

POPLAR GROVE PRELIMINARY PLAN AMENDMENT NO. 12019004B



Description

Request to amend Conditions 2, 4, and 15 to extend the Preliminary Plan validity period by 3.5 years to match the existing APF validity period, adjust the validity period phasing schedule, and add a new Condition 33 to incorporate a cemetery maintenance agreement.

No. 12019004B

Completed: 5-12-2023

MCPB

Item No. #
6-1-2023

Montgomery County
Planning Board
2425 Reedie Drive, Floor 14
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LOCATION/ADDRESS

On the east side of Century Blvd. between Father Hurley Blvd. and the future Dorsey Mill Rd.

MASTER PLAN

2009 *Germantown Employment Area Sector Plan*

ZONE

CR-2.0, C-1.75, R-1.0, H-145T and Germantown Transit Mixed-Use Overlay Zone

PROPERTY SIZE

27.15 acres

APPLICANT

Symmetry at Cloverleaf, LLC

ACCEPTANCE DATE

November 23, 2022

REVIEW BASIS

Chapter 50



Summary:

- Staff recommends approval with conditions of the Preliminary Plan Amendment.
- The Preliminary Plan Amendment extends the validity period phasing schedule by 3.5 years to match the existing APF validity period.
- The Preliminary Plan Amendment includes a cemetery maintenance agreement that meets the requirements of the 2019 Montgomery County Planning Board Guidelines for Burial Sites, Standards for Maintenance of Burial Sites in Appendix B.
- Staff has received community correspondence on the Application from the Germantown Historical Society regarding the lack of upkeep and maintenance for the existing cemetery located on the Subject Property.

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SECTION 1: RECOMMENDATIONS AND CONDITIONS

PRELIMINARY PLAN 12019004B

Staff recommends approval with conditions of the Preliminary Plan Amendment. All conditions of approval of Preliminary Plan No. 12019004A remain in full force and effect except conditions No. 2, No. 4, and No. 15, which are modified below, and additional condition No. 33. All site development elements shown on the latest electronic version as of the date of this Staff Report submitted via ePlans to the M-NCPPC are required except as modified by the following conditions:

Modified Conditions

2. The Preliminary Plan will remain valid for up to ~~168~~ 210 months (~~14~~ 17.5 years) from the date of mailing of the Corrected Preliminary Plan Resolution, MCP No. 19-109 dated Dec. 16, 2019 (“Corrected Resolution”). This validity period and phasing schedule accounts for the extension granted by Montgomery County Council Ordinance No. 19-12 (Subdivision Regulation Amendment No. 20-01 – the “SRA”) as approved on July 28, 2020. ~~The Phases may occur in any order.~~ Following an initial 24-month (2 year) extension period as provided by the SRA, ~~which extends the Preliminary Plan’s validation period to December 16, 2021,~~ the Applicant must ~~meet at least one of the following four development triggers every three years (36 months)~~ record plats based on the following schedule:
 - i. ~~Within 7 years of the expiration of the SRA extension period for the first phase to be developed (December 16, 2028).~~
 - ii. ~~Within 10 years of the expiration of the SRA extension period for the second phase to be developed (December 16, 2031).~~
 - iii. ~~Within 13 years of the expiration of the SRA extension period for the third phase to be developed (December 16, 2034).~~
 - iv. ~~Within 15.5 years of the expiration of the SRA extension period for the final phase to be developed (June 16, 2037). for the Preliminary Plan to remain valid:~~

~~The Phases may occur in any order and are identified below:~~

- a) ~~Record plats for at least Phase IA - 70 townhouse units. (Phase IA).~~
 - b) ~~Record plats for at least Phase IB - 106 additional (176 total) townhouse units. (Phase IB).~~
 - c) ~~Record plats for parcels Phase II – Parcels E4, E6, F2, and G2 in the Maker and Multi-Family District. (Phase II).~~
 - d) ~~Record plats for parcels Phase III - Parcels A1—A4 in the Mixed-Use Transit Oriented District. (Phase III).~~
4. The Adequate Public Facility (“APF”) review for the Preliminary Plan will remain valid for two hundred and ten (210) months (17.5 years) from the date of mailing of the Corrected

Resolution, including the 12-year extension granted as part of this Preliminary Plan. This updated validity period and phasing schedule accounts for the extension granted by Montgomery County Council Ordinance No. 19-12 (Subdivision Regulation Amendment No. 20-01 – the “SRA”) as approved on July 28, 2020, **which extends the Preliminary Plan’s validity period to December 16, 2021.** The Applicant must comply with the following cumulative development triggers (**trip generation rates as determined by the original Preliminary APF utilizing the 2011 LATR guidelines**) for the APF to remain valid:

- d) Within seven years (84 months, **until December 16, 2028**) from the **date of the mailing of the Corrected Resolution** expiration of the SRA extension period, building permits associated with this Preliminary Plan are issued for development **for at least 70 townhouse units are issued by Montgomery County or equivalent** generating at least 34 AM and 58 PM peak hour trips.
- e) Within ten years (120 months **until December 16, 2031**) from the **date of the mailing of the Corrected Resolution** expiration of the SRA extension period, building permits associated with this Preliminary Plan are issued for development **for 176 total townhouse units are issued by Montgomery County or equivalent** generating at least 88 total AM and 119 total PM peak hour trips.
- f) Within 13 years (156 months **until December 16, 2034**) from the **date of the mailing of the Corrected Resolution** expiration of the SRA extension period, building permits associated with this Preliminary Plan are issued for development **by Montgomery County for an equivalent** generating at least 222 total AM and 449 total PM peak hour trips.
- g) By **17.5 15.5** years (**210 186** months **until June 16, 2037**) from the **date of the mailing of the Corrected Resolution** expiration of the SRA extension period, all building permits associated with ~~the this~~ Preliminary Plan are issued **for development by Montgomery County** totaling up to 1,015 total AM and 1,203 total PM peak hour trips.

15. In accordance with the timing mechanisms identified below, the Applicant must ensure construction of the following off-site improvements by satisfying MCDOT requirements for the following:

- b) No later than the submittal for any site plan for Phase II or Phase III, a major amendment to the site plan for Phase I that changes density, **or** a major amendment to the Preliminary Plan that has any impact on trip counts, **or five years from the mailing of this resolution;** whichever comes first, the Applicant must perform a new signal warrant analysis for the intersection of Century Boulevard and Kinster Drive, and include any necessary supplemental analysis on the operations of Kinster Drive between Century Boulevard and Crystal Rock Drive, subject to the satisfaction of MCDOT. The Applicant shall design, construct and have inspected as complete by MCDOT or reimburse MCDOT for the cost of installing the signal at Century Boulevard and Kinster Drive at the time determined by the analysis.

New Condition

33. Prior to Certified Preliminary Plan, the Applicant must execute an interim cemetery maintenance agreement in coordination with Planning Staff and in a form approved by the M-

NCPPC Office of the General Counsel, to be in effect until the maintenance plan required by Condition No. 11.a. in Preliminary Plan No. 120190040 is created and implemented.

SECTION 2: SITE DESCRIPTION

LOCATION

The Subject Site is located on the east side of Century Boulevard, south of the future Dorsey Mill Road right-of-way and west of the interchange of I-270 and Father Hurley Boulevard. The Preliminary Plan Amendment site consists of four parcels (P. 635, P. 688, P. 850 and P. N712 on tax map EV341) and is approximately 19.4 net acres in size (“Property” or “Subject Property”). The Property is located in the northern part of the Germantown Employment Area adjacent to the Black Hill mixed use development. The current zoning is CR 2.0, C-1.75 R-1.0 H-145T, and is located within the Germantown Transit Mixed Use Overlay Zone.

