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June 25, 2021

Mr. Christopher Conklin
 Director, Montgomery County Department of Transportation
 101 Monroe Street, 10th Floor
 Rockville, Maryland 20850

Re: Abandonment of Public Access Easement

Dear Mr. Conklin:

On behalf of our client, Miller Development Corporation ("Miller"), the purpose of this letter is to formally request the abandonment of a public access easement (the "PAE")¹ covering an approximately 1.3 acre property located at the terminus of Landy Lane in Bethesda (the "Property"). The PAE, a copy of which is attached hereto as Exhibit "A", was recorded among the Land Records of Montgomery County, Maryland (the "Land Records") in Book 20877 at page 313 on September 22, 2005, and is depicted on Record Plat No. 22176, recorded among the Land Records on April 11, 2004 (the "Plat"), a copy of which is attached hereto as Exhibit "B". The abandonment is sought in connection with the impending redevelopment of the Property pursuant to Preliminary Plan No. 120150160 (the "2016 Preliminary Plan") and Site Plan No. 820150080 (the "Site Plan"), approved by the Montgomery County Planning Board on November 2, 2016 and December 28, 2016, respectively.² As described in detail herein, the redevelopment of the Property will both preclude the continuation of, and obviate the need for, the PAE.

As explained in the preambles of the PAE, the easement was originally established in connection with Preliminary Plan No. 1-98045, approved on March 23, 1999 ("1999 Preliminary Plan") and a related abandonment of the roadway extending from the current terminus of Landy Lane to the

¹The County Attorney's office has determined that the PAE constitutes a public right-of-way that can only be extinguished through the formal abandonment process set forth in Section 49-62 of the Montgomery County Code.

² The Property is more particularly identified as Part of Parcel A, Little Falls Office Park, shown on Plat No. 22176 recorded among the Land Records on April 11, 2002 or Parcel N.112 on Tax Map No. HM23 (Tax Account No. 07-03666630).

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frontage of the Property. As noted in the PAE, in order to avoid the need for rededication of this area, the then-property owner was required to “grant[] a nonexclusive easement to Montgomery County allowing continuous public vehicular access through the [private roadway] and adequate access for Montgomery County emergency vehicles.” See PAE, pp. 1-2. While the PAE was recorded in 2002, the Property was never redeveloped in accordance with the 1999 Preliminary Plan and has remained a surface parking lot primarily serving the adjacent turf field of the Washington Episcopal School (“WES”).

The Site Plan and 2016 Preliminary Plan allow for the redevelopment of the Property with a 121-unit, age-restricted, multifamily residential development (the “Project”). Condition No. 9 of the 2016 Preliminary Plan requires that, as part of the Project, the applicant “dedicate and construct the extension of Landy Lane to applicable Montgomery County Secondary Street structural standards...” and the approval requires the construction of a new cul-de-sac on the portion of the Property where Landy Lane dead-ends at the WES property, as shown on the Site Plan, attached hereto as Exhibit “E”. The construction of this roadway extension and cul-de-sac will provide the continuous public vehicular access and emergency access sought by the PAE within a smaller, more efficient and publicly dedicated area, allowing for the balance of the area currently encumbered by the PAE to be released and redeveloped with the Project.

Pursuant to Section 49-63(c) of the Montgomery County Code (the “Code”), a right-of-way may be abandoned if the County Council finds that, “(1) the right-of-way is no longer necessary for present public use or anticipated public use in the foreseeable future,” or “(2) the abandonment...is necessary to protect the health, safety, and welfare of the residents near the right-of-way to be abandoned.” Although only one criterion need be met for approval of an abandonment, both are met in this case. As noted above, Miller will dedicate the previously abandoned portion of Landy Lane for public use and construct a cul-de-sac turnaround where Landy Lane dead ends at the WES Property to replace the PAE. Following construction of these improvements, the PAE will no longer be necessary for vehicle turnaround or ingress and egress for County emergency response personnel. Thus, the PAE is “no longer necessary for present public use or anticipated public use in the future” and abandonment is appropriate.

With regard to the protection of health, safety and welfare of residents near the right-of-way, Section 49-63(c)(2) of the Code further provides, “[i]n assessing health, safety, and welfare issues, the Council may consider: (A) any adopted land use plan applicable to the neighborhood; (B) safe and efficient pedestrian and vehicular traffic patterns and flow, together with alternatives, in the immediate neighborhood, for local and through traffic; and (C) changes in facts and circumstances since the original dedication of the right-of-way.” All three of these considerations indicate that abandonment of the PAE is appropriate at this juncture. First, the *Westbard Sector Plan*, approved and adopted in July 2016 (the “Sector Plan”), supports the redevelopment of the Property, which could not proceed absent the requested abandonment. See Sector Plan p.85–6 (relevant excerpts of the Sector Plan attached hereto as Exhibit “C”).

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Second, abandonment will lead to safer and more efficient vehicular patterns. Under existing conditions, in order for a vehicle to turn around at the terminus of Landy Lane it must enter the surface parking lot and traverse the drive aisles to effectuate a change in direction to again exit onto Landy Lane. In addition to being inefficient, there is a significant grade change between the private roadway and the parking area, making it difficult for some vehicles to manage the access without “bottoming out.” In contrast, the proposed future condition will include a logical cul-de-sac, at grade, which will be lined by a new sidewalk providing pedestrian access as well. As such, abandoning the PAE to allow for the redevelopment of the Property with the Project, which includes the cul-de-sac turnaround, will lead to safer and more efficient vehicle circulation.

Finally, facts and circumstances have changed significantly since the recordation of the PAE. As noted above, at the time the PAE was created, redevelopment of the Property under the 1999 Preliminary Plan was contemplated and it was envisioned that no rededication of Landy Lane would be necessary. Nineteen years later, a new preliminary plan requiring the rededication of the terminus of Landy Lane and construction of the cul-de-sac is in effect. These new circumstances, not present in 2002, represent a change of facts warranting the abandonment of the PAE.

Based on the foregoing, we respectfully request that the PAE be abandoned to allow for the construction of the Project on the Property.

In connection with this abandonment request, enclosed please find the following:

- \$2500.00 filing fee
- Public Access Easement recorded in the Land Records in Book 20877 at page 313 on September 22, 2005 (Exhibit “A”)
- Plat No. 22176, depicting the location of the PAE to be abandoned (Exhibit “B”)
- Relevant excerpts of the Sector Plan (Exhibit “C”)
- Preliminary Plan Resolution (Exhibit “D”)
- Site Plan Sheet No. C-101 depicting the cul-de-sac turnaround (Exhibit “E”)
- Aerial photograph of existing conditions
- Tax Map
- List of adjoining and confronting properties

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Thank you for your consideration of this request. Please do not hesitate to contact us should you have any questions or require further information.

Sincerely,

Miles & Stockbridge P.C.

A handwritten signature in blue ink that reads 'Erin E. Girard'.

Erin E. Girard

A handwritten signature in blue ink that reads 'Laura M. Talerico'.

