



ATTACHMENT J

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

**MCPB
ITEM #
10/24/13**

MEMORANDUM

TO: Montgomery County Planning Board

VIA: Gwen Wright, Director *GW*

Glenn Kreger, Chief *GK*
Area 2

Khalid Afzal, Supervisor *KA*
Area 2

FROM: Stephanie Dickel *SD*
Area 2

SUBJECT: Corrected Resolution – Glenmont Metrocenter, Preliminary Plan 120130080

The Resolution for Glenmont Metrocenter Preliminary Plan No. 120130080 (MCPB No. 13-129) as approved by the Planning Board on September 12, 2013, incorrectly reflected the number of lots that the subdivision would create, as 226, while the staff report properly showed the number of lots created as 229. In addition, as discussed at the Planning Board hearing, the residential units and square footage per stage were conditioned, and the Resolution is being corrected to clarify the commercial square footage for Stage 2, "up to" 86,000 square feet, in Conditions 37 and 38. The duplicate word "and" has been removed from page 7 and corrected in the Resolution. Lastly, as discussed in the staff report, the multi-family buildings are proposed to be four to seven stories (not four to six stories), as reflected and corrected in the Resolution on page 8.

Rule 4.11.4 of the Planning Board Rules of Procedure provides that the Planning Director must notify the Board of any errors in a Resolution, and place the corrected Resolution on the Consent Agenda. The Resolution is being corrected to avoid any confusion and to reflect the discussion at the Planning Board hearing. Since no substantive changes are being made to the Resolution, September 26, 2013, which is the mailing date of the original Resolution, shall remain the effective date of Preliminary Plan No. 120130080.



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

SEP 26 2013

MCPB No. 13-129
Preliminary Plan No. 120130080
Glenmont Metrocenter
Date of Hearing: September 12, 2013

RESOLUTION

WHEREAS, under Montgomery County Code Chapter 50, the Montgomery County Planning Board is authorized to review preliminary plan applications; and

WHEREAS, on December 20, 2012, Layhill Investments, LLC. ("Applicant"), filed an application for approval of a preliminary plan of subdivision of property that would create 2296 lots on 30.93 acres of land in the TS-R zone, located on the north side of Glenallan Avenue, between Layhill Road and Georgia Avenue ("Subject Property"), in the Glenmont Metro Station Policy Area, 1997 *Glenmont Transit Impact Area and Vicinity Sector Plan* ("Sector Plan"); and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120130080, Glenmont Metrocenter ("Preliminary Plan" or "Application"); and

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and other governmental agencies, Staff issued a memorandum to the Planning Board, dated August 30, 2013, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on September 12, 2013, the Planning Board held a public hearing on the Application, and at the hearing the Planning Board heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, at the hearing the Planning Board voted to approve the Application, subject to certain conditions, by the vote as certified below.

NOW, THEREFORE, BE IT RESOLVED THAT, the Planning Board approves Preliminary Plan No. 120130080 to create 2296 lots on the Subject Property, subject to the following conditions:¹

¹ For the purpose of these conditions, the term "Applicant" shall also mean the developer, the owner or any successor(s) in interest to the terms of this approval.

