



From: Brandi Tippery <btippery@gmail.com>
Sent: Tuesday, July 21, 2020 10:50 AM
To: MCP-Chair
Subject: Ashton Village Center Sector Plan

Categories: Tracked To Dynamics 365

[EXTERNAL EMAIL] Exercise caution when opening attachments, clicking links, or responding.

Hello,

Thank you for providing such a comprehensive plan for the development of Ashton. My first instinct is to say no to development! We already have a lot of traffic and cars moving through our small intersection (108 and New Hampshire Avenue). We moved to this area in 2006 because we loved the rural feel of the location that is in between DC and Baltimore and in close proximity to both Olney and Clarksville.

As I read the plan, I was pleasantly surprised at all of the consideration given to green space, adding walking and cycling paths and retaining the rural charm through building choices and designs. I do like the design and the plan, however, I was not able to ascertain based upon the information presented how many dwellings, in total will be added to the area.

So, I have some questions:

1. The development of the "Porter Road" area is underway. How many residential dwellings will be built in the Porter Road section?
2. How many residential dwellings are being proposed to this new section, behind the bank?
3. Are there any projections about the type of businesses that will be located in the commercial buildings in both the Porter Road section and the section behind the bank? I second the concerns posed by other residents about putting in big box stores, more banks and other businesses that are prolific in both Olney and Clarksville.

New Hampshire and 108 are already very crowded and dangerous for cars, pedestrians and cyclists, so I would like to see that there is due consideration given to an increase in traffic and not building hundreds of dwellings in both sections combined.

Thank you for your time,

Brandi Tippery
17601 Country View Way
Ashton, MD 20861

From: [Andy Cohen](#)
To: [MCP-Chair](#)
Subject: Ashton
Date: Tuesday, July 21, 2020 11:12:29 AM

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Thank you for your time,

Andrew Cohen

From: [John and Elaine Gillen](#)
To: [MCP-Chair](#)
Subject: Ashton Village Center
Date: Wednesday, July 22, 2020 9:17:11 AM

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My husband and I live in the Spring Lawn Farm Community in Ashton.?? We moved here from Ohio 27 years ago and chose Ashton because of its rural atmosphere. ?? I have several concerns regarding the proposed Ashton Village Center plan.?? While change is inevitable, the changes proposed in the Ashton Village Center plan would damage the rural feel of Ashton.??

Our area has done its part to ease the housing crisis in Montgomery County through Sandy Spring Meadows, Thomas Village, and the (approved and in process) Porter Road Projects. The Planning Board???'s report says Missing Middle housing should be located close to transit and jobs. Ashton does not meet this criteria. The only transit to the area consists of a few buses each day to the Silver Spring Metro. Most of the new inhabitants of the proposed development will be forced to commute to their jobs by car, shop by car and perform their daily chores by car.?? Increasing traffic flow by 200+ cars would just add more headaches to the traffic congestion experienced during morning and evening rush hours.????

The current FAR of .25 for residential development for the southeast corner is more appropriate for the village center and to retain Ashton???'s unique rural character. If the developer is allowed to increase it to allow for a residential FAR of .5, it would allow development that would result in Ashton losing its rural character and would resemble other more densely developed areas of Montgomery County.???? The high density and tall buildings proposed should not be allowed at that location under any circumstances. The rural character of Ashton cannot be brought back once destroyed. The housing in the Plan should be redesigned to greatly reduce the height of any building and a much lower density with more green space. This would be in more along the lines of rural characteristics of Ashton. ????

Thank you for considerations in this matter.

Elaine Gillen

From: [Francoise Carrier](#)
To: [MCP-Chair](#)
Cc: FNichols@nicholscontracting.com; [Tyler Nichols](#); [Wright, Gwen](#); [Weaver, Richard](#); [Berbert, Benjamin](#)
Subject: Comment on Agenda Item 4, July 22
Date: Wednesday, July 22, 2020 11:47:28 AM
Attachments: [Lett Pl Bd for 7-23-20 briefing v2.pdf](#)

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Please provide the attached letter to the Planning Board members in connection with Agenda Item 4 on tomorrow's agenda, the Ashton Village Center Sector Plan.

