



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

MCPB
Items # 9A, 9B
5/10/07

MEMORANDUM

DATE: May 4, 2007
TO: Montgomery County Planning Board
FROM: Sandra Youla, AICP (301-495-4624) *SY*
 for the Montgomery County Planning Department
VIA: Ralph Wilson, Acting Zoning Supervisor, and *RW*
 Rose Krasnow, Chief, Development Review Division *RK*

REVIEW TYPE: Item # 9A. Preliminary Forest Conservation Plan
 Item # 9B Local Map Amendment/Optional Method of Application
 Reclassification of 2.53 Acres of Land from R-60 (Residential, One-family, Detached) to R-T 12.5 (Residential Townhouse, Maximum Density 12.5 Units per Acre) for up to 27 Townhouses

REVIEW BASIS: Item #9A Chapter 22A. Forest Conservation – Trees
 Item #9B Chapter 59. Zoning Ordinance

CASE NUMBER: G-858
APPLICANT: Kaz Development, LLC
LOCATION: Northwest Quadrant of Georgia Avenue and Evans Drive, Silver Spring, MD 20902

MASTER PLAN: Kensington-Wheaton Master Plan (May 1989, amended April 1990)

FILING DATE: October 3, 2006
PUBLIC HEARING: May 21, 2007, before the Hearing Examiner

STAFF RECOMMENDATION:

APPROVAL of the Preliminary Forest Conservation Plan, with the following conditions:

1. The applicant must reduce the forest conservation easement to exclude the proposed pathway and public access easement.
2. The applicant must adjust the forest conservation worksheet to reduce the area of afforestation by the public access easement area.

APPROVAL of Zoning Application G-858, for the following reasons:

1. The subject property is an appropriate location for the development of townhouses as proposed, and therefore the application meets the purpose clause of the R-T 12.5 Zone.
2. The application is in full compliance with all other requirements of the R-T 12.5 Zone.
3. The application is compatible with the surrounding area.
4. The application is in the public interest.

BACKGROUND

Introduction

Under the optional method of application, the applicant, Kaz Development, LLC, requests reclassification from the R-60 Zone (Residential, One-family, Detached) to the R-T 12.5 Zone (Residential Townhouse, Maximum Density 12.5 Units per Usable Acre) of a 2.53-acre property located at the northwest quadrant of Georgia Avenue and Evans Drive in Silver Spring. The property is composed of recorded lots and certain public road rights-of-way that are the subject of ongoing abandonment proceedings, as follows:

- Lots 1 through 4, Block C, Carroll Knolls (Plat No. 780).
- Lots 5 through 9, Block C, Carroll Knolls (Plat No. 2237).
- Lot 18, Block H-H, Carroll Knolls (Plat No. 2237).
- Portions of Montgomery County road rights-of-way for Evans Drive, Douglas Avenue, and Gardiner Avenue (to be abandoned by Montgomery County, as shown on Identification Plat in Appendix).
- Portions of Maryland State Highway right-of-way for Georgia Avenue (to be abandoned by the State of Maryland, as shown on Identification Plat in Appendix).

Lots 1 through 9 are currently the location of the Montgomery College of Art and Design, and the street address for the school is 10500 Georgia Avenue, Silver Spring, MD 20902. Lots 1 through 9 and Lot 18 above are owned by Montgomery College Foundation, Inc. When Montgomery County rights-of-ways are abandoned, they will revert back to the subdivision from which they came, and hence Montgomery College Foundation, Inc. will be the owner. When the State Highway rights-of-way are abandoned, they will be conveyed to the

applicant, Kaz Development, LLC, who is the contract purchaser of Lots 1-9 and Lot 18 above.

The intersection of Georgia Avenue and Plyer's Mill Road is 900 feet to the north. The Wheaton Metro Station is about 4000 feet to the north, or 0.75 miles, and the Forest Glen Metro Station is about same distance to the south.

Property Description, Special Exception Use, Access

The subject property is irregular in shape and fairly flat. The eastern portion, where the townhouse development is proposed, is roughly rectangular. The western portion, which is forested and contains wetlands, is highly irregular in shape. A storm drain easement runs diagonally through the property. The property has about 242.27 feet of frontage along Georgian Avenue and 223.32 feet along Evans Drive. The property will also have frontage along Douglas Avenue if Douglas Avenue is extended as proposed in the application.

The eastern portion of the property contains the Montgomery College of Art and Design, which is a one-story institutional building of approximately 13,500 square feet with a parking lot, lawn, and some perimeter landscaping. College courses and continuing education classes are held on-site, and once the school is vacated, students will relocate to the Takoma Park campus of Montgomery College.

The Land Use and Zoning Report prepared by the applicant's consultant, Gutschick Little & Weber, P.A., and from which this staff report draws certain information, notes that the property was first developed in the 1950's. Montgomery County Planning Department records indicate that there was a school on the property associated with the B'nai Israel Congregation. In 1976, the Board of Appeals granted a special exception (S-493) for a private educational use, which allowed the conversion of the Paul Himmelfarb School of the B'nai Israel Congregation to the Maryland College of Art and Design. The Board of Appeals revoked the special exception in 2004, and, according to Maryland Department of Assessments and Taxation records, the property was sold to Montgomery College Foundation, Inc. in 2005. Staff understands the Board of Appeals revoked S-493 because Montgomery College was a public entity and did not need a special exception for a private educational institution in order to operate a school in the R-60 zone.

Vehicular access to the subject property is via Evans Drive, a primary residential road with a 100-foot right-of-way. Evans Drive connects to Georgia Avenue (MD 97), which is a major highway with a 120-foot right-of way with six travel lanes, and, in the area of the subject property, a median. The intersection of Georgia Avenue and Evans drive is not signalized. Pedestrian access is via a lead walk off a sidewalk that runs along the Georgia Avenue frontage. The Georgia Avenue sidewalk immediately abuts the street, and no tree panels separate it

from the roadway. There is also a footpath that runs through the western undeveloped portion of the property.

Surrounding Area

Definition, Land Uses, and Zoning: In a floating zone application, the surrounding area is less rigidly defined than required with a Euclidean zone application. In general, the defined surrounding area takes into account those areas that are most directly affected by the proposed development and any special study areas that may have been defined by a master or sector plan.

In the case of the subject application, staff adopts the surrounding area suggested by the aforementioned Land Use and Zoning Report, namely that area encompassed by Plyers Mill Road to the north, Hutting Place and Haywood Drive to the west, Dennis Avenue to the south, and the rear property lines of properties east of Georgia Avenue between Dennis Avenue and Plyers Mill Road (see Appendix). This is an area of approximately 80 acres.

The defined surrounding area is mainly developed with single-family homes on land zoned R-60, plus townhomes to the north of the subject property on land zoned R-T 15 and R-T 12.5. The single-family homes to the west of Georgia Avenue are located within the Plyers Mill Estates subdivision and the Carroll Knolls subdivision. The single-family homes within the surrounding area to the east of Georgia Avenue are within the Glenview and Evans Parkway subdivisions. The townhouse development right at the corner of Plyers Mill Road and Georgia Avenue is zoned R-T 15 and has 30 lots on 81,467 s.f (1.87 acres) of land, for an approximate density of about 16 units per acre.¹ The older townhouse development that surrounds the corner townhouse development to the south and west has 93 lots on 328,599 s.f (7.54 acres), for an approximate density of 12 units per acre. Both of these townhouse developments were once on land zoned R-60, and were rezoned pursuant to Zoning Applications G-786 (adopted 3/27/2001) for the northernmost development, and F-951 (adopted 9/21/76) for the southernmost, older development.

Also within the surrounding area is a church in the southeast quadrant of Georgia Avenue and Plyers Mill Road on land zoned R-60. Directly opposite the subject property to the east, across Georgia Avenue, is the Evans Parkway Neighborhood Park, which was recently expanded to include the parcel at the corner of Georgia and Evans Parkway.

Approval Procedures

¹ Townhouse communities with Moderately Priced Dwelling Units (MPDUs) may achieve additional density, and thus the R-T 15 Zone may have densities above 15 dwelling units per acre – see Zoning Ordinance.

Re: Rezoning: The R-T 12.5 Zone is a land use regulation known as a floating zone, which “consists of a prescribed set of permissible land uses that are not attached, in advance, to any particular geographic district, but are, instead, permitted to “float” over the entire area until located upon a specific property at the petition of the property owner.” (Wheaton Moose Lodge v. Montgomery County, 41 Md. App. 401, 397 A.2d 250 (1979).) Similarly to a special exception, a floating zone must not be approved for a specific property unless the application meets certain requirements, namely that it:

- furthers the purpose of the zone, per Section 59-H.2.51 of the Montgomery County Zoning Ordinance,
- meets all other requirements of the zone, per Section 59-H.2.51,
- is compatible with the surrounding area, per case law (see above cited case), and
- is in the public interest, per case law and per Article 28 (Regional District Act), Section 7-110, which states that zoning power must be exercised:

“...with the purposes of guiding and accomplishing a coordinated, comprehensive, adjusted, and systematic development of the regional district,...and [for] the protection and promotion of the health, safety, morals, comfort, and welfare of the inhabitants of the regional district.”

With respect to public interest, the District Council in a floating zone case normally examines master plan compliance, adequacy of public facilities, and whether concerns and recommendations of technical staff and the Planning Board are addressed, e.g. with respect to environmental issues.

The County Council approves or denies the requested zone. The applicant seeking a zoning reclassification has the burden of proof to establish all the elements of his case and to establish that the application meets requirements, per case law (see Chevy Chase Village v. Montgomery County Council, 258 Md. 27, 264 A.2d 861 (1970)).

In certain zones, including the R-T 12.5 Zone, the applicant may utilize an alternative method of application for a local map amendment, known as “optional method of application.” The applicant has elected to do so in this case. According to 59-H-2.5 of the Montgomery County Zoning Ordinance, the optional method of application

permit(s) an applicant to restrict development standards, stage development or limit uses provided in the requested zone. An applicant may utilize the optional method of application to limit the use of the property, without imposing a restriction on any of the development

standards of the requested zone...In addition to other requirements contained in this article, the application for the optional method must include a schematic development plan...An application for the optional method must include a covenant that...(is) suitable for filing in the land records of Montgomery County, Maryland, and must reflect in specific language any restricted development standards, development program, or limited uses contained in the schematic development plan and applicable to the property if the district council grants the application....Upon approval of the application by the District Council, the applicant must immediately file the executed covenant in the land records of Montgomery County, Maryland. Certification of such filing must be submitted to the Montgomery County Planning Board at the time of submission of the site plan.

Other Approval Processes to which the Application is Subject: If the rezoning is granted, the subject property must go through subdivision, pursuant to the subdivision regulations (Chapter 50). Further, the R-T 12.5 Zone requires site plan review as well, pursuant to Section 59D-3 of the Zoning Ordinance. In addition, the rights-of-way within the subject property are undergoing abandonment proceedings (AB 690, AB 691, AB 692), as noted in the Transportation memo in the Appendix. The Planning Board voted on 4/12/07 to support approval of the abandonments. Abandonments are approved by the County Council.

Details of Proposal, Schematic Development Plan, Binding Elements

Pursuant to a revised Schematic Development Plan received by staff on 5/3/04, the applicant proposes to develop the eastern portion of the site with townhouses under the R-T 12.5 Zone and to maintain the western portion of the site as "environmental open space" owned by the homeowners' association. The proposed binding elements, as shown on the Revised Schematic Development Plan received by staff on 5/3/04, are as follows:

Binding Elements:

Development Standard Binding Elements

- *Maximum Density (with Moderately Priced Dwelling Units) -- Up to 10.7 dwelling units per acre, up to 27 units.²*
- *Moderately Priced Dwelling Units – 12.5% of total [number of dwelling units].*

² The Revised Declaration of Covenants received by staff on 5/3/04 should be revised on Page 2, Item (a) to say "Maximum density of up to 27 dwelling units (up to 10.7 du/acre), including 12.5% MPDUs." (Underlining indicates proposed addition to language.) (MPDUs are moderately priced dwelling units.)