Approved as to
Legal Sufficiency

 10/10/13
M-NCPPC Legal Department

1. Approval is limited to a maximum density of 2,500,000 square feet of total development, which includes up to 90,000 square feet of retail uses and up to 2,410,000 square feet of residential uses for up to 225 townhouses and 1,325 multi-family units, including 14.5% moderately priced dwelling units (MPDUs).
 2. A Category I Conservation Easement must be recorded by deed over the retained forest on-site prior to approval of the first Certified Site Plan and reflected on the future record plat for the phase of development that includes this area.
 3. The Site Plan approval following the approval of the first Site Plan must include a condition requiring all existing buildings to be removed from the Category I conservation easement as shown on the Approved Preliminary Forest Conservation Plan.
 4. The Applicant must record the entire Category I Conservation Easement by plat and provide the forest plantings as shown on the approved Final Forest Conservation Plan as soon as the Certified Site Plans that include the removal of the existing buildings within the future easement area have been approved.
 5. The forest conservation plantings associated with each phase must be completed within one year or two growing seasons upon the completion of the construction of each phase.
 6. The implementation of the project's forest conservation mitigation requirements, which includes forest retention, onsite and offsite afforestation, reforestation and landscape credit, may be phased. The phasing of the total forest conservation mitigation must be proportionate to the area proposed for disturbance relative to the total project net tract area. The phasing triggers, forest conservation mitigation type, amount of mitigation, and disturbance areas are to be defined on the Final Forestation Conservation Plan and revised as needed with subsequent Site Plans.
 7. The Applicant must plant minimum three-inch caliper, native trees as mitigation for the removal of specimen trees. The species, amount and location of plantings must be identified on the Final Forest Conservation Plan and must be planted in areas with adequate soil volume, not within 10-feet of stormwater/Environmental Site Design facilities and not located within or overlapping public utility easements or other easements.
 8. No outfalls or stormwater related facilities will be allowed in the Category I Conservation Easement.
 9. The Final Forest Conservation Plan must include detailed and specific tree protection measures for on and off-site trees affected by the Limits of Disturbance (LOD).
 10. In the event the LOD is revised on the Final Forest Conservation Plan (FFCP) and the WSSC easement is further impacted by the LOD, the Applicant must
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- revise the Forest Conservation Worksheet to include the area and forest within the LOD.
11. The Applicant must provide a revised noise analysis as part of the Phase 1.1 Site Plan that includes the baseline noise and the 20-year projected noise levels for ~~the entire site and to include a lot layout that matches the lot design of the~~ approved Preliminary Plan.
 12. Prior to issuance of building permits for noise affected units, the following must be provided to the Maryland-National Capital Park and Planning Commission (M-NCPPC) Staff:
 - a. Certification from an engineer that specializes in acoustical treatment that the building shell for residential units affected by exterior noise levels above 65 dBA, Ldn will attenuate the projected exterior noise levels to an interior level not to exceed 45 dBA, Ldn, as identified in the noise analysis report dated May 4, 2013, as revised per the condition above.
 - b. The builder must certify that noise-impacted lots will be constructed in accordance with recommendations of the engineer that specializes in acoustical treatment.
 13. The Applicant must construct a ten-foot-wide shared use path along the entire frontage of Glenallan Avenue to replace the existing four-foot-wide sidewalk, per applicable Site Plan phase.
 14. The Applicant must construct a five-foot-wide sidewalk along the entire frontage of Layhill Road to replace the existing sidewalk that is approximately four-feet-wide as part of the Maryland State Highway Administration ("SHA") improvements, subject to SHA approval and permit.
 15. The existing sidewalk along Georgia Avenue is approximately five feet wide, but may need to be modified/upgraded per the future entrance permit with SHA.
 16. The Applicant must construct five-foot-wide sidewalks on all streets within the development as shown on the Preliminary Plan. Final location will be determined at the time of site plan review.
 17. The Applicant must dedicate, and the record plat(s) must reflect, an additional five feet of right-of-way (ROW) for a total of 45 feet from the centerline along the entire frontage of Glenallan Avenue, as depicted on submitted plans.
 18. The Applicant must enter into a Traffic Mitigation Agreement with the Montgomery County Department of Transportation (MCDOT) and the Planning Board if and when the Glenmont Transportation Management Organization is established.
 19. The new internal streets that connect from Georgia Avenue to Layhill Road: Private Street #1, Private Street #2, and Private Street #2A, as shown on the Preliminary Plan, may be implemented as private streets subject to the following conditions:
 - a. The Board must determine the final extent, delineation, and alignment of the private streets as the site plans for each phase are approved.