Thank you.

Françoise M. Carrier



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July 22, 2020

Casey Anderson, Chair, and Members, Montgomery County Planning Board
8787 Georgia Avenue
Silver Spring, Md 20910
By email to: mcp-chair@mncppc-mc.org

Re: Ashton Village Center Sector Plan Working Draft

Dear Chair Anderson and Planning Board Members:

This law firm represents Nichols Development Company, LLC (“Nichols”) in connection with the Ashton Village Center Sector Plan (the “Sector Plan”). Nichols is the master developer of a combined tract of approximately 9.3 acres of land in the southeast quadrant of the intersection of New Hampshire Avenue and Olney Sandy Spring Road (the “SE Corner Property”) and the owner of property located at the intersection of Olney Sandy Spring Road and Porter Road that is currently under construction pursuant to a preliminary plan and site plan approved in 2019 (the “Ashton Market Property”).

I am writing to share some of Nichols’s preliminary concerns about the working draft of the Sector Plan that you will be discussing on July 23 (the “Working Draft”).

SE Corner Property

As noted below, Nichols requests a slightly higher level of density than the Working Draft recommends. Moreover, based on a preliminary analysis, Nichols believes that even the recommended density of 0.5 FAR cannot be achieved if full compliance with the recommended height limits, open space, and extensive design guidelines is required.

A. Zoning

The SE Corner Property is currently zoned primarily CRT-.75, C-.75, R-.25, H-35T, with a portion in the R-60 zone and a very small portion in the RC zone. The site is mostly vacant, with a small bank branch near the corner. Nichols envisions a predominantly residential mixed-use project for this site, with a variety of missing-middle housing types, and retail uses including a bank building to be relocated within the site. Due to its size and location, this site holds the key to establishing a vibrant, pedestrian-friendly village center for Ashton.

Nichols hopes to build a community that feels like it developed organically over time, with a variety of building types and sizes intermingled with one another, and building density starting at lower levels at the outer edges of the street frontages and increasing closer to the intersection. It is vital that the Sector Plan provide adequate density and flexibility to support these goals. If the Sector Plan lacks the density and flexibility

necessary for a viable redevelopment project on this site, Ashton risks missing out on the chance for a true village center for another master plan cycle.

The Working Draft recommends rezoning all commercial or mixed-use land in the Sector Plan area to the CRN zone, and amending the applicable Sandy Spring Ashton Rural Village Overlay Zone (the "Overlay Zone") to retain the requirement for site plan review while removing most of the development and use restrictions that have made the Overlay Zone cumbersome. More specifically, the Working Draft recommends rezoning the SE Corner property to CRN 0.5, C-0.5, R-0.5, H-40, with language in the plan indicating that the maximum height of 40 feet should be "limited to certain buildings and not applied consistently across all new buildings." Working Draft at 53. Nichols would request the following zoning for the SE Corner Property:

- **CRN 0.75, C-0.5, R-0.5, H-45**, with language in the plan indicating that the maximum height of 45 feet should be limited to a modest number of mixed-use buildings located near the intersection.

I will address each component of the zoning in turn.

Nichols does not object to CRN zoning for the SE Corner Property, recognizing that the permitted use limitations of the CRN zone allow the more restrictive use limitations in the Overlay Zone to be removed. Nichols would request, however, that in addition to amending the Overlay Zone to allow a bank drive-thru as a limited use, the Sector Plan recommend amending the Overlay Zone to allow dry cleaning establishments. A dry cleaner is a basic community-serving use, and should be permitted in a village center where *all* non-residential land is being rezoned to CRN. Without that accommodation, Ashton could find itself without a dry cleaning establishment if the existing dry cleaner in the Ashton Village Shopping Center should close, or if that property is redeveloped in a way that does not preserve the dry cleaner as a nonconforming use.