Laura M. Talerico

cc: Eric Willis, Esq.
Robert Miller

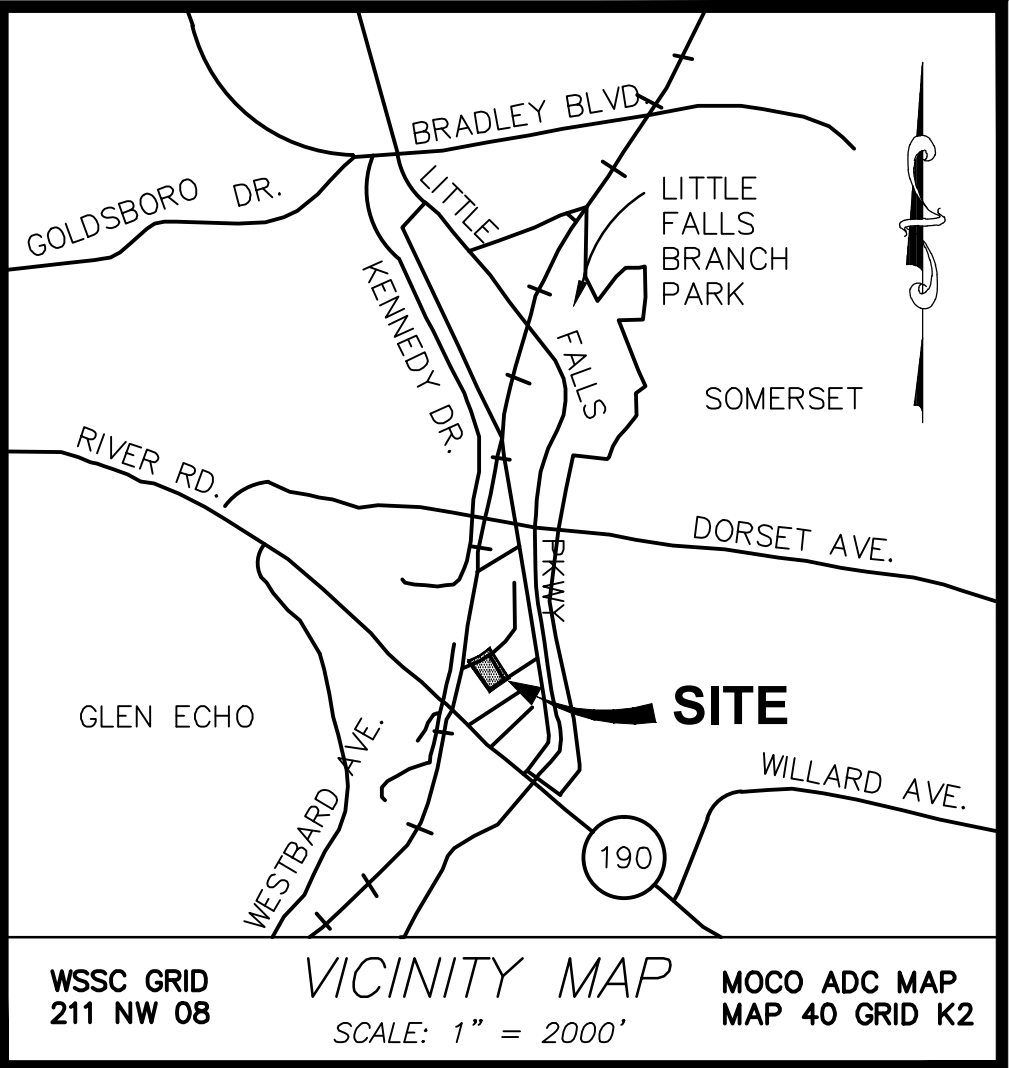


LEGEND

EXISTING	NEW
PH	HYDRANT
CC&G	GUY
UP	GAS VALVE
SMH	LIGHT POLE
WV	GAS MARKER
WV	UTILITY POLE
WV	SIGN
WV	TRAFFIC SIGNAL
WV	TREE
WV	CONC. CURB & GUTTER
WV	CURB INLET
WV	SANITARY MANHOLE
WV	SANITARY LINE
WV	BUILDING LINE
WV	WATER LINE
WV	STORM DRAIN LINE
WV	WATER VALVE
WV	RETAINING WALL
WV	IRON GATE
WV	GATE
WV	OVERHEAD ELECTRIC LINE
WV	GAS LINE
WV	INDEX CONTOUR
WV	INTERMEDIATE CONTOUR
WV	LIMIT OF DISTURBANCE
WV	STORM DRAIN MANHOLE
WV	STORM DRAIN INLET
WV	SANITARY CLEANOUT
WV	R.O.W. DEDICATION
WV	ROADWAY STRIPING
WV	MICRO-BIORETENTION
WV	SWM FACILITY
WV	GREEN ROOF

KEYNOTES

- NEW HANDICAP RAMP (MONTGOMERY COUNTY STD MC-112.01)
- GREEN ROOF
- NEW CONCRETE SIDEWALK
- NEW CURB & GUTTER (MONTGOMERY COUNTY STD MC-100.01)
- NEW CONCRETE PAVEMENT
- RECONSTRUCT EXISTING PLAYGROUND FENCE ALONG EXISTING FENCE ALIGNMENT



DEVELOPMENT STANDARDS	Permitted / Required	Provided
Lot Area		
Total Tract	N/A	488,131 sf or 11.21 Acres
Public Dedication: Landy Lane	N/A	15,528 sf or 0.36 Acres
Lot 1 Net Area	N/A	635,803 sf or 14.59 Acres
Lot 2 Net Area	N/A	37,295 sf or 0.85 Acres
Net Lot Area (Total, Zoned PD-28)	N/A	472,805 sf or 10.85 Acres
Density		
Maximum Residential Density (DU/Acre, Lot 1 & 2)	28	11.2
Maximum Number of Dwelling Units	303	121
Lot 2 Gross Floor Area	N/A	170,000 sf
Green Area		
Lot 1 Green Area	N/A	259,787 sf
Lot 2 Green Area	N/A	13,450 sf
Total Tract Green Area	N/A	273,237 sf
Green Area Percentage of Net Tract Area	50%	57.6%
Building Height		
Maximum Number of Floors	N/A	9 Stories
Building Height	N/A	97 Feet
Building Setbacks (linear feet)		
From Landy Lane	1.4 Feet	1.5 Feet
From River Rd.	15.2 Feet	15.4 Feet
Side	10 Feet Min.	10.1 Feet
Side	25.4 Feet Total	25.6 Feet Total
Parking		
1 Bedroom	35 units at 1.25 sp/unit	44
2 Bedroom	88 units at 1.50 sp/unit	129
Total Residential		173

GENERAL NOTES:

- THE GROSS TRACT AREA IS 11.21 ACRES, COMPRISED OF UNIT 1 OF RIVER ROAD LAND CONDOMINIUM WITH TAX ACCOUNT NUMBER 03155706 AND PARCEL A OF LITTLE FALLS OFFICE PARK WITH TAX ACCOUNT NUMBERS 03666630 AND 03374317 AS SHOWN ON TAX MAP HM23.
- PROPERTY INFORMATION SHOWN HEREON HAS BEEN TAKEN FROM PUBLIC RECORDS AND CAN BE FOUND RECORDED AMONG THE LAND RECORDS OF MONTGOMERY COUNTY, MARYLAND ON PLAT No. 22176. AND PLAT No. 7163.
- THE HORIZONTAL DATUM IS MARYLAND STATE PLANE NAD 83/96 AND IS BASED ON THE FOLLOWING NGS CONTROL STATIONS:

PID	DESIGNATION
DF9217	DC WAAS 1 CORS ARP (ZDC1)
DH4144	STERLING CORS ARP (LWX1)
AF9522	GAITHERSBURG CORS ARP (GAIT)
- THE VERTICAL DATUM IS BASED ON NGVD 29.
- THE SUBJECT PROPERTY IS CURRENTLY ZONED PD-28 (CASE NO. G-873).
- THE SUBJECT PROPERTY IS WITHIN ZONE C (AREA OF MINIMAL FLOODING) AS SHOWN ON THE FLOOD INSURANCE RATE MAP FOR MONTGOMERY COUNTY, MARYLAND, COMMUNITY PANEL 0455D, DATED SEPTEMBER 29, 2006.
- THE SUBJECT PROPERTY IS WITHIN THE LITTLE FALLS WATERSHED WHICH IS CLASSIFIED AS USE 1-P.
- THE PROJECT WILL BE SERVED BY PUBLIC WATER AND SEWER SYSTEMS AND IS IN WATER SERVICE CATEGORY W-1 AND SEWER SERVICE CATEGORY S-1.
- BELOW GRADE PARKING MAY BE ADDED BENEATH THE EXISTING SYNTHETIC TURF PLAYING FIELD.
- DEVELOPMENT IS SUBJECT TO A FINAL FOREST CONSERVATION PLAN FILED CONCURRENTLY UNDER THE SAME PLAN NUMBER 820150080.
- DEVELOPMENT OF THE PROPERTY IS SUBJECT TO A DEVELOPMENT PLAN APPROVED BY THE DISTRICT COUNCIL ON APRIL 29, 2008, IN APPLICATION NO. G-873.
- VEHICULAR ACCESS THROUGH THE WASHINGTON EPISCOPAL SCHOOL PROPERTY WILL NOT BE OPEN TO THE PUBLIC.
- THE UNDERGROUND, CHANNELIZED SECTION OF WILLET BRANCH ON WASHINGTON EPISCOPAL SCHOOL PROPERTY WILL REMAIN AS SUCH AND WILL NOT BE "DAYLIGHTED".