- b. Private streets must be located within their own parcel, separate from the proposed development.
 - c. Public access easements must be granted for the roadways and must be reviewed and approved by MCDOT and M-NCPPC.
 - d. ~~The design of the roads must follow, or improve on, the corresponding~~ Montgomery County Road Code standard (2005.02 modified) for a similar public road, unless approved by MCDOT and the Planning Board at the time of site plan for each phase.
 - e. Installation of any public utilities must occur within public use easements.
 - f. The streets may not be closed for any reason unless approved by MCDOT.
 - g. The public access easements must be volumetric to accommodate uses above or below the designated easement areas.
 - h. Montgomery County may require the Applicant to install appropriate traffic control devices within the public use or access easements, and the easements must grant the right to the County to construct and install such devices.
 - i. Maintenance and Liability Agreements will be required for each Easement Area by MCDOT at the time of record plat. These agreements must identify the Applicant's responsibility to maintain all of the improvements within their easement areas in good condition and in accordance with applicable laws and regulations.
 - j. Montgomery County will inspect these streets and ensure that each has been constructed in accordance with the corresponding Road Code standard for a similar public road.
 - k. The Applicant is obligated to remove snow and provide repairs to keep the roads in working order and open and if, for any reason, the Applicant does not, the County must have the right, but not the obligation, to remove snow and/or provide repairs.
 - l. The boundary of the easements must be shown on the record plat.
20. The Applicant must provide bicycle parking in conformance with section 59-E-2.3 of the Montgomery County Code as specified on each Site Plan.
21. The Planning Board has accepted the recommendations of the MCDOT in its letter dated August 27, 2013 and hereby incorporates them as conditions of the Preliminary Plan approval. Therefore, the Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDOT provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
22. Prior to recordation of plat(s), the Applicant must satisfy the provisions for access and improvements as required by MCDOT.
23. All entrances on Georgia Avenue and Layhill Road must meet the requirements stated by the Maryland State Highway Administration (SHA) in two letters dated May 1, 2013 and July 1, 2013. In addition, the Applicant must construct all

- entrances on Glenallan Avenue that meet the requirements stated by MCDOT in a letter dated August 27, 2013.
24. The Planning Board has accepted the recommendations of the SHA in two letters dated May 1, 2013 and July 1, 2013, and hereby incorporates them as conditions of the Preliminary Plan approval. ~~Therefore, the Applicant must comply with each of the recommendations as set forth in the letters, which may be amended by SHA provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.~~
 25. Prior to issuance of access permits, the Applicant must satisfy the provisions for access and improvements as required by SHA.
 26. The Applicant must work with WMATA and MCDOT for the location and design of a new mid-block crossing of Glenallan Avenue to be approved as part of, and constructed at the time of the Site Plan for Phase 2.1. This new crossing may include pedestrian activated beacons and warning lights, advanced warning signs, reflective pavement markings, and pedestrian refuges.
 27. The Applicant must perform the following signal warrant studies:
 - a. Prior to approval of the Phase 1.1 Site Plan, the Applicant must perform signal warrant studies for the existing crosswalks to determine if pedestrian or vehicular signals are warranted.
 - b. Prior to approval of the Phase 2.1 Site Plan, the Applicant must construct the proposed crosswalk, per MCDOT approval, and perform signal warrant studies to determine if a pedestrian signal is warranted.
 28. The Planning Board has accepted the recommendations of the Montgomery County Department of Permitting Services (DPS) stormwater management concept approval letter dated April 23, 2013, and hereby incorporates them as conditions of the Preliminary Plan approval. Therefore, the Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by DPS provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
 29. Each phase, sub-phase and Site Plan of the project must include at least 12.5% MPDUs.
 30. As long as the overall combined density of the areas of the project that are developed, approved for development, and proposed for site plan approval does not exceed the base density of 42 units per acre, provision of 12.5% MPDUs will be acceptable. By the end of the final phase of Stage 2, there must be 14.5% MPDUs, based on 1550 dwelling units.
 31. As each new Site Plan is proposed, the overall percentage of MPDUs must be consistent with the requirements of Section 25A-5(c) of the Montgomery County Code when the submitted Site Plan is aggregated with previously completed and approved sections of the development.
 32. No clearing or grading of the Subject Property, or recording of plats must occur prior to Certified Site Plan approval, except that the Applicant may apply for and obtain erosion control and other related or required permits to exclusively allow

for demolition of existing vacant buildings in advance of certified site plan approval, in accordance with the final forest conservation plan.

33. Final approval of the number and location of buildings, dwelling units, on-site parking, and site circulation will be determined at Site Plan.

34. In the event that a subsequent Site Plan approval(s) substantially modifies the subdivision shown on the approved Preliminary Plan with respect to lot configuration or right-of-way location, width, or alignment, the Applicant must obtain approval of a Preliminary Plan amendment prior to certification of the Site Plan.