Other Binding Elements

- *Townhouse units that face on a public right-of-way shall have brick fronts, and the end units of each row of townhouses that face on a public right-of-way shall have brick sides.*
- *All street trees installed within the public right-of-way around the perimeter of the site shall be a minimum of 3-1/2" caliper at installation.*
- *Landscape buffer and or fencing shall be installed along the northern property line between Georgia Avenue and Douglas Avenue. Final design shall be determined at the time of site plan.*
- *Construct a pedestrian connection from the end of Douglas Avenue to the existing sidewalk on the west side of Lillian Drive, with the width of the connection being determined at site plan.*
- *At the time of record plat, dedicate or provide a 20-foot public use easement from end of Douglas Avenue to northern property line.*
- *If the Planning Board approves a site plan that aggregates (in a row) the garage townhouse MPDUs, then the applicant will donate the aggregated MPDU lots to Habitat for Humanity or other affordable housing builder, dependent upon department of Housing and Community Affairs approval, as necessary, prior to issuance of building permits.³*
- *Use – townhouse.⁴*

The Schematic Development Plan shows 27 townhouses including 4 MPDUs, for a density of 10.7 dwelling units per acre. The Land Use and Zoning Report explains that although the R-T 12.5 Zone would allow up to 38 townhouses on the 2.53-acre subject property, such density cannot be achieved given forest conservation and storm water management requirements as well as the need for adequate green space and a layout compatible with the surrounding area.

³ Staff suggested that the applicant remove this binding element because of its conditional nature, but the applicant decided to keep it to show its intention to honor its promise to community members, who requested that Habitat for Humanity be the builder of the MPDUs. (See Appendix for letter dated 5/2/2007 from Habitat for Humanity, in which Habitat commends the applicant for its commitment to affordable housing, and in which Habitat agrees to build the donated MPDU units in accordance with County requirements and to "green building" specifications.) The applicant explained to staff that Habitat for Humanity asked that the MPDUs be aggregated in a row, because aggregation of MPDU townhouse units into one row offers economies and makes it more affordable and possible for Habitat and many other affordable housing builders to provide MPDUs.. Sharon Suarez, MNCPPC Housing Coordinator, supports the idea that garage townhouse MPDUs are so valuable that they should be allowed to be aggregated and that aggregation of garage townhouse MPDUs does not contravene the Planning Board's existing Site Plan Guidelines for Projects Containing MPDUs (adopted 6/1/95, also in Appendix). Zoning staff notes that garage townhouse units are shown on the Schematic Development Plan, but the provision of garages in the townhouses for either market-rate housing or MPDUs is not a binding element.

⁴ The Hearing Examiner and applicant may wish to explore wording for the use binding element that makes it clear that special exceptions that are allowable in the R-T 12.5 Zone and possible in townhouses are not precluded.

Because of site constraints, the applicant did not seek a higher density R-T zoning category.

The Schematic Development Plan shows that the market-rate units will have two-car garages, the 4 MPDUs will have one-car garages plus two parking spaces in the driveways, and there will be 10 additional off-street spaces for visitors. Thus a total of 68 off-street parking spaces are shown.

The plan shows six rows of townhouses. A row of four units and six units face Georgia Avenue and have front yards of at least 25 feet to allow for a green corridor and pedestrian enlivenment along the street. A row of five units faces Evans Drive. Three rows (of three units, four units, and five units) are clustered around a rectangular homeowner association open space off Douglas Avenue. The open space is meant to function as a village green and hence is located away from Georgia Avenue and its noise and fumes. The MPDUs are located in the row of four units facing Douglas Avenue and the rectangular open space. A pedestrian circulation system is provided, including, notably, a walkway through the development connecting Douglas Avenue to Georgia Avenue and a five-foot wide sidewalk along Georgia Avenue separated from the street by tree panel that is over 10 feet in width. Streetscaping will be provided. Three vacant lots across Douglas Avenue, which are owned by Montgomery College Foundation, Inc., and are not part of the application, will be eventually developed as single-family houses.

The western portion of the property containing the wetlands will be reforested.

Zoning and Special Exception History for the Subject Properties

Comprehensive and Section Map Amendment Zoning:

Kemp Mill SMA G-795, adopted 4/16/02: R-60 confirmed.

Kensington Wheaton Corrective SMA G-761, adopted 7/14/98: R-60 confirmed.

Forest Glen SMA G-744, adopted 6/24/97: R-60 confirmed.

Forest Glen SMA G-136 and Wheaton SMA G-137, adopted 10/24/78: R-60 confirmed.

1958 Countywide Comprehensive Zoning: R-60 zone applied.

Special Exception:

S-493 – Private Educational Institution, granted 8/4/76 and revoked in 2004..

Master Plan Recommendation

Land Use: The *Master Plan for the Communities of Kensington-Wheaton (May 1989, amended April 1990)* makes no site-specific recommendation for the site. The site is shown as “quasi public” on the Land Use Plan.

Zoning: R-60, shown on the Zoning and Highway Plan as a school.

Public Facilities

Water and Sewer Service:

Service Categories: The subject property is served by existing water and sewer facilities and therefore is in Water Category W-1 and Sewer Category S-1.

The following are WSSC's comments on Zoning Application No. G-858, per an email dated 1/31/2007 from WSSC staff:

A change of the property's zoning category will not impact the water or sewer systems.

The developer's plan to relocate the existing 12-inch diameter sewer, however, will impact two existing [undeveloped] lots. Lots 6 and 7, Block JJ will no longer abut a sewer main. To develop these lots a new sewer extension would have to be built. The storm drain proposed to be relocated into Douglas Avenue will complicate the construction of any new sewer extension to these properties.

Roadways: See attached memo dated 5/1/2007 from Transportation Planning staff. Transportation staff finds there will be no adverse impact on the roadways and recommends approval of the rezoning. With respect to the Adequate Public Facilities Review, specifically the Local Area Transportation Review, that will occur during time of preliminary plan, Transportation staff recommends three conditions: limiting the preliminary plan to the proposed 27 townhouses; dedication of right-of-way 60 feet from centerline of Georgia Avenue; and the construction of an 8-foot wide shared-use path within a 20-foot wide public improvement easement to connect Douglas Avenue to Lillian Road.

Schools: Montgomery County Public Schools projects that the impact of the townhouse development would be seven elementary students, three middle school students, and five high school students. These schools are within the Albert Einstein cluster. MCPS concludes that the current Growth Policy schools test finds capacity is adequate in the Albert Einstein cluster. See memo dated 12/11/2006 in the Appendix.

ANALYSIS

Intent and Purpose of the Zone and Compatibility

According to the Montgomery County Zoning Ordinance:

59-C-1.721. Intent and purpose. *The purpose of the R-T Zone is to provide suitable sites for townhouses:*

(a) In sections of the County that are designated or appropriate for residential development at densities allowed in the R-T Zones; or

(b) In locations in the County where there is a need for buffer or transitional uses between commercial, industrial, or high-density apartment uses and low-density one-family uses.

It is the intent of the R-T Zones to provide the maximum amount of freedom possible in the design of townhouses and their grouping and layout within the areas classified in that zone, to provide in such developments the amenities normally associated with less dense zoning categories, to permit the greatest possible amount of freedom in types of ownership of townhouses and townhouse developments, to prevent detrimental effects to the use or development of adjacent properties or the neighborhood and to promote the health, safety, morals and welfare of the present and future inhabitants of the district and the County as a whole. The fact that an application for R-T zoning complies with all specific requirements and purposes set forth herein shall not be deemed to create a presumption that the resulting development would be compatible with surrounding land uses and, in itself shall not be sufficient to require the granting of the application.

Staff finds that the subject property is a suitable location within the County for townhouses with densities allowed in the R-T 12.5 Zone, specifically at densities of up to 10.7 dwelling units per acre, as proposed. There are townhouses to the north of the subject property that are more dense, and single-family homes to the south and west that are less dense, and the subject property provides a suitable “stepping down” of density from the townhouses to the single-family homes. The existing and proposed townhouses also provide a suitable transition in density from the more intense commercial densities to the north in Wheaton Plaza and the large tracts of single-family housing to the south, west, and east. The proposed densities also are appropriate considering the close proximity of two Metro stations.

Further, staff finds townhouses are a compatible form of development with the surrounding area – townhouses are residential, they create a residential street wall along Georgia Avenue and reinforce its residential character, and they act as a buffer between adverse impacts of a major highway and single-family homes. A landscape buffer or fence will be provided, per a binding element, to buffer the townhouses to the north. There is pedestrian circulation through the site that accommodates the walking patterns and needs of neighbors in the area. Compatibility issues will be further addressed at site plan.

Special Regulations of the Zone

Staff finds that the application and schematic development plan meet the special regulations of the zone. The requirements are excerpted from the Zoning Ordinance as follows:

59-C-1.722. Row Design.

(a) Eight townhouses is the maximum number permitted in any one attached row.

Staff finds that the applicant proposes no more than eight units in any one row.

(b) Three continuous, attached townhouses is the maximum number permitted with the same front building line. The variations in building line must be at least 2 feet

Staff finds that variations in building line as prescribed above are shown on the schematic development plan proposal.

(c) For one-family attached units, there can be no more than 12 units in one row.

Staff finds that there are no more than 8 units in one row.

59-C-1.723. Combined Tracts. (see Zoning Ordinance for text.)

Staff finds this section not applicable, as the application does not propose a tract in the R-T Zone with a tract in another residential zone.

Development Standards of the Zone

Staff finds that the application, as shown on the Schematic Development Plan, meets the development standards of the R-T 12.5 Zone. However, a schematic development plan is illustrative only, except for what is shown to be binding, and therefore the plan as proposed may change substantially at site plan. The development standards table on the following pages shows how the application as proposed meets development standards. Binding elements are noted.

59-C-1.73. Development standards.

In addition to the following, the regulations concerning row design in section 59-C-1.722 apply.

	Required/Allowed	Proposed	Compliance	Binding Element
	R-T 12.5			
59-C-1.731. Tract Area and Density.				
(a) Minimum tract area (sq.ft.).	20,000	110,315	Yes	--
59-C-1.732. Building Setbacks (Minimum, in Feet).				
(a) From any detached dwelling lot or land classified in a one-family, detached, residential zone.	30 ¹	30	Yes	--
(b) From any public street.	25	25	Yes	--
(c) From an adjoining lot;				
(1) Side (end unit) ²	10	60 (Lot 4); 60 (Lot 27)	Yes	--
(2) Rear.	20	45 (Lot 1); 40 (Lot 2); 40 (Lot 3)	Yes	--

	Required/Allowed R-T 12.5	Proposed	Compliance	Binding Element
59-C-1.733. Maximum Building Height (in Feet). Except for agricultural buildings and except as provided in Division B-1(b) the maximum height of any building is:				
(a) For a main building.	35	35	Yes	--
(b) For an accessory building.	25	N.A.		
59-C-1.735. Parking. Off-street parking must be provided in accordance with the requirements of Article 59-E, title "Off-Street Parking and Loading." Parking space need not be located on the same lot as the dwelling unit but must be within a reasonable distance of each unit.	2 parking spaces for each townhouse	23 Market Units with 2 each in garage; 4 MPDUs with 1 each in garage and two each on driveway; 10 visitor spaces	Yes	--

	Required/Allowed R-T 12.5	Proposed	Compliance	Binding Element
59-C-1.74. Development including moderately priced dwelling units.				
Where moderately priced dwelling units are included in a development in accordance with the requirements of chapter 25A, the following optional method standards are permitted in order to facilitate the provision of those units. It permits an increase over the total number of dwelling units otherwise permitted. It also permits some additional housing types and modification of some area and dimensional requirements.				12.5% MPDUs
(a) Additional use: dwelling unit, one-family attached.	P ³	None proposed in this application	--	--
(b) Maximum density of development (dwelling units) per acre of usable area as defined in section 59-C-1.523 of the special requirements for cluster development.	15.25	10.7	Yes	--
(c) Maximum percentage of tract occupied by buildings may be increased to:	40	30	Yes	--
(d) If necessary in order to accommodate the increased density:				

	Required/Allowed R-T 12.5	Proposed	Compliance	Binding Element
(1) The percentage of the tract devoted to green area may be reduced to not less than:	45	50	Yes	--
(2) The row design requirements of section 59-C-1.722 may be waived.				
59-C-1.75. Procedure for application and approval.				
Site plans must be submitted and approved in accordance with the provisions of the division.	59-D-3	59-D-3		

1 Unless a more desirable form of development can be demonstrated by the applicant to the satisfaction of the planning board using the street, side and rear lot line setbacks as provided in this section.

2 Where the side lot of an end unit abuts a public street, the side yard setback must equal the required front yard setback.

3 Not more than 40 percent of the total number of dwelling units.

Public Interest

Zoning staff finds that the application is in the public interest, as discussed below.