CURVE TABLE		
CURVE	LENGTH	RADIUS
C1	45.91'	38.00'
C2	96.83'	55.00'

LINE TABLE		
LINE	BEARING	DISTANCE
L1	N54°59'24"E	55.81'

REVISIONS

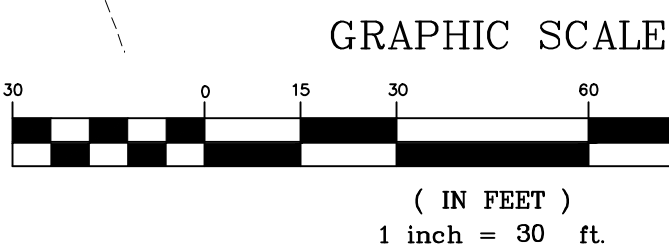
DATE	DESCRIPTION	DRN. BY	CHK. BY

OWNER/APPLICANT
SHERIDAN DEVELOPMENT
6931 ARLINGTON ROAD, SUITE 500
BETHESDA, MD 20814
(301) 656-0465 FAX: (301) 907-0394
CONTACT PERSON: GREG FERNEBOK

ENGINEER'S CERTIFICATION:

I HEREBY CERTIFY THAT THE INFORMATION SHOWN IS TAKEN FROM SURVEY BY A. MORTON THOMAS & ASSOCIATES DATED 01/09/2008, AND AVAILABLE PLANS AND RECORDS AND IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

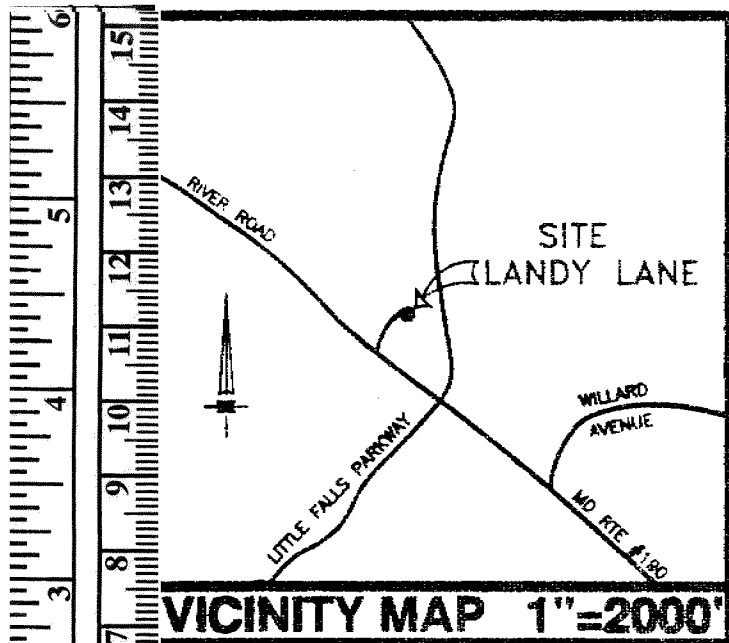
MAX KANTZER
NAME 39216
SIGNATURE
MARYLAND REGISTRATION NUMBER
DATE
(E) R.L.S. OR R.L.A. (CIRCLE)



SITE PLAN			
WASHINGTON EPISCOPAL DAY SCHOOL, INC.			
LOT 2			
LIBER 14394 / FOLIO 300			
7th ELECTION DISTRICT			
WSSC GRID	SCALE	CONTOUR INTERVAL	A.M.T. FILE No.
207NW05	1" = 30'	2'	106-389.006
DATE	TAX MAP No.	SHEET	
APR 2015	HM123 HN121	C-101	

DEVELOPER'S CERTIFICATE
The Undersigned agrees to execute all the features of the Site Plan Approval No. 820150080, including Approval Conditions, Development Program, and Certified Site Plan.
Developer: Sheridan Development LLC
Company
Greg Fernebok
Contact Person
Address: 6931 Arlington Rd., Suite 500, Bethesda, MD 20814
Phone: 301-656-0465
Signature: _____

AMT
A. MORTON THOMAS AND ASSOCIATES, INC.
CONSULTING ENGINEERS
800 KING FARM BLVD., 4TH FLOOR - ROCKVILLE, MD 20850
PH: (301) 981-5545 FAX: (301) 981-1014



PLAT TOTALS	
NUMBER OF PARCELS	1
AREA OF PARCEL	5.26028 AC.
AREA OF STREET DEDICATION	0.00000 AC.
TOTAL AREA THIS PLAT	5.26028 AC.

CURVE TABLE					
NO.	RADIUS	ARC	DELTA	TAN.	CHORD
1	612.98	69.83	06°31'39"	34.95	N53°06'31"E 69.80
2	150.00	90.20	34°27'15"	46.51	N08°03'35"E 88.85
3	200.00	43.49	12°27'28"	21.83	N74°46'23"E 43.40
4	576.98	68.04	06°45'25"	34.06	S52°59'38"W 68.00
5	612.98	52.75	04°55'51"	26.39	S47°22'46"W 52.74

PLAT NO. 22176

OWNER'S CERTIFICATE

I/WE THE UNDERSIGNED, OWNER(S) OF THE PROPERTY DESCRIBED HEREON, HEREBY ADOPT THIS PLAN OF SUBDIVISION, ESTABLISH THE MINIMUM BUILDING RESTRICTION LINES AND GRANT TO MONTGOMERY COUNTY, MARYLAND, SLOPE EASEMENTS TO SAID BUILDING RESTRICTION LINES ACROSS THE LOT ADJACENT CONTIGUOUS AND PARALLEL TO ALL STREET RIGHT OF WAY LINES AS REQUIRED BY MONTGOMERY COUNTY ORDINANCE NUMBER 4-115. SAID SLOPE EASEMENTS SHALL BE EXTINGUISHED AT SUCH TIME AS THE PUBLIC IMPROVEMENTS ON THE ADJUTING RIGHTS OF WAY HAVE BEEN COMPLETED AND ACCEPTED FOR MAINTENANCE BY MONTGOMERY COUNTY.

FURTHER, WE GRANT TO POTOMAC ELECTRIC POWER COMPANY, BELL ATLANTIC TELEPHONE COMPANY OF MARYLAND, WASHINGTON GAS LIGHT COMPANY AND TO EACH OF THEIR RESPECTIVE SUCCESSORS AND ASSIGNS, AN EASEMENT, IN, ON AND OVER THE LAND HEREON DESCRIBED AS A TEN FOOT WIDE PUBLIC UTILITY EASEMENT, DESIGNATED HEREON AS "P.U.E." WITH THE TERMS AND PROVISIONS OF SUCH A GRANT BEING THOSE SET FORTH IN A CERTAIN DOCUMENT, ENTITLED "DECLARATION OF TERMS AND PROVISIONS FOR PUBLIC UTILITY EASEMENTS" AND RECORDED AMONG THE LAND RECORDS OF MONTGOMERY COUNTY, MARYLAND IN LIBER 3834 AT FOLIO 457. SAID TERMS AND PROVISIONS BEING INCORPORATED HEREIN BY THIS REFERENCE.

FURTHER, WE ESTABLISH THE PUBLIC ACCESS EASEMENT AS SHOWN HEREON. *

FURTHER, WE AS THE OWNERS OF THIS SUBDIVISION, OUR SUCCESSORS AND ASSIGNS, WILL CAUSE ALL PROPERTY CORNER MARKERS AND ANY OTHER REQUIRED MONUMENTATION TO BE SET BY ENGAGING A LICENSED MARYLAND LAND SURVEYOR IN ACCORDANCE WITH SECTION 50-24(e) OF THE MONTGOMERY COUNTY CODE PRIOR TO OCCUPANCY OF THE DWELLINGS TO BE CONSTRUCTED ON THE INDIVIDUAL LOTS SHOWN HEREON.

THERE ARE NO RECORDED SUITS, ACTIONS AT LAW, LIENS, LEASES, MORTGAGES OR TRUSTS AFFECTING THE PROPERTY INCLUDED IN THIS PLAT OF SUBDIVISION EXCEPT A CERTAIN DEEDS OF TRUST AND ALL PARTIES WITH AN INTEREST THERETO HAVE INDICATED THEIR ASSENT BELOW.