35. The certified Preliminary Plan must contain the following note: "Unless specifically noted on this plan drawing or in the Planning Board conditions of approval, the building footprints, building heights, on-site parking, site circulation, and sidewalks shown on the Preliminary Plan are illustrative. The final locations of buildings, structures and hardscape will be determined at the time of Site Plan review. Please refer to the zoning data table for development standards such as setbacks, building restriction lines, building height, and lot coverage for this lot. Other limitations for site development may also be included in the conditions of the Planning Board's approval."

36. All necessary easements must be shown on the Record Plat.

37. The Preliminary Plan will remain valid for one hundred and twenty-one (121) months from the date of mailing of the Planning Board Resolution for this Planning Board action. Record plats may be recorded in stages based upon the following schedule:

- Stage I (expires 61 months from the date of mailing of the Planning Board Resolution): 485 residential units and a minimum of 4,000 square feet commercial uses in Building D. The amount of commercial uses in Stage 1 may be increased consistent with the approved Development Plan if approved at Site Plan.
- Stage II (expires 121 months from the date of mailing of the Planning Board Resolution): 1,065 residential units and up to 86,000 square feet of commercial uses.

Prior to the expiration period, the final record plat for all remaining lots within each stage must be recorded, or a request for extension must be filed.

38. The Adequate Public Facility (APF) review for the Preliminary Plan will remain valid for one hundred and forty five (145) months from the date of mailing of the Planning Board Resolution for this Planning Board action, based upon the following staging schedule:

- Stage I (expires 85 months from the date of mailing of the Planning Board Resolution): Issuance of building permits for 485 residential units and a minimum of 4,000 square feet commercial uses in Building D). The amount of commercial uses in Stage 1 may be increased consistent with the approved Development Plan if approved at Site Plan.

- Stage II (expires 145 months from the date of mailing of the Planning Board Resolution): Issuance of building permits for remaining 1,065 residential units and up to 86,000 square feet of commercial uses

39. The Applicant will work with MCDOT, WMATA and SHA to restripe the north egress point of access from the WMATA garage on the west side of Georgia Avenue and provide signal timing adjustments, if MCDOT finds it to be needed. This condition may be satisfied either by performing the work or making a payment for the work if completed by a governmental agency. This improvement is not required for the Applicant to satisfy its Adequate Public Facilities Ordinance approval.

BE IT FURTHER RESOLVED, that, having considered the recommendations and findings of its Staff as presented at the hearing and as set forth in the Staff Report, which the Board hereby adopts and incorporates by reference (except as modified herein), and upon consideration of the entire record, the Planning Board FINDS, with the conditions of approval, that:

1. *The Preliminary Plan substantially conforms to the Sector Plan.*

The project is located within the Glenmont Center as identified by the 1997 *Glenmont Transit Impact Area and Vicinity Sector Plan*. The Planning Board made the finding that the Development Plan for Local Map Amendment Nos. G-862 and G-863 was consistent with all of the general and specific recommendations stated in the Sector Plan. The previous analysis of Sector Plan conformance, which was accepted by both the Planning Board and the Hearing Examiner, and the finding of Sector Plan conformance made by the County Council remain valid.

The proposal of 1,550 dwelling units and 90,000 retail/commercial square footage follows the Sector Plan's guidance of compatible mix. The Sector Plan recommended a maximum of 51 units per acre with "retail uses and services for the convenience of the new residents" as appropriate in a mixed use development. (Page 30) The Development Plan stated Stage 1 would consist of up to 500 new dwelling units, the replacement of up to 275 existing dwelling units, and approximately 4,000 square feet of retail space. Stage 2 would consist of up to 698 new units, the replacement of up to 77 remaining older units, and additional retail up to a total of 90,000 square feet (Council Resolution 16-424). The Preliminary Plan, consistent with the Development Plan, proposes 4,000 square feet of retail uses in Stage 1 and 86,000 square feet of retail uses in Stage 2, totaling 90,000 square feet of retail that will not only provide "retail uses and services for the convenience of the new residents", but for residents in the Glenmont area. In addition, the Sector Plan recognized that "most of the total potential development at the Glenmont Metrocentre property will not occur until the second stage of development is allowed to proceed" (Page 30), as discussed in the Staging section below.