Master Plan Conformance: Community-Based Planning staff finds that the application with respect to the subject properties is consistent with the vision and recommendations of the master plan. In a memo dated 5/2/2007 (see Appendix), CBP staff notes that:

The return of the college property to residential uses conforms to the Plan's objective of redevelopment that stabilizes and maintains the residential character of this portion of Georgia Avenue. It will also help to preserve the existing generally residential identity of the area. The proposed project will result in a medium residential density, which, while more intense than is currently allowed by the existing zones, is in proximity to similar densities of the apartment complexes nearer Forest Glen Road.

Zoning staff concurs with CBP staff. Zoning staff also is persuaded by the very thorough analysis of master plan compliance provided by the Land Use and Zoning Report prepared by the applicant's land use consultant.

Adequate Public Facilities: As discussed in a prior section, there are adequate public facilities to accommodate this rezoning.

Environmental Issues: Environmental staff reviewed the application and recommends approval of the rezoning application, and approval of the Preliminary Forest Conservation Plan with two conditions:

- The applicant must reduce the forest conservation easement to exclude the proposed pathway and public access easement.
- The applicant must adjust the forest conservation worksheet to reduce the area of afforestation by the public access easement area.

Environmental staff also recommends that if the proposed footpath connecting Douglas Avenue to Lillian Drive is built within the wetland buffer, then it must be constructed as a boardwalk to minimize fill placed in the wetland buffer. (See attached memo in Appendix.)

Zoning staff notes that Habitat for Humanity has agreed to build the donated MPDUs to “green building” standards, which would be greatly in the public interest (see letter in Appendix from Habitat for Humanity).

Thus, zoning staff concludes that the application with regard to environmental issues is in the public interest.

Community Concerns and Open Space Considerations: Staff received two letters from the community expressing a variety of concerns (see Appendix). Concerns include the effects of redirection of the storm drainage system since existing townhouses already experience flooding; the dangers of the intersection at Georgia Avenue and Evans and the need to improve it for pedestrians; the design of the pedestrian path connecting Douglas Avenue to Lillian Drive; and the need to increase compatibility through buffering, landscaping, redesign of alleys so that they are not near existing townhouses, reduction in impervious surface, and tree preservation and reforestation.

Zoning staff finds that many of these issues can be addressed at time of site plan. With respect to flooding and storm drainage, zoning staff was informed that the applicant’s engineer attributed the likely cause for flooding in existing townhouses to the area’s high water table. The engineer also noted that the realignment of the storm drain is entirely within the subject property and will have no effect on adjacent properties.

Preservation of open space was a major community concern. The community members ideally want the property to be a park, since the area has served as de facto open space for residents for many years, and residents feel there is no other easily accessible neighborhood open space. One of the neighbors formally proposed that the property be considered for evaluation as Legacy Open Space. That request is being considered now. Initial comments from Parks staff indicate that the property is not the most likely candidate for designation as Legacy Open Space, nor is it suitable for the full-size rectangular fields that the *2005 Land Preservation, Parks and Open Space Plan* says are needed in the Kensington Wheaton Planning Area (see memo in Appendix).

Zoning staff notes that the rezoning application does in fact propose to preserve open space through a forest conservation easement on the western portion of the site where the wetland is located, and will enhance that space through afforestation and the provision of the public footpath. Further, the application proposes a village green within the townhouse portion of the property.⁵ Given

⁵ It should also be noted that Evans Neighborhood Park is directly across Georgia Avenue from the site and has recently been expanded. There are signalized crossings of Georgia Avenue to the north at Plyers Mill Road and to the south at Dennis Avenue, but staff recognizes that crossing Georgia Avenue is nevertheless difficult. The residents on the west side of Georgia are served by two parks- Capital View-Homewood and McKenney Hills NP. These parks include tennis courts, basketball courts, playgrounds, and fields.

these facts, zoning staff concludes that approval of the application would be in the public interest with respect to open space concerns. The Hearing Examiner may wish to solicit information from Parks staff about the status of the Legacy Open Space evaluation.

Revised Declaration of Covenants

Staff reviewed the revised declaration of covenants and finds that minor adjustments may be necessary, as discussed in footnotes 3, 4, and 5 earlier in this report. The Hearing Examiner may wish to review the document with respect to legal requirements. Please see attachment in Appendix.

Other Matters

The reader should see the Appendix for a letter supporting the abandonment of rights-of-ways, from Montgomery College Foundation, Inc., and also an email from the applicant's attorney discussing private covenants that affect the subject property.

CONCLUSION

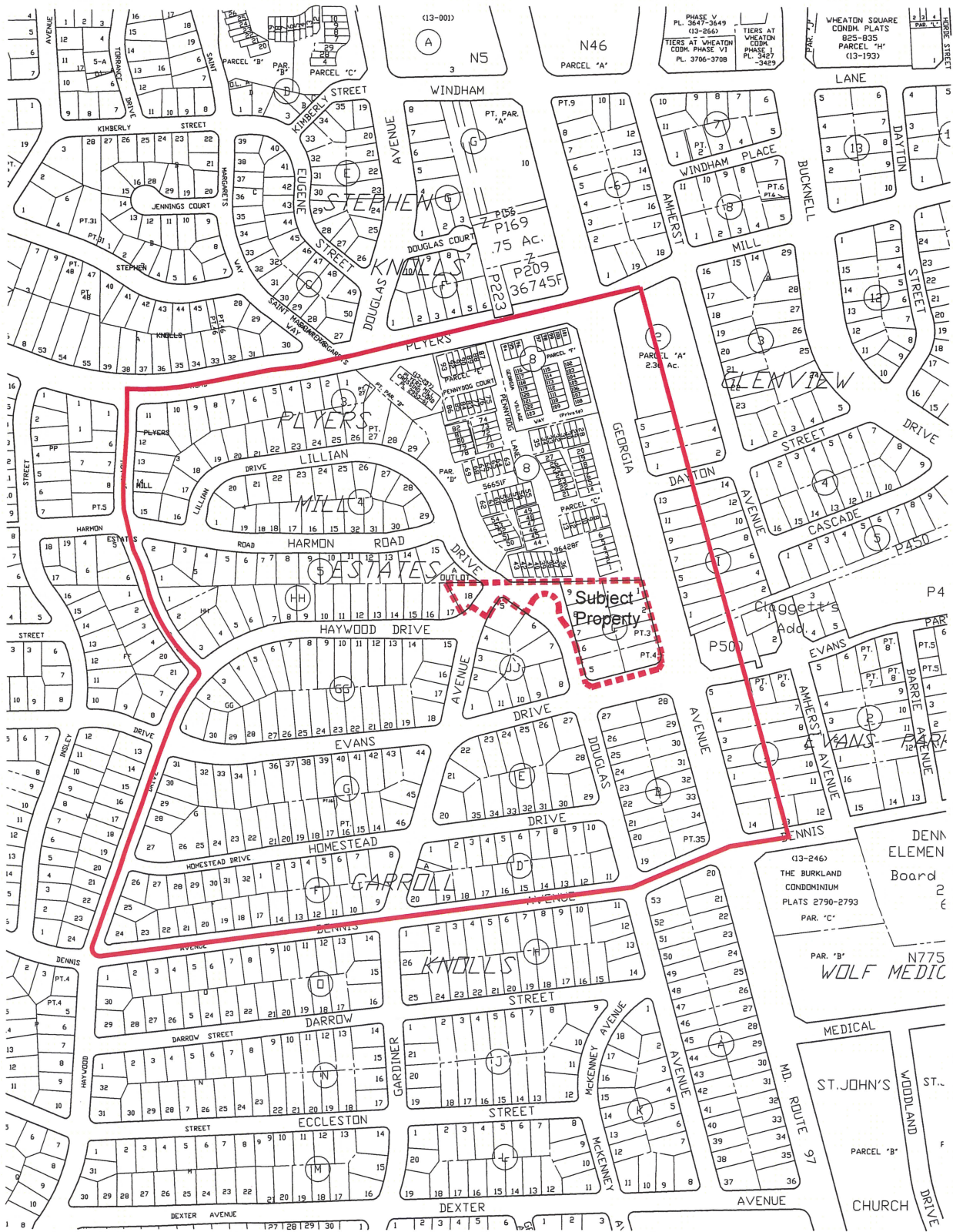
Staff concludes that::

- The subject property is an appropriate location for the development of townhouses as proposed, and therefore the application meets the purpose clause of the R-T 12.5 Zone.
- The application is in full compliance with all other requirements of the R-T 12.5 Zone.
- The application is compatible with the surrounding area.
- The application is in the public interest.

Therefore staff recommends approval of the application.

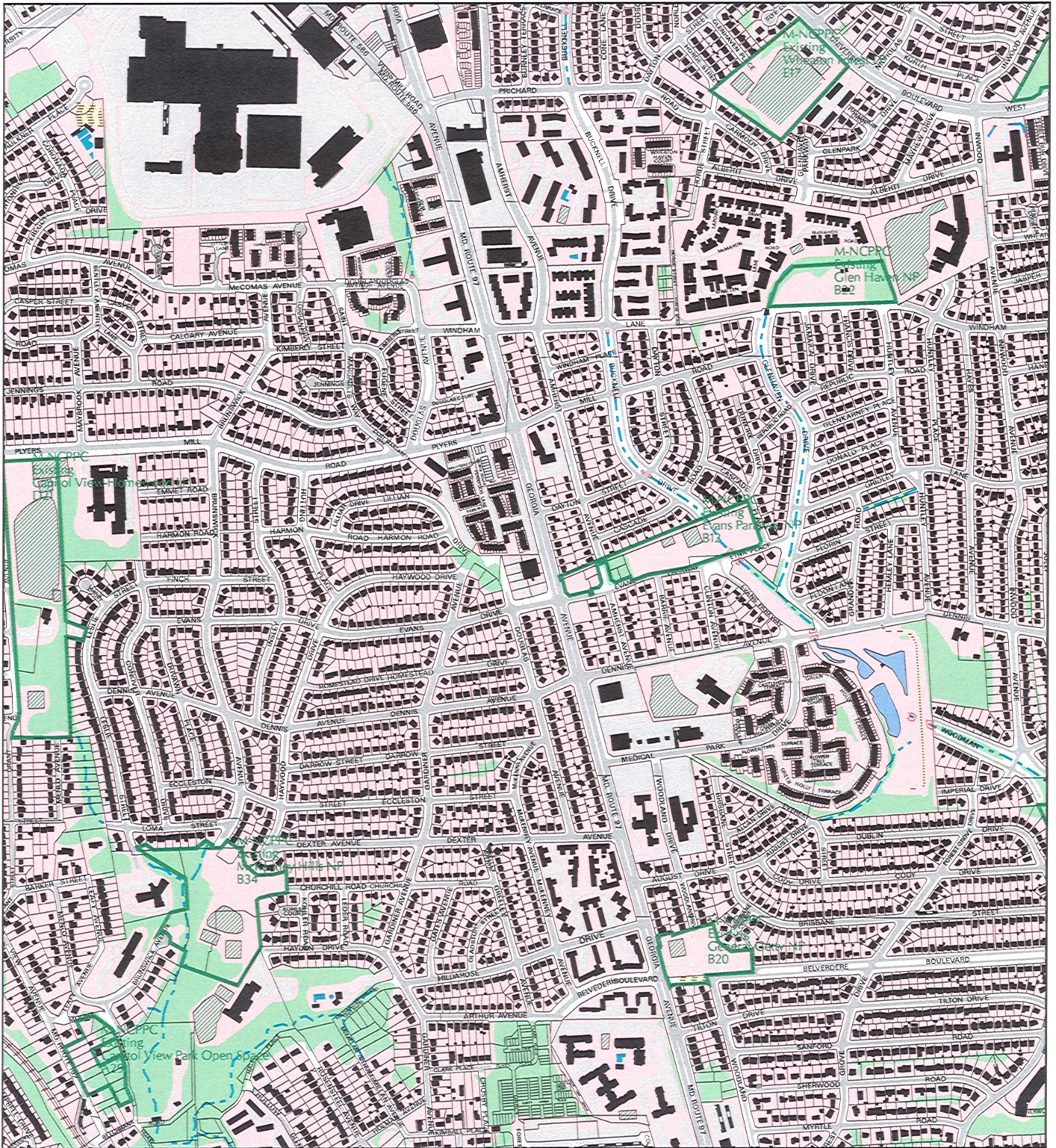
APPENDIX

- Subject Property and Surrounding Area
- Vicinity Map
- Aerial with Townhouse Proposal Imposed
- Certified Plat
- Zoning Map
- Aerial Photos
- Revised Schematic Development Plan received by staff on 5/3/2007
- Revised Declaration of Covenants received by staff on 5/3/2007
- Memo from MNCPPC Research/Housing Staff
- Letter from Habitat for Humanity
- Memo from Community-Based Planning Staff
- Memo from Transportation Staff
- Memo from Environmental Staff
- Memo from Parks Staff
- Memo from Subdivision Staff
- Letter from Montgomery County Public Schools (without attachment)
- Email from WSSC
- Letter and Email from Community Residents
- Letter of Support of Abandonment from Montgomery College Foundation, Inc.
- Email from Applicant's Attorney re: Private Covenants affecting Subject Property



Surrounding Area
Montgomery College of Art & Design
 Montgomery County, Maryland

LMA G-858



Map compiled on May 04, 2007 at 2:40 AM | Site located on base sheet no - 213NW02

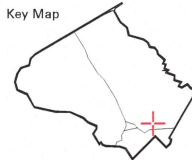
NOTICE

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Property lines are compiled by adjusting the property lines to topography created from aerial photography and should not be interpreted as actual field surveys. Planimetric features were compiled from 1:14400 scale aerial photography using stereo photogrammetric methods.