5161 RIVER LIMITED PARTNERSHIP
BY: RICHARD COHEN, GENERAL PARTNER
WITNESS: [Signature]
DATE: 3-8-02

WE HEREBY ASSENT TO THIS PLAN OF SUBDIVISION:

JOSEPH B. HEAD, TRUSTEE
BARRY C. WATKINS, TRUSTEE
WITNESS: [Signature]
DATE: 3-12-02

THE UNDERSIGNED, CONSTITUTING ALL OF THE OWNERS WITHIN THE RIVER ROAD LAND CONDOMINIUM, HEREBY ASSENT TO THIS PLAN OF SUBDIVISION:

WASHINGTON EPISCOPAL DAY SCHOOL, INC.
BY: KIMBERLY ELLIOTT, CHAIRMAN
KATHLEEN M. MULLAY, TRUSTEE
WITNESS: [Signature]
DATE: 3-29-02

5161 RIVER LIMITED PARTNERSHIP
BY: RICHARD COHEN, GENERAL PARTNER
WITNESS: [Signature]
DATE: 3-8-02

SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT THE PLAN SHOWN HEREON IS TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF, THAT IT IS A SUBDIVISION OF ALL OF THE LAND DESCRIBED IN A CONVEYANCE TO 5161 RIVER LIMITED PARTNERSHIP RECORDED IN LIBER 5468 AT FOLIO 457 ON JULY 23, 1984 AMONG THE LAND RECORDS OF MONTGOMERY COUNTY, MARYLAND, ALSO BEING UNIT 2 OF A LAND CONDOMINIUM ENTITLED RIVER ROAD LAND CONDOMINIUM AND RECORDED AS CONDOMINIUM PLAT NUMBER 7613.

I FURTHER CERTIFY THAT, IF ENGAGED AS DESCRIBED IN THE OWNER'S CERTIFICATE HEREON, ALL PROPERTY MARKERS AND OTHER BOUNDARY MARKERS SHOWN THUS —O— WILL BE SET IN ACCORDANCE WITH SECTION 50-24(e) OF THE MONTGOMERY COUNTY CODE.

THE TOTAL AREA INCLUDED ON THIS PLAN IS 5.26028 ACRES OF WHICH NONE IS DEDICATED TO PUBLIC USE.

DATE: 3/30/02
GARY M. FOWLER
PROPERTY LINE SURVEYOR
MARYLAND REGISTRATION NO. 552

SUBDIVISION RECORD PLAT PARCEL A LITTLE FALLS OFFICE PARK

BETHESDA ELECTION DISTRICT No. 7
MONTGOMERY COUNTY, MARYLAND

FOWLER ASSOCIATES, INC.
Civil Engineers • Land Surveyors • Planners
255 North Washington Street
Suite 300, Rockville, Md. 20850
Phone: (301) 762-2377

MARCH, 2002

NOTES:

THE PURPOSE OF THIS PLAT IS TO CREATE A BUILDING LOT.
PROPERTY IS ZONED R-30 AND C-O.
THE PROPERTY SHOWN ON THIS PLAT IS LOCATED ON TAX MAP HM23.
THE PROPERTY SHOWN HEREON IS LOCATED ON WSSC 207 NW 5
THIS PLAT IS IN ACCORDANCE WITH APPROVED PRELIMINARY PLAN 1-98045 AND IS SUBJECT TO THE CONDITIONS OF THAT APPROVAL.
FOR PUBLIC WATER AND SEWER SYSTEMS ONLY.

THE PROPERTY SHOWN HEREON IS SUBJECT TO THE REQUIREMENTS OF THE MONTGOMERY COUNTY FOREST CONSERVATION LAW OF 1992, INCLUDING APPROVAL OF A FINAL FOREST CONSERVATION PLAN AND APPROPRIATE AGREEMENTS PRIOR TO ISSUANCE OF A SEDIMENT CONTROL PERMIT. A COPY OF THE APPROVED PLAN MAY BE VIEWED AT 8787 GEORGIA AVENUE, SILVER SPRING, MARYLAND.

DEVELOPMENT IS SUBJECT TO AN AGREEMENT WITH THE MONTGOMERY COUNTY PLANNING BOARD REGARDING ADEQUATE PUBLIC FACILITIES.

THIS PROPERTY IS SUBJECT TO A COVENANT RECORDED IN LIBER 20643 AT FOLIO 100-2 FOR THE MAINTENANCE AND OPERATION OF PRIVATE OPEN SPACES, STORM DRAINS AND PRIVATE STREET.

THIS PLAT CONFORMS WITH THE REQUIREMENTS OF SECTION 50-35 OF THE MONTGOMERY COUNTY SUBDIVISION REGULATIONS, BEING CHAPTER 50 OF THE COUNTY CODE.

THIS SUBDIVISION RECORD PLAT IS NOT INTENDED TO SHOW EVERY MATTER AFFECTING THE OWNERSHIP AND USE, NOR EVERY MATTER RESTRICTING THE OWNERSHIP AND USE, OF THE PROPERTY. THE SUBDIVISION RECORD PLAT IS NOT INTENDED TO REPLACE AN EXAMINATION OF TITLE OR TO DEPICT OR NOTE ALL MATTERS AFFECTING TITLE.

ALL TERMS, CONDITIONS, AGREEMENTS, LIMITATIONS AND REQUIREMENTS ASSOCIATED WITH ANY PRELIMINARY PLAN, SITE PLAN, PROJECT PLAN OR OTHER PLAN, ALLOWING DEVELOPMENT OF THIS PROPERTY, APPROVED BY THE MONTGOMERY COUNTY PLANNING BOARD ARE INTENDED TO SURVIVE AND NOT BE EXTINGUISHED BY RECORDING THIS PLAT, UNLESS EXPRESSLY CONTEMPLATED BY THE PLAN AS APPROVED. THE OFFICIAL PUBLIC FILES FOR ANY SUCH PLAN ARE MAINTAINED BY THE PLANNING BOARD AND ARE AVAILABLE FOR PUBLIC REVIEW DURING NORMAL BUSINESS HOURS.

THE INCLUSION ON THIS PLAT OF THE AREA DESIGNATED AS "DRIVEWAY COMMON ELEMENT" ON CONDOMINIUM PLAT NO. 7163 IS NOT INTENDED TO INDICATE SOLE OWNERSHIP OF THE DRIVEWAY COMMON ELEMENT BY THE OWNERS OF THE PROPERTY. ALL TERMS, CONDITIONS, AND OBLIGATIONS OF THE CONDOMINIUM PLAT SHALL SURVIVE THE RECORDATION OF THIS PLAT.

20212719804504730223000

The Maryland-National Capital Park & Planning Commission
Montgomery County Planning Board

Approved January 24, 2002
CHAIRMAN: [Signature]
ASST. SECRETARY-TREASURER: [Signature]

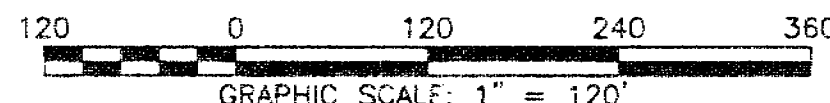
M-N.C.P. & P.C. Record File No.: 617-69

Montgomery County, Maryland
Department of Permitting Services

Approved APRIL 4, 2002
DIRECTOR: [Signature]

RECORDED

PLAT NO.