The Sector Plan further states "The Glenmont Metrocentre is recommended for TS-R zoning to accommodate a variety of residential uses and housing types, possibly one or two buildings up to 10 stories in height and some convenience retail"(Page 30). The Preliminary Plan includes a variety of housing types to include 1,325 multi-family units in buildings of four to seven stories, and 225 townhouse units of various sizes. The range of proposed building heights is 35'-85'. The zoning approval (binding element #5) capped the maximum height at 85 feet. The Sector Plan recommended in guidelines #1 and #5 that the project include high-rise buildings up to ten stories; this does not mean that the proposed multi-family elevator buildings must be ten stories. Guideline 5 also says that up to two ten-story high-rises may (not must) be located at this site. The development proposes four multifamily residential buildings on this site (three of the four buildings are mixed-use with a retail component proposed) that are up to seven stories tall. Following the Sector Plan development concept (Page 31, Figure 14), the low-rise townhouses are proposed along Layhill Road and part of Glenallen Avenue. In addition, the Development Block Analysis, which is binding, states the maximum height along most of the Layhill Road frontage is 50 feet, 65 feet at the corner of Layhill Road and Glenallen Avenue.

The proposal provides interconnected streets with short blocks to emphasize pedestrian use and street character. Building setbacks have been kept to a minimum and arranged to activate the street and allow for pedestrian open spaces. The private streets have been developed with on-street parking, street trees, and a sidewalk system that provide connectivity to the adjacent Metro Station and points beyond. Additional design elements such as the rear-loaded garages, the use of minimum curb radii and the use of structured parking facilities will contribute to a pedestrian friendly environment.

A stream fragment runs through the northern corner of the site; the Applicant proposes to reclaim and preserve the stream and surrounding area as an environmental buffer. The buffer would connect to a useable open space with frontage on Glenallen Avenue. With the potential to be activated by adjacent retail frontage, this large open space will serve as the community gathering space. Together, the environmental buffer and the large open space will be a visual focal point for people entering the site. A variety of smaller open spaces are proposed throughout the remaining site, including a designated play area.

The Preliminary Plan introduces a street network designed to serve the needs of residents using Metro and those using automobiles. The Applicant proposes a slightly different alignment from the Denley Road extension. The alternative alignment allows the road to meander through the site to encourage lower driving speeds, provide greater pedestrian and bike safety and create a distinctive neighborhood identity and streetscape. By providing a system of interconnected sidewalks leading to Metro and the surrounding public sidewalks, the project allows residents to reduce dependency on the automobile.

The Planning Board finds the Preliminary Plan is in substantial conformance with the Sector Plan.

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- 2. Public facilities will be adequate to support and service the area of the approved subdivision.*

Transportation

The vehicle and pedestrian access for the Subject Property will be adequate. The Applicant is dedicating an additional five-feet of ROW for Glenallan Avenue, which will result in the Applicant providing 45' of ROW from the centerline. This will result in a ROW of 85', the remaining 5' of ROW necessary to meet the 90' of ROW required of the Sector Plan will be provided by WMATA, if and when the property on the south side of Glenallan redevelops.

The 2012-2016 Subdivision Staging Policy (SSP) and the Local Area Transportation Review (LATR) and Transportation Policy Area Review (TPAR) Guidelines give any development submitted before January 1, 2013 the option to satisfy either PAMR or TPAR. The Applicant has opted to satisfy the TPAR test. The 2012-2016 SSP was passed by the Montgomery County Council in November of 2012. The resulting LATR/TPAR Guidelines were not published until March 2013 at which point the traffic study for this redevelopment had already been submitted and accepted by Staff. The Applicant does not need to make a TPAR payment because the project is located in the Glenmont Metro Station Policy Area, which according to the 2012-2016 SSP, is exempt from the transit adequacy test of the APFO, and is adequate for the roadway test of the APFO.

Other Public Facilities

Other public facilities and services are available and will be adequate to serve the Subject Property. The site is currently served by public water and sewer. Other utilities including electric and telecommunications services are adequate to serve the Subject Property. The Application has been reviewed by the Montgomery County Department of Fire and Rescue Service who have determined that the Subject Property has adequate access for fire and rescue vehicles. The Preliminary Plan is within the Kennedy School Cluster. Glenmont Metrocenter is exempt from the School Facilities Payment because it is located in an Enterprise Zone even though it will put the Kennedy School Cluster over the 105% utilization rate at the middle and high school levels.