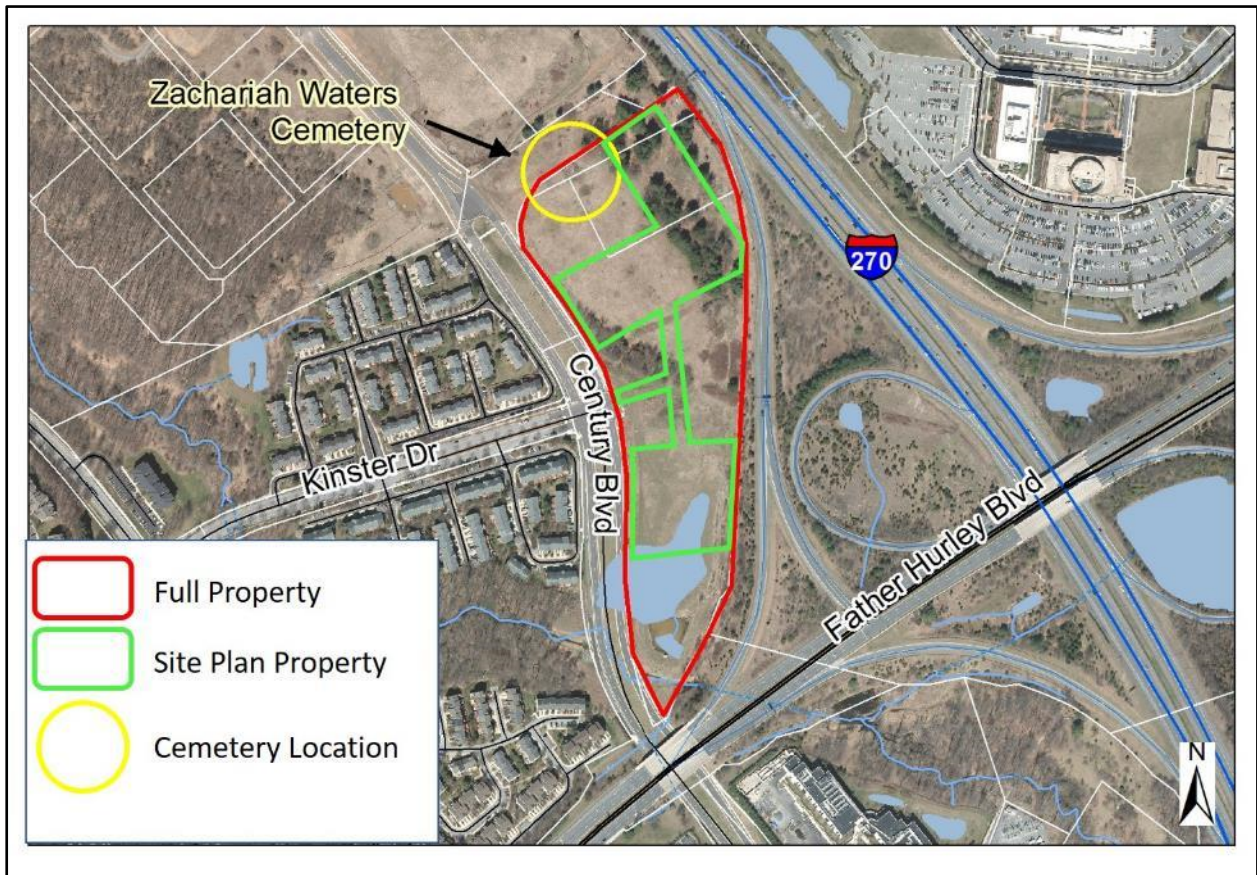


Figure 1 – Site Boundary Map

VICINITY

Immediately surrounding the Subject Property is a mix of mostly residential and mixed-use development projects, and I-270. West of the Full Property, on the opposite side of Century Boulevard, is a townhouse condominium community on land zoned R-30. North of the Property, on the opposite side of the future Dorsey Mill Road, is the Black Hill mixed-use community, with a mix of multi-family residential and office uses under construction in the CR Zone. The eastern and southern Property boundaries are the exit ramp from southbound I-270 to Father Hurley Boulevard. On the opposite side of I-270 is the Milestone Business Park with three existing office buildings and an industrial building. Black Hill Regional Park is located just 1/3 of a mile north of the Subject Property, and the Germantown Town Center is approximately one mile to the south.



Figure 2 - Vicinity Map

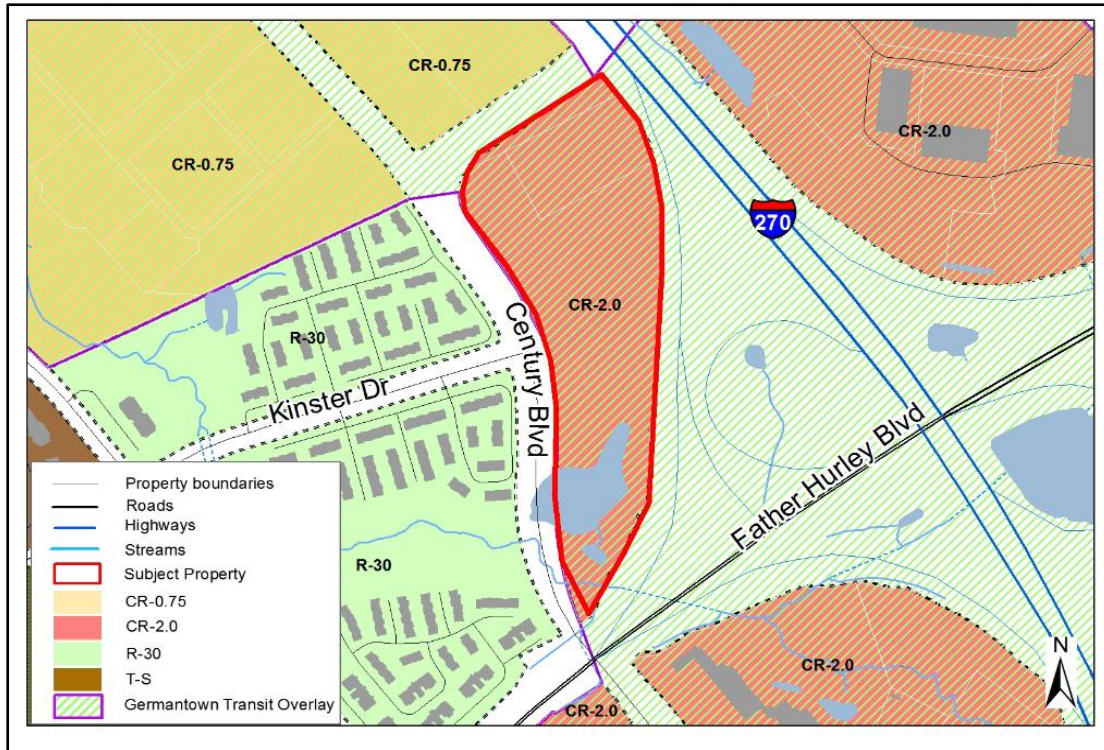


Figure 3 – Zoning Map

PROPERTY DESCRIPTION

Currently, the Subject Property is undeveloped and is mostly rolling meadow with a hedge row dividing the Property. There are additional trees in the northern area, and a stormwater management pond providing stormwater treatment for Century Boulevard in the south. The terrain is gentle to moderate, with the highest elevations in the northeast along I-270, and the lowest elevation in the south near the existing stormwater facility. The Property is located in the Little Seneca Creek watershed, classified by the Maryland Department of Environment as a use IV-P watershed. In the southern portion of the Property, near the stormwater facility, there is an existing stream that has been placed in a pipe that goes under Father Hurley Blvd, the Subject Property and Century Boulevard. There are no natural steep slopes or identified threatened or endangered species on the Property.

Located in the northern portion of the Subject Property, is a fenced cemetery with gravestones identifying members of the Waters Family, which dates to the mid 1800's (Figure 1). Under advisement by M-NCPPC Historic Preservation Staff, MCDOT and the Applicant undertook preliminary investigations and successfully identified several anomalies; many of which could be human remains based on the size, shape, and depth of the identified anomaly.

SECTION 3: PROJECT DESCRIPTION

PREVIOUS APPROVALS

Preliminary Plan No. 119881560 – Cloverleaf Center Germantown

Preliminary Plan No. 119881560 was submitted in May 1988 to create 14 lots on 151 acres of I-3 zoned land, to facilitate the development of up to 1.2 million sq. ft. of office, a 134-bed hotel, 7,500 sq. ft. of retail and 881 multi-family dwelling units. The 151 acres includes the Subject Property, as well as land on either side of Century Boulevard south of the Subject Property. It was amended twice, in June 1994 and July 1996 to modify the phasing and APF validity, and again in 2001 to create a separate 2-acre lot for an office building. A part of the Preliminary Plan geography was developed but the portion of the Preliminary Plan that includes the Subject Property was never developed and the approval has since expired.