This map is created from a variety of data sources, and may not reflect the most current conditions in any one location and may not be completely accurate or up to date. All map features are approximately within five feet of their true location. This map may not be the same as a map of the same area plotted at an earlier time as the data is continuously updated. Use of this map, other than for general planning purposes is not recommended. - Copyright 1998

Key Map



N



Research & Technology Center 1000



1 inch = 1000 feet
1 : 12000



ILLUSTRATIVE PLAN

Prepared for:
 MONTGOMERY COLLEGE OF ART & DESIGN
 100 ULTIMATE ROW
 LOT 1-9 BLOCK III
 10000 WILSON BLVD
 WILMINGTON, DE 19804
 TEL: 301-746-2271

Scale: 1" = 30'

DATE: APRIL, 2008

PROJECT NO: R-00
 DRAWING NO: 100-000-000
 SHEET NO: 1 OF 1

DATE: APRIL, 2008

PROJECT NO: R-00
 DRAWING NO: 100-000-000
 SHEET NO: 1 OF 1

DATE: APRIL, 2008

PROJECT NO: R-00
 DRAWING NO: 100-000-000
 SHEET NO: 1 OF 1

GIW GINSBERG LITTLE & WEBER, P.A.
 CIVIL ENGINEERS, ARCHITECTS, LANDSCAPE ARCHITECTS, PLANNING ARCHITECTS
 1000 WILSON BLVD, WILMINGTON, DE 19804
 TEL: 301-746-2271 FAX: 301-746-2272
 WWW.GIWLITTLEWEBER.COM

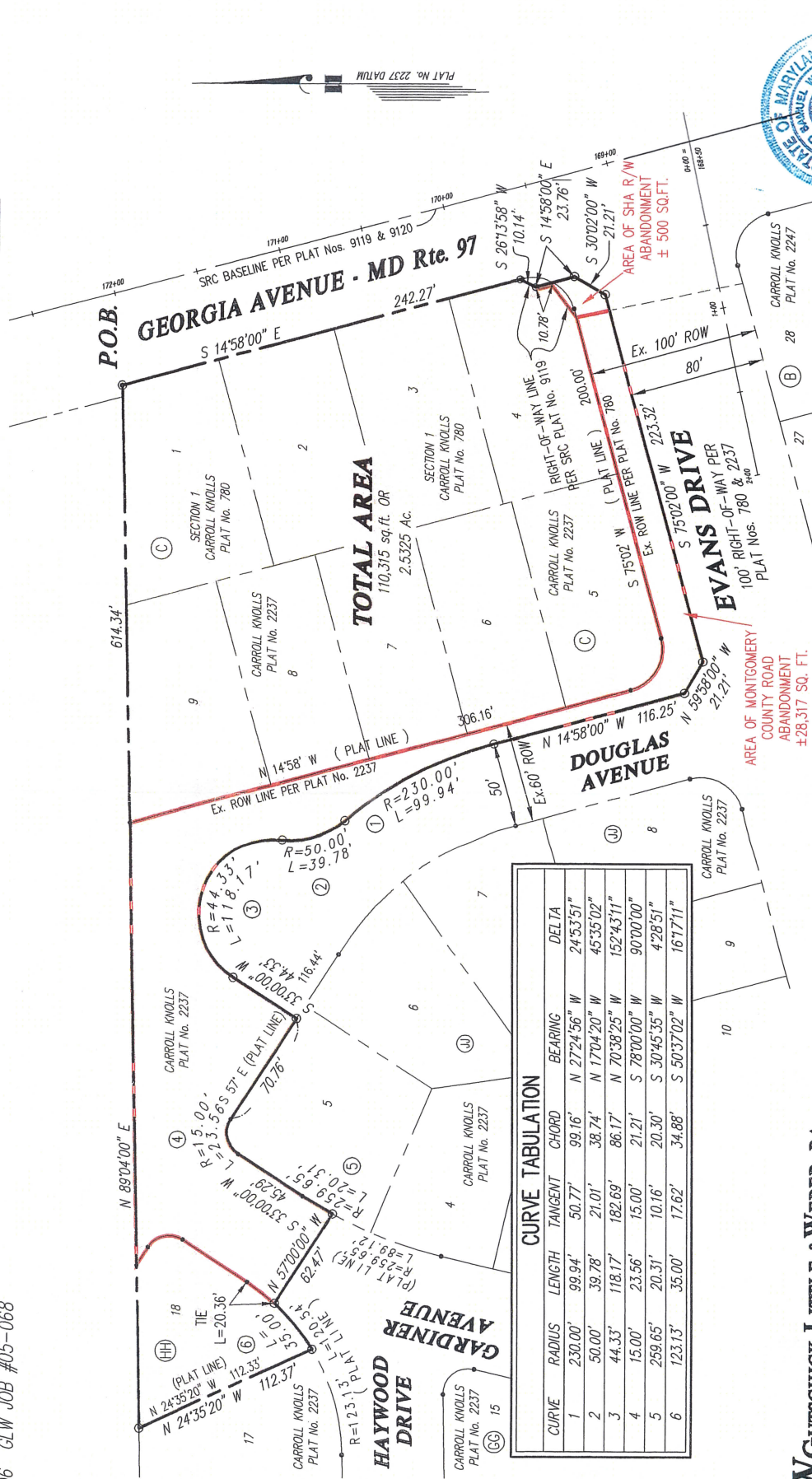
PLAT MAP

BEING PART OF "CARROLL KNOLLS"
 PLAT Nos. 780 & 2237
 SEPT. 2006 GLW JOB #05-068



KEY

TOTAL LOCAL MAP
 AMENDMENT AREA



CURVE TABULATION

CURVE	RADIUS	LENGTH	TANGENT	CHORD	BEARING	DELTA
1	230.00'	99.94'	50.77'	99.16'	N 27°24'56" W	24°53'51"
2	50.00'	39.78'	21.01'	38.74'	N 17°04'20" W	45°35'02"
3	44.33'	118.17'	182.69'	86.17'	N 70°38'25" W	152°43'11"
4	15.00'	23.56'	15.00'	21.21'	S 78°00'00" W	90°00'00"
5	259.65'	20.31'	10.16'	20.30'	S 30°45'35" W	4°28'51"
6	123.13'	35.00'	17.62'	34.88'	S 50°37'02" W	16°17'11"



slightly red 11/9/06
 (copy)

GLWGUTSCHICK LITTLE & WEBER, P.A.

CIVIL ENGINEERS, LAND SURVEYORS, LAND PLANNERS, LANDSCAPE ARCHITECTS
 3909 NATIONAL DRIVE - SUITE 250 - BURTONSVILLE OFFICE PARK
 BURTONSVILLE MARYLAND 20866
 TEL: 301-421-4024 BALT: 410-880-1820 DC/VA: 301-989-2524 FAX: 301-421-4186

L:\CADD\DRAWINGS\05068\Sketches\REV.dwg 9/28/2006 7:47:14 AM EST

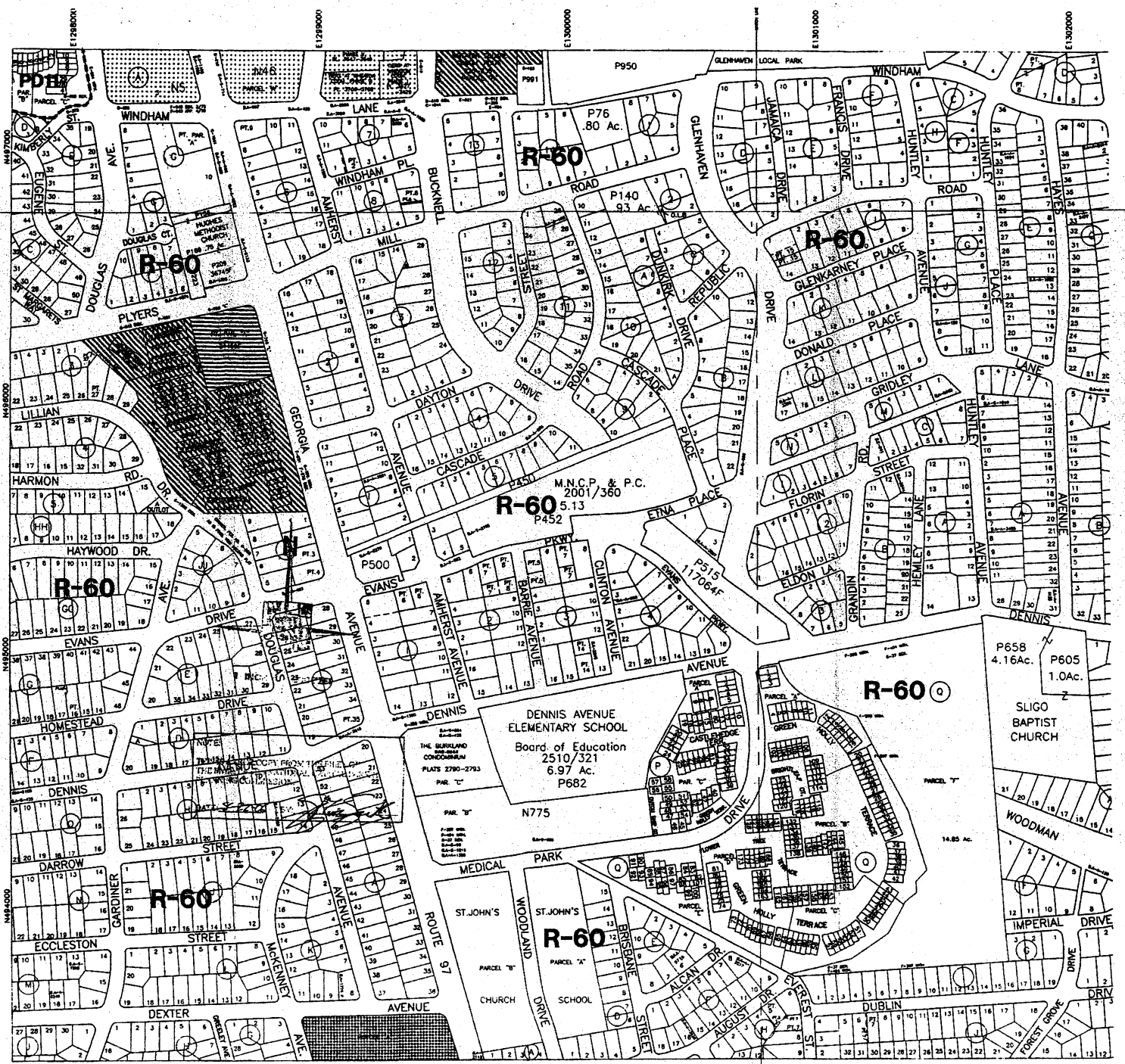
ZONING

213NW02
JP-123

NOTES CONCERNING ZONING IN PLATS--OF-ANY
boundaries. Generally, right-of-way are zoned in accordance with adjacent
zoning. Where zoning differs on each side of a right-of-way, the zoning
right-of-way, but a prescriptive easement exists, zoning boundaries are indicated.

NOTE: This map was compiled by digitizing the files of Maryland
descriptions and location data and should not be interpreted as a field survey.
The record of this map, other than for general planning purposes, is not recommended.
Please report any errors or omissions to the Montgomery County Planning Department, (301) 492-2174 or (301) 492-2177.

Copyright 1994
This map is a reproduction of the Montgomery County Planning Department's
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consent of the Montgomery County Planning Department.



