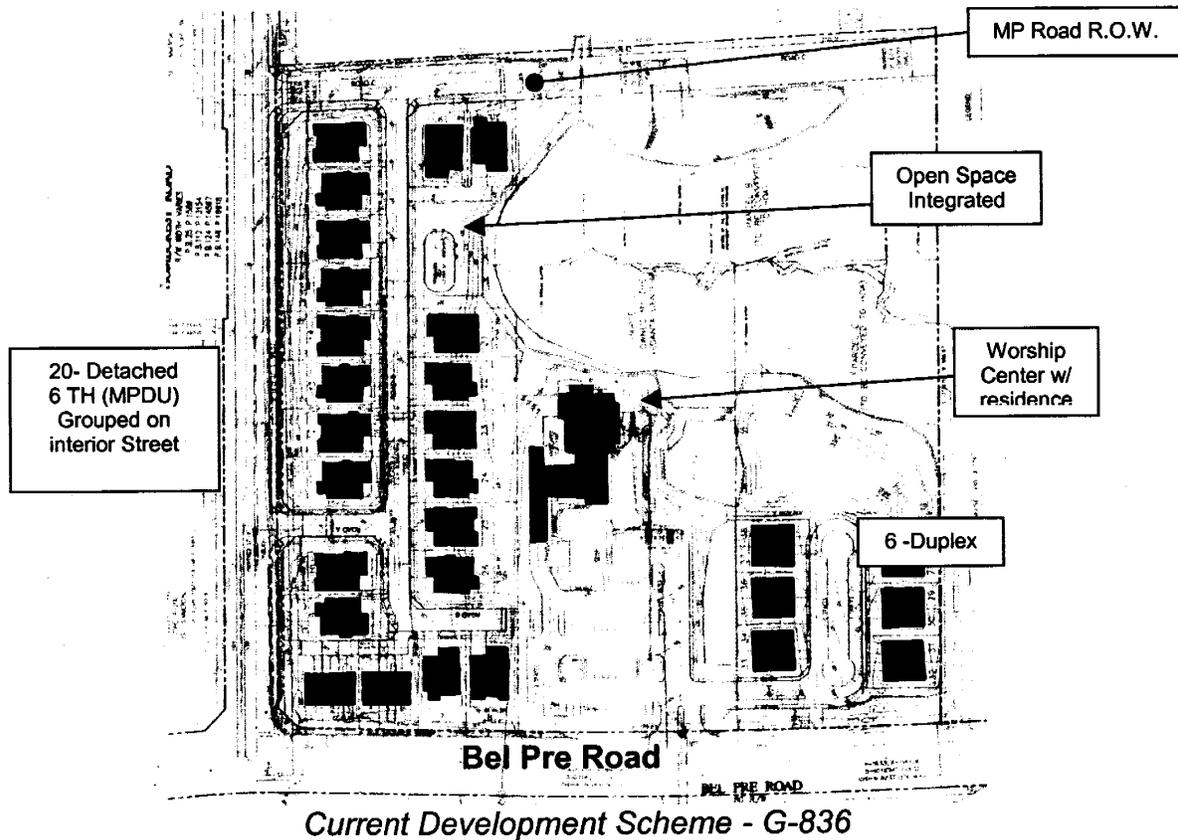
The relationship of the various components of the original proposed development was tenuous at best and ignored objectives of the PD zone purpose clause. The only link was the required sidewalk on public roads. The various components were compartmentalized on the plan increasing access points and making sharing of parking a challenge.³ In order to accomplish this scheme, a PD-7 classification would be necessary when the plan only allows PD-2. While the plan calls for a road on the north side of the property, the single loaded configuration was thought by staff to be inefficient. Such a suburban and auto-oriented design is not inconceivable in the PD zone. However, staff suggested that instead it was possible a better design could go further to advance the purpose clause objective to, “encourage a maximum of social and community interaction among those who live and work within an area. Staff believes that limited effort was taken to, “Create a distinctive visual character and identity for each coordinated residential use.” No internal pedestrian connections or open space linked the site. The applicant made several efforts to resolve these matters with the senior housing component but then decided to drop that aspect of the proposal and redesign.

² An attempt to increase the density to the PD-7 category resolved the bonus issue but continued to fail to meet the master plan goals.

³ A link to promote shared parking between senior housing and the worship center is clearly a missed opportunity considering the parking deficit for senior housing and surplus for the worship center.