- 3. The size, width, shape, and orientation of the approved lots are appropriate for the location of the subdivision, taking into account the recommendations included in the applicable master plan, and for the type of development or use contemplated.*

This Application has been reviewed for compliance with the Montgomery County Code, Chapter 50, the Subdivision Regulations. With the improvements proposed, access and public facilities will be adequate to support the proposed lots, density, and uses. The size, shape, width and orientation of the proposed lots are appropriate for the location of mixed uses and lots as recommended in the Sector Plan, and further the Sector Plan goals to allow for a transition from suburban development to a more urban and walkable community in close proximity to Metro service. Further, the lots are designed to meet all other requirements of the Subdivision Regulations, including access, frontage, dedication for public uses, adequacy of public facilities and conformance to Sector Plan recommendations.

4. *The Application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A.*

A. Forest Conservation

The Board finds that as conditioned, the Forest Conservation Plan complies with the requirements of the Forest Conservation Law. As depicted on the approved Natural Resource Inventory/Forest Stand Delineation (#420121220) approved on February 23, 2012, the site contains 582 linear feet of stream with associated steep slopes and 0.13 acres of wetlands. The Subject Property is within the Northwest Branch watershed – a Use IV watershed and is not located in a Special Protection Area. As requested by DPS, an additional floodplain analysis to identify the limits of a 100-year floodplain along this stream, and its boundary was identified on the Preliminary Forest Conservation Plan. The stream, steep slopes, wetlands and floodplain limits are included within a stream valley buffer (SVB) on-site.

The total tract area of the PFCP is equal to 31.44 acres. However, a deduction of 0.65 acres for an existing WSSC easement, a portion of which is forested, on the Forest Conservation Worksheet resulted in a net tract area of 30.79 acres. This deduction accounts for the existing WSSC easement not located within the limits of disturbance (LOD) of the redevelopment. In the event the LOD is revised on the Final Forest Conservation Plan (FFCP) and the WSSC easement is further impacted by the LOD, the Applicant must revise the Forest Conservation Worksheet to include the area and forest within the LOD. The PFCP proposes the removal of 0.25 acres of forest and retention of 2.65 acres, which results in a total of 2.58 acres of reforestation and afforestation requirements. The Applicant proposes to meet this requirement by planting landscape

trees for a total of 0.29 acres, 1.82 acres of forest planting, and meeting the remaining 0.47 acres of the planting requirement off-site.

In order to guarantee that the existing forest is retained on-site, The Planning Board is requiring that a Category I Conservation Easement be recorded by deed as part of the Site Plan approval of Phase 1.1 regardless of phasing order. In addition, prior to approval of any Site Plan following the approval of the Site Plan for Phase 1.1, all existing buildings must be removed from the rest of the planned adjacent Category I Conservation Easement and the Applicant will be required to record the Category I Conservation Easement by plat and provide the forest plantings as shown on the approved FFCP as a condition of approval for any other phase following the approval of the Site Plan for Phase 1.1. The Planning Board encourages the Applicant and Staff to explore at the time of Site Plan ways to activate the Category I Conservation Easement with recreational uses that do not conflict with the purpose of the Category I Conservation Easement, or impact the Applicant's forest conservation requirements.

The PFCP submitted by the Applicant does not depict any outfalls associated the stormwater management facilities located on-site. Since the Applicant has not provided the location of the outfalls associated with the stormwater facilities on-site, a condition of approval of the PFCP will stipulate that no outfalls or stormwater related facilities will be allowed within the Category I Conservation Easement. This condition is necessary to prevent the overlap of DPS maintenance easements along stormwater outfalls within the Category I Conservation Easement.

B. Forest Conservation Variance

Section 22A-12(b)(3) of the Forest Conservation Law identifies certain individual trees as high priority for retention and protection ("Protected Trees"). Any impact to these Protected Trees, including removal or any disturbance within a Protected Tree's critical root zone ("CRZ"), requires a variance under Section 22A-12(b)(3) ("Variance"). Otherwise such resources must be left in an undisturbed condition.