LMA Area.
See sketch of
Property for
zoning. Property
area and zoning
are shown on map.

Montgomery County Zoning Map

The Maryland National Capital Park and Planning Commission; Montgomery County Planning Department

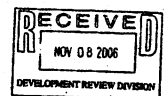
Montgomery County

The Maryland National Capital Park and Planning Commission

HO561	JO121	JP341
HP563	JP123	JP343
HP562	JP122	JP342

PROPERTY UPDATES	
11/19/96	
07/10/97	

ZONING UPDATES	
S.M.A. G-738 & 137	GRANTED 10/24/79
S.M.A. G-744	GRANTED 06/24/77
S.M.A. G-781	GRANTED 07/14/78
S.M.A. G-795	GRANTED 4/16/72



Scale 1"=200'

Scale 1"=200'





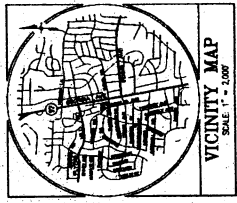


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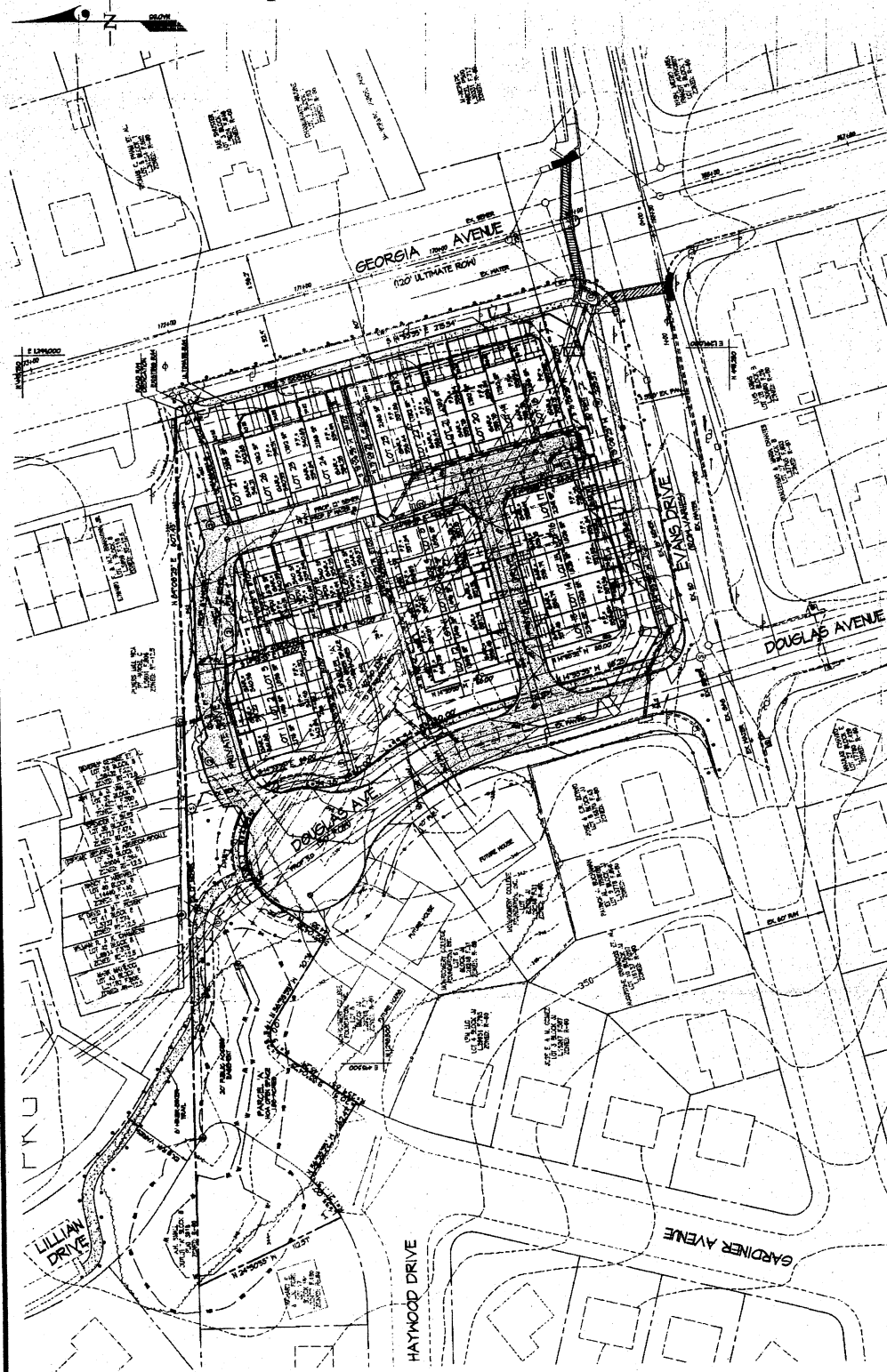


SCHMATIC DEV. PLAN
(REC'D BY STAFF 5/13/2007)



VICINITY MAP
SCALE 1" = 1,000'

- NOTE:
1. OWNER: MONTGOMERY COLLEGE FOUNDATION, INC. 1200 WILSON AVENUE, SUITE 100, WILSON, N.C. 27604
 2. DEVELOPER: MONTGOMERY COLLEGE FOUNDATION, INC. 1200 WILSON AVENUE, SUITE 100, WILSON, N.C. 27604
 3. ARCHITECT: LITTLE & PARTNER, P.A., 2008 W. MARKET STREET, SUITE 200, WILSON, N.C. 27604
 4. THIS DEVELOPMENT PLAN IS FOR THE PROJECT LOCATED AT THE INTERSECTION OF GEORGIA AVENUE AND DOUGLAS AVENUE IN WILSON, N.C. THE SITE IS A 15.86 ACRES (158,600 SQ. FT.) PARCEL WITH A 100' FRONT SETBACK FROM GEORGIA AVENUE AND A 100' SIDE SETBACK FROM DOUGLAS AVENUE.
 5. THE DEVELOPMENT PLAN SHOWS THE PROPOSED LAYOUT OF THE PROJECT, INCLUDING THE PROPOSED BUILDING FOOTPRINT, DRIVEWAYS, AND LANDSCAPING.
 6. THE DEVELOPMENT PLAN IS SUBJECT TO THE APPROVAL OF THE WILSON ZONING BOARD AND THE WILSON CITY COMMISSION.
 7. THE DEVELOPMENT PLAN IS SUBJECT TO THE APPROVAL OF THE WILSON CITY COMMISSION.
 8. THE DEVELOPMENT PLAN IS SUBJECT TO THE APPROVAL OF THE WILSON CITY COMMISSION.
 9. THE DEVELOPMENT PLAN IS SUBJECT TO THE APPROVAL OF THE WILSON CITY COMMISSION.
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 16. THE DEVELOPMENT PLAN IS SUBJECT TO THE APPROVAL OF THE WILSON CITY COMMISSION.
 17. THE DEVELOPMENT PLAN IS SUBJECT TO THE APPROVAL OF THE WILSON CITY COMMISSION.
 18. THE DEVELOPMENT PLAN IS SUBJECT TO THE APPROVAL OF THE WILSON CITY COMMISSION.
 19. THE DEVELOPMENT PLAN IS SUBJECT TO THE APPROVAL OF THE WILSON CITY COMMISSION.
 20. THE DEVELOPMENT PLAN IS SUBJECT TO THE APPROVAL OF THE WILSON CITY COMMISSION.



RECREATION CALCULATIONS

DATE: 11/15/06

Activity	Area (sq. ft.)	Capacity	Notes
Handball Courts	2,000	120	1 court
Softball Field	10,000	500	1 field
Tennis Courts	3,000	180	6 courts
Baseball Field	15,000	750	1 field
Swimming Pool	10,000	500	1 pool
Playground	5,000	250	1 area
Other	10,000	500	Other activities
TOTAL	65,000	3,280	

- LEGEND
- PROPOSED CURB & GUTTER
 - PROPOSED LIGHT
 - PROPOSED SPOT GRADE
 - PROPOSED STORM DRAIN
 - EXISTING TOPOGRAPHY
 - PROPOSED TOPOGRAPHY
 - EXISTING STRUCTURES
 - PROPOSED PAVING
 - PROPOSED SIGNALS
 - METLANDS/METLANDS BUFFER
 - PROPOSED STRUCTURE
 - LIST OF DISTURBANCE

GLW
Grunick, Lettis & Waters, P.A.
200 W. MARKET STREET, SUITE 200
WILSON, N.C. 27604
TEL: 919.254.2311
WWW.GLW.COM

Existing Structures - In addition to those shown in the existing conditions plan, there are several existing structures on the site. These structures are shown in the existing conditions plan and are to be demolished and replaced with the proposed structures. The existing structures are shown in the existing conditions plan and are to be demolished and replaced with the proposed structures. The existing structures are shown in the existing conditions plan and are to be demolished and replaced with the proposed structures.

PREPARED FOR:
MONTGOMERY COLLEGE FOUNDATION, INC.
1200 WILSON AVENUE, SUITE 100
WILSON, N.C. 27604

DATE: 11/15/06

SCALE: 1" = 50'

SCHMATIC DEVELOPMENT PLAN
Montgomery College of Art & Design
Lot 15 Block C, Lot 18 Block BH
WILSON, N.C.

DATE: 11/15/06

SCALE: 1" = 1,000'

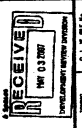
PROJECT NO.: 06068

DATE: 11/15/06

BY: JLS

DATE: 11/15/06

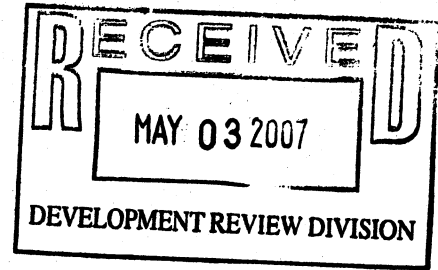
BY: JLS



614 rec v in 7/0/01
2:55 pm

After Recording, return to:
Holland & Knight LLP
3 Bethesda Metro Center, Suite 800
Bethesda, Maryland 20814
Attn. Stacy P. Silber

DRAFT



DECLARATION OF COVENANTS

This Declaration of Covenants, made this _____ day of _____ 2007, by Kaz Development, LLC ("Contract Purchaser") and Montgomery College Foundation, Inc. ("Owner") regarding certain real property in the County of Montgomery, State of Maryland, which is more particularly described on the legal description attached hereto and made part hereof as Exhibit "1" (hereinafter referred to as the "Property").

WITNESSETH

WHEREAS, on _____, the Contract Purchaser filed Zoning Application G-858, requesting the reclassification of the Property from the R-60 Zone to the RT-12.5 Zone, in accordance with the optional method of application for local map amendments provided for in Section 59-H-2.5 of the Zoning Ordinance of Montgomery County, Maryland, being Chapter 59 of the Montgomery County Code, 2004, as amended zoning ordinance; and

WHEREAS, pursuant to the optional method of application for local map amendments, the Contract Purchaser submitted a Schematic Development Plan ("SDP") (attached hereto as Exhibit "2") as part of the rezoning application for purpose of restricting the development standards and use of the Property to less than the maximum permitted in the requested zone.

WHEREAS, Zoning Application G-858 was granted by the Montgomery County Council, sitting as the District Council ("Council") on _____, and the SDP was approved (Council Opinion attached hereto as Exhibit "3"); and

WHEREAS, Section 59-H-2.54 of the Zoning Ordinance requires the submission and filing in the Land Records of Montgomery County, Maryland, a covenant reflecting in specific language any restricted development standards, development program, or limitation on uses as contained in the approved SDP.