Having eliminated the senior housing, the next draft represented a fundamental improvement, in that the zone requested was PD-2. This brought the scheme into master plan conformance for density. Staff continued to argue for better social and community interaction as called for in the PD zone purpose clause. The open space area and some internal paths represented an improvement. Staff continued to object to the way the disparate assembly of the plan and was particularly concerned with the use of flag lots on Homecrest. Staff asked the applicant to provide internal pedestrian connections and work to integrate the worship center into the development. Subsequent to hearing various staff and community concerns, the applicant presented the current draft.



The current scheme has many favorable components. Most of the residential development has been grouped in a pattern that encourages interaction off the main roads and “creates a place” that has an identity. Reinforcing this is an open space feature incorporated prominently into the interior development. While grouping of MPDUs can be a detriment, the small size of this development with environmental constraints leaves few options. While the MPDUs are not interspersed, they are integrated with the market rate units. Pedestrian connections link the worship center and related duplexes to the rest of the community. An emergency connection is available connecting the worship center to the interior street. Should roads be blocked, this provides emergency vehicles an option but the design prohibits cut-through in normal situations.

The master plan road on the north of the property is retained in this design, mostly as a dedication. Considering the uncertainties for development of the adjacent property, construction may not yet be necessary. Further consideration of this matter will be given when the preliminary plan of subdivision is reviewed. The scheme permits further discussion of the new intersection at Homecrest during preliminary plan review.⁴

⁴ The master plan concept of connecting the Tennis Club to the new road will be evaluated at that time.

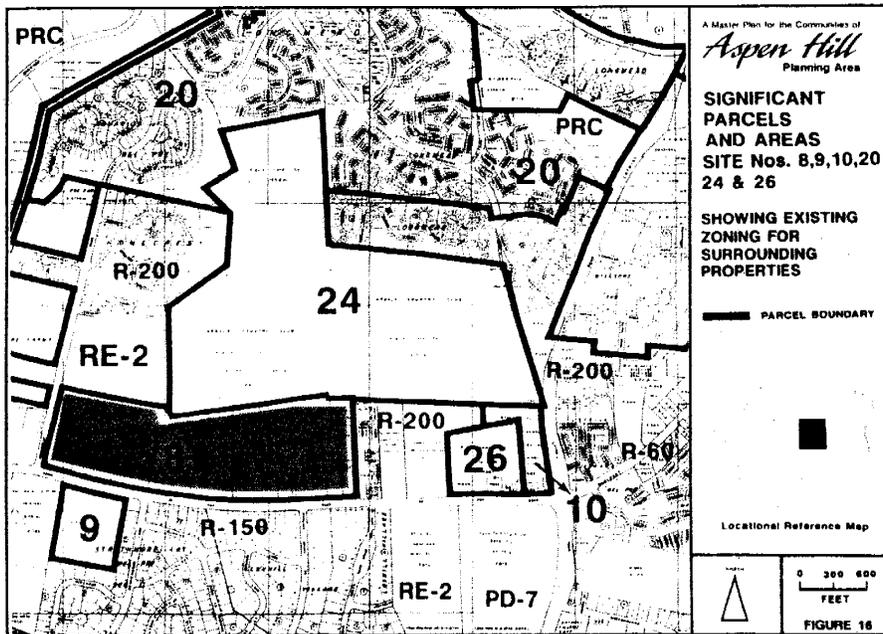
BACKGROUND

A. Description of Property

The three subject lots for the proposed rezonings form a square tract adjacent to Bel Pre Road and Homecrest Road in Aspen Hill. Approximately 867' of frontage on Bel Pre and 800' of frontage on Homecrest Road. A stream identified in the Master Plan as Bel Pre Creek drains through the property. There is no flood plain present on the tract. The property is partially wooded, partially field, and partially residential use.

B. Surrounding Area –

In a floating zone application, the evaluation of the zoning issues requires delineation of the surrounding area. The surrounding area for this application is referenced in the 1994 Approved and Adopted Aspen Hill Master Plan as the "Bel Pre Road" area⁵. The boundaries of this area are Bel Pre Road to the south, Homecrest Road to the west, Argyle Country Club to the North and The Bel Pre Square Townhouses⁶ Road to the East. The area is approximately 63 acres.



The land use pattern for the area is a mix of uses including residential, a social lodge and a nursing home. Adjacent to the north is land zoned RE-2, the Aspen Hill Racquet Club. Adjacent to the east is land zoned RE-2 and owned by the Wheaton Moose Lodge #1775. Across Homecrest Road and to the west is R-

⁵ The Plan has a section beginning on Page 34 entitled "Parcels or Areas Recommended for a Change in Use or Density." Page 46 begins the discussion Bel Pre Road Area (#8) of which the subject tract comprises a portion.