Site Plan No. 820020280 – Century Park at Cloverleaf

Site Plan No. 820020280 was submitted on February 22, 2002 for two flex industrial buildings and two office buildings, totaling approximately 519,000 square feet of employment area. Two revisions to the site plan were filed, but the application was ultimately withdrawn on September 11, 2008 due to inactivity.

Provisional Adequate Public Facilities (PAPF)

On December 18, 2015, by Resolution No. 15-149, the Planning Board granted approval of a Preliminary APF (PAPF) for Symmetry at Cloverleaf which shares the same Property boundary and Applicant as the current Preliminary Plan Application. The PAPF limits future development to a maximum of 1,558 AM peak hour trips and 1,762 PM peak hour trips. Inbound AM peak hour trips are limited to no more than 70% and no less than 60% of trip totals, and inbound PM peak hour trips shall be no more than 45% of total trips and no less than 30% of total trips. The resolution contains a number of off-site road improvements that must be studied by the Applicant at the time of Preliminary Plan. The PAPF was granted because the Applicant provided significant land and funding for the construction of Century Boulevard prior to having any development entitlements.

Sketch Plan No. 320180220 – Poplar Grove

Sketch Plan No. 320180220 was approved by the Planning Board by Resolution No. 18-099 dated November 5, 2018. The Sketch Plan encompassed the entire Subject Property and allowed for up to 1,206,000 square feet of mixed-use development including 686,000 square feet of residential and 520,000 square feet of commercial space. The Sketch Plan generally laid out the different districts of development contemplated including possible unit types and total maximum height.

Preliminary Plan No. 120190040 – Poplar Grove

Preliminary Plan No. 120190040 was approved by the Planning Board by Corrected Resolution No. 19-109 dated December 16, 2019. The Preliminary Plan was for the subdivision of property that would create 176 lots and 45 parcels on 19.4 acres of land.

Site Plan No. 820190060 – Poplar Grove Phase I

Site Plan No. 820190060 was approved by the Planning Board by Resolution No. 19-110 dated October 30, 2019. The Site Plan provided up to 460,000 square feet of residential density for 176 townhouse dwellings, including 22 MPDUs on 11.4 acres of land.

Preliminary Plan No. 12019004A – Poplar Grove

Preliminary Plan No. 12019004A was approved by the Planning Board by Resolution No. 21-008 dated February 16, 2021 (Attachment B) to amend conditions 2, 4, and 26 to update the phased APF validity period as modified by County Council legislation and to clarify that rough grading, stockpiling, sediment and erosion control, re-grading for stockpiling, and interim uses are allowed on the Subject Property. The Preliminary Plan validity period was set to expire on December 16, 2033, and the APF validity period was set to expire on June 16, 2037.

Site Plan No. 82019006A – Poplar Grove Phase I

Site Plan No. 82019006A was approved by the Planning Board by Resolution No. 21-009 dated February 16, 2021, to amend condition 15 to clarify that rough grading, stockpiling, sediment and erosion control, re-grading for stockpiling, and interim uses are allowed without amending the Site Plan or entering into a Site Plan Surety and Maintenance Agreement for the Certified Site Plan elements on the Subject Property.

PROPOSAL

On November 23, 2022, the Applicant filed Preliminary Plan No. 12019004B (“Application”) proposing to amend Conditions 2, 4, and 15 to extend the Preliminary Plan validity period by 3.5 years to match the existing APF validity period and to adjust the validity period phasing schedule. The Application would result in a 17.5-year Preliminary Plan validity period that would correspondingly match the approved 17.5-year APF validity period (Table 1 below). Record plats would be submitted accordingly with the revised Preliminary Plan validity and phasing. The phasing for the original Preliminary Plan was established within four phases. The four phases would be retained with timeframes between each phase being similar to the original Preliminary Plan approval. This is discussed in greater detail below within Section 5.

Table 1 – Plan and APF Validity Period

Plan Name / Legislation	Action Type	Initiation / Effective Date	Incremental Plan Validity	Expiration of Plan Validity	Incremental APF Validity	Expiration of APF Validity
PAPF (MCPB No. 15-149)	Provisional APF	12/18/2015	--	--	7 years, 1 month	1/18/2023
120190040	Preliminary Plan	1/16/2020	12 years	1/16/2032	12 years	1/18/2035
SRA No. 20-01	Legislation	--	2 years	1/16/2034	2 years	1/18/2037
12019004A	Preliminary Plan Amendment	12/16/2019	14 years	12/16/2033	11 months	12/16/2037
12019004B	Preliminary Plan Amendment	--	3.5 years	12/16/2037	--	12/16/2037

SECTION 4: COMMUNITY CORRESPONDENCE

The Applicant has met all proper signage and noticing requirements for the Preliminary Plan Amendment. Following the original posting of the staff report for this Amendment, Staff received comments from the Germantown Historical Society (Attachment D). The Germantown Historical Society expressed concerns regarding the lack of upkeep and maintenance for the Zachariah Waters Cemetery, which is located on the Subject Property. A Planning Board hearing was held on March 30, 2023, wherein the Planning Board deferred action until a later date in order to provide an opportunity for the Applicant to address the matter. The Applicant has worked closely with Historic Preservation Staff to provide a cemetery maintenance agreement that meets the requirements of Appendix B, Standards for Maintenance of Burial Sites, in the 2019 Montgomery County Planning Board Guidelines for Burial Sites. The agreement has been reviewed by Historic Preservation Staff and has been determined to be acceptable (Attachment E). As conditioned, the inclusion of the cemetery maintenance agreement with the Preliminary Plan Amendment addresses the comments and concerns expressed by the Germantown Historical Society (Attachment D).

SECTION 5: PRELIMINARY PLAN 12019004B FINDINGS AND ANALYSIS

The proposed Amendment does not alter the original intent and all findings of Preliminary Plan No. 12019004A, as previously amended, remain in full force and effect, except as modified:

3. Public Facilities will be adequate to support and service the area of the subdivision

Preliminary Plan Validity – Section 50.4.2.H

The Preliminary Plan Amendment requests a 3.5-year validity extension, which in addition to the 129 remaining months of validity, will be extended to 42 months following the initiation date of the Plan approval. To approve a Preliminary Plan validity extension, the Board must make the following analysis and findings as part of its approval.

1. *Extension Requests*

- a. *Only the Board is authorized to extend the validity period. The applicant must submit a request to extend the validity period of an approved preliminary plan in writing before the previously established validity period expires.*

The Applicant submitted a timely plan validity extension request to the Planning Board. The request was received on November 23, 2022, which is prior to the validity expiration of Phase 1A on December 16, 2024.

- b. *The Director may approve a request to amend the validity period phasing schedule of an approved preliminary plan if the length of the total validity period of the preliminary plan is not extended. The applicant must submit the request in writing before the previously established validity period of the phase expires.*

Not applicable.

- c. *The written request must detail all reasons to support the extension request and include the anticipated date by which the plan will be validated. The applicant must certify that the requested extension is the minimum additional time required to record all plats for the preliminary plan.*

The Applicant has provided a justification statement for the requested extension to the plan validity (Attachment C). The current validity period for the Preliminary Plan No. 12019004A expires on December 16, 2033. The request for a 3.5-year validity extension will allow the Applicant to continue the development of what is a large-scale mixed-use project. Within the statement of justification, the Applicant provided the following justification statement for consideration for the extension: Fewer than three months following the approval of the Preliminary Plan and Site Plan, COVID-19 sent the world into a global health pandemic, which persists to the present. Concurrently, in large part due to the pandemic (e.g., closures of factories due to ill employees, major labor market upheaval, changes in ordering and shipping patterns), the world has experienced extensive supply chain issues which has led to building and construction materials, as well as other goods and services, becoming both scarce and very costly. The market continues to experience escalating prices and long lead times on building and construction materials, coupled with the highest rate of inflation since the early 1980s. While it is unknown how long the current interest rates and inflationary environment will last, the impact on a project like Poplar Grove is that any interested purchasers, who would use financing, are experiencing an increased cost of borrowing and a greater sense of uncertainty. These events are beyond the control the Applicant and lead to either the construction of the Project at this time, or purchase of the Project at this time, being significantly more expensive than it would have been even within recent

years. This extension will provide the Applicant a development window comparable to that expected for similar projects of this scale at a currently unbuilt stage.

