

**LINOWES**  
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ATTORNEYS AT LAW

June 7, 2017

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**By Email**

Mr. Casey Anderson, Chairman, and  
Members of the Montgomery County Planning Board  
8787 Georgia Avenue  
Silver Spring, Maryland 20910

Re: Jesus House, DC: Opposition to Petitions for Reconsideration of Preliminary  
Plan No. 120160040

Dear Chairman Anderson and Members of the Planning Board:

On behalf of our client, Jesus House, DC (“Applicant”), the purpose of this letter is to express our opposition to the undated request of Kathleen Hastings, received by our office on June 5, 2017, and the request of Concerned Citizens of Cloverly (“CCC”), dated June 2, 2017, both seeking reconsideration of the Planning Board’s May 23, 2017 approval of the above-referenced Preliminary Plan (“Plan”). Although CCC and Ms. Hastings each offer different reasons for reconsideration, neither petition presents sufficient grounds for reconsideration under Section 4.12 of the Board’s Rules of Procedure.

As the basis for its request, CCC essentially reargues the same points its individuals presented to the Board at the March 30, 2017 hearing regarding the appropriate forest conservation “set aside” required under County Council Resolution 14-334. Such arguments, already extensively considered by the Board at its hearing, do not rise to the level of “mistake, inadvertence, surprise, fraud, or other good cause” as required by Board Rule 4.12.1. At the hearing and in Board Resolution No. 17-109 approving the Plan, the Board gave more than sufficient consideration to CCC’s alternative theories and analysis regarding the hypothetical septic system and related forest preservation area. *See* Resolution at 10–11. In fact, in addition to the detailed testimony presented by CCC members challenging the calculations at the hearing, the Board also heard detailed testimony from both the Department of Permitting Services (“DPS”) and Department of Environmental Protection (“DEP”) explaining and defending their calculations.

In support of its Petition, CCC also attempts to reinforce its initial arguments by citing to additional materials it obtained via a Freedom of Information Act request it made after approval of the Plan. If anything, such materials only further support the Board’s reliance on DEP’s and DPS’ determinations regarding the hypothetical septic area issue by showing how thoroughly vetted the issue was by multiple people in both those agencies. CCC’s attempt to obtain reconsideration based on such materials and a reargument of the same points previously

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considered by the Board therefore do not demonstrate any surprise, mistake, inadvertence, fraud, or other good cause sufficient to justify the Board's reconsideration of the Plan under Rule 4.12.1.

Similarly, the grounds for reconsideration raised by Ms. Hastings do not present any compelling reason to reconsider the Plan under Board Rule 4.12.1. Ms. Hastings, through her reference to COMCOR 19.00.01.01.03.A.4, appears to argue that additional study of the hydrological conditions of the subject property is needed, although her request primarily focuses on an entirely different site in the area currently undergoing environmental remediation. Pursuant to Section 50-24(j) of the Montgomery County Code, for approval of a preliminary plan the Board must find that "[a]ll stormwater management requirement shall be met as provided in Montgomery County Code Chapter 19, Article II." In accepting the findings and recommendations of DPS' July 12, 2016 Stormwater Management Concept Plan approval for the property<sup>1</sup>, the Board made all stormwater-related findings necessary to approve the Plan. An examination of whether there may be groundwater contamination at some other downstream site, to the extent such an issue may be relevant to a particular property, is appropriately left to technical review at the time of permitting and is not a relevant consideration for a Preliminary Plan approval.

Based on the foregoing, neither Petition presents sufficient cause to justify reconsideration of the Plan under the Board's Rules. We therefore respectfully request that you deny both requests for reconsideration.

Very truly yours,

**LINOWES AND BLOCHER LLP**



Erin E. Girard

cc: David Lieb, Esq.

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<sup>1</sup> It should be noted that DPS did require additional study of the site hydrology prior to such approval, including the performance of borings on the property to determine soil and infiltration conditions. Additionally, the conditions of approval of the stormwater concept require further analysis at the time of final stormwater plan approval.

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