⁶ These townhouses are located across the street from Argyle School.

200 and RE-2 (TDR) zoned land with two senior housing facilities and single family residential. To the south is Strathmore House Apartments and townhomes in the R-150 zone.⁷

C. Intended Use and Approval Procedures

The applicant requests the PD-2 zone to allow the redevelopment of the site, which will consist of 21 detached units and 12 attached units, 6 townhouse units and the worship center.

The submitted development plan enumerates the following information on the land use plan:

Area of the site – 16.02 acres

Total number of units – 39 (21 SFD / 12 SFA / 6 TH)

(The number of bedrooms for SFD and SFA units not reported.)

Number of Moderate Priced Dwelling Units – 6, or 15% (12.5% min. is met)

Number of Parking Spaces – 201 spaces (71 more than is required)

Setback from One-Family Zone for SFA- < 50 feet

Greenspace – 47.39%

Development Program – The phasing plan indicates that development will occur in four phases, any or all of which may be initiated at any time:

- | | |
|-----------|---|
| Phase I | Grading and infrastructure for all 38 new single family lots, develop finished lots. |
| Phase II | Commence construction of 20 new single family homes and six MPDU townhouses on finished lots. |
| Phase III | Commence construction of 12 duplex homes. |
| Phase IV | Commence construction of 6,000 SF Vedanta Center Expansion. |

Development plan indicates that phases may occur in any order and may occur simultaneously although its not possible to grade and construct at the same time.

Binding Elements –

1. The number of dwelling units shall be limited to 39, including the existing residence at the worship center.
2. The addition to the worship center shall be limited to 5,700 sq. ft. gross floor area.
3. Access will be from a single point on Bel Pre Road and three points on Homecrest Road.

⁷ Area # 9 per the Aspen Hill Plan.

The subdivision and development of this property as proposed depends upon the rezoning to the PD-2 zone. In addition to this rezoning application, other approval processes for this site will include a preliminary plan of subdivision, a site plan and a final plat of subdivision.

D. Zoning History –

1. Comprehensive Zoning:

- a. 1959 Countywide Comprehensive Zoning mapped RA zone. (Agriculture – Residential)
- b. Re-designated RE-2 by ZTA #73013 in 1973.
- c. SMA G-709 reconfirmed RE-2 zoning.

1. Local Map Amendment:

None prior to instant proposal.

E. Master Plan Recommendation –

- 1. Land Use: Residential and Special Exception Uses
- 2. Zoning: RE-2 or PD-2 with assembly of ten acres or more.

F. Public Facilities

1. ***Water and Sewer Service:***

- a. Service Categories: The property is Water Category W-1 and Sewer Category S-1
- b. Water and Sewer Service: Water and sewer lines abut the property. Local service is deemed adequate and the impact from rezoning is considered negligible

2. ***Roadways:***

According to the 1994 Approved and Adopted Aspen Hill Master Plan, the nearby master-planned facilities include:

Bel Pre Road – designated as a five-lane arterial, A-40 with a recommended minimum right-of-way width of 80 feet and an existing Class I bikeway (i.e., a shared use path, SP-30, in the Countywide Bikeway Functional Master Plan).

Homecrest Road – designated as a primary residential primary street, P-12, with a recommended minimum right-of-way width of 70 feet and a proposed Class III bikeway.

3. Schools:

The subject property is located within the Kennedy School Cluster. The land planning report indicates that all levels of schools in this cluster have adequate capacity.

ANALYSIS

A. Purpose of the PD-Zone: A floating zone requires an evaluation of the purpose clause of the zone. The purpose of the PD zone is as follows:

Sec. 59-C-7.1. P-D Zone-Planned development zone.

59-C-7.11. Purpose.

It is the purpose of this zone to implement the general plan for the Maryland-Washington Regional District and the area master plans by permitting unified development consistent with densities proposed by master plans. It is intended that this zone provide a means of regulating development which can achieve flexibility of design, the integration of mutually compatible uses and optimum land planning with greater efficiency, convenience and amenity than the procedures and regulations under which it is permitted as a right under conventional zoning categories. In so doing, it is intended that the zoning category be utilized to implement the general plan, area master plans and other pertinent county policies in a manner and to a degree more closely compatible with said county plans and policies than may be possible under other zoning categories.