2. *Effect of failure to submit a timely extension request.*

The request was received in a timely manner; therefore, the sub-sections herein do not apply.

3. *Grounds for extension.*

- a. *The Board may only grant a request to extend the validity period of a preliminary plan if the Board finds that:*
 - i. *delays by the government or some other party after the plan approval have prevented the applicant from meeting terms or conditions of the plan approval and validating the plan, provided such delays are not caused by the applicant; or*
 - ii. *the occurrence of significant, unusual and unanticipated events, beyond the applicant's control and not caused by the applicant, have substantially impaired the applicant's ability to validate the plan, and exceptional or undue hardship (as evidenced, in part, by the efforts undertaken by the applicant to implement the terms and conditions of the plan approval in order to validate the plan) would result to the applicant if the plan were not extended.*

The Applicant's validity extension justification (Attachment C) states that significant, unusual and unanticipated events, beyond their control and not caused by the Applicant, have impaired their ability to validate the plan, and that an undue hardship would result if the validity period were not to be extended. The Applicant provided justification detailing reasons for the extension as part of the submitted Application, chief among them being the continuing economic impacts from the COVID-19 global health pandemic. These impacts have led to increased costs and long lead times for building and construction materials, combined with historical rates of inflation. To date, the Applicant has expended extensive resources in pursuing development; should the plan not be extended, the Applicant risks losing these major investments.

- b. *The applicant bears the burden of establishing the grounds in support of the requested extension.*

The Applicant provided a statement (Attachment C) outlining the validity extension request and the necessary justifications. As mentioned, the Applicant justified the request primarily based on the continuing economic impacts caused by the COVID-19 global health pandemic, most notably ever-increasing prices for building materials, long lead times, and the on-going impacts of inflation. These are found to qualify as a "significant, unusual and unanticipated event(s), beyond their control and not caused by the Applicant."

4. *Planning Board considerations for extension.*

- a. *The Board may condition the grant of an extension on a requirement that the applicant revise the plan to conform with changes to the requirements of this Chapter since the plan was approved.*

None of the statutory changes are relevant to the Application, therefore no changes are necessary.

- b. *The Board may deny the extension request if it finds that the project, as approved and conditioned, is no longer viable. The Board must consider whether the project is capable of being financed, constructed, and marketed within a reasonable time frame. The Applicant must demonstrate the project's viability upon request by the Board or the Director.*

Staff does not recommend that additional information on the feasibility of the project be required.

5. *Planning Board action.*

- a. *After a duly noticed public hearing, the Board must determine whether it should grant a request for an extension. The requirements for noticing and conducting a public hearing must follow the requirements for a preliminary plan.*

The Preliminary Plan Amendment was noticed as other amendments pursuant to the requirements of Chapter 50 and the Development Manual and is scheduled for a public hearing before the Board as required.

- b. *If voting to approve an extension, the Planning Board must only grant the minimum time it deems necessary for the applicant to validate the plan.*

The Applicant has requested a 3.5-year extension to the Preliminary Plan and states this is the minimum necessary to complete the validation. Staff agrees with the Applicant's request as a reasonable amount of time given the scale and complexity of this development and is standard for a similarly sized application at a currently unbuilt stage.

- c. *The Board may only grant an extension to a preliminary plan within the plan's APFO validity period, unless a further extension is allowed by law.*

This Application requests extension of the approved Preliminary Plan validity period of 14-years by an additional 3.5-years to match the existing APF validity period of 17.5-years.

- d. *An applicant may request, and the Board may approve, more than one extension.*

This is the second request for a Preliminary Plan validity extension made for the original approval of Preliminary Plan No. 120190040.

- e. *Once a phasing schedule is approved by the Board as part of a preliminary plan approval, the Board must treat any revision or alteration to the schedule other than an amendment approved under Section 4.3.J.7 as a minor amendment to the preliminary plan. Board approval of a revised phasing schedule is required to extend the total length of the validity period.*

This Application complies with the requirement for Planning Board approval.

Preliminary Plan Validity and Phasing

Preliminary Plan validity is granted by the Planning Board and is governed by Section 50.4.2.G of the Subdivision Code. Typically, a single-phase project approved after March 31, 2017, is eligible for 36 months of plan validity after the plan initiation date. However, multi-phase projects may seek additional plan validity if associated with a phasing plan. Subsection 50.4.G.2.b specifies that each phase shall be assigned its own validity period based on the size, type and location of the project, each phase shall be no more than 36 months in duration, and that the APF validity must be equal to or longer than the cumulative plan validity.

The Applicant was approved for four phases with the initial Preliminary Plan, which provided flexibility for any of the phases to be completed in any order so long as every 36 months (3 years) one of the phases was completed. The following Preliminary Plan amendment incorporated the 2-year validity extension afforded by the July 28, 2020, Council-sponsored Subdivision Regulation Amendment (“SRA”), which automatically extended all valid projects by two years. The amendment did not extend the APF Validity but accounted for the 2-year validity extension by modifications to the phasing schedule. The Application proposes to extend the Preliminary Plan validity period by 3.5 years to match the existing APF validity period of 17.5 years and correspondingly to adjust the validity period phasing schedule. The extended Preliminary Plan period would be 17.5 years, matching the APF validity period.

Phase IA of the Preliminary Plan is currently set to expire on December 16, 2024. This Application will extend the validity period for each of the four phases by 3.5 years. The record plats would be submitted accordingly with the revised Preliminary Plan validity and phasing, as reflected in Table 7 below.

Table 7 – Development Phasing

Phases	Development	Discrete Phase Vehicle Trips*	Timing		
			Phase Length	Cumulative	Expiration
Phase IA	Plats for 70 TH dwellings	34 AM/58 PM Peak Hour	84 months (7 years)	84 months (7 years)	12/16/2028
Phase IB	Plats for 106 TH dwellings	54 AM/61 PM Peak Hour	36 months (3 years)	120 months (10 years)	12/16/2031
Phase II	Plats for Parcels E4, E6, F2, & G2	134 AM/330 PM Peak Hour	36 months (3 years)	156 months (13 years)	12/16/2034
Phase III	Plats for Parcels A1 – A4	793 AM/754 PM Peak hour	30 months (2.5 years)	186 months (15.5 years)	6/16/2037

*As determined by the 2011 LATR guidelines methodology approved in the Preliminary Plan

6. Any burial site of which the applicant has actual notice or constructive notice or that is included in the Montgomery County Cemetery Inventory and located within the subdivision boundary is approved under Subsection 50-4.3.M.

The original approval established the finding for the four requirements, as specified in 50.4.3.M.1, for a known cemetery identified on a Property, the Waters Family cemetery. While the first three requirements do not pertain to this amendment, the fourth requirement does apply and is satisfied as follows:

- d) *The burial site must be protected by arrangements sufficient to assure the Planning Board of its future maintenance and preservation, as specified in the Montgomery County Planning Board's guidelines for burial sites.*

Currently, arrangements for maintenance and preservation are in place at the time of development of the Property, as conditioned in the original approval of Preliminary Plan No. 120190040. The arrangements will be determined with the Phase 1 Site Plan and include the construction of a planned park space that includes the cemetery. To address this finding in the interim, this Amendment provides arrangements to ensure maintenance and preservation for the period of time between the present and whenever development commences on the Property.

As conditioned, the Applicant will execute a maintenance agreement consistent with the short-term goals for cemetery maintenance in Appendix B of the Montgomery County Planning Board Guidelines for Burial Sites. The proposed maintenance agreement will include:

- Landscaping: The Applicant proposes ground cover in the form of Pennsylvania sedge, or vinca/periwinkle, or similar groundcover, to be planted around each gravestone. This will eliminate the need for mowing near the gravestones and reduce the chances that a gravestone is bumped or damaged by a mower.
- Mowing: The area within the fence surrounding the cemetery that is not treated with landscaping, if any, will be mowed twice during the growing season (April-October) --late spring and late summer.
- Other Upkeep: Twice during the growing season (April-October), late spring and late summer, the landscaping within the fenced-in cemetery will be weeded, and any litter in the landscaping disposed of. Any clippings left on the gravestones will be gently hand-brushed off so that the clippings do not attract moisture or begin to grow on the gravestones.