SCALE: 1"=120'

MSA 550 1244-28054 617-69



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

MCPB No. 16-057

Preliminary Plan No. 120150160

NOV - 2 2016

Washington Episcopal Day School

Date of Hearing: September 29, 2016

RESOLUTION

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

WHEREAS, on April 29, 2008, by Resolution No. 16-525, the Montgomery County Council, sitting as the District Council approved a Development Plan with Local Map Amendment G-873, that rezoned the Subject Property (as hereinafter defined) to the PD-28 zone; and

WHEREAS, on May 22, 2015, Sheridan Development, LLC ("Applicant") filed an application for approval of a preliminary plan of subdivision of property that would create two (2) lots on 11.21 acres of land in the PD-28 zone, located on the northwest quadrant of the River Road/ Little Falls Parkway intersection ("Subject Property"), in the Bethesda Chevy Chase Policy Area and Westbard Sector Plan ("Sector Plan") area; and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120150160, Washington Episcopal Day School ("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 September 16, 2016, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on September 29, 2016, the Planning Board held a public hearing on the Application at which it heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, on September 29, 2016, the Planning Board voted to approve the Application subject to certain conditions, on motion of Commissioner Fani-González, seconded by Commissioner Cichy, with a vote of 4-0; Commissioners Anderson, Cichy

Approved as to

Legal Sufficiency:



8787 Georgia Avenue, Suite 200, Silver Spring, MD 20910-5000 Chairman's Office: 301.495.4605 Fax: 301.495.1320

www.MCParkandPlanning.org E-Mail: mcp-chairman@mncppc.org

MCPB No. 16-057
Preliminary Plan No. 120150160
Washington Episcopal Day School
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and Fani-González and Wells-Harley all voting in favor. Commissioner Dreyfuss abstained because he was absent during the beginning portion of the hearing.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Preliminary Plan No. 120150160 to create two (2) lots on the Subject Property, subject to the following conditions:¹

1. This Preliminary Plan is limited to two lots for a maximum of 121 age-restricted multi-family dwelling units, including 12.5% Moderately Priced Dwelling Units (MPDUs), and a private educational institution (grades nursery – 8th grade) with up to 600 students and 110 staff.
2. The development must comply with the Binding Elements of the Development Plan G-873, approved by the District Council on April 29, 2008.
3. The Final Forest Conservation Plan must conform with the Preliminary Forest Conservation Plan approved during the Planning Board review of Development Plan G-873.
4. The Applicant must comply with the following conditions of the Preliminary Forest Conservation Plan, unless modified by the Final Forest Conservation Plan:
 - a) The variance mitigation plan for subject removals under Phase 1 must be planted as part of the Phase 1 work. However, the planting may occur within the Phase 2 footprint.
 - b) The prorated FCP credit associated with Phase 1 must be implemented as part of Phase 1, consisting of new landscape plantings and/or protection of forest area to be recorded.
5. The Planning Board accepts the recommendations of the Montgomery County Department of Transportation (MCDOT) in its letter dated August 30, 2016, and does hereby incorporate them as conditions of the Preliminary Plan approval. 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.
6. The Planning Board accepts the recommendations of the Maryland State Highway Administration (MSHA) in their letters dated April 13, 2016 and August 26, 2016, and does hereby incorporate them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations as set forth in the

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.

letter, which may be amended by MSHA, provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.

7. The Planning Board accepts the recommendations of the Montgomery County Department of Permitting Services (MCDPS)– Fire Department Access and Water Supply Section, in its letter dated August 18, 2016, and hereby incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in the letter, which MCDPS may amend if the amendments do not conflict with other conditions of Site Plan approval.
8. Prior to recordation of plat(s), the Applicant must satisfy the provisions for access and improvements as required by MCDOT and MSHA.
9. The Applicant must dedicate and construct the extension of Landy Lane to applicable Montgomery County Secondary Street structural standards (Modified to include a reduced width (50') right-of-way and sidewalk on only one side) and must construct all sidewalks, both on and off the Subject Property, to applicable ADA standards, as illustrated on the Certified Preliminary Plan.
10. Prior to recordation of any plat(s), The Washington Episcopal Day School must enter into a binding agreement with the Planning Board to perform in perpetuity a Transportation Management Plan (TMP). This Plan must demonstrate compliance with the G-873 Binding Elements and must include annual reporting in the fall of each year to summarize current and projected enrollment for the year, transportation benefits offered to staff and students, on-site queuing trends, and any transportation issues observed on-site in the previous 12 months. Should the Planning Board find, after a public hearing that the Applicant is not in compliance with the TMP, the Planning Board may modify the conditions of Site Plan approval, including the permitted enrollment.
11. The Planning Board accepts the recommendations of MCDPS – Water Resources Section in its stormwater management concept letter dated September 8, 2016, and hereby incorporates those recommendations as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDPS – Water Resources Section provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
12. The Applicant must dedicate and show on the record plat(s) approximately 15,391 square feet on Landy Lane, as shown on the Certified Preliminary Plan, to support a right-of-way of 50-feet.
13. The record plat must show necessary easements, including shared access.

MCPB No. 16-057
Preliminary Plan No. 120150160
Washington Episcopal Day School
Page 4

14. Prior to submission of any plat, Site Plan No. 820150080 must be certified by Staff.
15. No demolition, clearing or grading of the site, or recording of plats.
16. Final approval of the number and location of buildings, dwelling units, on-site parking, site circulation, and sidewalks will be determined at site plan.
17. Prior to Certification of the Preliminary Plan, the Applicant must revise the Preliminary Plan drawing to reflect the following:
 - a) General Note #11 must be revised to reflect improvements on Lot 1 as part of Phase 1, as per Binding Element #10.A.
 - b) 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 approval. Please refer to the zoning data table for development standards such as setbacks, building restriction lines, building height, and lot coverage for each lot. Other limitations for site development may also be included in the conditions of the Planning Board's approval.
 - c) Include the all approval letters referenced in the Preliminary Plan conditions and Preliminary Plan Resolution on the approval or cover sheet(s).
18. Prior to the first Use and Occupancy Certificate for Lot 2, the Applicant must provide a minimum 5-foot wide sidewalk along the Subject Property's frontage on Landy Lane, between River Road and the Subject Property and the extension of Landy Lane, as shown on the Site Plan.
19. The Applicant must satisfy the Adequate Public Facilities Transportation Policy Area Review (TPAR) test by making a Mitigation Payment equal to 50% of the applicable transportation impact tax to MCPDS. The timing and amount of the payment will be in accordance with Chapter 52 of the Montgomery County Code.
20. The Adequate Public Facility (APF) review for the Preliminary Plan will remain valid for eighty-five (85) months from the date of mailing of this Planning Board Resolution.

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 Master Plan.*

The Sector Plan specifically recommended use of PD-28 zoning for the Subject Property to support a mixture of office and multi-family dwelling units of up to eight stories in height. The Sector Plan recommended that the residential uses be limited to no more than 353 dwelling units, of which 12.5% be moderately priced dwelling units, and up to 180,000 square feet of office use. A single eight-story building, consisting of up to 121 age-restricted multi-family dwelling units, and the continuation of the private educational institutional use of up to 175,000 square feet, and the location of each were determined to be in substantial conformance with the Sector Plan by the District Council in its approval of LMA G-873.

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

Public facilities and services are available and will be adequate to serve the development. The Property will be served by public water and public sewer. The Application has been reviewed by MCDPS who has determined that the Property will have appropriate access for fire and rescue vehicles. Other public facilities and services, such as roadways, police stations, firehouses, schools, and health services are operating according to the *Subdivision Staging Policy* resolution currently in effect and will be adequate to serve the Property. Electrical, telecommunications, and gas services are also available to serve the Property.

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. The Application meets all applicable sections. The size, width, shape, and orientation of the proposed lots are appropriate for the location of the subdivision taking into account the recommendations included in the Sector Plan, and for the type of development or use contemplated. The Application substantially conforms to the 1982 Westbard Sector Plan and subsequent Local Map Amendment G-873. The Application complies with the specific density recommendations for the site as well as the applicable urban design, roadway, and general recommendations outlined in the Sector Plan. The lots are sufficiently large to efficiently accommodate the proposed mix of uses.

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.

The entire Application (including both the multifamily site and the school grounds) is subject to the Montgomery County Forest Conservation Law (Chapter 22A of the County Code). The proposed development, which is located within a PD zone, triggers the special provision of Forest Conservation Law section 22A-12(f)(2)(D)&(C) which requires that the afforestation requirements be met onsite. Furthermore, the special provisions also require that no existing forest onsite be cleared (since existing forest is less than the minimum required retention, all existing forest must be retained).

At the time of the DPA review the preliminary forest conservation plan showed the protection of the 0.10 acres of onsite forest, and afforestation requirements that generally restored the stream valley buffer (SVB) with afforestation plantings/category I easement areas and new landscape plantings of native canopy trees. The Applicant remains bound to the general layout of the DPA and the associated means of forest conservation credit, however, with this Application, the Board approved alternative means of meeting the FCP requirements such as SWM over and above the minimum DPS requirements. Although some modifications may be necessary at the time the Phase 2 school expansion is reviewed, a number of conditions of approval are included to ensure the requirements are satisfied.