It is further the purpose of this zone that development be so designed and constructed as to facilitate and encourage a maximum of social and community interaction and activity among those who live and work within an area and to encourage the creation of a distinctive visual character and identity for each development. It is intended that development in this zone produce a balanced and coordinated mixture of residential and convenience commercial uses, as well as other commercial and industrial uses shown on the area master plan, and related public and private facilities.

It is furthermore the purpose of this zone to provide and encourage a broad range of housing types, comprising owner and rental occupancy units, and one-family, multiple-family and other structural types.

Additionally, it is the purpose of this zone to preserve and take the greatest possible aesthetic advantage of trees and, in order to do so, minimize the amount of grading necessary for construction of a development.

It is further the purpose of this zone to encourage and provide for open space not only for use as setbacks and yards surrounding structures and related walkways, but also conveniently located with respect to points of residential and commercial concentration so as to function for the general benefit of the community and

public at large as places for relaxation, recreation and social activity; and, furthermore, open space should be so situated as part of the plan and design of each development as to achieve the physical and aesthetic integration of the uses and activities within each development.

It is also the purpose of this zone to encourage and provide for the development of comprehensive, pedestrian circulation networks, separated from vehicular roadways, which constitute a system of linkages among residential areas, open spaces, recreational areas, commercial and employment areas and public facilities, and thereby minimize reliance upon the automobile as a means of transportation.

Since many of the purposes of the zone can best be realized with developments of a large scale in terms of area of land and numbers of dwelling units which offer opportunities for a wider range of related residential and nonresidential uses, it is therefore the purpose of this zone to encourage development on such a scale.

It is further the purpose of this zone to achieve a maximum of safety, convenience and amenity for both the residents of each development and the residents of neighboring areas, and, furthermore, to assure compatibility and coordination of each development with existing and proposed surrounding land uses.

This zone is in the nature of a special exception, and shall be approved or disapproved upon findings that the application is or is not proper for the comprehensive and systematic development of the county, is or is not capable of accomplishing the purposes of this zone and is or is not in substantial compliance with the duly approved and adopted general plan and master plans. In order to enable the council to evaluate the accomplishment of the purposes set forth herein, a special set of plans is required for each planned development, and the district council and the planning board are empowered to approve such plans if they find them to be capable of accomplishing the above purposes and in compliance with the requirements of this zone.

Staff believes that the rezoning request, as revised meets the purpose clause of the PD zone. The proposed Land Use Plan would not be possible using the existing R-200 and RE-2 zone and the use of the PD-2 zoning category is recommended by the Aspen Hill Master Plan.

The current proposed development creates a residential community where previous drafts, in the opinion of staff, were an assemblage of unrelated residential and institutional components. Pedestrian and vehicular improvements are now configured to develop a unified residential community and provide safe access. No commercial or non-residential⁸ uses are proposed.

⁸ Other than worship center.

The proposed development provides adequate access for response from the Kensington Fire Department (Station 25- Aspen Hill) via Bel Pre road. The station is at the intersection of Connecticut Avenue and Bel Pre Road. Bel Pre, Homecrest and the new road provide fire fighter access to the site.

The submissions for zoning applications G-836 are accompanied by a set of plans that are sufficient for the Planning Board and District Council to make the finding that the proposed development meets the purpose of the zone and is in compliance with the adopted general plan and master plans.

With the comments discussed above, staff concludes the subject application meets the purpose clause of the PD Zone.

59-C-7.12. Where applicable.

59-C-7.121. Master plan. *No land can be classified in the planned development zone unless such land is within an area for which there is an existing, duly adopted master plan which shows such land for a density of 2 dwelling units per acre or higher.*

The master plan specifically recommends PD-2 zoning. *Initial proposals for higher PD zoning would have been recommend for denial because of the master plan recommendation.* The initial proposal for PD-4 and the revised proposal for PD-7 exceeded this recommendation. The submitted land planning report represents that 38 new units plus the existing residence at worship center are proposed. The "Proposed Lot, Parcel, and Density Calculation Table" on the submitted Development Plan indicates the same. So the representation of the land planning report is consistent with the submitted development plan.

59-C-7.122. Minimum area. *No land can be classified in the planned development zone unless the district council finds that the proposed development meets at least one of the following criteria:*

(e) That the site is recommended for the PD zone in an approved and adopted master or sector plan and so uniquely situated that assembly of a minimum gross area to accommodate at least 50 dwelling units is unlikely or undesirable and the development of less than 50 dwelling units is in the public interest.