Planning Board staff will visit the cemetery site during the summer and again in the fall to assess whether the maintenance, as proposed, successfully addresses concerns about the site becoming overgrown to the point that markers are not visible or potentially at risk for damage. Planning staff will work with the Applicant to adjust the maintenance as needed. Historic Preservation staff will review the agreement one year following the Planning Board date to evaluate whether the cemetery is being maintained and kept to the required standard. If the cemetery appears to be overgrown to the

point that the markers are not visible or there is reason to believe the markers are at risk, the Applicant would then be required to revise the maintenance agreement as needed.

SECTION 6: CONCLUSION

The Amendment continues to meet all requirements established in Chapter 50 of the Subdivision Regulations. The 3.5-year extension to the Preliminary Plan validity period and the validity period phasing schedule still matches the already approved 17.5-year APF validity period. Staff recommends approval of the Preliminary Plan Amendment, with the revised and new conditions as enumerated in the staff report.

ATTACHMENTS

Attachment A: Preliminary Plan Composite

Attachment B: MCPB Resolution No. 21-008

Attachment C: Statement of Justification

Attachment D: Community Correspondence

Attachment E: Cemetery Maintenance Agreement Correspondence



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

MCPB No. 21-008
Preliminary Plan No. 12019004A
Poplar Grove
Date of Hearing: January 21, 2021

FEB 16 2021

RESOLUTION

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

WHEREAS, on December 5, 2019, the Planning Board, by Corrected Resolution MCPB No. 19-109, approved Preliminary Plan No. 120190040, creating 176 lots and 45 parcels on 19.4 acres of land in the CR-2.0, C-1.75, R-1.0, H-145T and Germantown Transit Mixed Use Overlay Zone, located on the east side of Century Boulevard between Father Hurley Boulevard and the future Dorsey Mill Road ("Subject Property"), in the Germantown West Policy Area and the 2009 Germantown Employment Area Sector Plan ("Sector Plan") area; and

WHEREAS, on November 3, 2020, Symmetry at Cloverleaf, LLC ("Applicant") filed an application for approval of an amendment to the previously approved preliminary plan(s) to amend conditions 2, 4, and 26 to update the phased APF validity period as modified by County Council legislation and to clarify that rough grading, stockpiling, sediment and erosion control, re-grading for stockpiling, and interim uses are allowed on the Subject Property; and

WHEREAS, Applicant's application to amend the preliminary plan was designated Preliminary Plan No. 12019004A, Poplar Grove – Phase 1 ("Preliminary Plan," "Amendment," 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 January 8, 2021, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on January 21, 2021, 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 January 21, 2021, the Planning Board voted to approve the Application subject to certain conditions, on motion of Commissioner Fani-Gonzalez, seconded by Commissioner Cichy, with a vote of 5-0; Commissioners Anderson, Cichy, Fani-Gonzalez, Patterson and Verma voting in favor.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Preliminary Plan No. 12019004A to update the phased APF validity period as modified by County Council legislation and to clarify that rough grading, stockpiling, sediment and erosion control, re-grading for stockpiling, and interim uses are allowed by modifying the following conditions:¹

2. The Preliminary Plan will remain valid for up to 168 months (14 years) from the date of mailing of the Corrected Preliminary Plan Resolution, MCP No. 19-109 dated Dec. 16, 2019 (“Corrected Resolution”). This validity period and phasing schedule accounts for the extension granted by Montgomery County Council Ordinance No. 19-12 (Subdivision Regulation Amendment No. 20-01 – the “SRA”) as approved on July 28, 2020. The Phases may occur in any order. Following an initial 24-month (2 year) extension period as provided by the SRA, the Applicant must meet at least one of the following four development triggers every three years (36 months) for the Preliminary Plan to remain valid:
 - a. Record plats for at least 70 townhouse units (Phase IA).
 - b. Record plats for at least 106 additional (176 total) townhouse units (Phase IB).
 - c. Record plats for parcels E4, E6, F2, and G2 in the Maker and Multi-Family District (Phase II).
 - d. Record plats for parcels A1—A4 in the Mixed-Use Transit Oriented District (Phase III).

4. The Adequate Public Facility (“APF”) review for the Preliminary Plan will remain valid for two hundred and ten (210) months (17.5 years) from the date of mailing of the Corrected Resolution, including the 12-year extension granted as part of this Preliminary Plan. This updated validity period and phasing schedule accounts for the extension granted by Montgomery County Council Ordinance No. 19-12 (Subdivision Regulation Amendment No. 20-01 – the “SRA”) as approved on

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.

July 28, 2020. The Applicant must comply with the following cumulative development triggers for the APF to remain valid:

- a. Within seven years (84 months) from the date of the mailing of the Corrected Resolution, building permits for at least 70 townhouse units are issued by Montgomery County or equivalent generating at least 34 AM and 58 PM peak hour trips.
- b. Within ten years (120 months) from the date of the mailing of the Corrected Resolution, building permits for 176 total townhouse units are issued by Montgomery County or equivalent generating at least 88 total AM and 119 total PM peak hour trips.
- c. Within 13 years (156 months) from the date of the mailing of the Corrected Resolution, building permits are issued by Montgomery County for an equivalent generating at least 222 total AM and 449 total PM peak hour trips.
- d. By 17.5 years (210 months) from the date of the mailing of the Corrected Resolution, all building permits associated with the Preliminary Plan are issued by Montgomery County totaling up to 1,015 total AM and 1,203 total PM peak hour trips.

26. Rough grading, sediment & erosion control, stockpiling, and/or any re-grading related to stockpiling may be allowed in areas of the Preliminary Plan not yet regulated by a Site Plan, subject to any temporary use permits required by MCDPS. Interim uses including but not limited to farmers markets, festivals, community farming or gardens, food or vendor carts, outdoor shows, play spaces, gravel parking for pop-up events, or interactive art installations may be allowed in areas of the Preliminary Plan not yet regulated by a Site Plan, subject to any necessary temporary use permits required by MCDPS. Any block or parcel not yet regulated by a Site Plan may be rough graded and/or used as delineated herein consistent with the FFCP without Site Plan approval. Block A may be developed as a paved Park & Ride lot in coordination with MCDOT without Site Plan approval.

BE IT FURTHER RESOLVED that all other preliminary plan conditions of approval for this project remain valid, unchanged and in full force and effect.

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:

Unless specifically set forth herein, this Amendment does not alter the intent, objectives, or requirements in the originally approved preliminary plan and all findings not specifically addressed remain in effect.

3. *Public Facilities will be adequate to support and service the area of the subdivision*

Public facilities continue to be adequate to support the Application and valid under the Adequate Public Facilities (APF) approval of Preliminary Plan 120190040, as approved by Corrected Resolution MCPB No. 19-109, dated Dec. 16, 2019. This Application accounts for the automatic two-year extension for valid APF validity periods provided by Montgomery County Council Ordinance No. 19-12 (Subdivision Regulation Amendment No. 20-01 – the “SRA”) as approved on July 28, 2020. This Amendment incorporates the revised phasing schedule in Condition 4 and does not otherwise alter the previous APF findings. This Application in-itself does not extend the APF Validity; as conditioned, the Application will instead provide an explicit accounting of the 2-year validity extension as approved under the SRA by modifying the phasing schedule to the following (reflected in revised Condition 4):

Table 1 - Development Scale and Trip Generation by Phase

Phases	Development	Discrete Peak Hour Trips ²		Cumulative Peak Hour Trips ²		Timing	
		AM	PM	AM	PM	Phase Length	Cumulative
Phase IA	70 townhouses	34	58	34	58	84 months (7 years)	84 months (7 years)
Phase IB	106 townhouses	54	61	88	119	36 months (3 years)	120 months (10 years)
Phase II	75 multi-family & 50,000 sq. ft. retail	134	330	222	449	36 months (3 years)	156 months (13 years)
Phase III	290 multi-family, 35,000 sq. ft. retail, & 435,000 sq. ft. office	793	754	1,015	1,203	54 months (4.5 years)	210 months (17.5 years)

The above phasing schedule only accounts for the approved extension provided by the SRA as of July 28, 2020. Any subsequent extension(s), should one or more be approved, shall be applied as applicable by law.