NOW, THEREFORE, in consideration of the foregoing and in compliance with Section 59-H-2.54 of the Zoning Ordinance, the Contract Purchaser on behalf of itself, and its successors or assigns, hereby declare, covenant and agree, that so long as the Property remains in the RT-12.5 Zone, that the Property (and all its parts or subparts) shall be transferred, sold conveyed and occupied subject to the conditions, covenants and restrictions set forth:

1. So long as the Property is zoned RT-12.5, no development, construction or use will be started, erected or maintained on the Property, that does not conform to the binding elements of the SDP (attached hereto as Exhibit "2"), amended as may be authorized by law, ordinance or regulation. Further, the SDP contains the following binding restrictions and

limitations by which the Contract Purchaser shall be bound, all other elements will be governed by the provisions of County Code:

- (a) Maximum density of ^{up to} 27 dwelling units (^{up to} 10.7 du/acre), including 12.5% MPDUs.
- (b) Townhouse units that face on a public right-of-way shall have brick fronts, and the end units of each row of townhouses that front on a public right-of-way shall have brick sides.
- (c) All street trees installed within the public right-of-way around the perimeter of the site shall be a minimum of 3-1/2" caliper at installation.
- (d) Landscape buffer and/or fencing shall be installed along the northern property line between Georgia Avenue and Douglas Avenue. Final design shall be determined at time of site plan.
- (e) Construct a pedestrian connection from the end of Douglas Avenue to the existing sidewalk on the west side of Lillian Drive, with the width of the connection being determined at site plan.
- (f) At time of record plat, dedicate or provide a 20' public use easement from the end of Douglas Avenue to the northern property line.
- (g) If the Planning Board approves a site plan that aggregates (in a row) the garage townhouse MPDUs, then Applicant will donate the aggregated MPDU lots to Habitat for Humanity or other affordable housing builder, dependent upon the Department of Housing and Community Affairs approval, as necessary, prior to issuance of building permits.
- (h) Use – townhouses.

2. These Covenants will be recorded among the Land Records of Montgomery County, Maryland, within sixty (60) days of the Council's date of mailing of its Opinion granting the RT-12.5 Zone for the Property. Further, these Covenants shall run with the land and shall be binding on all parties having any right, title or interest in the Property or any part thereof, their heirs, successors or assigns, and shall ensure to the benefit of each owner thereof and to Montgomery County, so long as the Property is zoned RT-12.5, and shall remain in effect until such time as the Property is rezoned or the restrictions on development are removed or are amended by action of the Council or other governmental body having jurisdiction or are declared invalid by any court of competent jurisdiction. These Covenants shall not take effect until the Property is rezoned to the RT-12.5 Zone, and the Council approves the SDP.

3. The binding elements contained in this Declaration of Covenants and in the SDP shall be enforceable by the Council pursuant to Section 59-H-2.53 (i) of the Zoning Ordinance.

4. This Declaration of Covenants may be amended by the Contract Purchaser, its successors or assigns, to conform to any modification made by the Council in the binding elements contained in the SDP.

IN WITNESS WHEREOF, the Contract Purchaser and Owner have set their hands and seals on the day and year written below.

WITNESS:

Kaz Development, LLC

_____ (SEAL)

By: _____

Title: _____

WITNESS:

Montgomery College Foundation, Inc.

_____ (SEAL)

By: _____

Title: _____

STATE OF MARYLAND

COUNTY OF MONTGOMERY, to wit:

I HEREBY CERTIFY that on the ____ day of _____, 2006, before the subscriber, a Notary Public in and for the aforesaid County and State, personally appeared of Kaz Brothers, LC, personally well known to me (or satisfactorily proved) to be the person whose name is subscribed to the within instrument and did acknowledge the foregoing Declaration to be his act.

IN WITNESS WHEREOF, I have hereunto set my hand and Notarial Seal.

Notary Public

My commission expires: _____

STATE OF MARYLAND

COUNTY OF MONTGOMERY, to wit:

I HEREBY CERTIFY that on the ____ day of _____, 2006, before the subscriber, a Notary Public in and for the aforesaid County and State, personally appeared of Montgomery College Foundation, Inc., personally well known to me (or satisfactorily proved) to be the person whose name is subscribed to the within instrument and did acknowledge the foregoing Declaration to be his act.

IN WITNESS WHEREOF, I have hereunto set my hand and Notarial Seal.

Notary Public

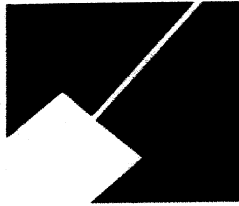
My commission expires: _____

ATTORNEY'S CERTIFICATION

I HEREBY CERTIFY that I am an attorney duly admitted to practice before the Court of Appeals of Maryland and that the foregoing instrument was prepared under my supervision.

Stacy P. Silber

4051975_v4

**Memorandum**

To: Sandra Youla, AICP, Zoning Analyst

From: Sharon K. Suarez, AICP, Housing Coordinator, RTC *SKS*

Re: G-858, Schematic Development Plan, Montgomery College of Art & Design

Background

The applicant seeks to build 27 single-family, attached units, four of which will be Moderately Priced Dwelling Units (MPDUs). The question under discussion in this memo is whether the applicant should build all four of these garage-townhouse MPDUs in one stick.

Recommendation

Allow these four MPDUs be built in a single stick.

Discussion

No rule could be found to justify denial of the developer's request to build all four garage-townhomes in a single stick. Garage townhomes are actually considered so desirable that they are exempted from the concerns of site aggregation in the "MPDU Site Plan Guidelines for Projects" (Montgomery County Planning Board, 1995). The fourth and fifth guide-lines of the are germane:

"4. Discourage location of more than 16 back-to-back or piggyback MPDUs OR 30 non-garage townhouse MPDUs adjacent to or confronting each other. Quantities larger than this should be separated from other MPDUs of these two types by market rate buildings. **Garage townhouse, duplex, and detached MPDUs would be exempt from limits on aggregation.**" (*Emphasis added.*)

and

"5. Permit townhouse-type buildings containing only MPDUs."

Generally, the guidelines indicate that a certain amount of aggregation of MPDUs is considered appropriate, in order to provide builders with necessary economies of scale.

**SITE PLAN GUIDELINES FOR PROJECTS
CONTAINING MPDUs**
(Montgomery County Planning Board, Approved 6/1/95)

Guidelines For Unit Types	
1.	Encourage a variety of MPDU unit types. Promote, but do not require, duplexes or single-family detached MPDUs in a single-family-detached-only section of a subdivision. Encourage more than one MPDU unit type in subdivisions with three or more market rate unit types. MPDU unit types need not be the same.
2.	Prohibit back-to-back townhouse MPDUs unless it can be demonstrated that no other unit type is suitable to the site, that the disadvantages associated with that unit type are eliminated in the site design, and the MPDUs are scattered among market rate back-to-back units.
3.	Encourage innovative site and building configurations for townhouses, piggybacks, quadraplexes, triplexes, duplexes, small-lot detached units, and apartments. Solicit comments from agencies most familiar with the market, delivery, and life of MPDUs prior to preparation of site plans for review.
Guidelines For MPDU Locations And Site Plan Features	
4.	Discourage location of more than 16 back-to-back or piggyback MPDUs OR 30 non-garage townhouse MPDUs adjacent to or confronting each other. Quantities larger than this should be separated from other MPDUs of these two types by market rate buildings. Garage townhouse, duplex, and detached MPDUs would be exempt from limits on aggregation.
5.	Permit townhouse-type buildings containing only MPDUs.
6.	Encourage, but do not require, MPDUs and market rate units on a single garden-apartment stairwell. If an individual stairwell has only MPDUs, then the remainder of the building must contain some of all market rate units.
7.	Encourage distribution of any MPDU-only apartment stairwells amount the market rate stairwells.
8.	Continue to advocate siting of MPDUs to facilitate access to public facilities.
9.	Permit enough clustering of single-family detached and duplex MPDUs to take advantage of production and marketing efficiencies.
10.	Continue to give special attention to site plans for MPDUs in order to provide usable open space, play and congregating area near units, age-appropriate recreation, adequate parking for residents and guests, and adequate provision for storage and garbage collection.
11.	Ensure that open space and recreational facilities, which are required for site plan approval, are equally available to all residents, regardless of income or unit type.
12.	Continue to require close proximity for MPDUs to open space and recreation facilities required for site plan approval; where off-site recreation facilities are allowed, locate MPDUs nearby unless additional, age-appropriate facilities are located near the MPDUs.
13.	In townhouse and garden apartment areas where residents lack individual private and defensible yards, continue to require open space areas, which are adjacent and useable; steep slope and inaccessible open space areas are insufficient.
14.	Require phasing plan contained in site plan to conform to Section 25A-5(i) of the Montgomery County Code.
15.	Clearly identify MPDUs on all site plan applications set drawings
16.	Clearly state on the record that the site provides MPDUs, the locations of which are shown on the site plan.

slly rec'd 5/3/2007



Building families, communities, and hope

May 2, 2007

Francoise M. Carrier, Esq.
Office of Zoning and Administration Hearings
Stella B. Werner Council Office Building
100 Maryland Avenue, Room 200
Rockville, MD 20850

Re: Local Map Amendment G-858: Montgomery College of Art & Design

Dear Ms. Carrier:

Habitat for Humanity of Montgomery County Maryland, Inc. is a non profit corporation that was formed under the laws of the State of Maryland in 1982, for the purpose of building houses for qualified low-income families in need of simple, decent and affordable housing.

Since 1982, we have built or renovated 19 homes throughout Montgomery County. More than 80 individuals now call a Habitat house their home.

Our current project is Linganore Woods, a 24-unit townhouse development in Burtonsville. Since July, Habitat volunteers have been working alongside future Habitat homeowners in building these homes. We are happy to report that 12 of the 24 homes are nearly ready for the Habitat families to move into; the remaining 12 homes will be finished in 2008. These homes will have many "green building" features, including enhanced insulation, non toxic materials, and energy star appliances.

We commend Kaz Development for their commitment to affordable housing and delighted to be invited as a partner on this project. Habitat for Humanity of Montgomery County Maryland, Inc. will build the donated MPDU units in accordance with County requirements, and will build to "green building" specifications for the property.

Sincerely,

John Paukstis
Executive Director
Habitat for Humanity of Montgomery County Maryland, Inc.




514 rec'd 5/2/07

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

May 2, 2007

To: Sandra L. Youla
Development Review Division

From: Frederick Vernon Boyd, Community Planner 
Georgia Avenue Planning Team
Community-based Planning Division

Subject: G-858: Montgomery College of Art and Design

Recommendation: Approval

We have reviewed G-858, a Local Map Amendment application filed by Kaz Brothers LC seeking the RT-12.5 Zone for a 2.53-acre property located at Georgia Avenue and Evans Drive in Wheaton. We recommend its approval.

The property is currently classified in the R-60 Zone. It consists of nine lots recorded as part of the Carroll Knolls community. The land has been occupied first by a religious school and subsequently by the Montgomery College of Art and Design. The school property is at an entrance to the neighborhood from Georgia Avenue and the east.

The 1989 *Master Plan for the Communities of Kensington-Wheaton*, which covers the area in which the property is located, makes no specific recommendations for it. The Plan did, however, analyze a nearby property whose characteristics are similar to those of the college's property. It stated that the property, also in the R-60 Zone and located at the intersection of Georgia Avenue and Plyers Mill Road just north of the college's property, was appropriate for the R-T Zone "as a way of extending the townhouse development which surrounds it....." (p. 59)

The college's property can be seen as an extension of the townhouse community now located south of the intersection. It would be contiguous to that community and would create the appearance of a single neighborhood of townhouses between Evans Drive to the south and Plyers Mill Road to the north. To the south of the college's property, there are multi-family apartment communities

along Georgia Avenue. The relative proximity of this area to Metro's Forest Glen Station contributes to the suitability of increased densities in this area.

The proposed schematic development plan shows new townhouses facing Georgia Avenue, which helps maintain the generally residential character of this portion of the street. The plan also shows new townhouses facing Evans Drive and facing Douglas Avenue across an open area. This design helps to maintain the residential character of these streets as well, and creates a distinct boundary between the more intense new development along Georgia Avenue and the established community of detached houses to the interior.

More generally, the Plan sets out four primary goals and objectives for land uses and zoning in the planning area:

- "To protect and stabilize the extent, location, and character of existing residential and commercial land uses;
 - To maintain the well-established low- to medium-density residential character which prevails over most of the planning area;
 - To ensure that zoning and land use recommendations for sites which have a potential for future redevelopment are consistent with the goals of land use stabilization and compatibility with nearby existing development;
 - To preserve the identity of major residential areas along major highway corridors, to soften the impact of major highways on adjacent homes and to strengthen the distinction between commercial and residential uses."
- (p.28)

The generally residential character of the portion of Georgia Avenue between Forest Glen Road and Wheaton is frequently interrupted by institutional uses. Between Forest Glen Road and Plyers Mill Road, for example, there are three medical buildings and four churches, as well as a number of formerly residential structures used by doctors or other professionals. The return of the college property to residential uses conforms to the Plan's objective of redevelopment that stabilizes and maintains the residential character of this portion of Georgia Avenue. It will also help to preserve the existing generally residential identity of the area. The proposed project will result in a medium residential density, which, while more intense than is currently allowed by the existing zones, is in proximity to similar densities of the apartment complexes nearer Forest Glen Road.