The applicant has advised staff that it has not been possible to negotiate with the adjacent property on Bel Pre Road to be a part of this application so assembly to accommodate at least 50 dwelling units is unlikely at this time. Development of less than fifty dwelling units is in the public interest when the Master Plan recommendation for PD-2 is taken into consideration and the fact that the plan recommends tracts of ten acres or more.

59-C-7.13. Uses permitted.

59-C-7.131. Residential. *All types of residential uses are permitted, including accessory uses. These include the following, provided they are shown on the development plan: housing and related facilities for senior adults or persons with disabilities, a group home, and a life care facility. A life care facility is subject to the provisions of Section G-2.35.1. The various dwelling unit types must be planned and constructed in accordance with the following table. The table establishes, by density category and size of development, the minimum percentage required for each dwelling unit type within a planned development. All remaining dwelling units not included in the minimum requirements may be of any type or combination of types permitted in the applicable density category and development size, provided the maximum percentage is not exceeded in any instance.*

One family detached, semi-detached (duplex), and townhouse units are proposed. For the low density category, the permitted minimum number of single family detached units is 35% and 54% are provided. Also, the minimum number of townhouse and attached units is 35% and 46% are provided. Multifamily units are not permitted in this category and they are not proposed.

59-C-7.132. Commercial.

No commercial uses are proposed under this rezoning application.

59-C-7.133. Other uses.

(a) *Noncommercial community recreational facilities, which are intended, exclusively for the use of the residents of the development and their guests may be permitted.*

No such facilities are indicated in the proposal other than common open space.

59-C-7.14. Density of residential development.

(a) *An application for the planned development zone must specify one of the following density categories and the district council in granting the planned development zone must specify one of the following density categories:*

The proposal is for the low-density category of two units to the acre.

(b) *The District Council must determine whether the density category applied for is appropriate, taking into consideration and being guided by the general plan, the area master or sector plan, the capital improvements program, the purposes of the planned development zone, the requirement to provide moderately priced dwelling units in accordance with Chapter 25A of this Code, as*

amended, and such other information as may be relevant. Where 2 or more parts of the proposed planned development are indicated for different densities on a master plan, a density category may be granted which would produce the same total number of dwelling units as would the several parts if calculated individually at the density indicated for each respective part and then totaled together for the entire planned development.

The proposal does follow the low-density category (PD-2) recommended in the plan.

(c) The density of development is based on the area shown for residential use on the master plan and must not exceed the density permitted by the density category granted. However, the maximum density prescribed by Subsection (a) may be increased to accommodate the construction of Moderately Priced Dwelling Units as follows:

The base density of PD-2 (two dwelling units/acre) is only exceeded by the proposal as required by the MPDU provisions.

(d) Notwithstanding the density provisions of this zone, the District Council may approve an increase in density for housing for senior adults or persons with disabilities, as defined in Section 59-A-2.1, within a planned development in accordance with the following requirements:

(e) The District Council may approve a density bonus of up to 10% above the maximum density specified in the approved and adopted master plan for the provision of TDRs, if the use of TDRs is recommended for the site.

TDRs are not recommended for this site, nor are TDRs a part of this application.

59-C-7.15. Compatibility.

(a) All uses must achieve the purposes set forth in section 59-C-7.11 and be compatible with the other uses proposed for the planned development and with other uses existing or proposed adjacent to or in the vicinity of the area covered by the proposed planned development.

The proposed development is consistent with the goals and objectives of the Aspen Hill Master Plan by providing development that exceeds the recommended density. The proposed use and requesting density are incompatible with the existing development in the surrounding area.

(b) In order to assist in accomplishing compatibility for sites that are not within, or in close proximity to a central business district or transit station development area, the following requirements apply where a planned

development zone adjoins land for which the area master plan recommends a one-family detached zone:

(1) No building other than a one-family detached residence can be constructed within 100 feet of such adjoining land; and

(2) No building can be constructed to a height greater than its distance from such adjoining land.

The Development Plan does not indicate that buildings other than one-family detached will be within 100 feet of adjoining land recommended for one-family detached zones⁹. No property is within close proximity to a CBD or transit station. The 100' setback for units other than single family detached dwellings (59-C-7.15. (b)(1) from adjacent one family detached zones met on the east side where duplexes are less than fifty feet from the property line. The adjacent Moose Lodge property is recommended for PD zoning, which could allow something other than one family detached units so the 100' setback does not apply to the duplexes on this side.