² Trip generation rates are based on the 2013 LATR guidelines. Phase trip generation reflect a proportional representation of the total trips at full build out.

5. *All stormwater management, water quality plan, and floodplain requirements of Chapter 19 are satisfied*

The Preliminary Plan Amendment continues to meet the stormwater management requirements of Chapter 19 of the County Code. The Amendment clarifies that rough grading, sediment & erosion control, stockpiling, and/or any re-grading related to stockpiling may be allowed in areas of the Preliminary Plan not yet regulated by a Site Plan, subject to any temporary use permits required by MCDPS.

BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is ~~FEB 10 2021~~ (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 Cichy, seconded by Commissioner Verma, with Chair Anderson, Vice Chair Fani-González, and Commissioners Cichy, Patterson, and Verma voting in favor, at its regular meeting held on Thursday, February 4, 2021, in Wheaton, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board

MR. RICHARD BRUSH, MANAGER
MCDPS-WATER RES. PLAN REVIEW
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MR. ALAN SOUKUP
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Nicole Totah
Symmetry at Cloverleaf, LLC
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Ste 711
Silver Spring, MD 20910

MR. MARK ETHERIDGE, MANAGER
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Heather Dlhopsky
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Rockville, MD 20852



Heather Dhopolsky
hdhopolsky@wiregill.com
301-263-6275

October 24, 2022

Via Eplans

Mr. Patrick Butler
M-NCPPC
2425 Reddie Drive, 14th Floor
Wheaton, MD 20902

Re: Poplar Grove – Preliminary Plan No. 12019004B – Validity Extension Request

Dear Mr. Butler:

On behalf of the Applicant, Symmetry at Cloverleaf, LLC, we are submitting this request for an extension of the validity period of Preliminary Plan No. 12019004B (the “Application”) pursuant to Section 50-4.2.H of the Montgomery County Subdivision Ordinance (the “Subdivision Ordinance”). This Application pertains to Poplar Grove, located along the eastern side of Century Boulevard and just west of the ramp from I-270 southbound onto Father Hurley Boulevard, between Father Hurley Boulevard to the south and the future Dorsey Mill Road bridge over I-270 to the north.

The Montgomery County Planning Board (the “Planning Board”) issued a Resolution approving Sketch Plan No. 320180220 (the “Sketch Plan”) dated November 5, 2018, permitting development on the Property of up to 1,206,000 square feet of total development, including up to 686,000 square feet of residential development (up to 350 multi-family residential units and up to 208 townhouse units, including 12.5% moderately priced dwelling units, or “MPDUs”) and up to 520,000 square feet of non-residential development, private parking and private amenities, and public amenities and public benefit points.

On October 3, 2019, the Planning Board considered Preliminary Plan No. 120190040 (the “Preliminary Plan”) and Site Plan No. 820190060 (the “Site Plan”), approving both. On October 30, 2019, the Planning Board issued a Resolution approving the Site Plan, permitting development of up to 460,000 square feet of residential density for up to 176 townhouse units on Phase I of the Property. The Planning Board issued a Corrected Resolution for the Preliminary Plan on December 16, 2019, permitting development of 176 lots and 45 parcels, including parcels for roads, open spaces, and future development, for up to 1,206,000 square feet of mixed-use development, including up to 176 townhomes, 365 multi-family residential dwellings, and 520,000 square feet of non-residential uses (the “Project”).

Due to the uncertainty in the market created by covid-19, the Montgomery County Council adopted Ordinance No. 19-12 on July 28, 2020 (Subdivision Regulation Amendment No. 20-01 – the “SRA”), which extended the validity period for approved plans of subdivision and adequate public facilities (“APF”) approvals for two (2) years after the date when the validity period would have



Heather Dhopolsky
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301-263-6275

otherwise expired. The SRA also extended the validity periods for separate phases of a multi-phase preliminary plan of subdivision. As a result, all timing requirements with respect to the Preliminary Plan as contained in Condition #2 of the Corrected Resolution were extended by two (2) years. Per the SRA, the total validity period of the APF approval as set forth in Condition #4 of the Preliminary Plan's Corrected Resolution was extended by two (2) years.

These extensions were then memorialized in Preliminary Plan Amendment No. 12019004A, approved by the Planning Board on January 21, 2021 (the "Preliminary Plan Amendment"). As a result, the Applicant must record plats for the first phase of development, as such phases are defined in Condition #2 of the Preliminary Plan Amendment, by December 16, 2024, with plats recorded for each subsequent phase at least every three years thereafter. However, for the reasons explained below, the Applicant is requesting to amend the validity period phasing schedule such that record plats for the first phase of development would not need to be submitted for an additional five years, or until December 16, 2029, with record plats for the subsequent second and third phases of development needing to be submitted within five-year increments, rather than three years, or by December 16, 2034 for the second phase and December 16, 2039 for the third phase. Under this request, the record plats for the fourth and final phase would need to be submitted within a final 3.5 years, or by June 16, 2043, which results in an overall 17.5-year Preliminary Plan validity period, matching the validity period of the Project's APF approval.

Section 50-4.2.H.3.a.ii of the Subdivision Ordinance provides the grounds for extension, and states that "[t]he Board may only grant a request to extend the validity period of a preliminary plan if the Board finds that ... the occurrence of significant, unusual and unanticipated events, beyond the applicant's control and not caused by the applicant, have substantially impaired the applicant's ability to validate the plan, and exceptional or undue hardship (as evidenced, in part, by the efforts undertaken by the applicant to implement the terms and conditions of the plan approval in order to validate the plan) would result to the applicant if the plan were not extended."

Here, there are numerous significant, unusual, and unanticipated events, all well beyond the Applicant's control, which justify the requested extension. Fewer than three months after approval of the corrected Preliminary Plan and Site Plan, covid-19 sent the world into a global health pandemic that is still underway. At the same time, in part due to the pandemic (e.g., closures of factories due to ill employees, major labor market upheaval, changes in ordering and shipping patterns), the world experienced extensive supply chain issues which made building and construction materials, as well as nearly every other good and service, both scarce and more expensive. We are still experiencing escalating prices on nearly everything, but most pertinently building and construction materials, which has now resulted in the highest rate of inflation in our country since the early 1980s. It is unknown how long the current interest rate and inflationary environment will last. The result of this on a Project such as Poplar Grove is that any interested purchasers who would use financing in order to do so are experiencing a higher cost of borrowing as well as greater sense of uncertainty. Thus, the Applicant is in a catch-22 of events beyond their control which result in either construction of the Project at this time, or purchase of the Project at this time, significantly more expensive than it would have been even a year or two ago. For these reasons, the Applicant needs additional time for implementation of the Project.



Heather Dlhopsky
hdlhopsky@wiregill.com
301-263-6275

For these same reasons, the Applicant is requesting to amend the validity period phasing schedule such that record plats for the first phase of development would not need to be submitted for an additional five years, or until December 16, 2029, with record plats for the subsequent second and third phases of development needing to be submitted within five-year increments, rather than three years, or by December 16, 2034 for the second phase and December 16, 2039 for the third phase. Under this request, the record plats for the fourth and final phase would need to be submitted within a final 3.5 years, or by June 16, 2043, which results in an overall 17.5-year Preliminary Plan validity period, matching the validity period of the Project's APF approval. If this extension request is not granted, not only would the Applicant's past twenty-plus years of effort pursuing development approvals for the Project go to waste, but the goals of the Germantown Employment Area Sector Plan, and the unique vision created by the Applicant in order to fulfill them, would also go unrealized.