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 two (2) Protected Trees as identified in the Staff Report. In accordance with Section 22A-21(a), the Applicant requested a Variance, and the Board agrees that the Applicant would suffer unwarranted hardship by being denied reasonable and significant use of the Subject Property without the Variance.

The Board makes 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.*

The Applicant submitted a variance request for both Phase 1 and Phase 2 impacts, however, there is insufficient information at this time to make this finding for impacts associated with Phase 2 development on Lot 1 (i.e. the School campus). The Board finds that Phase 1 impacts to protected trees are avoided/minimized to the greatest extent possible and are generally associated with necessary modifications to the Site access extending from the existing right-of-way. As a result, the variance request would be granted to any Applicant in a similar situation.

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

As conditioned per the Staff recommendations, the requested variance is largely based on proposed development allowed under the existing zoning and the need to achieve adequate site access. With the recommended conditions of approval Staff finds the variance can be granted under this condition if the impacts are avoided or minimized (as conditioned) and that any necessary mitigation is provided.

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 requested variance is a result of the proposed site design and layout on the Subject Property and not as 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.*

MCDPS review and approval of the sediment and erosion control and storm water management plans will help ensure that appropriate standards are met. Additionally, the development triggers Park Permit requirements that will include the demolition of existing concrete swales (located near the Site entrance at Little Falls Parkway) and replacement with regenerative conveyance channels. Therefore, as conditioned 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 approved replacement of Protected Trees at a ratio of approximately one (1) inch DBH for every four (4) inches of DBH removed. No mitigation is required for Protected Trees impacted but retained.

5. *All stormwater management requirements shall be met as provided in Montgomery County Code Chapter 19, Article II, titled "Storm Water Management," Sections 19-20 through 19-35.*

This finding is based in part upon the determination by MCDPS that the Stormwater Management Concept Plan meets applicable standards.

A Storm Water Management concept for the Site was approved by DPS on September 8, 2016. The development will meet required storm water management goals with the use of green roof, mirco-bioretion structures/planter boxes and a rain garden. The remaining volume will be treated by three structural filtration practices.

BE IT FURTHER RESOLVED that this Preliminary Plan will remain valid for 85 months from its initiation date (as defined in Montgomery County Code Section 50-35(h)), and that prior to the expiration of this validity period, a final record plat for all property delineated on the approved Preliminary Plan must be recorded in the Montgomery County Land Records, or a request for an extension must be filed; and

BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is NOV - 2 2016 (which is the date that this Resolution is 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).

* * * * *

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 Commissioner Fani-González, seconded by Vice Chair Wells-Harley, with Chair Anderson, Vice Chair Wells-Harley, and Commissioners Fani-González and Cichy voting in favor, and Commissioner Dreyfuss absent at its regular meeting held on Thursday, October 20, 2016, in Silver Spring, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board



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

Agenda Date: December 15, 2016
Agenda Item No.: 1-c Other Consent

MEMORANDUM

TO: Montgomery County Planning Board

FROM: Gwen Wright, Planning Director *GW*

VIA: Robert Kronenberg, Chief, Area One *RK*
Elza Hisel-McCoy, Supervisor, Area One *EH*
Matthew Folden, Planner Coordinator, Area One *MF*

Re: Correction of Resolution for Site Plan No. 820150080,
MCPB No. 16-104, Washington Episcopal Day School

Attached, please find a redlined version of the Resolution for Site Plan No. 820150080, Washington Episcopal Day School. The Resolution was adopted by the Planning Board at the October 20, 2016, Planning Board Hearing, and was mailed out to all parties of record on November 2, 2016. This Corrected Resolution addresses an error that recurs on pages 5 and 9 of the original Resolution.

The correction is to address a typographical error on pages 5 and 9 of the Resolution. The Resolution incorrectly states the bicycle parking requirement is Lot 1: 44 bicycle spaces, of which 41 are for long term use and 3 are for short term use, and Lot 2: 35 bicycle spaces, of which 29 are long term and 6 are short term. The resolution should state the requirement as Lot 1: 35 bicycle spaces, of which 29 are short term and 6 are long term, and Lot 2: 44 bicycle spaces, of which 41 are for long term use and 3 are for short term use.

cc: Carol Rubin, Associate General Counsel



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

MCPB No. 16-104
Site Plan No. 820150080
Washington Episcopal School
Date of Hearing: September 29, 2016

DEC 28 2016

CORRECTED RESOLUTION

WHEREAS, under Section 59.7.1.2 of the Montgomery County Zoning Ordinance, the Montgomery County Planning Board is authorized to review site plan applications; and

WHEREAS, under Section 59.7.7.5.A.2, the Planning Board reviewed this site plan under the procedures and standards of the Zoning Ordinance in effect on October 29, 2014, including the zoning then in effect; and

WHEREAS, on April 29, 2008, by Resolution No. 16-525, the Montgomery County Council, sitting as the District Council approved a Development Plan with Local Map Amendment G-873, that rezoned the Subject Property (as hereinafter defined) to the PD-28 zone with certain binding elements; and

WHEREAS, on May 22, 2015, Sheridan Development, LLC ("Applicant") filed an application for approval of a site plan for a) an eight story multi-family building, up to 97-feet in height, with a maximum of 121 age-restricted dwelling units, and b) Phase 1 improvements, as described in Development Plan G-873 on 11.21-acres of PD-28 zoned-land, located on the northwest quadrant of the River Road/ Little Falls Parkway intersection ("Subject Property"), in the Bethesda Chevy Chase Policy Area and Westbard Sector Plan ("Sector Plan") area; and

WHEREAS, Applicant's site plan application was designated Site Plan No. 820150080, Washington Episcopal School ("Site 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 September 16, 2016, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

Approved as to
Legal Sufficiency:

8787 Georgia Avenue, N.M.C.P.C. Legal Department 10 Chairman's Office: 301.495.4605 Fax: 301.495.1320

www.MCParkandPlanning.org E-Mail: mcp-chairman@mncppc.org

WHEREAS, on September 29, 2016, the Planning Board held a public hearing on the Application at which it heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, on September 29, 2016, the Planning Board voted to approve the Application subject to certain conditions, on motion of Commissioner Fani-González, seconded by Commissioner Cichy, with a vote of 4-0; Commissioners Anderson, Cichy and Fani-González and Wells-Harley all voting in favor. Commissioner Dreyfuss abstained because he was absent during the beginning portion of the hearing.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board approves Site Plan No. 820150080 for a) an eight story multi-family building, up to 97-feet in height, with a maximum of 121 age-restricted dwelling units on Lot 2 of the Subject Property, and b) Phase 1 improvements, as described in Development Plan G-873 on Lot 1 of the Subject Property, subject to the following conditions:¹

Conformance with Prior Approvals

1. Development Plan Conformance

The Applicant must comply with the Development Plan approved with Local Map Amendment G-873, dated April 29, 2008, including all Binding Elements as illustrated on the Certified Site Plan.

2. Preliminary Plan Conformance

The Applicant must comply with the conditions of approval for Preliminary Plan No. 120150160.

Environment

3. Forest Conservation

- a. The Applicant must obtain approval of a Final Forest Conservation Plan (FFCP) for development of Phase 1 prior to Certified Site Plan.
- b. The FFCP must show the demolition and afforestation of the abandoned batting cage area on northeast portion of Lot 1. The work must be completed as part of Phase 1 prior to final Use and Occupancy Certificate for the Multifamily building.

4. Noise Attenuation on Lot 2:

- a. Prior to issuance of any building permit, the Applicant must provide Staff with certification from an engineer specializing in acoustics that the building

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.

shell has been designed to attenuate projected exterior noise levels to an interior level not to exceed 45 dBA Ldn.

- b. The Applicant must provide a signed commitment to construct the building in accord with these design specifications, with any changes that may affect acoustical performance approved by the engineer and Staff in advance of installation.
- c. After construction is complete, and prior to issuance of final residential occupancy permits, the Applicant must provide Staff with a certification from an engineer specializing in acoustics confirming that the dwelling units were constructed in accord with the approved specifications for noise attenuation.
- d. If the plan changes in any manner that affects the validity of the noise analysis for acoustical certifications and noise attenuation features, the Applicant must conduct a new noise analysis to reflect the revised plans, and new noise attenuation features may be required.