(e) Compliance with these requirements does not, by itself, create a presumption of compatibility.

59-C-7.16. Green area.

Green area must be provided in amounts not less than indicated by the following schedule:

The green area comprises over 46 percent of the site, which exceeds the 30% minimum for the Master Plan recommended PD-2 density category.

59-C-7.17. Dedication of land for public use.

Such land as may be required for public streets, parks, schools and other public uses must be dedicated in accordance with the requirements of the county subdivision regulations, being chapter 50 of this Code, as amended, and the adopted general plan and such adopted master plans and other plans as may be applicable. The lands to be dedicated must be so identified upon development plans and site plans required under the provisions of article 59-D.

Such features are clearly shown on the land use plan and are indicated for dedication. Dedication must occur under applicable subdivision regulations, which will be applied at preliminary plan of subdivision. At the time of preliminary

⁹ Staff concludes that the adjacent Moose Lodge property is recommended for PD-2.

plan of subdivision sight distance requirements or other considerations may require adjustments to the plan.¹⁰

59-C-7.18. Parking facilities.

Off-street parking must be provided in accordance with the requirements of article 59-E.

As noted in the parking table on the development plan, requirements are met by this plan.

59-C-7.19. Procedure for application and approval.

(a) Application and development plan approval must be in accordance with the provisions of division 59-D-1.

The information required by 59-D-1 has been submitted.

(b) Site plans must be submitted and approved in accordance with the provisions of division 59-D-3.

If the zoning applications are approved, site plans will be required.

B. Master Plan Recommendation

Based on the following analysis of the 1994 Approved and Adopted Aspen Hill Master Plan, staff concludes that the proposed rezoning of the approximately 16-acre parcel, located at the northeast corner of Bel Pre Road and Homecrest Road, from the existing RE-2 to PD-2 Zone is consistent with the goals and recommendations of the 1994 Aspen Hill Master Plan.

The subject property is within a portion of the area identified in the Land Use Chapter of the 1994 Aspen Hill Master Plan as #8 Bel Pre Area (the area "located along the northern side of Bel Pre Road between Homecrest Road and the Bel Pre Square townhouses..." (page 51). The Master Plan designated the subject property as "Area 8 The Bel Pre Road Area" needing sensitive treatment to protect Bel Pre Creek (a high quality Use IV stream) and described the community as needing an internal road network to minimize development impact on this creek (avoid crossings) and minimize entrances to Bel Pre Road from any future redevelopment in this area.

Figure 55 in Appendix C of the master plan (page 237) shows an entrance to the western Bel Pre area properties from Homecrest Road at the northern edge of these properties along the southern property line of the Aspen Hill Racquet Club.

¹⁰ As anticipated by Aspen Hill Master Plan on page 231.

The Plan states that a higher density zoning than RE-2 would help provide an incentive for such assemblage and redevelopment. In addition, the plan also stresses the need for on-site storm water management methods for maintenance of appropriate water quality standards for Use VI streams.

For the Western Bel Pre Road area, which contains the subject property, the Plan has more specific recommendations. It recommends, "Retaining the existing RE-2 zone for all properties not now zoned R-200. If properties amounting to at least 10 acres are assembled, a PD-2 zoning is recommended" (page 54). For a new access road for the Bel Pre Area, the Master Plan recommends a circulation pattern with access points on Homecrest Road and Bel Pre Road. The access point on Homecrest Road is on the subject parcel. The Plan recommends that since "the proposed road may be close to the existing entrance of the Aspen Hill Racquet and Tennis Club, the Montgomery County Department of Transportation may deem the proximity of two entrances to be a safety hazard. If so, access should be provided from the new street when it is constructed as a primary residential street to the location where access may have to be provided to the Racquet and Tennis Club. After that point, the street would continue as a secondary residential street through the Bel Pre Road properties in a circuitous alignment and ultimately intersect Bel Pre Road opposite Rippling Brook" (page 238). The proposed development scheme provides dedication to accomplish this Bel Pre parallel road. Staff believes that the proposed street with a 50-foot right-of-way is consistent with the goal of the master plan if the DPWT considers the proposed roadway to be adequate for the number of units in the proposal. Consolidation or widening of the street to a primary standard at this location can be accommodated at the time a new entrance or consolidation of entrances is need when the adjoining Racquet Club property redevelops.