The Applicant is submitting this request in writing, well before the established validity period of the first phase expires on December 16, 2024, as required by Section 50-4.2.H.1.b of the Subdivision Ordinance. Per Section 50-4.2.H.1.c of the Subdivision Ordinance, the Applicant anticipates that plats for the final phase of development can be recorded by June 16, 2043. Further, also per Section 50-4.2.H.1.c, the Applicant certifies that the requested extension is the minimum additional time required to record all plats for the Project.

We submit the following materials in support of the Application:

- Application Form
- This Statement of Justification
- Certificate of Compliance
- Notice List
- Application Notice Letter
- Signage Information
- Original Certified Plans and Resolution
- Checklist

Thank you for your consideration of this Application. Please contact us should you have any questions or require any additional information.

Sincerely,

Wire Gill LLP


Heather Dlhopsky

Server, Jeffrey

From: Crane, Brian
Sent: Monday, March 27, 2023 5:06 PM
To: Server, Jeffrey
Cc: Ballo, Rebecca; Pereira, Sandra; Sartori, Jason
Subject: FW: preliminary plan amendment no. 12019004B
Attachments: 1 WATERS CEMETERY marker 2.pdf; IMG-4153.jpg; IMG-4154.jpg; IMG-4158.jpg
Categories: Tracked To Dynamics 365

Jeff: FYI just received this.

From: Susan Cooke Soderberg <SusanCS709@comcast.net>
Sent: Monday, March 27, 2023 5:00 PM
To: MCP-Chair <mcp-chair@mncppc-mc.org>
Cc: Crane, Brian <Brian.Crane@montgomeryplanning.org>; Ballo, Rebecca <rebeccah.ballo@montgomeryplanning.org>; Wayne Tobiassen <wlt9961@aol.com>; Kristen Walker <kwalker1390@gmail.com>; Lisa Gonzales <maxwellton@verizon.net>; Ted Farrand <tfarrand@comcast.net>; Norm Gordon <ngordon0522@gmail.com>
Subject: preliminary plan amendment no. 12019004B

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

Dear Montgomery County Planning Board,

In reference to Poplar Grove preliminary plan amendment no. 12019004B requesting an extension of the validity period, the Germantown Historical Society requests the following conditions:

- That the Zachariah Waters Cemetery, dated 1824, be kept in good condition by the owner, with no overgrowth of weeds and saplings.
- That our organization be allowed to erect a historic marker just outside the fence. Zachariah Waters was a Revolutionary War patriot and one of the founders of our town. We have had the layout of a sign waiting for the past eight years to be placed at the cemetery, but have not been allowed by the owner to put it up (See attached marker).
- That the Daughters of the American Revolution (DAR) be allowed to put a marker by the grave of Zachariah Waters.
- That our organization be allowed to apply for a grant to hire an expert to repair the marble tombstones and to search for the missing grave and tombstone for Courtney Waters, documented to have been buried there.
- That our organization and/or the DAR be allowed to hold ceremonies at the cemetery to honor the people buried there.

The sketch plan for this development states: "Prior to Planning Board approval of any site plan or site plan amendment containing the Waters Memorial Park, the Applicant must present all planned improvements for the cemetery and the Waters Memorial Park to the Historic Preservation Commission." And also required that the cemetery be maintained and a path to the cemetery for the public be provided. The cemetery, which has had a metal fence around it since before Symmetry obtained the property, has not been cared for and is now overgrown with weeds and saplings, as can be seen in the attached photos taken recently. The owner also promised to erect their own signage for the cemetery -- which they have not done.

If the development is to be delayed once again the cemetery will just deteriorate more. it is important that requirements be put in place NOW so that this historic burial ground, which is very important to our community, be kept cleared and that signage be erected and appropriate identification and recognition of our local hero be allowed.

Respectfully,

Susan Cooke Soderberg

President

Germantown Historical Society

P.O. Box 475

Germantown, MD 20875

germantownmdhistory@gmail.com

301-814-5048

POPLAR GROVE BURIAL GROUND

The Waters family is the oldest family of European descent in Germantown, owning most of the land east of the railroad, north of Rt.118, and south of Little Seneca Creek in present-day Germantown. Three brothers, Zachariah, William and Basil, were given the land by their father, William Waters of Brookeville in the 1780s.

Zachariah's farm, encompassing the land on which you now stand, was known as "Poplar Grove." William's farm to the west was "Water's Place," and Basil's farm to the east was "Pleasant Fields." All three properties came mainly from the original land grant called "Conclusion." Each of the brothers built a substantial house, but Pleasant Fields is the only one remaining today. The brothers built a grist, fax-seed-oil and saw mill, the ruins of which can be seen in Black Hill Park.

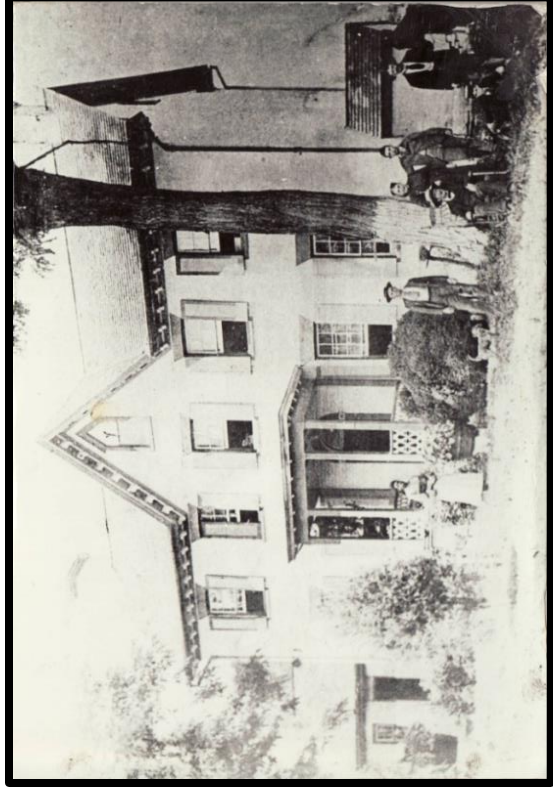
Zachariah Waters married Anna Baker, daughter of John and Judith Howard Wood Baker of Berkley. Zachariah Waters was an active patriot during the Revolutionary War. He was appointed a Justice of the Peace on March 7, 1778 and was appointed to raise the quota for Sugarloaf Hundred of monetary contributions to the War. Zachariah and Anna had three children: Baker Waters (1779-1846) who married Rachel Cooke Magruder but had no children; Tilghman Waters (1784-1864) who married Eleanor Magruder Briscoe but had no children; and Courtney Waters (1789-1853) who never married.

When Zachariah died in 1824 Baker Waters inherited Poplar Spring, consisting of 190 acres with a house and barns, Courtney being allowed by her father's will to live in the house until she married -- which she never did. When Baker died in 1846, Tilghman inherited the estate, and when he died in 1864 he willed his estate to his nephew, Dr. Washington Waters, stipulating that Washington erect an iron fence around the family burying ground and put up tombstones for himself, his wife, his brother and sister, and his parents. This was done, although Tilghman's wife, Eleanor (Ellen) did not die until 1880 and may be buried elsewhere. The property next went to William A. Waters, son of Dr. Washington Waters.



Waters Family Crest

TOMBSTONES
ZACHARIAH WATERS of Montgomery County died Aug. 17, 1824 in the 77 year of his age
ANNA WATERS of Montgomery County died Jan. 17, 1837 in the 79 year of her age
TILGHMAN WATERS of Montgomery County died Aug. 17, 1864 in the 79 year of his age
BAKER WATERS of Montgomery County died Sept. 29, 1846 in the 66 year of his age
 Courtney Waters' stone is missing --she died Sept. 28, 1853 in her 64th year



The burial ground is under the care and protection of the Germantown Historical Society







Server, Jeffrey

From: Crane, Brian
Sent: Friday, May 12, 2023 3:16 PM
To: Susan Cooke Soderberg
Cc: Server, Jeffrey; Ballo, Rebecca; Pereira, Sandra
Subject: Waters' cemetery at Poplar Grove

Hi Susan,

I wanted to fill you in on where things stand with Poplar Grove. They have proposed the following measures to maintain the cemetery:

- Landscaping: The property owner proposes ground cover in the form of Pennsylvania sedge, or vinca/periwinkle, or similar groundcover, to be planted around each gravestone. This will eliminate the need for mowing near the gravestones, and reduce the chances that a gravestone is bumped or damaged by a mower.
- The area within the fence surrounding the cemetery that is not treated with landscaping, if any, will be mowed twice during the growing season (April-October)--late spring and late summer.
- Twice during the growing season (April-October), late spring and late summer, the landscaping within the fenced-in cemetery will be weeded, and any litter in the landscaping disposed of. Any clippings left on the gravestones will be gently hand-brushed off so that the clippings do not attract moisture or begin to grow on the gravestones.