Nichols believes that the density proposed in the Working Draft could, with appropriate height and design guidelines, support the type of primarily-residential mixed use project currently under consideration. It would not, however, leave room for the addition of more non-residential uses, should the market in Ashton support such uses in the future. Therefore, Nichols requests an overall density of 0.75 FAR, with no change to the 0.5 FAR recommended for the commercial and residential components. This would restrict both the total commercial and the total residential density to 0.5 FAR, but would allow the combination of the two to reach 0.75 FAR.

A height limit of 40 feet would reduce certain opportunities related to floor-to-floor heights and building design when combining residential with retail. This would make it more difficult for Nichols to achieve the architectural variety and organic feel that it hopes to incorporate in this project. Nichols anticipates being able to achieve a reasonable level of building form diversity within a 40-foot height limit for residential buildings. However, the proposed language limiting a 40-foot height only to "certain buildings" would seem to set an effective height limit somewhere below 40 feet for most buildings on the site. This would depress the attainable residential density and make it more difficult to provide variety among the building types while still creating a financially viable project. For example, if most buildings must be below 40 feet, it will be more difficult to create three-story flats (which typically approach 40 feet in height, including the parapet) because the tallest building heights will have to be reserved for townhouses, so they can be built with garages on the ground floor per modern planning principles. The proposed height limits would also make it more difficult to carry out Nichols's

plan to build duplex units at the edges of the project, by forcing Nichols to maximize the height and density of all buildings to keep the project financially viable. For all of these reasons, Nichols requests a height limit of 45 feet for a limited number of mixed-use buildings near the intersection, and 40 feet everywhere else.

B. Design Guidelines

The Working Draft contains general design guidance on pages 25 and 26, and more specific design guidelines on pages 58 through 66. There are inconsistencies between these two sections, which we assume will be corrected during the Planning Board's detailed review.

Nichols urges the Planning Board to extract the design guidelines from the Sector Plan and create a separate guidelines document to be approved by the Planning Board, rather than the County Council. Certain elements of the design guidelines on pages 58 through 66 are extremely specific. Elevating these provisions to the status of master plan recommendations will require every project approved within the Sector Plan area to be substantially consistent with those recommendations, as required under Maryland law. It will also allow no change to any of these detailed recommendations until the next sector plan amendment, which will likely take place 20 or more years from now. Design guidelines should be a living document, capable of being adapted by the Planning Board during the life of a master plan as planning conventions, technology, and the local community change. This can only happen if design guidelines are removed from the text of the Sector Plan.

Nichols also suggests avoiding highly directive wording like "must" in the design guidelines. Such language tends to transform guidelines into rigid rules, which should not be their role.

The most problematic aspect of the design guidelines in the Working Draft is the recommendation that except for mixed-use or commercial buildings, all buildings along the SE Corner Property's lengthy frontages on Olney Sandy Spring Road and New Hampshire Avenue should be:

- a. designed to suggest a single-family detached house or duplex building form, regardless of the actual building type (Working Draft at 25-26); and
- b. 80 feet or less in width (Working Draft at 61).

The design guidelines further recommend that mixed-use buildings may be "slightly longer" than 80 feet along the two main roads, and no longer than 120 feet in any other location. (Working Draft at 61.)

These parameters would make it very difficult to incorporate a variety of building types, or to transition from lower density at the edges of the site to higher density at the intersection. They would also defeat the ability to have buildings front on the main roads, as any building that needs more than the prescribed length to achieve its purpose (such as a small apartment building or a functional mixed-use building) or cannot readily have the appearance of a single family detached home or duplex (such as a string of flats or townhouses with more than two units) would need to have a side façade facing the road, rather than the building front. In addition, the proposed length limit for mixed-use buildings would effectively reduce the size permitted for a retail space far below the maximum normally allowed in the zone. The CRN zone allows a grocery store in space up to 50,000 square feet. With a length limit of 120 feet, a building would have to be 120 ft. x 416 ft. to attain 50,000 square feet – obviously an unworkable building configuration. At 120 ft x 120 ft., a mixed-use building would top off at 22,500 SF, which would eliminate almost any grocery store from even considering Ashton.