We recommend that the drawing submitted as part of the schematic development plan be considered illustrative. The site plan review process should include evaluation of alternative designs that reduce imperviousness, increase open space and encourage a compatible relationship with the adjoining community.



317100 5/1/07

MONTGOMERY COUNTY PLANNING DEPARTMENT

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

May 1, 2007

MEMORANDUM

TO: Sandra Youla, Analyst
Development Review Division

VIA: Shahriar Etemadi, Supervisor *DXH for*
Transportation Planning

FROM: David Paine, Coordinator *DP*
Transportation Planning

SUBJECT: Zoning Application Nos. G-858
Montgomery College of Art & Design
Kensington/Wheaton Policy Area

This memorandum is Transportation Planning staff's review of the proposed zoning change for a property from R-60 to R-12.5 to facilitate construction of 27 Townhouse units. The Board supported the recommendation for an 8-foot path within public easement as part of AB 693 on April 12, 2007, as a condition for that abandonment. With recommendations listed below, we find the transportation network being adequately provided for and therefore support the proposed rezoning.

RECOMMENDATIONS

We recommend the following conditions as part of the APF test for transportation requirements related to Local Area Transportation Review (LATR) to be followed at the time of preliminary plan:

1. Limit the preliminary plan to 27 Townhouse units.
2. Dedicate 60 feet of right-of-way from the centerline of Georgia Avenue (MD 97).
3. Construct an 8-foot wide shared-use path within a 20-foot wide public improvement easement to connect Douglass Avenue and Lillian Road.

DISCUSSION

Site Location, Access, and Circulation

The subject property is located west of Georgia Avenue, north of Evans Drive, and east of Douglas Avenue in the Carroll Knolls subdivision and the Kensington/Wheaton Master Plan area.

The applicant proposes the vehicle access via private drive off Douglas Avenue. Douglas Avenue adjacent to the west of the site is proposed as a tertiary roadway, with 50-foot right-of-way and sidewalk on both sides. A portion of unbuilt Douglas Avenue would be abandoned by action AB 693. There is a people's choice path on unbuilt Douglas Avenue connecting to Lillian Drive, north of the site. This footpath forms a logical desire line in the transportation network connecting the Carroll Knolls subdivision to the Plyers Mill Estates subdivision directly to the north. To ensure connectivity for non-motorized traffic, the applicant will maintain a public easement between Douglass Avenue and Lillian Road and construct an 8-foot wide shared use path between the two roads. Portions of Evans Drive and Gardiner Avenue are not visibly in public use and would be abandoned as County Council action AB 691 and AB 692.

Master Planned Roadways and Bikeways

The adjacent roadways are listed in the *1989 Kensington-Wheaton Master Plan* and *2005 Countywide Bikeways Functional Master Plan*. Georgia Avenue (MD 97) is designated as a major highway with a 120-foot right-of-way with six travel lanes as signed, shared roadway (SR-19). Evans Drive is built to primary residential street standards with an existing 100-foot right-of-way.

Local Area Transportation Review

According to the submitted traffic statement, the table below shows the number of peak-hour vehicular trips generated by the proposed land use during the weekday morning and evening peak periods, 6:30 to 9:30 a.m. and 4:00 to 7:00 p.m.:

Proposed Land Uses	Proposed	Weekday Peak-Hour Trips	
		AM	PM
Townhouses	27	13	23

Under the *FY 2005 Annual Growth Policy*, A traffic study is not required to satisfy LATR because the total peak-hour vehicular trips generated from the site are fewer than 30 peak-hour trips within the weekday morning and evening peak periods.

Pedestrian Access and Transit

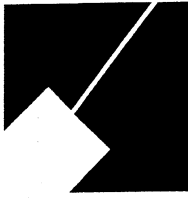
Pedestrian access is provided via lead-in sidewalks and people's choice paths to the site. The site's proposed pedestrian network and bicycle access and circulation will be considered at time of preliminary plan and site plan. The site is 0.8 miles from both the Wheaton and Forest Glen Metrorail Stations and is served by both Ride-On and Metrobus transit routes on Georgia Avenue. Georgia Avenue has sidewalks on both sides.

DP:tc

cc: Stacy Silber

519 rec'd 7/1/07

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

MEMORANDUM

DATE: April 18, 2007

TO: Sandra Youla, Development Review Division

VIA: Mary Dolan, Countywide Planning Division, Environmental

FROM: Marion Clark, Countywide Planning Division, Environmental

SUBJECT: Zoning Application No. G-858

**Recommendation: Approval of proposed zoning.
Approval of the Preliminary Forest Conservation Plan with the following conditions:**

- Reduce the forest conservation easement to exclude the proposed pathway and public access easement.
- Adjust forest conservation worksheet to reduce the area of afforestation by the public access easement area.

Discussion:

A pathway and associated public access easement is shown in the area proposed for a forest conservation easement. The forest conservation easement must be removed from the public access easement area. The path and access easement also encroach on a wetland buffer. If built, the path in the area of the wetland buffer must be constructed as a boardwalk, to minimize fill placed in the wetland buffer.

Forest Conservation – Chapter 22A

The Maryland College of Art and Design occupies the property developed prior to existing environmental regulations and guidelines. Although there is no forest on site, wetlands remain in the northwest corner of the site as indicated on the approved Natural Resource Inventory/Forest Stand Delineation. A preliminary forest conservation plan was submitted with the development plan. Since the site is unforested, a small amount of afforestation (0.47 acres) is required. The applicant proposes to reforest existing wetlands and protect the new forest and wetlands with a forest conservation easement. There are no specimen or champion trees on site.

Stormwater management- Chapter 19

A Stormwater Management Concept Plan is approved for this project.

54100 # 7/3/2001



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

May 3, 2007
MEMORANDUM

TO: Sandra Youla, Development Review
FROM: Tanya Schmieler, Park Planning and Stewardship
SUBJECT: Re Rezoning Application G-858- Montgomery College of Art and Design

The purpose of this memorandum is to respond to your question as to whether the Montgomery College of Art and Design site (10500 Georgian Avenue) should be a park as requested by some residents.

The residents on the west side of Georgia are served by two parks- Capital View-Homewood and McKenney Hills NP. These parks include tennis courts, basketball courts, playgrounds, and fields.

A review of the new PROS Plan (The 2005 Land Preservation, Parks and Open Space Plan) revealed that the Kensington Wheaton Planning Area in which this property is located is estimated to have no additional needs for playgrounds and basketball and tennis courts through the year 2020. Needs were expressed for full size rectangular fields, however the site is not appropriate or large enough for a large field and accompanying 75 space parking. Given these factors and the existing parks in the area, we did not pursue park acquisition of this expensive parcel.

Provision of recreation for the future residents of the property and aesthetic open space for the Georgia Avenue Corridor will be very important. A primary concern for this site is that it retain some visual open space and landscaping along Georgia Avenue and include at least a small playground, small informal open space and pathways.



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

dy rec'd 1/11/07

MEMORANDUM

DATE: January 11, 2007

TO: ~~Carlton Gilbert~~ *Sandra Youla*
Development Review Division

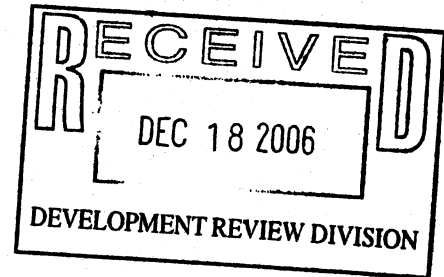
FROM: Taslima Alam
Development Review Division

SUBJECT: Board of Appeals Petition No. G-858

The proposed development requires subdivision. Prior to the release of any building permits the applicant will be required to submit a Preliminary Plan Application pursuant to Chapter 50 of the Subdivision Regulation and a Site Plan application pursuant to Chapter 59D-3 of the zoning ordinance and record a plat in the land records pursuant to Chapter 50 of the Subdivision Regulation.

December 11, 2006

Ms. Sandra Youla
Development Review Division
Maryland-National Capital Park and Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910-3760



Dear Ms. Youla:

This letter is sent in response to Zoning Application No. G-858, known as "Montgomery College of Art & Design," located at 10500 Georgia Avenue, at the intersection of Georgia Avenue and Evans Drive, in Silver Spring, Maryland. This rezoning would result in 28 townhouse units. Based on average yield factors derived from the Maryland National Capital Park and Planning Commission 2003 Census Update Survey, the impact of this project is estimated to be approximately seven (7) elementary, three (3) middle and five (5) high school students.

This property is located within the Oakland Terrace Elementary School and Newport Middle School attendance areas, and the Albert Einstein High School base area (Albert Einstein High School is part of the Downcounty Consortium where students may choose to attend their base area high school or one of four other high schools in the consortium).

Enrollment at Oakland Terrace Elementary School currently exceeds capacity and is projected to exceed capacity in the future. This space deficit will be addressed with the opening of Downcounty Consortium Elementary School #29 at the location of the former McKenney Hills Elementary School. The opening date for this school has not yet been determined. Enrollment at Newport Mill Middle School is currently within capacity and is projected to stay within capacity. Enrollment at Albert Einstein High School is currently over capacity but is projected to be within capacity beginning in the 2010-11 school-year. See enclosed pages from the Montgomery County Public Schools FY2008 Capital Budget and Amendments to the FY 2007-2012 Capital Improvements Program.

The current Growth Policy schools test finds capacity adequate in the Albert Einstein (DCC) cluster.

Sincerely,

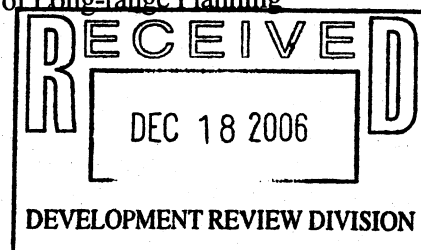
A handwritten signature in cursive script that reads "Bruce Crispell".

Bruce H. Crispell, Director
Division of Long-range Planning

BHC:bc

Enclosures

Copy to: Mr. Bowers, Mr. Hawes, Ms. Turpin



Youla, Sandra

From: Forbes, Beth [bForbes@wsscwater.com]
Sent: Wednesday, January 31, 2007 11:41 AM
To: Youla, Sandra
Subject: WSSC Comments on G-858

The following are WSSC's comments on Zoning Application No. G-858.

A change of the property's zoning category will not impact the water or sewer systems.

The developer's plan to relocate the existing 12-inch diameter sewer, however, will impact two existing lots. Lots 6 and 7, Block JJ will no longer abut a sewer main. To develop these lots a new sewer extension would have to be built. The storm drain proposed to be relocated into Douglas Avenue will complicate the construction of any new sewer extension to these properties.

If you need further information, please do not hesitate to contact me.

Beth Forbes
Development Services Group
Washington Suburban Sanitary Commission
301-206-8819 301-206-8232 (F)

orig
rec'd
TU 5/1/07

Youla, Sandra

From: Judith Furash [judifer48@yahoo.com]
Sent: Monday, April 30, 2007 11:40 PM
To: scott.reilly@montgomerycountymd.gov; Youla, Sandra; MCP-Chairman;
ozah@montgomerycountymd.gov
Cc: michael.cassedy@montgomerycountymd.gov; hudsonland@starpower.net; Paine, David; Bradford,
Mary; Boyd, Fred
Subject: G-858 zoning case--citizen comments to be considered

Dear Mr. Reilly, Ms. Youla, Planning Board Chair, and Zoning Hearing Officer:

We live in townhouses at Plyers Mill Crossing directly adjacent to the Montgomery College Art & Design property proposed for rezoning and redevelopment, G-858. Attached to the college building property is a park-like green space with a small wetland where we have directly observed many species of birds (including a Sharp-shinned hawk!) and other wildlife. Neighbors freely stroll through with their dogs and children and occasionally play soccer.