Public Space, Facilities, and Amenities

5. Public Space, Facilities, and Amenities

- a. The Applicant must construct the streetscape improvements along the property's Lot 2 frontage on the extension of Landy Lane as illustrated on the Certified Site Plan.
- b. Prior to the issuance of Final Use and Occupancy certificates for any residential units, all public open space areas on Lot 2 must be completed.
- c. Prior to the first Use and Occupancy Certificate associated with Lot 2, the Applicant must execute a shared use agreement between the school and age-restricted multi-family residential building in accordance with Binding Element #7.A. of G-873. The shared use of school facilities may be separated such that residents of the age-restricted multi-family building have access to the shared facilities only during non-school hours, holidays, and weekends in response to concerns about school safety.
 - i. The Agreement must demonstrate how residents of the age-restricted multi-family building will be provided access to the site (i.e. provided a key fob or other device) and must show where signs designating the amenities for shared use will be posted.
 - ii. The Agreement must include an easement, granted to the residents of the age-restricted multi-family building, that covers all internal school drive aisles, playing fields, and other areas of the School campus designated on the Development Plan; effective when not actively programmed by School, and
 - iii. The Agreement must include specific details and posting locations of physical signs on the property to denote shared use.
- d. Prior to issuance of any residential Use and Occupancy Certificate for the Site Plan, all on-site amenities including, but not limited to, streetlights,

sidewalks/pedestrian pathways, hardscape, benches, trash receptacles, bicycle facilities, and green area amenities within the phase must be installed.

6. Maintenance of Public Amenities

The Applicant is responsible for maintaining all publicly accessible amenities on the Subject Property including, but not limited to pedestrian pathways, landscaping, hardscape, and green area.

Parks

7. M-NCPPC Department of Parks

The Planning Board accepts the recommendations of the Montgomery County Department of Parks in its letter dated September 19, 2016, as amended by the e-mail dated September 27, 2016, from Dominic Quattrocchi, Montgomery County Parks Department, to revise the deadline by which all work within County Parkland must be completed, and hereby incorporates them as conditions of the Site Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amendment by the Montgomery County Department of Parks provided that the amendment do not conflict with other conditions of the Site Plan approval.

Transportation and Circulation

8. Prior to the first Use and Occupancy Certificate associated with Lot 2, the Applicant must construct the extension of Landy Lane to applicable Montgomery County Secondary Street (Modified to include a reduced width (50') right-of-way and sidewalk on only one side) structural standards and must construct all sidewalks, both on and off the Subject Property, to applicable ADA standards. Before the release of bond or surety, the Applicant must provide DPS Z&SPE Staff with certification from a licensed civil engineer that all streets and sidewalks have been built to the above standards.
9. The Applicant must submit to the Maryland State Highway Administration (MSHA) a signal warrant analysis for the intersection of Landy Lane/ River Road as part of a future Site Plan amendment for School expansion. If MSHA determines that a signal is warranted at that time, the Applicant will construct and install the traffic signal in accordance with MSHA specifications.
10. Vehicular Site Access
 - a. Campus gates at one point of vehicular access along the School's Landy Lane frontage must be open for a minimum period of 90 minutes during the

morning and a minimum of 150 minutes during the afternoon, to address peak school drop-off and pick-up periods. The specific time periods during which the gates must be open must be established in the Transportation Management Plan (TMP). The initial TMP must be approved by Staff before Record Plat, and may not be amended without approval of Staff.

- b. Before any building permit, the Applicant must install at the vehicular access point into Lot 1 from Little Falls Parkway a sign prohibiting truck traffic entering or exiting from Little Falls Parkway.

11. Parking

The Applicant must provide parking in accordance with the Zoning Ordinance requirements in effect on to October 30, 2014. Specifically, the Applicant must provide no more than 168 parking spaces within a parking garage under the multi-family building for the age-restricted multi-family housing building. The specific design of the parking facility must be shown on the Certified Site Plan.

12. Bicycle Parking

- a. The Applicant must provide bicycle parking spaces in the following configuration with specific location(s) identified on the Certified Site Plan:
 - i. Lot 1: ~~six 41 (6) bicycle parking~~ spaces for long-term private (employee) use and ~~three (3) twenty-nine (29)~~ bicycle parking spaces for short-term public use. Short term public bicycle parking must be installed near the main entrance to the School building.
 - ii. Lot 2: ~~29forty-one (41)~~ spaces for long-term private use and ~~six (6)three (3)~~ bicycle parking spaces for short-term public use. Short term public bicycle parking must be installed near the main entrance to the age-restricted multi-family building.

Density and Housing

13. Moderately Priced Dwelling Units

- a. The Planning Board accepts the Moderately Priced Dwelling Unit recommendations of MCDHCA in its letter dated April 18, 2016, and hereby incorporates them as conditions of the Site Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which MCDHCA may amend if the amendments do not conflict with other conditions of the Site Plan approval.

14. Occupancy Provisions

- a. The age of the residents of the project is restricted in under Section 59-G-2.35 (b)(1) through (6) of the Zoning Ordinance as amended.

Site Plan

15. Building Height

The maximum height for the age-restricted multi-family building is 97 feet, as measured from the building height measuring point located on Landy Lane, as shown on the Certified Site Plan.

16. Site Design

The exterior architectural character, proportion, materials, and articulation for Lot 2 must be substantially similar to the schematic elevations shown on the architectural drawings and rooftop plan included in the Certified Site Plan, as determined by Staff.

17. Lighting

- a. Prior to Certified Site Plan, the Applicant must provide certification to Staff from a qualified professional that the exterior lighting in this Site Plan conforms to the latest Illuminating Engineering Society of North America (IESNA) recommendations (Model Lighting Ordinance-MLO: June 15, 2011, or as superseded) for a development of this type. All onsite exterior area lighting must be in accordance with the latest IESNA outdoor lighting recommendations (Model Lighting Ordinance-MLO: June 15, 2011, or as superseded).
- b. Deflectors must be installed on all proposed up-lighting fixtures to prevent excess illumination and glare.
- c. Streetlights and other pole-mounted lights must not exceed the height illustrated on the Certified Site Plan.
- d. On the rooftop of the building, the light pole height must not exceed the height illustrated on the Certified Site Plan.

18. Site Plan Surety and Maintenance Agreement

Prior to issuance of any building permit and Sediment Control Permit, the Applicant must enter into a Site Plan Surety and Maintenance Agreement with the Planning Board in a form approved by the M-NCPPC Office of General Counsel that outlines the responsibilities of the Applicant. The Agreement must include a performance bond(s) or other form of surety in accordance with Section 59-D-3.5(d) of the Montgomery County Zoning Ordinance, with the following provisions:

- a. A cost estimate of the materials and facilities, which, upon Staff approval, will establish the surety amount.
- b. The cost estimate must include applicable Site Plan elements, including, but not limited to plant material, on-site lighting, site furniture, mailbox pad sites, retaining walls, fences, railings, paths and associated improvements within the relevant phase of development. The surety must be posted before

issuance of the any building permit within each relevant phase of development and will be tied to the development program.

- c. The bond or surety must be tied to the development program, and completion of all improvements covered by the surety for each phase of development will be followed by inspection and potential reduction of the surety.
- d. The bond or surety for each block/phase shall be clearly described within the Site Plan Surety & Maintenance Agreement including all relevant conditions and specific CSP sheets depicting the limits of each block/phase.

19. Development Program

The Applicant must construct the development in accordance with a development program table that will be reviewed and approved prior to the approval of the Certified Site Plan.

20. Certified Site Plan

Prior to approval of the Certified Site Plan the following revisions must be made and/or information provided subject to Staff review and approval:

- a. Include the final forest conservation approval letter, stormwater management concept approval letter, development program, and Preliminary Plan resolution and Site Plan resolutions on the approval or cover sheet(s).
- b. Add a note to the Site Plan stating that "M-NCPPC Staff must inspect all tree-save areas and protection devices before clearing and grading."
- c. Add a note stating that "Minor modifications to the limits of disturbance shown on the site plan within the public right-of-way for utility connections may be done during the review of the right-of-way permit drawings by the Department of Permitting Services."
- d. Modify data table to reflect development standards approved by the Planning Board.
- e. Ensure consistency of all details and layout between Site and Landscape plans.