The Working Draft contains a number of images on pages 62 through 67 of attractive buildings that are presumably intended to serve as examples of building form that would be appropriate for the Sector Plan area. Nichols observes that many of these buildings appear inconsistent with one or both of the stipulations cited above. The kind of interesting, organic, lively streetscape shown in these images would be stymied by the rigid size restrictions proposed in the Working Draft.

Nichols strongly suggests deleting the extremely restrictive recommendation that all residential buildings on the main roads should “suggest” a single-family detached house or duplex building. The language is vague and the prescription would undercut the ability to create a community with a variety of building types, rooflines, and architectural details. With regard to building size, Nichols suggests a more nuanced approach: recommend that along New Hampshire Avenue and Olney Sandy Spring Road, residential buildings should be no greater than 90 feet in length, and multi-use buildings should be no greater than 120 feet in length. Buildings elsewhere on the site should be recommended for no more than 150 feet in length. Further, build in some flexibility, for example by providing these parameters as design suggestions, while authorizing the Planning Board to approve buildings that exceed these limitations if the Board finds that an alternative design offers a superior way of serving applicable master plan objectives and the public interest.

C. Open Space

The Working Draft calls for an open space at the rear of the SE Corner Property, near the environmental buffer area; a linear open space along one side of the main internal roadway, connecting the main open space with New Hampshire Avenue; and a small open space at the corner, to facilitate preservation of two large shade trees that are in the public right-of-way nearby. Nichols does not object to the requested open space components, but there is a need for clarity regarding the expected size of each area.

Ashton Market Property

The Ashton Market Property includes a small area zoned CRT 0.75, C-0.75, R-0.25, H-35, which is in the process of being developed with a small mixed-use building. This zoning and density were placed on the property during the 2014 Zoning Code Rewrite to reflect the previous commercial zoning. They were confirmed in a Local Map Amendment in 2018, and were the basis for preliminary plan and site plan approvals in 2019. The Working Draft proposes to downzone this property to CRN 0.5, C-0.5, R-0.5, H-35. Nichols does not object to the CRN zone, but does object to losing density for no apparent reason other than a desire for conformity in the mixed-use density applied in the Sector Plan. A downzoning should require a compelling justification, which is absent in this case. As market conditions change in Ashton over time, the additional available density could allow the property owner to respond positively to a community need or opportunity.

Implementation Advisory Committee

The Working Draft calls for the creation of an Implementation Advisory Committee, to be “staffed by the planning department in close coordination with the Ashton Area Community Association Alliance,” a community organization that was formed around the time the Planning Department conducted a design charrette for the Sector Plan in the fall of 2019. Nichols opposes the creation of such a committee. Committees of this type have served a useful function in larger sector plan areas with a large population base, numerous property owners,

and a wide range of stakeholders and viewpoints. In the context of the Ashton community, which has a small population and only one primary commercial landowner, there is no need for the formality of an Implementation Advisory Committee. Forming such a committee would risk creating an additional procedural hurdle for Nichols, which would face pressure to have its development plans vetted by the Implementation Advisory Committee before being able to file an application. Interested stakeholders in Ashton have demonstrated a strong ability to have their voices heard with regard to development issues. They will continue to do so in reviewing Nichols's future development plans, without the need for a government-supported committee.

Nichols looks forward to working with the Planning Department, the Planning Board, and the local community to create a Sector Plan that will promote the development of a vibrant, pedestrian-friendly, community supportive mixed-use project at the SE Corner Property. Thank you for your consideration of Nichols's concerns.

Sincerely yours,

BREGMAN, BERBERT, SCHWARTZ & GILDAY, LLC



By:

Françoise M. Carrier

cc: Fred Nichols
Tyler Nichols
Gwen Wright
Richard Weaver
Benjamin Berbert