C. Transportation

Transportation staff does not find a transportation related reason for recommending denial for this application. As noted in the attached memorandum, approved congestion standards are not exceeded. Various subdivision and site plan comments are included in the memorandum.

D. Development Plan

Section 59-C-7.19 requires that application and development plan approval must be in accordance with the provisions of Division 59-D-1

Sec. 59-D-1.3. Contents of development plan.

The development plan must clearly indicate how the proposed development meets the standards and purposes of the applicable zone. The development plan must include the following, in addition to any other information, which the applicant considers necessary to support the application:

- (a) *A natural resources inventory prepared in accordance with a technical manual adopted by the Planning Board and, in addition:*
- (1) *other natural features, such as rock outcroppings and scenic views;*
 - (2) *historic buildings and structures and their approximate ages.*
- and
- (b) *A map showing the relationship of the site to the surrounding area and the use of adjacent land.*
- (c) *Except for the town sector zone, a land use plan showing:*
- (1) *The general locations of the points of access to the site.*
 - (2) *The locations and uses of all buildings and structures.*
 - (3) *A preliminary classification of dwelling units by type and by number of bedrooms.*
 - (4) *The location of parking areas, with calculations of the number of parking spaces.*
 - (5) *The location of land to be dedicated to public use.*
 - (6) *The location of the land which is intended for common or quasi-public use but not proposed to be in public ownership, and proposed restrictions, agreements or other documents indicating the manner in which it will be held, owned and maintained in perpetuity for the indicated purposes.*
 - (7) *The preliminary forest conservation plan prepared in accordance with Chapter 22A.*
- (d) *Except for the town sector zone, a development program stating the sequence in which all structures, open spaces, vehicular and pedestrian circulation systems and community recreational facilities are to be developed. For the town sector zone, a development program stating the sequence of the following in relation to the development of the residential and commercial areas specified in subsection 59-D-1.3(f), below:*
- (1) *Dedication of land to public use.*
 - (2) *Development of the arterial road system.*

- (3) *Development of pedestrian and bicycle circulation systems.*
- (4) *Development of community facilities and open space.*
- (5) *Development of regional stormwater management facilities.*
- (e) *The relationship, if any of the development program to the county's capital improvements program.*
- (h) *In the zones indicated by "X" below, the following shall also be shown:
Note: only relevant portion of table is shown*

	P-D
(6) The density category applied for, as required in subsection 59-C-7.14(a).	X

(i) *If a property proposed for development lies within a special protection area, the applicant must submit water quality inventories and plans and secure required approvals in accordance with Article V of Chapter 19. The development plan should demonstrate how any water quality protection facilities proposed in the preliminary water quality plan can be accommodated on the property as part of the project.*

An Natural Resources Inventory/ Forest Stand Delineation (NRI/FSD) was not originally submitted with the Development Plan. The NRI/FSD was finally approved early this month according to the technical manual adopted by the Planning Board on September 25, 2003. It is not known how the application was accepted without meeting this minimum submission requirement.

The submitted Land Use Plan indicates access points to the site. One access is proposed on Bel Pre Road and three are proposed on Homecrest Road. A binding element is offered to hold access to this configuration. All residential lots are shown on the plan. The Land Use Plan indicates that there will be 21 SFD units, 12 SFA units and 102 senior units. The Land Use Plan includes parking areas with calculations and number of parking spaces. The Land Use Plan does not specifically indicate land dedicated for public use. The sidewalks and stream valley area qualify. No land, which is intended for common or quasi-public use, is noted on the Land Use Plan. Technical staff has made a finding whether the preliminary forest conservation plan in accordance with Chapter 22A. The four-phase development program is indicated on the development plan. There is no specific CIP issue associated with this proposal. No commercial development is proposed. The property is not in a special protection area.

Development Standards for PD-2 Zone		
Standard	Permitted/Required	Proposed
Minimum tract area	12.5 acres (sufficient for 50 dwelling units)	16.013 Acres
Maximum density/ total yield	2 units to the acre	39 units (permitted w/MPDU) 2.4 / ac.
Minimum (maximum) percentage of units	35% SFD, 35% SFA and TH. No MF	54% SFD, 46% SFA 0% MF
Minimum setback		
-From any detached dwelling lot or land classified in a one-family, detached, residential zone.	100 Feet	Setback is met.
Maximum Building Height	No higher than distance from adjoining one-family detached residential zone.	Provision is met by development plan.
Minimum Green Area	40%	47.39% entire site
Minimum Parking	2 spaces per du for SFD/SFA. 0.85 per 1BR MF, 1.15 per 2 BR MF, .25 per seat worship = total of 220	Total of 271. Extra parking is provided for SFD and worship. Senior housing has 72% required on site.