We would like to see as much of this green space preserved as possible and we have grave misgivings about additional development adding to the already extremely heavy Georgia Avenue traffic and to the danger of the unmarked, uncontrolled Evans Drive intersection. **Ideally we would like to see this area developed into a park on our side of Georgia Avenue, but if the county is intent on allowing townhouse development in this space, we would like to see certain conditions met that limit its impact on the surrounding community and the environment.**

We are in favor of the proposed **right of way road abandonments** as we certainly do not want cars cutting through our neighborhood nor would we want them compromising the small established wetland. We understand from sitting in on the ROW abandonment hearing that there is a recommendation to maintain an easement between Douglas Avenue and Lillian Drive to formalize a pathway for non-motorized traffic. As the end unit that directly observes the walking traffic, we think the proposed plan to connect to Lillian Drive is somewhat misguided. The majority of the traffic is to Wheaton Metro station and Wheaton Mall via our townhouse parking lot, not through Lillian Drive which continues through another neighborhood and not directly to these destinations. **While we are in favor of a narrow pathway that could direct this traffic, we are not in favor of an 8 foot wide hiker/biker path to Lillian Drive which we have heard discussed.** Such a wide pathway could mean the removal of more trees, have an unnecessary further impact on the wetland, and not serve the most needed purpose. The path needs to be on a diagonal from Douglas Avenue and on the far side of existing trees that are next to our property. **Our housing association needs to be directly involved in the design of a pathway between the townhouse areas.**

Whether or not further development occurs, improvements need to be made to the Evans Drive and Georgia Avenue intersection. A traffic light is really needed here or at least safeguards for pedestrians. At rush hour, I occasionally get off the bus heading North at this intersection and I have to depend on 6 lanes of traffic independently stopping to allow me to cross to the other side of Georgia Avenue. As well, this is definitely not a safe intersection for those who want to cross Georgia Avenue to use the small park on the other side of Evans Drive or to bike down to Sligo Creek Park.

We are very concerned about the proposed need for redirection of the storm drainage system in the development design. As of now, the drainage pipes go directly under our property. We need

5/1/2007

reassurance that this will not impact our yard or home. In the past, some of our neighbors have experienced extreme back up of water in their basements. If this were to occur, who will be responsible?

From looking at the developers Schematic Development Plan, the other changes we feel need to be made are:

- Provision of screening including a wooden fence and evergreen trees in a 25 foot buffer between the proposed development and our town homes.
- Elimination or reorientation of the private driveway directly in back of our town homes.
- Remove proposed lots 1,2, and 3 or reorient them so we see their sides or fronts, not their backs.
- To minimize the amount of impervious area, eliminate the cul-de-sac on Douglas Ave., include a planted island in the cul-de-sac, or if needed for fire department access pave it in a hammerhead design.
- Plant shade trees on Douglas Ave.
- Preserve all substantial trees in the current area, especially in the wooded wetlands. Replace any that are removed.

Thank you for your thorough consideration of our community's needs.

Judith Furash
Mark Mattucci

10514 Pennydog Lane
Silver Spring, MD 20902
301-649-0848

judifer48@yahoo.com

Ahhh...imagining that irresistible "new car" smell?
Check out [new cars at Yahoo! Autos.](#)

*slly rec'd Mon 7/30/07
G-858*

Youla, Sandra

From: Beverly G. Sobel [weberlyg@gmail.com]
Sent: Saturday, April 28, 2007 11:12 PM
To: Youla, Sandra
Subject: Fwd: Wheaton, MD: Legacy Open Space Consideration Request

Hello Ms. Youla,

This email is in regards to Zoning Case G-858. My neighbor, Judith Furash, suggested I send you the following two emails I sent Ms. Bradford. I understand you are the Zoning Analyst who is preparing the case for the hearing. I would like to request that both of my emails and Ms. Bradford's response be part of the public record and be included in your paperwork for the upcoming May 10th zoning case in particular.

Thank you kindly,
Beverly

----- Forwarded message -----

From: Beverly G. Sobel <weberlyg@gmail.com>
Date: Apr 28, 2007 4:04 PM
Subject: Re: Wheaton, MD: Legacy Open Space Consideration Request
To: "Bradford, Mary" <mary.bradford@mncppc-mc.org>

Hello Ms. Bradford,

Thank you for getting back to me.

I have to come to understand that the land of the School of Art and Design of Montgomery College was designated as "quasi public" in the 1989 Kensington-Wheaton Master Plan. It is this designation that I would like for you, the MCPB Chairman, and your land acquisition staff to reconsider. This school's land is owned by the Montgomery College Foundation, Inc., a non-profit entity which allows the sale to be private. I have been told that had the land been designated as "park land" in the Master Plan, then the county could have already stepped in and created the much needed and wanted neighborhood park.

As I mentioned in my initial email, the closest park requires crossing GA Avenue. GA Avenue is a very unsafe obstacle not just for adults but especially for children. Additionally, there is another park about a mile from my house. However, it would be preferred to give easier access to adults and children on this side of GA Ave to a neighborhood park especially given the traffic woes of GA Ave. and the epidemic of obesity in this country. The school's land behind my house has been used by members of the immediate community for a very long time. Letting townhouses be developed on it in this urban section of GA will not only worsen the poor congestion and delay of GA Avenue but take away much needed green space from citizens on this side of GA Avenue. Recently, I have read that on this section of GA Ave over 60,000 cars a day pass through and that the intersection of GA Ave. and Forest Glen Road is one of the worst in the DC Metro area in terms of congestion and delay. Therefore, given the current traffic woes of GA Avenue, the density ratio in this section of GA Avenue, and the unsafe access to Evans Park for children from this community, I hope your staff recommends that this land NOT be rezoned for 27 townhouses but rather redesignated for a neighborhood park.

I look forward to continued dialogue with you, your staff, and the MCPB chairman.

Thank you again for your time and consideration.
Sincerely,
Beverly Sobel

On 4/28/07, Bradford, Mary <mary.bradford@mncppc-mc.org> wrote:

>
>
>
> Ms. Sobel,
>
> Thank you for calling this potential acquisition to our attention.
> Although I can make no commitment to you in reply, I have forwarded your
> thoughtful e-mail to our land acquisition staff for their review and
> recommendation.
>
> I have also taken the liberty of copying the Office of the Chairman,
> Montgomery County Planning Board, so that your views and concerns can be
> made part of any deliberation on the matter.
>
> I appreciate your interest in preserving County open space -- and I also
> saw a beautiful woodpecker, just today, behind my office in Silver Spring!

> Regards,

> Mary Bradford

> Director
> Montgomery County Department of Parks
> 301-495-2500

> The Maryland-National Capital Park & Planning Commission

> -----Original Message-----

> From: Beverly G. Sobel [mailto:weberlyg@gmail.com]
> Sent: Sun Apr 22 15:59:21 2007
> To: Bradford, Mary
> Subject: Wheaton, MD: Legacy Open Space Consideration Request

> Hello Ms. Bradford,

>
> My name is Beverly Sobel. I live at 10500 Pennydog Lane, Wheaton, MD
> 20902. Directly behind our townhouse is the School of Art and Design
> at Montgomery College (10500 Georgia Ave.). The school's land is in
> the process of being sold to developers who would ideally like to
> build 27-28 townhouses on the property. The majority in the community
> would like to see this public land become both a park and a
> recreational ground for children. I am writing you today to ask that
> the land be considered for inclusion in MC's Legacy Open Space
> Program.

>
> As you know, Wheaton is in a period of significant growth and
> development. I am sure you would agree that it is imperative to have
> a holistic approach in developing an urban area. Converting all land
> to development is not good for the public nor the native wildlife and
> habitat. In fact, my husband and I have noted 16 different kinds of
> birds that depend on
> the school's field, trees, and wetland for nesting and feeding areas.
> For example, we have identified three types of woodpeckers (Downy
> Woodpecker, Yellow Shafted Northern Flicker, and the Red-Bellied
> Woodpecker). Additionally, the closest park to our house is about a
> mile and involves crossing 6 lanes of Georgia Avenue. In looking at a
> Google Earth map, one quickly sees how there are only two parks in
> walking distance (about a mile each from where we live). I believe
> that the school's property is ideal for another park for many children
> in this immediate area and would have those children in this area
> avoid walking across 6 lanes of Georgia Avenue traffic to get to a

> park. Having this land become a neighborhood park would be in keeping
> with MC's Legacy Open Space Program; one of the goals of which is to
> "green urban communities by creating 'green boulevards' and
> neighborhood parks."

>
> On any given weekend or weekday, you will find residents in this area
> walking by themselves or with their pets through the school's grounds.
> You will also find children biking or playing. In comparison to
> where I use to live (Glover Park - Washington, DC), in my opinion,
> Wheaton has few neighborhood parks. In Glover Park and even in
> sections of Capitol Hill, there are lots that have been left for the
> public, open green common grounds. These lots will never be built on.
> I looked on Google Earth and was shocked to see the number of such
> small parks in Glover Park as compared to Wheaton!

>
> Regarding the land in question, the developers are seeking approval to
> build 27-28 townhouses. There will be a rezoning hearing on May 10,
> 2007. The sale of this property by the Montgomery College Foundation
> Inc. to the developers is contingent upon this rezoning. Right now,
> the restrictions on the parcel of land allow only for single family
> homes to be built. I believe in the long term the Wheaton community
> would be much better served if this land already in public domain
> remained so and served the public further as a recreational area and
> provided much needed habitat for native Montgomery County wildlife
> (both plant
> and animal).

>
> Please let me know your opinion and what steps, if any, ought to be
> taken next for consideration for the school's land to be included in
> MC's Legacy Open Space Program.

>
> Thank you kindly for your time and much needed help.

>
> Sincerely,
> Beverly Sobel
> 202-213-9173 (cell)

Montgomery
College

April 10, 1007

Via Overnight Delivery

Mr. Scott W. Reilly
Assistant, Chief Administrator Officer
101 Monroe Street
2nd Floor
Rockville, Maryland 20850

Re: AB 690 Douglas Avenue
AB 691 Evans Drive
AB 692 Gardiner Avenue

Dear Mr. Reilly:

We are writing to express support for the above referenced abandonment request.

As you may know, the Montgomery College Foundation, Inc., acquired the property owned by Maryland College of Art & Design ("MCAD") and has utilized it for the College to consolidate MCAD's programmatic curriculum into Montgomery College's broader Arts Program. When the King Street Arts Center being constructed at Montgomery College's Takoma Park/Silver Spring Campus is completed and ready for occupancy, these educational programs are scheduled to be relocated to that new facility.

Montgomery College, and the Montgomery College Foundation, Inc. which holds title to the MCAD Property, have contracted to sell the MCAD Property and, under that contract, are cooperating with the KAZ Development, LLC, the contract-purchaser, and fully support and consent to Kaz's request for the above referenced abandonment.

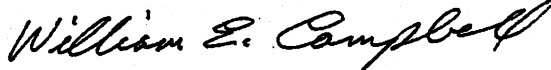
Please contact Rocky Sorrell at 301-520-3172 if you should have any questions.

Sincerely,

Montgomery College Foundation, Inc.

By: 

Montgomery College

By: 

cc: Mr. Mike Cassidy
Mr. Thomas Hudson
Stacy Silber, Esq.

Central Administration
900 Hungerford Drive
Rockville, MD 20850
(301) 279-5000

Germantown Campus
20200 Observation Drive
Germantown, MD 20876
(301) 353-7700

Rockville Campus
51 Mannakee Street
Rockville, MD 20850
(301) 279-5000

Takoma Park Campus
7600 Takoma Avenue
Takoma Park, MD 20912
(301) 650-1300

Continuing Education
51 Mannakee Street
Rockville, MD 20850
(301) 279-5188

Youla, Sandra

From: stacy.silber@hklaw.com
Sent: Tuesday, April 17, 2007 5:44 PM
To: Youla, Sandra
Subject: MCAD

Per your request, here is a summary of the background and status of the covenants.

In the 1940s, covenants were adopted for the Carroll Knolls Subdivision. The covenants contain restrictions which are outdated, have not been followed, and have been waived by many properties in the Carroll Knolls Subdivision, including the subject property. The restrictions in the Carroll Knolls Subdivision include: prohibition against non-residential uses; prohibition of the keeping of domestic animals including horses, cows, sheep goats on the property; and requiring properties be used for detached single family dwellings. The subject property has been used continuously as a non-residential use since 1948, including being used as a synagogue and now as Montgomery College's School of Art of Design. The covenants have never hindered the overt non-residential usage of the subject property. In fact, the County issued a special exception to the Maryland College of Art & Design, which was later voided as unnecessary once Montgomery College acquired the Property. Although the covenants have never hindered usage of the Property, as part of the Applicant's due diligence and for title purposes, it is asking the Circuit Court for Montgomery County to formally confirm that the covenants have been waived and are voided so that there is clarity in the land records. We expect the Court to review this case in the beginning of next year.

Stacy Plotkin Silber, Esq.
Partner
Holland & Knight LLP
3 Bethesda Metro Center
Suite 800
Bethesda, Maryland 20814
(301) 664-7621 (direct dial)
(301) 656-3978 (fax)
e-mail: stacy.silber@hklaw.com