This Application will require the removal or CRZ impact to 44 Protected Trees as identified in the Staff Report. In accordance with Section 22A-21(a), the Applicant has requested a Variance and the Board finds that the Applicant would suffer unwarranted hardship by being denied reasonable and significant use of the Subject Property without the Variance. The proposed development is in accordance with the TS-R Zone and the

Glenmont Sector Plan, but it will require the removal of 44 specimen trees and impact the critical root zones of 11 specimen trees. In this case, the unwarranted hardship is caused by the need to redevelop the existing garden apartments into a maximum of 1,150 dwelling units and 90,000 square feet of retail as detailed by the Development Plan and rezoning application that was approved by the Montgomery County Council, sitting as the District Council, on July 17, 2012. Demolishing the existing buildings on-site will require the need to remove specimen-sized trees growing adjacent to the existing buildings and within existing parking lots and other related infrastructure. The Applicant is also proposing to retain the existing forest on-site and restore the SVB with forest plantings; thereby, reducing the developable area on-site to only include the southwestern, central and eastern portions of the site. By limiting the developable area of the site, the design layout of the multifamily buildings, townhouses, parking, roadways, and placement of stormwater management facilities is very restricted. Placement of the buildings and road network could not avoid the removal of specimen trees on-site.

The Board made the following findings necessary to grant the Variance:

1. *Granting the Variance will not confer on the Applicant a special privilege that would be denied to other applicants.*

Granting the Variance will not confer a special privilege on the Applicant. The centralized locations and distribution of the existing specimen trees would require their removal for redevelopment of the site. In addition, because of the close proximity of many of the specimen trees to the existing buildings, demolishing these buildings and the existing infrastructure will require the removal and/or impacts to the critical root zones of the specimen trees. Due to the unique constraints of the property caused by the restoration of the SVB, the Planning Board finds that granting the Variance will not confer a special privilege on the Applicant.

2. *The need for the Variance is not based on conditions or circumstances which are the result of the actions by the Applicant.*

The Variance is based on the layout of the existing buildings on the site and environmental conditions that warrant the protection and restoration of the SVB to protect sensitive environmental features rather than on conditions or circumstances which are the result of actions by the Applicant.

3. *The need for the Variance is not based on a condition related to land or building use, either permitted or non-conforming, on a neighboring property.*

The Variance is a result of the site design and layout of existing development on the Subject Property and not a result of land or building use on a neighboring property.

4. *Granting the Variance will not violate State water quality standards or cause measurable degradation in water quality.*

Because the specimen trees proposed for removal will be mitigated with new tree plantings, any water quality benefits that would be lost by removing the specimen trees will ultimately be replaced by the planting of the proposed mitigation trees. In addition, the specimen trees to be removed are not located within the SVB or within a Special Protection Area. The Applicant is providing a comprehensively designed and integrated stormwater management system that relies exclusively on Environmental Site Design practices. Therefore, the Planning Board finds that the project will not violate State water quality standards or cause measurable degradation in water quality.

Mitigation for the Variance is at a rate that approximates the form and function of the Protected Trees removed. The Board approves replacement of Protected Trees at a ratio of approximately 1 inch caliper for every 4 inch DBH removed. No mitigation is required for Protected Trees impacted but retained.

5. *All stormwater management requirements shall be met as provided in Chapter 19, article II, title "stormwater management", Section 19-20 through 19-35.*

DPS issued a letter accepting the Stormwater Management Concept for the Subject Property on April 23, 2013. The Stormwater Management Concept proposes to meet required stormwater management goals via the use of green roof, green street/tree panels, and micro-bioretenion.

BE IT FURTHER RESOLVED, that this Preliminary Plan is in compliance with all applicable sections of Montgomery County Code, Chapter 50, the Subdivision Regulations; and

BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the effective date of this Resolution is September 26,

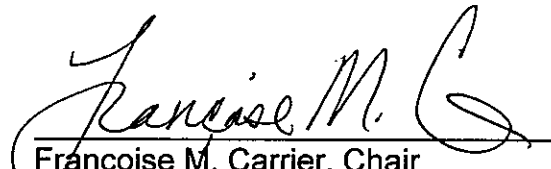
2013 (which is the date that the original Resolution was mailed to all parties of record);
and

BE IT FURTHER RESOLVED, that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

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CERTIFICATION

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission on motion of Vice Chair Wells-Harley, seconded by Commissioner Anderson, with Chair Carrier, Vice Chair Wells-Harley, and Commissioner Anderson voting in favor, and Commissioners Dreyfuss and Presley absent, at its regular meeting held on Thursday, October 24, 2013, in Silver Spring, Maryland.


Françoise M. Carrier, Chair
Montgomery County Planning Board