E. Environmental

Countywide Environmental Planning staff has recommended approval of this zoning application and development plan.

F. Preliminary and Site Plan Issues

Section 59-C-7.19 requires that Site plans must be submitted and approved in accordance with the provisions of division 59-D-3. If the County Council approves the subject rezoning, this project will require approval of a preliminary plan and site plan by the Planning Board. The site plan must be consistent with the Development Plan covering the instant zoning applications. The number of dwelling units may be reduced during the review of the preliminary and site plan to meet environmental and other requirements.

This proposal would construct part of a master plan recommended road and dedicate right of way for the remainder. Staff recommended against an earlier draft that would have constructed the entire road because it left an isolated group of homes on the eastern end. The current configuration presents a more cohesive community that does not yet need the road constructed to the eastern end. Providing the pavement at this time may not be efficient given that

redevelopment of the lodge property is not at all imminent.¹¹ This is the position of technical staff in reviewing the zoning proposal, however the final decision for dedication is made in the subdivision process.

COMMUNITY CONCERNS – Staff has spoken with homeowners and civic associations in the area. Staff spoke to some members of the Layhill Alliance Association and other residents. They initially expressed opposition to the proposal. Staff explained that the Master Plan recommendation of PD-2 zoning using the senior housing bonus for one third of the site could yield more than six units to the acre. There were mixed feelings about this hypothetical situation. Some prefer the property to retain much more of the open appearance it currently has, citing the original “wedge” designation to support this desire. Others felt a PD-2 development without senior housing was more in keeping with the Master Plan objective of limiting institutions on major corridors. The applicant worked with citizens and continues to discuss the project, which led to the revisions. In a recent meeting with citizens staff found that the changes had been received favorably. Most support the PD-2 proposal without senior housing. Some remained concerned about adequate sight distance and some believe the master plan road should be constructed by this development.

CONCLUSION –

With respect to the subject application, staff finds that the purpose clause and the requirements of the Planned Development Zone to provide a broad range of housing types, to minimize the amount of grading necessary for construction through flexibility of standards, and to provide a pedestrian network that links existing and proposed communities to public facilities have been realized by this plan. Staff believes that the requested PD-2 zone meets the intent of the 1994 Approved and Adopted Aspen Hill Master Plan. Staff also recommends approval of the Development Plan and Binding Elements that accompany this application which limit the development to a maximum of 39 residential units.

Sec. 59-D-1.6 Approval by District Council

59-D-1.61. Findings.

Before approving an application for classification in any of these zones, the district council must consider whether the application, including the development plan, fulfills the purposes and requirements set forth in article 59-C for the zone. In so doing, the district council must make the following specific findings, in addition to any other findings, which may be necessary and appropriate to the evaluation of the proposed reclassification:

- (a) *That the zone applied for is in substantial compliance with the use and density indicated by the master plan or sector plan, and that it does*

¹¹ A potential concern is that the unused section would be used for dumping.

not conflict with the general plan, the county capital improvements program or other applicable county plans and policies.

- (b) That the proposed development would comply with the purposes, standards, and regulations of the zone as set forth in article 59-C, would provide for the maximum safety, convenience, and amenity of the residents of the development and would be compatible with adjacent development.*
- (c) That the proposed internal vehicular and pedestrian circulation systems and points of external access are safe, adequate, and efficient.*
- (d) That by its design, by minimizing grading and by other means, the proposed development would tend to prevent erosion of the soil and to preserve natural vegetation and other natural features of the site. Any applicable requirements for forest conservation under Chapter 22A and for water resource protection under Chapter 19 also must be satisfied. The district council may require more detailed findings on these matters by the planning board at the time of site plan approval as provided in division 59-D-3.*
- (e) That any documents showing the ownership and method of assuring perpetual maintenance of any areas intended to be used for recreational or other common or quasi-public purposes are adequate and sufficient.*

Technical staff finds that the findings of 59-D-1.61 listed above can be made for this application and believes this report provides sufficient analysis for the District Council to come to this conclusion.

Attachments

1. Vicinity Map
2. Surrounding Neighborhood Map
3. Development Plan
4. Transportation Planning Memorandum
5. State Highway Administration Memorandum
6. Environmental Planning Memorandum
7. Letter from B'nai B'rith Housing Foundation opposed to earlier development scheme.