BE IT FURTHER RESOLVED that all site development elements shown on the latest electronic version of Site Plan 820150080, submitted via ePlans to the M-NCPPC as of the date of the Staff Report, are required, except as modified by the above conditions of approval; and

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 Site Plan conforms to all non-illustrative elements of a development plan or diagrammatic plan, and all binding elements of a schematic development plan, certified by the Hearing Examiner under Section 59-D-1.64, or is consistent with an approved project plan for the optional method of development if required, unless the Planning Board expressly modifies any element of the project plan.*

As conditioned, the Site Plan conforms to all of the Binding Elements of the Development Plan approved with LMA G-873. The uses, densities, heights and setbacks conform to those contained on the Development Plan.

2. *The Site Plan meets all of the requirements of the zone in which it is located.*

The Property is subject to the PD-28 zoning standards. The planned unit development zones have fewer specific requirements and restrictions than other zones and permit more flexibility of design and use, subject to a binding development plan approved by the District Council as part of the granting of the zoning category. The purpose of the Planned Development (PD) zones, as described in Section 59-C-7.11 of the Zoning Ordinance in effect on October 30, 2014, is to permit unified development consistent with densities proposed by master plans. It is intended that this zone provide a means of regulating development which can achieve flexibility of design, the integration of mutually compatible uses, and optimum land planning with greater efficiency, convenience, and amenity than the procedures and regulation under which it is permitted as a right under conventional zoning categories.

The Site Plan meets the purposes of the PD-28 Zone by providing two mutually compatible land uses in the Washington Episcopal Day School and construction of up to 121 age-restricted dwelling units. As conditioned, the residents of the multi-family building will have access to use the school facilities during off-school hours. The variety of housing types will include one, two, and three-bedroom age-restricted multi-family units in a single building. This is the first phase of development and will be followed at an indeterminate point in the future with a School expansion of approximately 21,282 square feet.

Requirements of the PD-28 Zone

Based on the following data table, which sets forth the development standards approved by the Planning Board and binding on the Applicant, and based on other evidence and testimony of record, the Application meets all of the applicable requirements of the PD-28 Zone.

Data Table

Development Standards	Approved and Binding
<u>Lot Area</u>	
Total Tract	488,150 SF or 11.21 AC
Public Dedication (Landy Lane)	15,391 SF or 0.35 AC
Lot 1 Net Area	435,547 SF or 10.00 AC
Lot 2 Net Area	37,192 SF or 0.85 AC
Net Lot Area (Total, PD-28)	472,759 SF or 10.85 AC
<u>Density</u>	
Maximum Residential Density (DU/ Acre, Lots 1 & 2)	11.16 121
Maximum Number of Dwelling Units	170,000 SF
Lot 2 Gross Floor Area	
<u>MPDUs</u>	16
Total Number of MPDUs	12.5%
MPDU Percentage of Total	
<u>Green Area</u>	255,985 SF or 5.88 AC
Lot 1 Green Area	11,966 SF or 0.27 AC
Lot 2 Green Area	267,951 SF or 6.15 AC
Total Tract Green Area	56.6%
Green Area Percentage of Net Tract Area	
<u>Building Height</u>	--
Lot 1 Maximum Number of Floors	--
Lot 1 Maximum Height	8
Lot 2 Maximum Number of Floors	97'
Lot 2 Maximum Height	
<u>Building Setbacks</u>	
Landy Lane frontage	1.4'
Rear	15.2'
Side	10.0'
<u>Parking*</u>	
Lot 1 Bicycle (Long Term/ Short Term)	44 (41/3) <u>35 (6/29)</u>
Lot 2 Bicycle (<u>Long Term/ Short Term</u>)	35 (29/6) <u>44 (41/3)</u>
Lot 1	206

Lot 2	168
Site Vehicle Parking Total	374

3. *The locations of the buildings and structures, the open spaces, landscaping, recreation facilities, and pedestrian and vehicular circulation systems are adequate, safe, and efficient.*

a. Buildings and Structures

The locations of the buildings and structures are adequate, safe and efficient and consistent with the approved Preliminary Plan and Development Plan. The proposed age-restricted multi-family building is arranged along a new street extension and in close proximity to both a major highway (River Road) and a regionally important pedestrian/bicycle connection, the Capital Crescent Trail, each of which allows for safe and efficient pedestrian circulation within the project. Additionally, the existing School building will be enhanced as a result of the Phase 1 improvements, including more efficient student pick-up/ drop-off points completed since the G-873 approval.

b. Green Area/ Shared Use Amenities (Open Spaces)

The locations of proposed shared use amenities and green areas are adequate, safe, and efficient and include sidewalks, athletic amenities, and playing fields that will provide passive and active spaces for sitting, relaxing, strolling, and social engagement in accordance with the Development Plan and as conditioned in the Shared Use Agreement.

c. Landscaping and Lighting

Landscaping and lighting, as well as other site amenities, will be provided to ensure that landscaping, lighting, and site amenities will be safe, adequate, and efficient for year-round use and enjoyment by residents and visitors. The proposed on-site lighting will limit the necessary light levels to streets and sidewalks. Lighting incorporates partial cut-off light fixtures to prevent light spillover to adjacent areas.

d. Recreation Facilities

The recreation guidelines are not applicable to either the age-restricted multi-family housing or the private educational institution, however, the Site's Green Area will contribute to both active and passive recreation for

both the School campus and residents of the age-restricted multi-family building.

e. Vehicular and Pedestrian Circulation

The Applicant proposes access to the Project via Little Falls Parkway and River Road via Landy Lane in the following configuration: Little Falls Parkway is intended to serve as the primary access point for the Washington Episcopal Day School while Landy Lane is intended to provide a secondary access point² to the School and primary access for the proposed age-restricted multi-family building. Landy Lane will also provide primary site access for any truck loading/ deliveries associated with the School because Little Falls Parkway does not permit truck traffic. Pedestrian and bicycle access to the property will be maintained on Landy Lane and along the Landy Lane property frontage sidewalk.

4. *Each structure and use is compatible with other uses and other site plans and with existing and proposed adjacent development.*

The architecture of the proposed age-restricted multi-family building complies with the Development Plan and offers a high quality of finish as it will be visible from many locations within the Westbard Sector Plan area. The age-restricted building height complies with the Development Plan requirements and responds to the surrounding neighborhoods. No other development is proposed in the area at this time, although expansion of the School building is anticipated at an indeterminate point in the future. Although cut-through traffic has been an issue for the Site, compatibility is met with existing adjacent development based on the condition that the Landy Lane gates remain open during student pick-up/drop-off times to minimize the potential for neighborhood cut-through traffic.

5. *The Site Plan meets all applicable requirements of Chapter 22A regarding forest conservation, Chapter 19 regarding water resource protection, and any other applicable law.*

A. Forest Conservation

² Landy Lane has long been envisioned as a secondary access point for the School while Little Falls Parkway was intended to be the primary access point. This is first discussed on page 4 the M-NCPPC Staff Report, dated 12/21/2007, for LMA G-873. Page 5 of the report also stated that future access and circulation must include both Little Falls Parkway and Landy Lane as points of ingress and egress.

The Board finds that as conditioned, the Forest Conservation Plan complies with the requirements of the Forest Conservation Law as found in the Preliminary Pan approval.

- 1. All stormwater management requirements shall be met as provided in Montgomery County Code Chapter 19, Article II, titled "Storm Water Management," Sections 19-20 through 19-35.*

This finding is based in part upon the determination by MCDPS that the Stormwater Management Concept Plan meets applicable standards.

A Storm Water Management (SWM) concept for the Site was approved by DPS on September 8, 2016. The plan proposes to meet required storm water management goals with the use of green roof, mirco-bioretion structures/planter boxes and a rain garden. The remaining volume will be treated by three structural filtration practices.

BE IT FURTHER RESOLVED that this Resolution incorporates by reference all evidence of record, including maps, drawings, memoranda, correspondence, and other information; and

BE IT FURTHER RESOLVED that this Site Plan shall remain valid as provided in Montgomery County Code § 59-D-3.8; and

BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is DEC 28 2016 (which is the date that this resolution is 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 the original mailing date, or, if the appeal relates to the corrected portions of this resolution, within thirty days of the date of this Corrected Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

* * * * *

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 Commissioner Fani-González, seconded by Vice Chair Wells-Harley, with Chair Anderson, Vice Chair Wells-Harley, and Commissioners Dreyfuss, Fani-González, and Cichy voting in favor at its regular meeting held on Thursday, December 15, 2016, in Silver Spring, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board