Our response is that this is consistent with the preliminary goals identified for cemetery maintenance in our Guidelines, but that we will need to monitor this to see if it addresses concerns about the site becoming overgrown to the point that markers are not visible or potentially at risk for damage, and that we will work with them to adjust the plan as necessary if it does not. We are working on preparing a condition that includes timing and coordination for our site visits. This item is on the PB agenda for June 1.

v/r

Brian



Brian Crane, PhD
He/Him/His
Cultural Resources Planner III

Historic Preservation Office
Montgomery County Planning Department
2424 Reddie Drive, Floor 14, Wheaton, MD 20902
Brian.Crane@montgomeryplanning.org
o: 301-563-3402



Server, Jeffrey

Subject: FW: Poplar Grove (12019004B) - Maintenance agreement

Nicole, Heather,

Thank you for the details of what you have proposed to maintain the Waters' cemetery at Poplar Grove. We understand that you propose to do the following:

- Landscaping: The property owner proposes ground cover in the form of Pennsylvania sedge, or vinca/periwinkle, or similar groundcover, to be planted around each gravestone. This will eliminate the need for mowing near the gravestones, and reduce the chances that a gravestone is bumped or damaged by a mower.
- The area within the fence surrounding the cemetery that is not treated with landscaping, if any, will be mowed twice during the growing season (April-October)--late spring and late summer.
- Twice during the growing season (April-October), late spring and late summer, the landscaping within the fenced-in cemetery will be weeded, and any litter in the landscaping disposed of. Any clippings left on the gravestones will be gently hand-brushed off so that the clippings do not attract moisture or begin to grow on the gravestones.

We believe that this is consistent with the short term goals for cemetery maintenance described in the Planning Board Guidelines for Burials Sites. We plan to recommend to the Planning Board as part of a condition that Planning staff will visit the cemetery site during the summer and again in the fall to assess whether the maintenance as proposed successfully addresses concerns about the site becoming overgrown to the point that markers are not visible or potentially at risk for damage and that Planning staff would work with you to make adjustments to the maintenance if needed.

V/r

Brian

From: Heather Dlhopsky <HDLhopolsky@wiregill.com>

Sent: Friday, May 5, 2023 12:33 PM

To: ntotah@symmetrydevelops.com; Crane, Brian <Brian.Crane@montgomeryplanning.org>

Cc: Server, Jeffrey <Jeffrey.Server@montgomeryplanning.org>; Van Alstyne, Chris

<chris.vanalstyne@montgomeryplanning.org>; Ballo, Rebecca <rebecca.ballo@montgomeryplanning.org>

Subject: RE: Poplar Grove (12019004B) - Maintenance agreement

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

Hi all,

I'm following up on Nicole's emails below. Please let us know if you would like to discuss our proposal or have any questions, so that we can secure a new hearing date on June 1st. Thank you very much!

Heather

Heather Dlhopsky

Wire Gill LLP

hdlhopolsky@wiregill.com

(301) 263-6275

From: ntotah@symmetrydevelops.com <ntotah@symmetrydevelops.com>

Sent: Monday, May 1, 2023 6:48 PM

To: Heather Dlhopsky <HDLhopolsky@wiregill.com>; Crane, Brian <Brian.Crane@montgomeryplanning.org>

Cc: Server, Jeffrey <Jeffrey.Server@montgomeryplanning.org>; Van Alstyne, Chris

<chris.vanalstyne@montgomeryplanning.org>; Ballo, Rebecca <rebeccah.ballo@montgomeryplanning.org>

Subject: Re: Poplar Grove (12019004B) - Maintenance agreement

Good afternoon all,

I wanted to circle back regarding the cemetery maintenance plan. What are our next steps to meet the June 1 timeline with the Planning Board?

Thank you,

Nicole Totah

Symmetry at Cloverleaf, LLC

From: ntotah@symmetrydevelops.com <ntotah@symmetrydevelops.com>

Sent: Sunday, April 23, 2023 12:10 PM

To: Heather Dlhopsky <HDLhopolsky@wiregill.com>; Crane, Brian <Brian.Crane@montgomeryplanning.org>

Cc: Server, Jeffrey <Jeffrey.Server@montgomeryplanning.org>; Van Alstyne, Chris

<chris.vanalstyne@montgomeryplanning.org>; Ballo, Rebecca <rebeccah.ballo@montgomeryplanning.org>

Subject: Re: Poplar Grove (12019004B) - Maintenance agreement

Hi all,

Below is the Maintenance Plan for the Waters Family Cemetery.

Thank you,

Nicole Totah

Symmetry at Cloverleaf, LLC

Maintenance Plan for Water Family Cemetery (based on Montgomery County Planning Board Guidelines for Burial Sites, Appendix B-Standards for Maintenance of Burial Sites, Short Term Goals)

- Landscaping: The property owner proposes ground cover in the form of pennsylvania sedge, or vinca/periwinkle, or similar groundcover, to be planted around each gravestone. This will eliminate the need for mowing near the gravestones, and reduce the chances that a gravestone is bumped or damaged by a mower.
- The area within the fence surrounding the cemetery that is not treated with landscaping, if any, will be mowed twice during the growing season (April-October)--late spring and late summer.
- Twice during the growing season (April-October), late spring and late summer, the landscaping within the fenced-in cemetery will be weeded, and any litter in the landscaping disposed of. Any clippings left on the gravestones will be gently hand-brushed off so that the clippings do not attract moisture or begin to grow on the gravestones.

From: Heather Dlhopsky <HDLhopolsky@wiregill.com>
Sent: Thursday, April 20, 2023 3:56 PM
To: Crane, Brian <Brian.Crane@montgomeryplanning.org>
Cc: Server, Jeffrey <Jeffrey.Server@montgomeryplanning.org>; Van Alstyne, Chris <chris.vanalstyne@montgomeryplanning.org>; Ballo, Rebecca <rebecca.ballo@montgomeryplanning.org>; ntotah@symmetrydevelops.com <ntotah@symmetrydevelops.com>; Nicole T <ntotah@gmail.com>
Subject: RE: Poplar Grove (12019004B) - Maintenance agreement

Thanks for checking in Brian, and I hope your conference in Europe was great! We have been working on this. Nicole (who I've added to the chain) will be responding shortly, as I'll be away this Friday through the following in Texas helping my elderly aunt. So Nicole will shepherd this while I'm away to keep things moving.

Thanks!

Heather

Heather Dlhopsky
Wire Gill LLP
hdlhopolsky@wiregill.com
(301) 263-6275

UPCOMING TRAVEL/OUT OF OFFICE FRIDAY, APRIL 21st THROUGH FRIDAY, APRIL 28th

From: Crane, Brian <Brian.Crane@montgomeryplanning.org>
Sent: Thursday, April 20, 2023 11:56 AM
To: Heather Dlhopsky <HDLhopolsky@wiregill.com>
Cc: Server, Jeffrey <Jeffrey.Server@montgomeryplanning.org>; Van Alstyne, Chris <chris.vanalstyne@montgomeryplanning.org>; Ballo, Rebecca <rebecca.ballo@montgomeryplanning.org>
Subject: FW: Poplar Grove (12019004B) - Maintenance agreement

Good Morning Heather,

I wanted to follow up with you about proposed maintenance at the Waters Cemetery site at Poplar Grove. Do you have something you can share with us, or do you have any questions? As I mentioned following the PB hearing, Appendix B of our Guidelines includes examples of short term goals that might be applicable: https://montgomeryplanning.org/wp-content/uploads/2019/06/PB-Guidelines-for-Burial-Sites_final.pdf

v/r

Brian



Brian Crane, PhD
He/Him/His
Cultural Resources Planner III

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